



**REGIONAL DISTRICT
of
NORTH OKANAGAN**

REPORT

File No.: 13-0226-D-TA

TO: Electoral Area Advisory Committee
FROM: Planning Department
DATE: June 27, 2013
**SUBJECT: Electoral Areas "D" and "E" Official Community Plan Amendment
Bylaw No. 2603 (Genetically Modified Organisms)**

RECOMMENDATION:

That Electoral Areas "D" and "E" Official Community Plan Amendment Bylaw No. 2603 which proposes to amend the Official Community Plan to include Policies regarding Genetically Modified Organisms be given First Reading; and further,

That Electoral Areas "D" and "E" Official Community Plan Amendment Bylaw No. 2603 be referred to various agencies and First Nations and the Regional District Chief Financial Officer, Regional Engineering Services Manager, Regional Agricultural Advisory Committee, Advisory Planning Committee, Ministry of Agriculture, Agricultural Land Commission in accordance with Sections 879, 881 and 882 of the *Local Government Act*.

DISCUSSION:

The Board of Directors passed the following resolution on June 26, 2013:

"...That staff be directed to prepare bylaw amendments to incorporate policy statements into the Electoral Areas "D" and "E" Official Community Plan that reflect the wishes of the community with regard to Genetically Modified Organisms (GMOs)."

There is a wide range of agricultural practices that occur within Electoral Area "D" (Greater Lumby) and Electoral Area "E" (Cherryville). Local community members have expressed environmental, economic and health concerns regarding the use of genetically modified (GM) or genetically engineered (GE) crops. The Board of Directors has directed staff to prepare an Official Community Plan Amendment Bylaw that provides policy direction on the matter of importance to the community. In follow-up to the direction of the Board of Directors, Electoral Areas "D" and "E" Official Community Plan Amendment Bylaw No. 2603 (Genetically Modified Organisms) has been prepared for First Reading and is presented with this report.

The Regional District of North Okanagan does not have regulatory authority over normal agricultural practices, which included crops that have been modified using genetic engineering techniques. In Canada, the regulation of genetically modified crops and food products is primarily done at the federal level. The Canadian Food Inspection Agency (CFIA) shares responsibility with Health Canada for regulating products derived from biotechnology.

Health Canada¹ is responsible for assessing the human health safety of products derived through biotechnology including foods, drugs, cosmetics, medical devices and pest control products. CFIA is responsible for assessing the safety of plants, animal feeds and animal feed ingredients, fertilizers and veterinary biologics. Genetically engineered food products were first approved by Health Canada in 1994.

The Province has jurisdiction over local health, environmental and agricultural issues, subject to federal regulations. With the matter being in senior government (federal and provincial) jurisdiction, there are significant barriers to the implementation of local government regulations relating to GMO seeds and products. Farmers have Right to Farm legislation in BC. Municipal and regional governments cannot enforce restrictions that limit farmers from farming under normal farm practices.

Any policy statements addressing Electoral Area “D” (Greater Lumby) and “E” (Cherryville) community concerns regarding genetically modified agricultural products would be considered a broad objective under Section 878(2)² of the *Local Government Act*. These matters are outside the jurisdiction of the Regional District and the Official Community Plan may contain broad community objectives. Community objectives identify actions where the Regional District encourages others to take actions to further the objectives of the Official Community Plan (OCP). These community objectives do not represent a commitment from senior levels of government agencies.

In accordance with the requirements of Section 879, 881 and 882 of the *Local Government Act*, it is recommended that Electoral Areas “D” and “E” Official Community Plan Amendment Bylaw No. 2603 (Genetically Modified Organisms) be forwarded to various agencies and First Nations, the Regional Agricultural Advisory Committee and the Regional District Chief Financial Officer and Regional Engineering Services Manager, Regional Agricultural Advisory Committee, Advisory Planning Committee, Ministry of Agriculture, Agricultural Land Commission. Once comments have been received, Official Community Plan Amendment Bylaw will be forwarded to the Board of Directors for further consideration.

