

BOE CERTIFICATE IN LOCAL GOVERNMENT EXECUTIVE MANAGEMENT

Certificate In Local Government Executive Management

Bill Beamish, Chief Administrative Officer, Village of Queen Charlotte, May 2012

Subject: Introduction of a Good Neighbour Policy and Noise Bylaw to a recently incorporated municipality -Case Study

Introduction:

The Village of Queen Charlotte on Haida Gwaii was incorporated as a village municipality on December 7, 2005. This incorporation was, and is, somewhat of a contentious issue in the community having been approved by a slim margin of 7% after three previous unsuccessful attempts. It seems that the overriding concerns of most residents was that with incorporation will come rules, regulations and bylaws which will forever change the quality of rural life in the community that for years was based on individualism, cooperation among individuals and in some cases negotiation and or conflict.

One of the first priorities for the new municipal Council was to develop and adopt an official community plan bylaw (OCP) that reflected the interests and needs of the new council and municipality. Although not strictly a regulatory bylaw, Council's efforts to consult in the community on provisions that might be included in the OCP drew attention to the possibilities of other kinds of bylaws which could be considered and adopted. Some residents who had favoured incorporation looked to the Council to help them resolve long standing issues and aggravations, like noise, which were possible under provisions of the Community Charter.

In 2010, Council received a series of very specific complaints from residents about noise. These concerned matters like industrial activity of log barge loading at night and noise from highway trucks to the deliberate use of loud music to get back at or get even with a neighbor over an unrelated grudge. As well, the RCMP expressed frustration to Council about the lack of an effective enforcement tool like a municipal ticket to deal with loud parties and other noise complaints. Council responded to the concerns and complaints they received by directing the Chief Administrative Officer to develop a Noise Bylaw pursuant to Section 64 of the Community Charter.

Background:

Since incorporation in 2005, the Village of Queen Charlotte had not adopted any regulatory bylaws dealing with noise, and when occasional complaints about noise were received, residents were often surprised to learn that there was no bylaw or policy in force to deal with this issue. Before incorporation, the Skeena Queen Charlotte Regional District considered this matter and included the following provisions in the 1994 Queen Charlotte -Skidegate Landing Official Community Plan, which, in 2010, was still in force in the community:

Objective 1.6: Protect community residents and wildlife from developments generating excessive noise levels;

Policy 1.6.1: consider adoption of a bylaw that would limit excessive noise in residential areas

As well, in 2009, the Queen Charlotte Advisory Planning Committee included the following recommendation on page 72 of the Draft OCP, for Future Studies and Plans: *A Noise Bylaw: to include but not limited to power saws, dog barking, roosters etc.*

The number of noise complaints received at the time was not high and the subject matter varied from industrial noise caused by the occasional loading operation of the log barge in Bearskin Bay, industrial traffic noise, street and highway maintenance activities, loud music and being woken up by roosters. The focus of concern when this matter was considered by Council in July 2010 was that as a community we do not want to become over regulated and in cases where regulation is needed, we want to ensure that there is an appropriate balance between the responsibility of individuals to communicate with their neighbours and enforcement. However, when this matter was considered by council on July 5, 2010, the following resolution was approved:

"that Council direct staff to:

1. prepare a draft Noise Bylaw;
2. prepare a draft policy relative to enforcement of the bylaw; and,
3. prepare a communication plan as to how the draft bylaw and policy would be presented to the community for consultation and feedback."

This report addresses the items listed in the Junest resolution, and discusses the process that was undertaken by the CAO and others subsequent to that meeting.

DISCUSSION:

Studies¹ have concluded that left unresolved noise complaints can result in stress, lack of sleep, anger and in many cases, serious neighbor to neighbor conflict. In addition, unresolved complaints are costly in terms of the amount of time and energy that health², police, municipal staff and members of Council are required to spend to respond, investigate and take effective action to resolve them.

In the absence of a community noise bylaw the RCMP does not have authority to effectively deal with noise complaints like loud parties, music, etc. and, lacking jurisdiction, they are reluctant to respond other than to standby and keep the peace. This often results in escalating the problem with the result that the RCMP are required to rely on provisions of the Criminal Code of Canada to justify their presence and to take action to deal with more serious problems like fights, threats and assaults which might have been preventable.

After receiving direction from Council in June, the CAO researched and reviewed a variety of options and model noise bylaws that have been adopted by municipalities in BC. A small working group of community volunteers and one member of Council met on three (3) occasions over the summer to consider bylaw models, options to enforcement and the option of developing a community mediation program which could be used to help resolve complaints and related issues. In addition, the local RCMP

¹ Noise Impacts:

The British Columbia Workers' Compensation Board (WCB) have set 85 decibels as their maximum exposure limit in the workplace. The safe level away from the workplace, ie. around home is 55 decibels and over 80 decibels is close to the level at which ear protection should be worn.

Noise above safe levels leads to a number of known health impacts:

- annoyance
- stress
- high blood pressure
- sleep loss
- the inability to concentrate
- the inability to learn
- loss of productivity, etc. The World Health Organization goes into these extensively.

² In Canada, the Working Group on Environmental Noise of the Federal/Provincial Advisory Committee on Environmental and Occupational Health acknowledged that:

Noise is more than just a nuisance since it constitutes a real and present danger to people's health. Day and night, at work and at play, noise can produce serious physical and psychological stress. No one is immune to this stress. People appear to adjust to noise by ignoring it but the ear, in fact, never closes. The body at times still responds with extreme tension, such as to a strangesound in the night (Health and Welfare Canada, 1989).

detachment Commander was consulted and one community dialogue³ was held wherein participants were invited to contribute their thoughts, concerns and ideas to the process⁴. Copy of the Dialogue Outline and Notes for June 30, 2010 are attached as Appendixes 1 and 2.

