

# Union Bay Improvement District

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## August 2015 Landowners Update

### Special Edition #2

#### From the Board

This is the second special edition related to the status of negotiations between UBID and the Developer (34083 Yukon Inc. (KIP)) in advance of a **Community Meeting of Landowners on Saturday, September 12<sup>th</sup>, 2015**. There will be no regular monthly Board Meeting in September.

The issue with the Developer is a contract issue arising from the Water Infrastructure Agreement (“WIA”) between UBID and the Developer that was signed in April 2011 and expired on December 31<sup>st</sup>, 2014. UBID is open to construct a new and improved agreement that will provide certainty for both Union Bay and the Developer.

The Board acknowledges that a number of Union Bay landowners are concerned about the Board’s decision not to grant an extension to the Developer. Beginning in July 2014, UBID began to alert the community and the Developer to the looming deadline for completion of temporary water filtration as described in the expired WIA. Over this same period of time the Board also took a hard look at the long-term consequences that would result if the Developer failed to meet its obligations.

#### Plans Underway for the Community Meeting

The Board is pleased to report that plans are progressing for a **Community Meeting on September 12<sup>th</sup>, from 1-3 PM in the Union Bay Community Hall**. The Board has engaged the services of Kel Kelly of Insight Facilitation to facilitate the meeting. Kel has been helping individuals and groups learn how to resolve conflicts for over 20 years.

**The purpose of this meeting is to clarify the UBID Board’s plans for water treatment including the need for a new and improved Water Infrastructure Agreement and to hear any concerns, ideas and input the citizens of Union Bay may have regarding a new agreement.**

Once you have read through this update please jot down your questions and bring them to the September meeting or give any one of the Trustees a call.

## **What are Capital Expenditure Charges (CEC) and how do they get applied?**

A well planned water system should have built-in spare capacity in order to service future development. A CEC is a one-time amount a homeowner or developer must pay that is intended to help UBID cover the costs of providing current and future off-site waterworks infrastructure needed to support the development of properties. Presently, a fee of \$8,900 is collected from a landowner when a development/building permit is issued by the Comox Valley Regional District (CVRD). These funds are segregated into a capital reserve fund that can only be used for those capital works projects associated with providing, constructing, altering or expanding UBID's water facilities in order to directly or indirectly service development. As of June 30, 2015, the balance of the CEC fund was just under \$243,000.

**A developer (or landowner) is responsible, at their own cost, to put in place all necessary infrastructures on his/her property to provide various services. This includes water infrastructure such as pipes, meters, pumps, etc. Developers are also required to cover the cost of new fire hydrants.**

When a developer applies to UBID for access to potable (drinking) water to supply development land, UBID must consider a number of questions including:

- What impact will the new development have upon the existing infrastructure?
- What is the capacity of the water source (Langley Lake) and perhaps more importantly the water license granted for that specific source to supply additional customers?
- Will improvements be required to the community's current water infrastructure system outside of the lands to be developed?
- If improvements are required off of the development land, what portion of the improvements are for the benefit of the existing community and what portion of the improvements are to the sole benefit of the development?

UBID can respond to these questions in the following ways:

1. Limit the number of lots to stay within the current license or capacity of the lake; or
2. Make an application to amend its water license if necessary and/or appropriate;
3. Charge the \$8,900 CEC per lot as the lots are developed and UBID then ensures that the necessary infrastructure is in place; or
4. Require the developer to pay for all or a portion of the improvements off of its land; and
5. Consider whether the developer will receive a negotiated credit or cost offset for any works off of its land to which it makes a contribution.

## **What will it cost me if the Developer puts in a water treatment plant?**

Much has been said about the resulting cost to landowners if the developer builds a water treatment facility. Some people believe that there is no cost – that it would be free.

If a developer builds, at its cost, a water treatment facility off of its land then the portion that is for the benefit of the existing community and the portion that is for the benefit of the new development would need to be determined. The developer could receive a credit or offset for the portion that is for the benefit of the existing community. In other words, although the water treatment plant would not immediately cost landowners, any credits that are applied would affect UBID's future financial position. For example, it would affect our ability to collect and put aside funds for future overall water infrastructure needs.