BACKGROUND:

Huguette Allen, a representative of Bee SAFE, presented on genetically modified organisms (GMO), which includes GE crops at the January 16, 2013 Board of Directors meeting and has requested that the Board of Directors consider implementing steps to become GE Free. Approximately 120 residents were in attendance. The Board of Directors passed the following resolutions at the January 16, 2013 meeting:

“...That issues regarding the impact of genetically modified organisms on the Regional District of North Okanagan be forwarded to the Regional Agricultural Advisory Committee for consideration.”

“...That staff be directed to forward a letter to the Canadian Food Inspection Agency requesting mandatory labeling of genetically products.”

¹ Health Canada. (2005). The Regulation of Genetically Modified Foods. Retrieved from http://www.hc-sc.gc.ca/sr-sr/pubs/biotech/reg_gen_mod_e.html

² 878 (2): If a local government proposes to include a matter in an official community plan, the regulation of which is not within the jurisdiction of the local government, the plan may only state the broad objective of the local government with respect to that matter unless the minister has, under section 877 (1) (g), required or authorized the local government to state a policy with respect to that matter.

A letter was sent on February 4, 2013 to Minister Ritz, who is responsible for the Canadian Food Inspection Agency, requesting the implementation of mandatory labelling of all genetically modified foods. The Regional District received a response from the President of the Canadian Food Inspection Agency on February 27, 2013 that provided an overview of novel trait regulation and certification procedure.

The Regional Agricultural Advisory Committee has had an ongoing discussion regarding GMO within the food system and have not brought forward a recommendation to the Board of Directors to date. The Committee discussion includes some of the following points, including:

- Local and regional government does not have regulatory authority over normal farm practices or agricultural product regulation;
- The bans that communities have passed are symbolic in nature.
- Discussion ensued regarding the issue of GMOs:
- Need to separate philosophical and scientific, if it isn't enforceable then it's not a ban so the word ban should not be used
- No one can prove that no harm is done, first GMO crops went on the market in the 1970's, there are no GMO syndromes, no one has proven it one way or another
- RDNO has no particular expertise or funding , can't prove the negative, it's not our place now to decide, Canadian Food Inspection Agency (CFIA) does not stop labels from stating
- GMO free - it would just have to be proven to be GMO free.
- Our job should be to educate our residents on what a GMO is.
- Worries from looking at the science, industry does product testing, universities and federal government do research.
- Labeling is great, should be the GMO products that should be labeled.
- Potential impact on organic farms is an issue.
- Production has increased in the past 20 years from the use of new seeds, trees, etc. (ex. used to be 20 bins per acre, now 100 bins per acre).
- Ultimately it's up to the consumer whether they buy GMO or GMO-free products.
- GMOs may be very beneficial or harmful, it is not one sided or the other.

The Committee has not yet come to agreement on the recommendation to the Board of Directors on this issue, but the discussion is continuing. This is a very complicated subject that does not have scientific consensus on potential impacts.

Bee SAFE currently has 320 subscribers to its newsletter and approximately 130 active members. Approximately 150 community members have written to the Regional District in support of a ban on GMO crops. Community meetings were held by BeeSAFE on the elimination of GE crops in Electoral Area "E" on February 12, 2013. They have indicated that 266 residents voted for the resolution. At a similar event on April 15, 2013, 293 Electoral Area "D" residents were reported by BeeSAFE to have voted for the resolution.

The BeeSAFE resolution that was presented at these community meetings is attached to this report.

The majority of community members that wrote in are concerned citizens, although several emails were received from community organizations (i.e. Shuswap Seed Savers, Society for the Protection of Kalamalka Lake, Food Action Society of North Okanagan, Certified Organic Associations of BC, Okanagan Greens Society), small scale farmers and small business owners.

The GMO concerns that these community members have brought forward include:

- Food system contamination
- Economic advantage to the North Okanagan as an organic and GMO free market
- Corporate control over the food system
- Human health concerns
- Unknown environmental, ecological and human health effects
- Small scale and organic farming concerns (cross-pollination between GMO and organic crops)
- Ethical concerns related to the use of biotechnology

In response to the request by BeeSAFE to include genetically engineered organism statements within the Electoral Area "D" and "E" Official Community Plan, the Board of Directors directed staff on June 26, 2013 to develop OCP policy for consideration.