Of particular assistance to this stage of the process was a document produced in 2004 by the Ministry of Community, Aboriginal & Women's Services, "Regulatory Best Practices Guide". Parts of this document were copied, disseminated and discussed by the ad hoc working group and by the participants in an evening dialogue session held on this subject. The framework was also used as the basis of reporting to Council and responding to their concerns about the extent of this problem in the community.

The overriding concern that was consistently expressed during this process was *to find ways to encourage neighbours to resolve their disputes through conversation and if that fails to find some alternate way, like community mediation, to assist them*. In the end however, when conversation and mediation fails the option of enforcing a bylaw should be available. This is similar to the restorative justice model⁵ where diversion is offered and if it fails, the more severe sanctions are still available.

Community Charter:

In municipalities, noise complaints are dealt with by adoption and enforcement of a Noise Bylaw enacted pursuant to section 64 of the *Community Charter*. This section relates directly to the fundamental powers of a municipality established in Section 8 (3) of the *Charter*:

A Council may, **by bylaw**, regulate, prohibit and impose requirements in relation to...

(h) the protection and enhancement of the well being of the community in relation to matters referred to in section 64.

³ Queen Charlotte Community Dialogue, June 30, 2010

⁴ Dialogue Notes, June 30, 2010

⁵ RESTORATIVE Justice: *Crime Is a violation of people and relationships. It creates obligations to make things right. Justice Involves the victim, the offender, and the community in a search for solutions that promote repair, reconciliation and reassurance.*

Those who view crime from a Restorative Justice perspective see crime as conflict which creates a breach, a "rent" in the fabric of the community. Rather than the state and its laws at centre-stage, the focus remains on the disputants and on accountability, responsibility, negotiating fitting amends and, to the greatest possible degree, the repair of the harm. Since crime involves and affects-even erodes-the community, involving and empowering people to assist in the resolution of criminal conflicts that arise in their communities can reverse that trend, reducing the sense that the community is powerless to do anything about the levels of crime within it. Victim-offender mediation can dramatically change that dynamic. (Community Justice Initiatives Association BC, 2012)

Among other things, Section 64 includes noise, vibration, odor, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.⁶

The *Community Charter* requires that Council, when dealing with noise complaints, adopt a bylaw that establishes general or specific offences enforceable by a bylaw enforcement officer or, where appointed, by the RCMP. However, communities will often adopt policies that provide direction with respect to the enforcement of certain bylaws and which for example could direct that: *"Bylaw enforcement will only occur when a complaint has been received from a member of the public who is prepared to be a witness in a court proceeding."*

Considering Options:

Before adoption of a noise bylaw, council needs to consider options that may be available in existing bylaws or in other legislation to deal with specific problems. For example:

- complaints about noise from roosters could be dealt with through zoning by limiting roosters to larger parcels of land or by prohibiting roosters altogether.
- excessive dog barking could be an indication of abuse and referred to the SPCA or dealt with in an animal control bylaw.
- Industrial noise or noise emanating from a business can be dealt with by ensuring that such uses are appropriately located in compliance with the OCP and Zoning Bylaw and, if they are, by requiring buffering or other means of noise control or reduction.

When this issue was being reviewed in 2010, Queen Charlotte was in the process of developing a new OCP and did not have a Zoning Bylaw or any other kind of regulatory bylaw so unless and until they are adopted these options, with the exception of referring to the SPCA, were not available to deal with noise complaints.

With respect to noise from the occasional loading of the log barge in Bearskin Bay, there are jurisdictional issues that needed to be considered as well as finding a way to balance the needs and schedules of local industry with the community interest. Highway noise is also difficult to regulate and

⁶ See the attachment to Appendix 3 for a complete list of Nuisances listed in Section 64 of the Charter

exceptions are usually made for public works vehicles required to perform maintenance and snow removal activities early and late in a day. However it is common to regulate the amount of noise that a vehicle engine or muffler can make.

Resolving Complaints:

Often, a noise complaint or any other neighbor to neighbor dispute can be resolved through discussion or mediation between the parties. This approach requires a willingness of both or all parties to participate and dedication of time to work on the issues. In the end if the parties fail to communicate or if discussion or mediation fails and if the problem persists, referral to the courts by civil process or enforcement of a bylaw may be the only solution. In the absence of a bylaw, the municipality and the police, unless it is a criminal matter, should not be involved.

One of the principles of enforcement is the willingness of the complainant to testify in court as to the nature of their complaint and, in the case of a noise bylaw, to provide clear evidence of the dates and times that they were disturbed by noise. If a complainant is not willing to participate in a court action then in most cases enforcement will not be initiated. Exceptions are when the evidence and the offence are clearly linked as in the case of measurable construction noise before or after a time specified in a bylaw.

Community Consultation:

One of the concerns raised by some members of the public during the discussion of the noise bylaw was the nature and extent of community consultation that would be held before any bylaw under section 64 of the Charter is considered or adopted by Council. In recognition of this concern, a Council Policy⁷ was developed to ensure that the public has every opportunity to be informed of any draft bylaw under this section and to have input into its content and the ability to encourage council to consider other bylaw or policy options as appropriate. Copy of Policy 18.0 is attached as Appendix 4.

The main elements of this Policy include early notification of the community via the municipal website, Facebook, Council newsletter, newspaper, dialogue, and both formal and informal conversations with

⁷ Queen Charlotte Council Policy 18.0, Good Neighbour Bylaw-Consultation

the public prior to final adoption which in such cases must be preceded by three (3) readings of the bylaw on three (3) separate occasions by Council.

