

AGENDA FOR THE SPECIAL OPEN MEETING OF THE COUNCIL OF THE CITY OF NANAIMO,
TO BE HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2010-FEB-01, COMMENCING IMMEDIATELY FOLLOWING THE
REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING

1. **CALL THE SPECIAL OPEN MEETING OF COUNCIL TO ORDER:**

2. **ADOPTION OF AGENDA:**

3. **STAFF REPORTS:** *(blue)*

DEVELOPMENT SERVICES:

(a) **Oceanview Master Plan "OFFICIAL COMMUNITY PLAN BYLAW
2009 NO. 6500.007"** Pg. 2-3

Staff's Recommendations: *That Council direct Staff to:*

1. *forward Bylaw No. 6500.007 to a Special Public Hearing to be held on Thursday, 2010-FEB-18, at 7:00 p.m.;*

AND:

2. *waive the Special Public Hearing fee of \$2,000.00;*

AND:

3. *convene a Special Council Meeting immediately following the Special Public Hearing to consider Third Reading and Adoption of Bylaw No. 6500.007;*

AND:

4. *prepare a report reviewing the statutory requirements for processing Official Community Plan/Zoning Amendments and to identify ways in which the City's processes may be improved.*

4. **QUESTION PERIOD:** *(Agenda Items Only)*

5. **ADJOURNMENT:**

ACTING MAYOR: COUNCILLOR MCNABB

2010-JAN-18 to 2010-MAR-07

STAFF REPORT

REPORT TO: COUNCIL

FROM: TED SWABEY, GENERAL MANAGER, DEVELOPMENT SERVICES

RE: OCEANVIEW MASTER PLAN
"OFFICIAL COMMUNITY PLAN BYLAW 2009 NO.6500.007"

STAFF'S RECOMMENDATION:

That Council direct Staff to:

1. forward Bylaw No. 6500.007 to a Special Public Hearing to be held on Thursday, 2010-FEB-18, at 7:00 p.m.;
2. waive the Special Public Hearing fee of \$2,000.00;
3. convene a Special Council meeting immediately following the Special Public Hearing to consider Third Reading and Adoption of Bylaw No. 6500.007; and
4. prepare a report reviewing the statutory requirements for processing Official Community Plan/Zoning Amendments and to identify ways in which the City's processes may be improved.

EXECUTIVE SUMMARY:

Council directed Staff to seek a legal opinion regarding information provided following the close of the Public Hearing held 2010-Jan-14. That review has now been completed and it is recommended that Council hold a Special Public Hearing to ensure fairness is maintained throughout Council's consideration of the Oceanview application.

BACKGROUND:

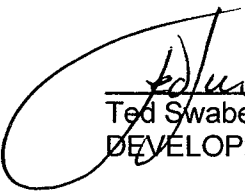
At the regular Council Meeting held 2010-Jan-25, Council was to consider Third Reading of Bylaw No. 6500.007, which is an amendment to the Official Community Plan to adopt the Master Plan for the Oceanview development. At this meeting, Council passed a motion to not proceed with Third Reading, pending a legal review of the implications of a Staff memo provided after the Public Hearing. A preliminary review has been undertaken by the City's solicitor and is the subject of this report. The Oceanview application is very large, in terms of sheer volume of material, reports and public input Council has received as part of the application. In addition to this, there are relatively few Case Law examples to evaluate the implications of the Staff memo and therefore, it is not easy to conclude that the risk of a legal challenge is low, without additional work performed by the City solicitor, at considerable cost to the taxpayers. Therefore, the option of holding a new Public Hearing provides the easiest and most direct way of removing the risk of having to expend significant tax dollars on legal fees defending the process to date.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
 Meeting Date: 2010-FEB-01

In the absence of a comprehensive review, the City's solicitor has provided an overview risk analysis and confirms that there is enough uncertainty provided by the "Senini letter" attached to Staff's memo that a new hearing should be considered by Council. A comprehensive legal review would be very expensive and would take several weeks to undertake.

The solicitor's comments also raise significant concerns for Staff, in terms of future procedures, and could result in recommended changes to the processing of applications, especially following the close of public input (i.e. Public Hearings).

Respectfully submitted,



Ted Swabey, General Manager
DEVELOPMENT SERVICES

ECS/hp
Prospero: OCP51