OTHER REGIONAL DISTRICTS:

Several regional districts and the Island Trust have included community objectives within Official Community Plans that address GMOs. A series of examples from Regional District Officials Community Plans have been provided for reference.

Strathcona Regional District Electoral Area "B" (Cortes Island) Official Community Plan

403.2.h The agricultural use of Genetically Modified Organisms (GMOs) is strongly discouraged.

Alberni-Clayoquot Regional District EA "B" Beaford Official Community Plan

Policy 4.2.9 Encourage the production of non-genetically-modified organisms, the use of best practices and the avoidance of chemical pesticides.

Alberni-Clayoquot Regional District EA "E" Beaver Creek Official Community Plan

Policy 4.2.7 Encourage the production of non-genetically-engineered organisms, the use of best practices and the avoidance of chemical pesticides.

In response to Policy 4.2.7, the Ministry of Agriculture (see attachment) provided the following input on July 12, 2012:

"In Canada GMO is defined to include all plants and animals that have been altered using any technique including conventional ones. This would include almost all of our domesticated animal species, horticultural and agricultural crops. You may want to consider amending the statement and possibly including the definitions below.

GM stands for "genetically modified". An organism, such as a plant, animal or bacterium, is considered genetically modified if its genetic material has been altered through any method, including conventional breeding. A "GMO" is a genetically modified organism.

GE stands for "genetically engineered". An organism is considered genetically engineered if it was modified using techniques that permit the direct transfer or removal of genes in that organism. Such techniques are also called recombinant DNA or rDNA techniques."

Alberni-Clayoquot Regional District EA "F" Cherry Creek Official Community Plan

Policy 4.2.7 Encourage the production of non-genetically-modified organisms, the use of best practices and the avoidance of chemical pesticides.

Squamish-Lillooet Regional District EA "B" Official Community Plan

Policy 11.17. To promote the long term sustainability of agricultural production, ecosystem integrity, and human health, land use decision making shall apply the precautionary principle: When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically, and in this context, the proponent of an activity, rather than the public, should bear the burden of proof.

Powell River Regional District EA "C" Official Community Plan

Policy 2.3.12.10 The Regional District supports the establishment of local nurseries in the planning area, with the exception of nurseries using genetically engineered seed.

Policy 2.3.12.11 The Regional District supports the implementation and use of sound, environmentally balanced farm practices to provide for improved agricultural and environmental stewardship in Area "C".

Sunshine Coast Regional District Roberts Creek Official Community Plan

Policy 9.4.8 No Genetically Modified Organisms (GMO)

- a) *While there is limited power to prevent the introduction of GMOs, the Regional District is encouraged to designate Roberts Creek and the Sunshine Coast as a genetically engineered crop free zone.*
- b) *The Regional District is encouraged to support the control and eradication of non-native or genetically modified organisms harmful to native species and the environment, and prevent introduction of such harmful organisms.*

Note: Prevent harm as the best method of environmental protection and, when knowledge is limited, apply a precautionary approach. Item 6 of the Earth Charter states "a. Take action to avoid the possibility of serious or irreversible environmental harm even when scientific knowledge is incomplete or inconclusive. b. Place the burden of proof on those who argue that a proposed activity will not cause significant harm, and make the responsible parties liable for environmental harm. "

Island Trust Galiano Island Official Community Plan

Policy 215 n) Farm operators shall be encouraged to:

- i. *avoid the use of pesticides, herbicides, fungicides and other noxious*
- ii. *chemicals,*
- iii. *ensure production methods maintain soil quality and minimize erosion,*
- iv. *ensure surface and groundwater recharge areas are not contaminated*
- v. *by agricultural activities,*
- vi. *collect and store rainwater for irrigation purposes, and*
- vii. *avoid the use or introduction of genetically modified organisms.*

Island Trust Lasqueti Island Official Community Plan

Advocacy Policy 6: The residents of the Lasqueti Island Planning Area oppose Genetically Modified Organisms in the Planning Area, including propagation, cultivation, and raising of genetically engineered plants and animals by persons, firms, or corporations.

Cowichan Valley Regional District South Cowichan (Electoral Areas "A", "B" and "C") Official Community Plan

Policy 11.17: To promote health and long term environmental sustainability, agricultural practices that involve the use of trans-species genetically modified organisms and promote monopolization, through the patents of multinational biotechnology firms, are discouraged.