This Council Policy somewhat mitigated the distrust of the process and Council intentions which was expressed by some members of the community with respect to the newly incorporated community.

Mediation:

Some larger municipalities in BC have developed community mediation programs or they refer good neighbor type complaints to existing not for profit community based mediation organizations⁸. These services are free or minimal cost and confidential. They are often staffed by volunteer trained mediators under the direction of a paid coordinator. The following is an example of such a service that is available in North Vancouver:

"COMMUNITY MEDIATION SERVICES:

We are a non-profit society through which trained mediators volunteer their services to mediate community disputes.

Generally, our services may be used for any dispute resulting from a breakdown in normal,friendly community relations, including:

- Disputes between neighbours*
- Disputes between residents and local businesses*
- Other community conflicts*

⁸ Transition Nelson, December 27, 2011: "The Nelson Good Neighbour Program will recruit volunteers to act as community mediators. After a FREE 3-day training sponsored by the Mir Centre at Selkirk College, the volunteers will collaborate to design a system for responding to community requests for help resolving conflicts and building relationships among neighbours. The Good Neighbour Program has received vocal support from the Nelson Police Department and positive feedback from Nelson City Council. With this support in hand, Transition Nelson is looking to launch the program in Spring 2012. Volunteer mediators are now being sought to participate in the development of the program and become the first community mediators for the City of Nelson."

We are supported by the District of North Vancouver and the City of North Vancouver."

Several good resources⁹ and models are available on line to consider with respect to developing a mediation or community dispute resolution system. In addition, the Ministry of Justice/Justice Services Branch has available publications¹⁰ and experience to share.

There are certified mediators living in our community and if a community mediation service were to be established in Queen Charlotte, it could provide service to other communities on Haida Gwaii.

Enforcement:

One significant concern that arose as a result of the discussions about the consideration of noise bylaw was the degree of enforcement that would be considered by the RCMP or the municipality and what steps would be required before any enforcement action is taken. Again, the general mistrust of authority and Council's intentions coupled with the strong desire of a significant number of the members of the community for no regulation allied this discussion in the community and in the local media.

In response to this concern, Council considered and adopted a second Council Policy¹¹ (Appendix 5 attached) which establishes five (5) conditions that govern the enforcement of any bylaw that is adopted under section 64 of the Charter. These conditions are:

1. Where Council has adopted a bylaw under section 64 of the Community Charter, neighbours will be encouraged to resolve their complaint by talking with their neighbor, or owner of the property giving rise to the complaint, or by participating in a voluntary mediation process, or other process, with a view to resolving their complaint before enforcement action is taken.

⁹ Timothy Hedeon, "The Evolution & Evaluation of Community Mediation: Limited Research Suggests Unlimited Progress", Conflict resolution Quarterly, Vol. 22, No.1-2, Fall-Winter 2004, PPIOI-133

¹⁰ BC Ministry of Attorney General, "Reaching Resolution: A Guide to Designing Public Sector Dispute Resolution Systems"

¹¹ Queen Charlotte Council Policy 19.0 Enforcement of Good Neighbor Bylaws

2. A bylaw adopted under section 64 of the community charter will only be enforced on receipt of a complaint from a resident of Queen Charlotte or by resolution of Council.
3. Enforcement action will not be taken in respect to anonymous complaints about matters included in section 64 of the Community Charter.
4. Enforcement action will not be taken in cases where complainants are not prepared to document their complaint and, if necessary, give evidence in court.
5. This policy is not intended to fetter the discretion of the RCMP to take enforcement action in circumstances where such action is deemed appropriate.

The adoption of this policy by Council has helped to reduce the concerns of many of the less skeptical residents with respect to what they believe is Council's intent to over regulate and control the community. However, as in most communities, not everyone is satisfied.

THE BYLAW:

The final act in this somewhat lengthy process that began in May 2010, was the consideration by Council of the draft Noise Bylaw, 48-2011, and of the draft council Policies 18 and 19 that accompany the bylaw. These were presented to Council on November 22, 2010, with the recommendation that consideration of the bylaw be tabled for almost 2 months, until January 17, 2011, in order to give the community an opportunity to read and understand the proposed bylaw and the two associated council Policies dealing with consultation and enforcement. In the intervening time, Council and staff would be available to answer any questions and to develop additional responses or options should they be needed.

The Bylaw includes the standard bylaw sections the only one of which gave any rise to serious objection was the provision for Inspection as follows:

7. Subject to requirements of the BC Community Charter Act, a bylaw enforcement officer may enter on any property at any reasonable time for the purpose of ascertaining whether the regulations and requirements of this Bylaw are being observed.

This was interesting in that some residents likened this to a 'police state' wherein our bylaw officers, the RCMP, could enter their homes at any time to see what they are up to. After discussion of this section in

the context of Section 16 of the Community Charter opposition to the bylaw seemed to diminish. However, this experience once again demonstrated the mistrust that some resident had and continue to have with respect to Council.

On January 19, 2011, Council received and considered comments about the provisions in the draft bylaw with the result that some changes were made in order to clarify references to times and days of the week and to add additional exemptions for activities that would not come under the scope of the bylaw for enforcement purposes. First reading of the bylaw was given by Council on February 21st and it was adopted three meetings later on April 18, 2011. Copy of Bylaw 48-2011 is attached as Appendix 6.

In the end, apart from two ever present council watchers, no one was particularly interested in the readings of the bylaw after the process began as it was assumed that approval would be given and there was nothing more to be said.

Impact of the Bylaw and Policies:

In 2011, the RCMP responded to three (3) noise complaints under the new bylaw- no enforcement was required. So far in 2012, only one (1) complaint has been received and responded to, again, without enforcement action.