Alternately, the developer may be required to pay the CECs (either before developing the land or as development occurs) to UBID which would then ensure that the necessary infrastructure is put in place.

A new and improved Water Infrastructure Agreement must clearly spell out whether the developer would be paying for all or a portion of any improvements, how calculations are to be done, who pays for what and when those payments are due. If the build out takes many years, appropriate sunset clauses or timelines would need to be included in any agreement. Otherwise, the community could be left in limbo for some time. Undefined and open-ended clauses in an agreement put the community at risk of misunderstandings, legal interpretations, uncertainty and potentially the need to borrow funds for other necessary works.

**Nothing is free - it is a matter of whether costs are borne by landowners now, later or both; and absolute clarity is needed.**

## **What is UBID's Water Plan and how could the Developer participate in it?**

At the end of September 2014, UBID submitted its report to Island Health in response to their surface water quality treatment objectives which outlined plans to construct a water treatment system and new reservoir in Union Bay. Island Health has formally accepted this plan which grants UBID an extension for the completion and start-up of a water (filtration) treatment plant until 2018.

Island Health subsequently modified our water system operating permit to reflect the following new terms and conditions:

- On or before May 31, 2015 complete filtration plant pilot testing (Completed in Jan 2015);
- On or before August 31, 2017 obtain a permit to construct the water filtration plant, disinfection processes and all necessary works to meet the Surface Water Quality Treatment Objectives;
- On or before August 31, 2018 construct and commission a water filtration plant and all necessary works; and
- On or before August 2021 add a secondary primary disinfectant (such as UV treatment) if deemed necessary.

UBID's plan is based on construction of a water filtration plant and reservoir on a permanent site large enough and with sufficient elevation to address important issues within the current water storage and distribution system:

1. Water pressure for those living on the hillside will be increased and pumps currently required will not be needed;
2. Sufficient pressure, flow and stored capacity will allow for adequate firefighting.

UBID has developed a preliminary financial plan we will continue to flush out with the assistance of outside professional expertise/input when and where appropriate. The preliminary plan is based on:

- A combination of current and planned savings (reserves),
- Sourcing and accessing any possible grant or related funding that we can; and
- Borrowing over a reasonable repayment period (which would of course require the approval of landowners) if necessary.

**A new and improved agreement and partnership with the Developer could easily fit in with this plan and could likely result in an advancement of these timelines.**

**As some have suggested, UBID will not be asking landowners for a \$2,500 lump sum payment to fund water treatment and a new reservoir. Costs would be spread over time resulting in an anticipated modest increase in parcel tax rates year-over-year to facilitate servicing of any required debt.**

The following table outlines three options to fund the water treatment infrastructure costs, assuming no other infrastructure replacement / upgrades are required over that time. Options 1 and 2 project 3 - 5 new home starts each year (0.5%) and without a partnership. Landowners would be asked to vote for approval of any borrowing. Option 3 would include a contribution from the Developer.

Option	Projected Increases in Parcel Tax Rates (Over next 10 years)	% Increase in Parcel Taxes (Yr. over Yr.)	Primary Advantage	Primary Disadvantage
1. Annual modest increases to parcel tax rate with long-term borrowing	Parcel tax rates increase annually by a couple of dollars, going from \$330 in 2014 to \$345 in 2023.	0.5%	Minimal Increases to the future Parcel Tax Rates levied on Landowners	Greater reliance on long-term borrowing and potential risks due in part to potential fluctuations in future interest rate.
2. Fund by Parcel Taxes only with no borrowing	Parcel taxes increase by about \$10/yr., from \$330 in 2014 to \$431 in 2023.	3.01%	No long-term debt with the associated borrowing costs and risks would be incurred.	Project would be fully funded by "current" landowners and not shared between existing and future benefactors of these long-term assets.
3. The developer provides funding	Either option 1 or 2 would still apply to address other infrastructure needs	Either option	No long term debt would be incurred	Project would be funded through a partnership between UBID and the developer

Please check out UBID's plan which is available on the Water Quality Issues page of our website – [www.union-bay.ca](http://www.union-bay.ca).