Policy 11.18: For future food security purposes, the CVRD encourages senior governments to require the labelling of trans-species and genetically modified organisms intended for human consumption. (Senior Government Jurisdiction)

ANALYSIS:

The Board of Directors has requested that policies be included within the Electoral Area "D" and "E" Official Community Plan that reflects the communities wishes regarding genetically modified (GM) organisms. Within the Canadian regulatory framework that addresses novel foods³, the term "genetic modification (GM)" refers to organisms where the genetic material has been changed through any method, including traditional methods like selective breeding. "Genetic engineering (GE)" is used when a gene has been taken from one organism and put into another. To ensure that the terminology of policy is constant within federal regulation framework, the term "genetically engineered (GE)" has been used within the suggested policy additions.

The Electoral Area "D" and "E" Official Community Plan Bylaw No. 2485, 2011 includes the following agricultural policy:

"4.2.19 Support local agriculture through favourable consideration of proposals that enhance local agriculture through the strengthening of beneficial agricultural practices, support of local food systems, and the expansion of local markets and agri-tourism. The community supports the production of organic agricultural farming practices."

Although this policy 4.2.19 identifies community support for organic agricultural farming practices, crops and livestock produced through genetic engineering techniques are not addressed specifically. The inclusion of any general objective that discourages normal farm practice that is regulated by senior levels of government is outside of the jurisdiction of the Regional District is unenforceable. Several Regional District have included policies into Electoral Area Official Community Plans that discourage the use or propagation of genetically engineered plants and animals within agriculture, aquaculture and/or silviculture, with the acknowledgement that these policies are beyond the authority of a local government to implement or enforce.

³ In Canada, GMOs for food purposes are classified as novel foods, a category of foods including products never used before as food or foods that have been produced in a new way, such as genetic engineering (GE); or foods altered by traditional methods such as selective breeding

Based upon the direction provided by the Board of Directors on June 26, 2013, the letters received from residents, actions that the Board of Directors has undertaken in the past and OCP policies that address this subject in other regional districts, the following amendments to the Electoral Areas “D” and “E” OCP have been prepared for consideration. Bylaw 2603 proposes to amend OCP as follows: Delete current Policy 4.2.19 and replace with the following:

4.2.19: Support local agriculture through favourable consideration of proposals that enhance local agriculture through the strengthening of beneficial agricultural practices, support of local food systems, and the expansion of local markets and agri-tourism. The community supports sustainable, non-genetically engineered (GE), traditional and organic agricultural practices in Electoral Areas “D” and “E”.

4.2.20: The residents of Electoral Area “E” (Cherryville) do not support the introduction, use, cultivation or propagation of genetically engineered (GE) organisms and encourage Electoral Area “E” agricultural producers to adopt a GE free policy for locally grown agricultural products.

4.2.21: The RDNO encourages senior governments to require the labeling of genetically engineered (GE) organisms intended for human consumption.

The above proposed policy statements address Electoral Area “D” (Greater Lumby) and “E” (Cherryville) community concerns regarding genetically engineered agriculture would be considered broad objective under Section 878(2)⁴ of the *Local Government Act*. These policies are outside of Regional District authority to implement or enforce.

CONSULTATION CONSIDERATIONS:

Section 879 of the *Local Government Act* states that during the development or amendment of an Official Community Plan, the proposing local government must provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected. Specifically, local governments must consider whether consultation is required with the Board of the Regional District in which the area covered by the plan is located, the Board of any Regional District that is adjacent to the area covered by the plan, the Council of any Municipality that is adjacent to the area covered by the plan, First Nations, school districts and Provincial and Federal governments and their agencies.

Section 881 of the *Local Government Act* states that if a local government proposes to amend an OCP for an area that includes any part of a school district, the local government must consult with the school district board at the time of preparing or amending the Official Community Plan.