The RCMP are satisfied with the bylaw and enforcement policy which supports their ability to respond to complaints and provides an additional option with respect to enforcement action or resolution.

One additional impact has been that the introduction and development of this bylaw served to 'break the ice' with respect to other bylaws and policies that council has reviewed and adopted. We are currently working on a Street and Traffic Bylaw and on a Zoning Bylaw, both of which have received very little attention from the public even though consultation has been conducted and is ongoing. We use our newsletter, the Village voice, as a means of informing and providing a heads up to the public about what we are working on and it seems that support for some regulation is growing in the community.

LESSONS LEARNED:

As CAO, managing the process for developing and gaining approval for the first regulatory bylaw in a recently incorporated community was an opportunity to learn more about the community and its

residents as well as to apply skills required for dialogue, public consultation, conflict resolution, issues management and research. Overall this experience was greatly appreciated and it has resulted in raising the professional profile of the CAO position and I believe gaining respect and credibility in the community. The following experiences or lessons could be applied to other projects or other communities:

1. Be thorough and unbiased in conducting relevant research and presenting information to council and the community;
2. Be open and transparent in respect to process;
3. Encourage and facilitate good public process;
4. Acknowledge and credit input from others;
5. Do not be intimidated;
6. Use available resources
7. Ask for and graciously receive advice and assistance;
8. Acknowledge the unique needs and characteristics of your community;
9. Take time to inform, educate and explain- remember that in most situations you are the experienced one;
10. Don't rush process.
11. Always be professional and provide advice based on knowledge and experience.

List of Appendices:

Appendix 1: Queen Charlotte Community Dialogue -June 30, 2010: "How Much Regulation do we Need or Want?"

Appendix 2: Queen Charlotte Community Dialogue -June 30, 2010, Notes

Appendix 3: Council Policy 18, Good Neighbour Bylaw- Consultation

Appendix 4: Council Policy 19, Enforcement of Good Neighbor Bylaws

Appendix 5: Queen Charlotte Noise Bylaw 48-2011

How Much Local Government Regulation do we Need (Want)?

"An environment is a space... be it our home, where we work, where we play, shop, engage with society, etc.. In essence, it is our community or the environment of which we live and breathe each and every day of our lives upon this planet in.

Therefore, as individuals.. we are able to create the type of environment for our lives - through using our individual choice, to then add to the whole. What determines the overall environment of a given situation - is the ability of those making individual choices to affect others in the near surroundings - ultimately creating the environment.

How does a choice or action by one individual occupying the same space or territory- affect you and your quality of life within the same environment?" "Why do we need rules anyway?"
Hubpages.com

Types of LG Regulation:

1. Operating Procedures:
 - a. How we do things

2. Council Policies
 - a. How we do things
 - b. How we respond to requests
 - c. How we provide service

3. Bylaws: Limited to 'spheres' of authority established by the Community Charter or other legislation
 - a. Fundamental Powers
 - b. Concurrent Authority

"A Bylaw is a Law enacted by locally elected officials to govern and control municipal actions and services."
UBCM

"Imagine there's no regulation. It's easy if you try. Given my experiences, that would at least be a start in the right direction. Then, maybe we'll actually be able to start thinking about regulation more sensibly ."

Libertarian Jackass, Sept. 03

Reasons for Regulation:

Williams Lake-CAO Blog: "Municipal regulatory bylaws are intended to define the standards by which citizens and businesses conduct themselves within the scope of a community. They generally regulate use and development of lands and property but also address activities such as keeping of pets, noise, business, traffic, lawn sprinkling, etc.

The enforcement of municipal bylaws is normally 'complaint driven'. However, the City will initiate enforcement where a violation affects the community at large or in the event of a condition that poses a threat to health or safety or causes a condition that impedes City operations. Enforcement of municipal bylaws generally begin with a warning to the offender as the primary goal of enforcing municipal bylaws is obtaining compliance."

Community pressures for regulation:

1. Noise pollution
2. Air pollution
3. Climate change-Climate Charter
4. Ageing
5. Changing economies and changing demographics
6. Education
 - a. Environmental awareness
 - b. schools
7. Practice elsewhere
 - a. New residents = new ideas or expectations
8. Community expectations
 - a. Recycling
 - b. Composting
 - c. smoking
9. Community development or maintenance
 - a. Community gardens
 - b. New construction
 - c. Emergency response
 - d. Hold value of local real estate
10. Evolving technologies
 - a. Wood stoves for example
11. Public safety

"Regulation is at the centre of government's existence. It is one of the primary reasons we have governments. Regulations protect public health, safety and the environment. Regulations protect people, protect the community against mavericks." Ken Dobell, Deputy Minister to the Premier, 2008

Census		2006	2000	
Skeena-Queen Charlotte	RD	19,664	21,693	-9.4
Masset	VL	940	926	1.5
Port Clements	VL	440	516	-14.7
Port Edward	DM	577	659	-12.4
Prince Rupert	CY	12,815	14,643	-12.5
Queen Charlotte	VL	948	1,045	-9.3
Indian Reserves	IR	2,846	2,765	2.9
Skeena-Queen Charlotte A	RDA	52	91	-42.9
Skeena-Queen Charlotte C	RDA	37	50	-26.0
Skeena-Queen Charlotte D	RDA	607	538	12.8

Are we concerned about the Regulations or about the Process?

Best practice in the sphere of government intervention suggests that before any intervention is considered, there should be:

- clear evidence that a problem exists, taking into account the views of those who are affected;
- an analysis of the likely benefits and costs of action and non-action; and
- consideration of alternative approaches for addressing the problem.

What approaches might be considered?

Here are some approaches that municipal governments use to address a problem. Sometimes, approaches are combined or two or more municipalities tackle an issue together.

