



Agenda No: 5.1

Mtg. Date: Sept. 10, 2015

Governance & Services Committee

TO: Governance & Services Committee
FROM: Ron Fralick
Manager of Planning
DATE: September 2, 2015
SUBJECT: Information Report: Moorage of Houseboats (File: 3360-01)

Purpose:

To inform the Governance and Services Committee as to whether a regional district is able to adopt a bylaw limiting the moorage of houseboats on the electoral area shoreline in the same manner as a municipal government.

Executive Summary:

At the June 22, 2015, Regional Board meeting, the Central Okanagan West Electoral Area Director raised a concern with respect to moorage of houseboats on Okanagan Lake. Upon discussion of the matter, the following resolution was carried: #124/15 *THAT staff be directed to investigate and report to the Board whether a regional district can adopt a bylaw limiting the moorage of houseboats on the electoral area shoreline in the same manner as a municipal government.*

Regional District staff has confirmed that in accordance with the *Local Government Act* and the *Land Act*, a regional district may apply for Crown land tenure. With or without the tenure, the Regional District can zone Crown land, including land that is covered by water, so long as the local government does not overstep its jurisdiction (ie. prohibiting short term moorage).

RECOMMENDATION:

THAT the Governance and Services Committee receive for information the September 2, 2015, moorage of houseboats within the Electoral Areas report from the Manager of Planning.

Respectfully Submitted:

R. Fralick, MCIP, RPP
Manager of Planning

C. Radford
Director of Community Services

Prepared by: Janelle Taylor, Planner 1

Approved for Committee's Consideration

Brian Reardon, CAO

Background:

At the June 22, 2015, Regional Board meeting, the Central Okanagan West Electoral Area Director raised a concern with respect to moorage of houseboats on Okanagan Lake. Upon discussion of the matter, the following resolution was carried:

#124/15 THAT staff be directed to investigate and report to the Board whether a regional district can adopt a bylaw limiting the moorage of houseboats on the electoral area shoreline in the same manner as a municipal government.

Current Regulations

As Okanagan Lake is considered to be Provincial Crown land covered by water, currently houseboat moorage complaints in the Electoral Areas are directed to the Province, specifically the Compliant and Enforcement Branch, Ministry of Forests, Lands and Natural Resource Operations. There are over 150 Natural Resource Officers currently working throughout the Province. They actively patrol and enforce a broad cross section of resource management laws, including the *Land Act* (ie. unauthorized use of Crown land).

While the Province has significant authority to control uses occurring on Crown land, dealing with problem vessels/structures on Okanagan Lake can be complicated due to the mix of provincial ownership of land and federal jurisdiction over navigation. As navigation is regulated by the federal government, the Province and local governments have limited authority over something that floats that is designed for navigating through the water. Unless a vessel is anchored for a long period of time (ie. greater than 14 days), the Province or a local government is not permitted to restrict the vessel operator's right of navigation. The federal government, Transport Canada, will not take action on vessels anchored in Okanagan Lake unless the vessel is interfering with navigation¹.

Houseboat/Structure Moored Adjacent to Bear Creek Provincial Park

Subsequent to the June 22, 2015, Regional Board meeting, Regional District staff contacted the Province to ascertain whether a complaint has ever been lodged regarding moorage of the houseboat in vicinity of Bear Creek Provincial Park. A Natural Resource Officer indicated that while their office is aware of the houseboat, they could not confirm whether a formal complaint had ever been filed. Upon receipt of the information provided by Regional District staff, the Ministry has commenced a formal investigation regarding the houseboat being moored near Bear Creek Provincial Park.

RDCO Options

Regional District staff has confirmed that in accordance with the *Local Government Act* and the *Land Act*, a regional district may apply for Crown land tenure. With or without the tenure, the Regional District can zone Crown land, including land that is covered by water, so long as the local government does not overstep its jurisdiction (ie. prohibiting short term moorage).

¹ "Technical Staff Guide on Problem Vessels and Structures". Ministry of Forests, Lands and Natural Resource Operations. September 9, 2014. Page 9

Other Jurisdictions

The following table is a compilation of other local government's methods of limiting moorage as well as bylaw complaint data. Please note that this table does not consider Crown tenure for park services:

Local Government/First Nation	Method of Limiting Moorage	Notes	Houseboat Complaints in 2015
Regional District of Central Okanagan	No water zoning or crown tenure to limit boats	Houseboats not a common issue	1
Regional District of North Okanagan	No water zoning or crown tenure to limit boats	Houseboats not a common issue	0
Regional District of Okanagan Similkameen	No water zoning or crown tenure to limit boats	Houseboats not a common issue	Unknown*
Regional District of Columbia Shuswap	Zoning prohibits the residential use of boats	Successful in prohibiting long term moorage	0
District of Peachland	Head Lease 183 m into Okanagan Lake	Successful in prohibiting long term moorage	2
City of West Kelowna	Licence of Occupation and water zones	Successful in prohibiting long term moorage	2
City of Kelowna	Licence of Occupation and water zones	Successful in prohibiting long term moorage	1

*RDOS does not formally track houseboat complaints as they are directed to the Province. RDOS staff believes that they have received at least 3 houseboat complaints in 2015.

Organizational Issues:

Should the Regional District obtain a Crown tenure and/or zone Provincial Crown land covered by water, houseboat moorage complaints in those designated areas would become the responsibility of RDCO Bylaw Officers rather than Provincial Natural Resource Officers. Due to the extensive area of waterfront within the two Electoral Areas, public expectations to enforce regulations over this area may significantly impact RDCO staffing resources, particularly from a bylaw enforcement perspective.

Financial Considerations:

As noted above, obtaining land tenure and/or zoning a significant amount of land covered by water will result in public expectations that the RDCO will enforce those regulations, significantly impacting staff resources. Upon the Regional District taking responsibility for the oversight of these Crown lands, additional staffing would likely be required to administer and provide enforcement with the cost for additional resources being borne by Electoral Area residents. Any additional staffing resources would have to be reviewed and discussed as part of future budget deliberations.

Conclusion:

The Regional District has previously considered pursuit of land tenure and/or zoning over Okanagan Lake to manage activities occurring on the water, including moorage of houseboats. Previous Board members have consistently expressed similar concerns to those identified in this report, (ie: extensive area and lake frontage, bylaw enforcement staff resources, liability, etc.).

Based on Planning staff's review of recent complaints with respect to the moorage of houseboats on Okanagan Lake, this matter does not appear to be prolific or a pressing concern. Staff believes that jurisdiction and enforcement of illegal moorage on lands fronting the Central Okanagan East and West Electoral Areas should continue to rest with the Provincial and Federal governments.

Considerations not applicable to this report:

- Alternatives
- External Implications

Attachment(s):

- N/A

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