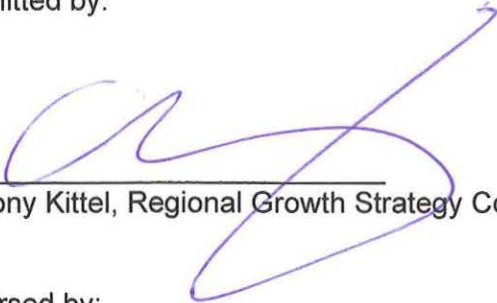
Section 882 of the *Local Government Act* requires that, after First Reading, a local government consider an OCP amendment in conjunction with its Financial Plan and any applicable Solid Waste Management Plan.

⁴ 878 (2): If a local government proposes to include a matter in an official community plan, the regulation of which is not within the jurisdiction of the local government, the plan may only state the broad objective of the local government with respect to that matter unless the minister has, under section 877 (1) (g), required or authorized the local government to state a policy with respect to that matter.

SUMMARY:

It is recommended that Electoral Areas "D" and "E" Official Community Plan Amendment Bylaw No. 2603 (Genetically Modified Organisms) be given First Reading and be referred in accordance with Sections 879, 881 and 882 of the *Local Government Act*.

Submitted by:



Anthony Kittel, Regional Growth Strategy Coordinator

Approved For Inclusion:

Endorsed by:



Rob Smailes, MCIP
General Manager, Planning and Building



Trafford Hall, Administrator

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2603

A bylaw to amend Electoral Areas "D" and "E" Official Community Plan Designation Bylaw No. 2485, 2011

WHEREAS pursuant to Section 876 [*Authority to adopt a bylaw*] of the *Local Government Act*, R.S.B.C., 1996, Chapter 323, as amended, and Regulations passed pursuant thereto, the Board of the Regional District of North Okanagan may, by Bylaw, adopt one or more official community plans;

AND WHEREAS the Board has enacted the "*Electoral Areas "D" and "E" Official Community Plan Designation Bylaw No. 2485, 2011*" to provide a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan;

AND WHEREAS, pursuant to Section 895 [*Development approval procedures*] of the *Local Government Act*, the Board must, by bylaw, define procedures under which an owner of land may apply for an amendment to an Official Community Plan and must consider every application for an amendment to the plan;

AND WHEREAS the Board has enacted the "*Regional District of North Okanagan Development Application Procedures and Administrative Fees Bylaw No. 2315, 2008 and amendments thereto*" to establish procedures to amend an Official Community Plan, a Zoning Bylaw, or a Rural Land Use Bylaw, or to issue a Permit:

AND WHEREAS the Board is desirable and expedient to amend "*Electoral Areas "D" and "E" Official Community Plan Designation Bylaw No. 2485, 2011*".

NOW THEREFORE, the Board of Directors of the Regional District of North Okanagan, in open meeting assembled, enacts as follows:

A. CITATION

This Bylaw may be cited as the "**Electoral Areas "D" and "E" Official Community Plan Amendment Bylaw No. 2603, 2013**".

B. AMENDMENTS

1. Delete Policy 4.2.19 and replace with the following:

Support local agriculture through favourable consideration of proposals that enhance local agriculture through the strengthening of beneficial agricultural practices, support of local food systems, and the expansion of local markets and agri-tourism. The community supports sustainable, non-genetically engineered (GE), traditional and organic agricultural practices in Electoral Areas "D" and "E".

2. Add the following Policies to Section 4.2:

4.2.20: The residents of Electoral Area "E" (Cherryville) do not support the introduction, use, cultivation or propagation of genetically engineered (GE) organisms and encourage Electoral Area "E" agricultural producers to adopt a GE free policy for locally grown agricultural products.

4.2.21: The RDNO encourages senior governments to require the labeling of genetically engineered (GE) organisms intended for human consumption.

Read a First Time	this	day of	, 2013
Bylaw considered in conjunction with the Regional District Financial Plan and Waste Management Plan	this	day of	, 2013
Read a Second Time	this	day of	, 2013
Advertised on	this	day of	, 2013
	This	day of	, 2013
Public Hearing held pursuant to the provisions of Section 890 of the <i>Local Government Act</i>	this	day of	, 2013
Read a Third Time	this	day of	, 2013
Approved by Minister of Community, Sport and Cultural Development (<i>Local Government Act s. 882</i>) Approval No.	this	day of	, 2013
ADOPTED	this	day of	, 2013

Chair

Corporate Officer