1. Monitoring. This approach acknowledges that there is a problem but that it is not defined well enough to warrant immediate action. A method of collecting and reporting relevant data for a set time period could be established.

2. Dialogue. In certain situations, informal dialogue may be a good approach. Sometimes people are not aware that their actions (or inactions) are creating problems for others. If a neutral third party brings the individuals or businesses together for discussion, the solution may become apparent. A related method is formal dispute resolution. In this case, trained facilitators are engaged to identify solutions in collaboration with the parties involved. Many BC communities have local organizations that provide dispute resolution services; the BC Justice Institute is another resource.

3. Public education. The problem may be one where high voluntary compliance is achievable if residents and businesses have reliable, timely information. A public education campaign (media, brochures, speakers) may be needed to reinforce the desired outcomes.

4. Self-regulation. Another approach is to engage a group to be part of the solution rather than part of the problem. Depending on the group, say a group of sports organizations, there could be self-policing about the use of municipal playing fields for a prescribed time period, for example during drought conditions. The umbrella group, not the municipality, would decide on appropriate penalties.

5. Voluntary codes and agreements. In some circumstances a negotiated "contract" between the municipality and one or more parties is more appropriate than regulation. For example, an industrial operation may enter into an environmental performance agreement. If the industrial user complies, the company may benefit from positive publicity and the residents of the municipality may benefit from the industry's improved environmental practices.

6. Existing service. Sometimes, an improved level of municipal service may solve a problem. For example, if garbage becomes a major summer-time nuisance and the municipality collects the garbage, more frequent pick-ups, or pick-ups earlier in the day might be the right solution.

7. New service. The problem may be one that requires multiple approaches, even going so far as to provide a new municipal service. For example, if youth skateboarders are a problem in public places, a municipality may decide to construct and operate a skateboard park.

8. Deregulation. The problem may be a result of a regulatory bylaw that is outdated. For example, the continued enforcement of a bylaw out-of-step with the community's circumstances may be creating a backlash among those who are affected or the bylaw may be unnecessarily complex. In this situation, deregulation -or simplification of an existing regulatory bylaw- might be the approach selected.

9. Regulation. A regulatory approach may be the most appropriate solution. With some exceptions, council may prohibit, impose requirements or restrict certain activities. The use of gas-powered leaf-blowers is an example where council may choose to regulate rather than use another approach. It has the authority to prohibit the use of leaf-blowers, limit the times that they can be used, limit the noise level at source, or require the user to post notices in advance of their use.

Queen Charlotte Community Dialogue -June 30, 2010

HOW MUCH REGULATION DO WE NEED (OR WANT)?

Nineteen people attended the June 30th Dialogue and the conversation about whether or not local government regulation is needed in Queen Charlotte was interesting and lively.

The impetus for this dialogue and topic was the recent consideration by council of the need for a noise bylaw resulting from a series of complaints received by the Village and by members of Council. In addition, the RCMP had identified that a noise bylaw would assist them to take action on complaints where such action was warranted. In the absence of a bylaw the role of the RCMP is to 'keep the peace' if or when a heated dispute arises, often the result of an unresolved neighbor to neighbor issue.

Participants in the dialogue spoke eloquently in stating their reasons for or against some or any form of local government regulation. Some of the comments or themes that emerged are noted as follows:

- The village has experienced zero or negative growth in recent years and the only thing that has changed is that we now have a local government that wants to introduce regulation;
- Population has gone from 1000 to 1250 and now back to 1000;
- Demographics are changing- the community is getting older;
- Need to keep kids in the community;
- We are an 'organic' collection of people;
- VQC is no longer just a fishing and logging community;
- The role of local government is to manage the business of the town not how we live;
- We don't want interference in our lives;
- We should be anticipating problems and looking for ways to deal with them before they occur;
- There should be a process for studying issues;
- Council is responsible to get input from people who are disinclined to give it openly.
- how can the public have meaningful input into council decisions- the idea of 'voting' at council meetings whereby the gallery gets one vote on an issue was mentioned;
- Council should establish and be involved in committees and/or commissions similar to the Advisory Planning Commission or the old Water-Sewer Commission referring most issues for comment and recommendation. This would offer a framework and process whereby council could incorporate local expertise, public input and recommendations to most of their decisions.
- General principles should be developed for how to deal with issues when they arise;
- Specific concern about the need for a bylaw to assist with animal control and the protection of animals in the community was discussed;
- A noise bylaw will not address issues of the log barge or highway maintenance as has been requested;
- Precedent of who was here first should be applied;
- A Zoning bylaw would be helpful to ensure that inappropriate businesses do not interfere with the neighbours ability to enjoy their properties (body/paint shop example);
- View protection was also identified as a concern;

Dialogue Notes-June 30,2010

- Bylaws should be limited to dealing with the health and safety or general well being of a community and should not be used to resolve neighbor to neighbor issues;
- Council is not secretive; doing a good job at being open and transparent .

Toward the end of the dialogue a 2 page article about 'best practice' in the sphere of government intervention was circulated. This article identifies the following initial steps to be taken before any form of regulation is considered. The following process framework is suggested:

1. There must be clear evidence that a problem exists,taking into account the views of those who are affected;
2. An analysis of the likely benefits and costs of action and non-action; and,
3. Consideration of nine (9) alternative approaches for addressing the identified problem.

Copy of the article excerpted is attached from a larger report, "Regulatory Best Practice Guide" (2004) prepared by the Ministry of Community and Rural Development is attached for reference.

Consensus of the dialogue participants was that regulation should not be the first and only option that council considers when attempting to address or resolve a community problem. There should be a process guided by general principles for dealing with the kinds of things that should be regulated. There was also some support for establishing a commission or committee of council to deal with complaints and to make recommendations to council for action if warranted.