## **What is the process to get a water treatment plant up and running?**

It may be possible that a pre-designed water treatment plant could be installed within five months however there are a number of other steps that must occur before installation can proceed. In relation to the KIP development a number of approvals are required by the Master Development Agreement (CVRD), UBID, and Island Health.

The MDA requires that UBID and the developer must have in place an agreement for access to potable water before applications related to construction of a water treatment plant can be considered by the CVRD.

For UBID to approve the construction of a water treatment plant the following steps must be completed:

- A water agreement with the developer that has been approved by the UBID Board;
- Endorsement of the agreement by the CVRD;
- Professional design drawings and specifications that have been approved by Koers and Associates (UBID's engineers) and the Board; and
- Approval of the design drawings and specifications by Island Health.

For the CVRD to receive and process an application for a building permit for a water treatment facility they require:

- Registered, professional sealed design drawings;
- BC Building Code letters of assurance;
- Detailed design drawings for architectural, structural, mechanical, plumbing fire suppression if applicable, electrical and geotechnical design drawings; and
- An assessment by a professional to site the building if the site is within a development permit, a watercourse or riparian area.

If there are questions, changes etc. these steps could take several months.

## **Will my water tolls and parcel taxes be affected by a new water filtration plant?**

Water tolls are user charges paid by all landowners in the District who receive water service. They are intended to pay for the day-to-day operating and administrative costs of the system. These tolls are based on each landowner's actual metered usage of water under two primary rate structures, residential and commercial. The costs of operating a new filtration plant will be in addition to our current operating costs and therefore water tolls will likely need to be increased to cover these additional costs.

Parcel taxes are used in conjunction with user fees (i.e. Water Tolls) to cover the capital costs of providing water services. They are levied on any property that has the opportunity to be provided with water service, regardless of whether or not the service is currently being provided or utilized. These taxes are used towards the renewal, replacement and capital costs of the water system. They are not to be used to subsidize general operations and administration costs. Parcel taxes may also increase depending upon the overall repairs or replacements required for the existing system (e.g. water lines) or for construction of new facilities such as a reservoir.

## **What are the required steps to increase the amount of water we can draw from Langley Lake?**

To change the current capacity in its water license, UBID would be required to apply for a “change of works”. The process outlined by FrontCounter BC is very similar to the process to apply for a Crown Land Grant. It would include information such as:

- Description of the requested changes;
- Drawings and plans, and
- Landowners who will be impacted.

Once FrontCounter BC receives the application it takes a minimum of 140 days to work through the “change of works” steps:

1. Water licence applications are submitted to FrontCounter BC.
2. Once the application meets completeness criteria the application is checked to identify potential impacts which include: existing licence holders or earlier applicants, minimum in-stream flow requirements, landowners or crown land tenure holders, other agencies, and the interests of First Nations.
3. Once notification of potentially affected licensees or other interests have been completed and comments or objections received, a technical assessment of the application is performed by Water Stewardship staff to determine if there is sufficient water available in the source to issue a new water licence.
4. The Regional Water Manager or the Comptroller of Water Rights reviews the application considering potential impacts and the availability of water and will either grant a water licence or refuse the application.

If a dam is considered as part of the application, then it must be approved by Environment Canada and the Department of Fisheries and Oceans to permit an application for change of works in a stream. As well the following provincial Ministries would need to be involved: Ministry of Environment, Environmental Protection Branch, and Fish and Wildlife Branch. Island Timberlands would need to agree to sell land surrounding the lake to accommodate increased flooding.

## **What is happening regarding meetings/negotiation with the developer?**

The Board has engaged expert assistance to move discussions toward a new and improved water agreement with the developer. Steven Kelliher of Kelliher & Turner, a law firm from Victoria that has extensive expertise in such complex negotiations, will assist the Board in its discussions over the coming months.

As well, UBID is working with a water infrastructure expert, Hew McConnell of Consensus Infrastructure Solutions, to ensure that the structure of any new agreement is in the best long-term interests of the whole community.

**This is the most complicated and important decision that UBID has ever had to make and we will therefore take whatever time is necessary to negotiate an acceptable, viable agreement.**