Summer Dialogues:

Although the intent when the Community Dialogues started in May,was that there would be a summer break for July and august,participants indicated that they would like to carry on without a break and that for the most part they would be in the community and available to participate.

The next dialogue will be held on Wednesday,July 28th in Council Chambers. Topic to be announced.

Notes prepared by Bill Beamish

July 5,2010

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- an analysis of the likely benefits and costs of action and non-action; and
- consideration of alternative approaches for addressing the problem.

What approaches might be considered?

Here are some approaches that municipal governments use to address a problem. Sometimes, approaches are combined or two or more municipalities tackle an issue together.

1. Monitoring. This approach acknowledges that there is a problem but that it is not defined well enough to warrant immediate action. A method of collecting and reporting relevant data for a set time period could be established.

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4. Self-regulation. Another approach is to engage a group to be part of the solution rather than part of the problem. Depending on the group, say a group of sports organizations, there could be self-policing about the use of municipal playing fields for a prescribed time period, for example during drought conditions. The umbrella group, not the municipality, would decide on appropriate penalties.

5. Voluntary codes and agreements. In some circumstances a negotiated

"Contract" between the municipality and one or more parties is more appropriate than regulation. For example, an industrial operation may enter into an environmental performance agreement. If the industrial user complies, the company may benefit from positive publicity and the residents of the municipality may benefit from the industry's improved environmental practices.

6. Existing service. Sometimes, an improved level of municipal service may solve a problem. For example, if garbage becomes a major summer-time nuisance and the municipality collects the garbage, more frequent pick-ups, or pick-ups earlier in the day might be the right solution.

7. New service. The problem may be one that requires multiple approaches, even going so far as to provide a new municipal service. For example, if youth skateboarders are a problem in public places, a municipality may decide to construct and operate a skateboard park.

8. Deregulation. The problem may be a result of a regulatory bylaw that is outdated. For example, the continued enforcement of a bylaw out-of-step with the community's circumstances may be creating a backlash among those who are affected or the bylaw may be unnecessarily complex. In this situation, deregulation -or simplification of an existing regulatory bylaw- might be the approach selected.

9. Regulation. A regulatory approach may be the most appropriate solution. With some exceptions, council may prohibit, impose requirements or restrict certain activities. The use of gas-powered leaf-blowers is an example where council may choose to regulate rather than use another approach. It has the authority to prohibit the use of leaf-blowers, limit the times that they can be used, limit the noise level at source, or require the user to post notices in advance of their use.

Village of Queen Charlotte

COUNCIL POLICY

Name of Policy:	Good Neighbour Bylaws - Consultation	
Reference No:	18.0	
Date Adopted:	January 17,2011	R2011/02/12

Purpose:

The purpose of this policy is to ensure that there has been full and open consultation with the community prior to consideration and adoption of any bylaw under Section 64 of the Community Charter, commonly referred to as a Good Neighbour Bylaw.

Bylaws under section 64 of the Community Charter generally relate to situations which, if unresolved, often result in disagreement or conflict between neighbours and Include noise, odour, unsightly premises, trespass, secondhand smoke, illumination 'or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public."

A full list of items included under Section 64 is attached to this policy for reference.

Policy:

Bylaws under section 64 of the Community Charter may be considered for adoption by council in response to a specific issue that has been raised by more than two resident of the community having separate addresses only after there has been full and open consultation with the community and if no other appropriate options are available.

Procedure:

1. On receipt of complaints from more than one resident (having separate addresses) of the community in respect to a matter listed in section 64 of the Community Charter which cannot be resolved by other means, Council may give direction, by resolution, to the CAO to prepare a Report to Council on the issue and options for dealing with issue;
2. Prior to it being considered by council, copy of the Report to Council shall be made available to the general public by posting on the municipal website and to any member of the community who has expressed interest in the issue. Any comments received shall be considered by the CAO and appended to the Report to Council;
3. Notice shall be given in the newspaper and to any person who has expressed interested in the issue, of the date and time that the Report to Council will be considered by Council and of the opportunity to attend the meeting and to discuss the issue with Council;
4. If, after considering the Report to Council and any representations by members of the community in open meeting, council is satisfied that the most appropriate means of

dealing with an issue is by bylaw, Council will direct the CAO to prepare a draft bylaw and to ensure that the following actions are taken:

- a. Notice of the draft bylaw shall be published in the local newspaper for at least 2 weeks immediately prior to it appearing on an agenda for council to consider and shall include:
 - i. name of the bylaw
 - ii. purpose of the bylaw;
 - m. date and time of the Council Meeting or Committee of the Whole that it will be considered at by council;
 - iv. days and time that it is available to view at the municipal office;
 - v. Village web address for viewing the draft bylaw.
 - b. The subject matter of the bylaw shall be published in the 'Village Voice' with a background report on the issue(s) and options available for dealing with them; copy of this information shall also be added to the Village website for information;
 - c. An opportunity for Community Dialogue is been held on the subject of the draft bylaw and that a report of the dialogue is provided to Council.
5. In order to give additional opportunity for the public to consider and comment on the bylaw, and for Council to amend the bylaw, all readings of the bylaw shall be held at separate meetings of Council.



Chief Administrative Officer

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Community Charter: Nuisances, disturbances and other objectionable situations

64 The authority of a council under section 8 (3) (h) [*spheres of authority – nuisances disturbances and other objectionable situations*] may be exercised In relation to the following:

- (a) nuisances;
- (b) noise, vibration, odour, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- (c) the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;
- (d) refuse, garbage or other material that is noxious, offensive or unwholesome;
- (e) the use of waste disposal and recycling services;
- (f) the accumulation of water on property;
- (g) unsanitary conditions on property;
- (h) drains, cesspools, septic tanks and outhouses;
- (i) trees, weeds or other growths that council considers should be removed, cut down or trimmed;
- (j) the carrying on of a noxious or offensive business activity;
- (k) graffiti and unsightly conditions on property;
- (l) indecency and profane, blasphemous or grossly insulting language.

Village of Queen Charlotte

COUNCIL POLICY

Name of Policy:	Enforcement of Good Neighbour Bylaws
Reference No:	19.0
Date Adopted:	January 17,2011 R2011/02/13

Purpose:

Disputes between neighbours are some of the most difficult kinds of issues that a municipality is asked to resolve. These complaints often concern issues of noise, odour, unsightly premises, noxious weeds, and other matters referenced in section 64 of the Community Charter. The Community Charter provides that a municipality may deal with these matters by adopting bylaws which establish penalties for specific kinds of violations. Alternatively, in the absence of a bylaw, the municipality has no specific jurisdiction to act and complainants have recourse to the courts directly or, if it is a criminal matter, to the police.

Council encourages neighbours to resolve their complaints without recourse to bylaw or other enforcement action and has considered alternate means of resolution that may be available in the community.

The purposes of this Policy are:

- a. to encourage the resolution of disputes between neighbours by suggesting alternative, voluntary, processes for resolving complaints received pursuant to Section 64 of the Community Charter, and;
- b. to provide direction and guidance to employees of the Village of Queen Charlotte and to the Queen Charlotte RCMP Detachment for responding to or investigating complaints from the general public in respect to bylaws adopted pursuant to Section 64 of the Community Charter.

Copy of Section 64 of the Community Charter is attached for reference.

Policy:

It is that Policy of the Village of Queen Charlotte Council that:

1. Where Council has adopted a bylaw under Section 64 of the Community Charter, neighbours will be encouraged to resolve their complaint by talking with their neighbour, or owner of the property giving rise to the complaint, or by participating in a voluntary mediation process, or other process, before enforcement action is taken.

2. A bylaw adopted under section 64 of the Community Charter will only be enforced on receipt of a complaint from a resident of Queen Charlotte or by resolution of Council.
3. Enforcement action will not be taken in respect to anonymous complaints about matters included in Section 64 of the Community Charter that are received by the municipality.
4. Enforcement action will not be taken in cases where complainants are not prepared to document their complaint and, if necessary give evidence in court.
5. This policy is not intended to fetter the discretion of the RCMP to take enforcement action in circumstances where such action is deemed appropriate.

Procedure:

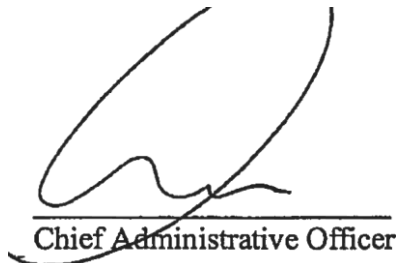
It is proposed that a voluntary community mediation program be established that would serve the needs of residents of our local communities. This program would be modeled on similar not for profit programs elsewhere and would be partially funded by local government and available grants. Success of this program will depend on the ability to find a qualified person to coordinate it and a pool of trained volunteers willing to support the program.

Mediation will be recommended, as an option to enforcement, after the parties have tried to resolve their dispute by talking together and by other means. In bylaw cases where mediation is tried and fails, or where mediation is declined, enforcement will be considered.

In the absence of a mediation program, complainants will be encouraged to resolve their disputes by talking to each other or with the assistance of a bylaw officer appointed by Council.

Where enforcement action is considered necessary, the complainant will be informed of their responsibility to have documented the specific details of their complaint including the dates and times that the actions giving rise to the complaint occurred, and to be prepared to appear in court to testify about the complaint if the need arises. If a complainant indicates that they are not prepared to provide evidence in court, then no further action will be taken.

In all cases, it is expected that enforcement will be looked upon as a last resort. However, there may be circumstances where enforcement is warranted immediately.


Chief Administrative Officer

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Community Charter: Nuisances, disturbances and other objectionable situations

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- (e) the use of waste disposal and recycling services;
- (f) the accumulation of water on property;
- (g) unsanitary conditions on property;
- (h) drains, cesspools, septic tanks and outhouses;
- (i) trees, weeds or other growths that council considers should be removed, cut down or trimmed;
- (j) the carrying on of a noxious or offensive business activity;
- (k) graffiti and unsightly conditions on property;
- (l) indecency and profane, blasphemous or grossly insulting language.

VILLAGE OF QUEEN CHARLOTTE**NOISE BYLAW NO. 48,2011****A Bylaw to regulate, prohibit, and impose requirements in relation to noise in the Village of Queen Charlotte**

WHEREAS the Council of the Village of Queen Charlotte has the authority to regulate, prohibit, and impose requirements in relation to noise that is liable to unreasonably disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;

NOW THEREFORE the Council of the Village of Queen Charlotte, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited for all purposes as the "Village of Queen Charlotte Noise Regulation Bylaw No.48, 2011."

Interpretation

2. In this Bylaw:
 - (a) "Council" means the Council of the Village of Queen Charlotte;
 - (b) "Bylaw Enforcement Officer" means the Chief Administrative Officer, member of the R.C.M.P., or other person who may be appointed by Council;
 - (c) "Village" means the Village of Queen Charlotte;
 - (d) "Weekdays" means Sunday night to Friday morning;
 - (e) "Weekends" means Friday night to Sunday morning.

Prohibited Noise

3. No person shall make or cause, or permit to be made or caused, in or on a highway or public place in the Village, any noise which unreasonably disturbs or is liable to unreasonably disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
4. No owner or occupier of real property shall use such real property, or permit such real property to be used, so that a noise which originates from such real property unreasonably disturbs or is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.

5. Without limiting the generality of Section 3 or 4 of this Bylaw, no person shall cause or permit:
- (a) any amplified music or speech which is audible between the hours of 11:00 p.m. and 7:00a.m. on weekdays, or between the hours of 11:00 p.m. and 9:00a.m. on weekends, outside the premises on the real property from where the music or speech originates or is reproduced and which unreasonably disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public;
 - (b) any calls, cries, barks, or other noises made by an animal which are audible between the hours of 11:00 p.m. and 7:00a.m. on weekdays, or between the hours of 11:00 p.m. and 9:00a.m. on weekends, outside the premises where the animal is kept and which unreasonably disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public;
 - (c) any noise made by the operation of any machinery or equipment between the hours of 11:00 p.m. and 7:00a.m. on weekdays or between the hours of 11:00 p.m. and 9:00a.m. on weekends and which unreasonably disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public;
 - (d) any noise made in the construction, reconstruction, alteration, repair, or demolition of any building, structure, or thing, including the excavation or filling of land, between the hours of 11:00 p.m. and 7:00a.m. on weekdays or between the hours of 11:00 p.m. and 9:00a.m. on weekends and which unreasonably disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
 - (e) The provisions of this part shall not apply to or be enforced against the operation of machinery or equipment or any construction, building, demolition, excavation, grading or other kind of construction or destruction work undertaken outside of the prohibited hours with the written permission of the Chief Administrative Officer or by a resolution of Council.

Exemptions

6. This Bylaw does not apply to noise produced by:
- (a) emergency response vehicles and equipment proceeding upon or engaged in an emergency;

- (b) the excavation, filling, construction, reconstruction, alteration, or repair of streets, highways, public works, infrastructure, or lands by the Village's employees or agents, as required to respond to an emergency or to ensure the safety of the public.
- (c) snow removal or highway cleaning operations on a highway or public place;
- (d) the operation of a public address system, or alarm system, required under a building or fire code;
- (e) special events permitted by Council;
- (f) an animal impoundment facility or shelter;
- (g) activities associated with commercial fisheries operations and fish guides;
- (h) commercial delivery vehicles, or their operators, or any other noise associated with the regular course of the delivery or pickup of commercial goods;
- (i) BC Ferries operations in Skidegate landing;
- (j) the landing and takeoff of helicopters from the heli-pad or float planes;
- (k) industrial activity on property zoned industrial and including the loading of the log barge in Bearskin Bay;

Inspection

7. Subject to requirements of the *BC Community Charter Act*, a bylaw enforcement officer may enter on any property at any reasonable time for the purpose of ascertaining whether the regulations and requirements of this Bylaw are being observed.

No Interference

8. No person shall obstruct or interfere with a bylaw enforcement officer in the performance of his or her duties under this Bylaw.

Offences and Penalties

9. Any person who contravenes this Bylaw is liable upon summary conviction to a fine and the cost of prosecution. Every day during which there is an infraction of this Bylaw shall constitute a separate offence.
10. This Bylaw is designated pursuant to s.264(1)(a) of the *Community Charter*, S.B.C. 2003, c. 26 as a bylaw enforceable by means of a ticket in the form prescribed in the *Community Charter Bylaw Enforcement Ticket Regulation*, B.C. Reg. 425/2003.
11. All persons acting on behalf of the Village for the purpose of enforcement of the Village's bylaws and members of the R.C.M.P. are designated pursuant to s.264(1)(b) of

the *Community Charter*, as bylaw enforcement officers for the purpose of enforcing this Bylaw.

12. The words or expressions set forth in Column 1 of Schedule "A" of the Bylaw are authorized pursuant to s. 264(1)(c) of the *Community Charter* to designate the offence committed under the bylaw section number appearing in Column 2 opposite the respective words or expressions.
13. The amounts appearing in Column 3 of Schedule "A" of this Bylaw are the fines established by Council pursuant to s. 265(1)(a) of the *Community Charter* for the corresponding offence designated in Column 1.

Severability

14. If any section or lesser portion of this Bylaw is held to be invalid by a Court, such invalidity shall not affect the remaining portions of the Bylaw.

READ A FIRST TIME this 21st day of February, 2011.

READ A SECOND TIME this 21st day of March, 2011.

READ A THIRD TIME this 4th day of April, 2011.

APPROVED AND ADOPTED this 18th day of April, 2011.

Carol Kulesha, Mayor

William Beamish, Chief Administrative Officer

I hereby certify that the above is true and correct copy of ""Village of Queen Charlotte Noise Regulation Bylaw No.48, 2011." as adopted by Council of the Village of Queen Charlotte on the 18th day of April, 2011.

Corporate Officer

SCHEDULE "A" OF BYLAW NO. 48, 2011

Offence Committed	Bylaw Section No.	Fine
1. Noise on highway or public place contrary to bylaw	3	1st Offence \$50.00 Subsequent Fine \$100 per offence.
2. Noise on premises contrary to bylaw	4	1st Offence \$50.00 Subsequent Fine \$100 per offence.
3. Amplified music or speech during prohibited period	5(a)	1st Offence \$50.00 Subsequent Fine \$100 per offence.
4. Noisy animal during prohibited period	5(b)	1st Offence \$50.00 Subsequent Fine \$100 per offence.
5. Noise from machinery or equipment during prohibited period	5(c)	1st Offence \$50.00 Subsequent Fine \$100 per offence.
6. Noise from construction during prohibited period	5(d)	1st Offence \$50.00 Subsequent Fine \$100 per offence.
7. Interference with bylaw enforcement officer	8	\$250.00