MEMORANDUM

TO: Paul Thorkelsson
Acting Chief Administrative Officer

FROM: Paul Thompson
Manager of Long Range Planning

FILE: 2400 20 NAV/AVI

DATE: August 17, 2012

SUBJECT: Nanaimo Airport Land Use Process

PURPOSE

To receive the Nanaimo Airport Land Use Final Report prepared by City Spaces Consulting and consider options for proceeding to the next phase of the Nanaimo Airport Land Use Process.

BACKGROUND

Jurisdiction over land use regulation at the Nanaimo Airport has been an issue that the RDN has been trying to address for several years. Most recently, during the review of the Electoral Area ‘A’ Official Community Plan the issue was raised over the uncertainty about jurisdiction over land use at the Nanaimo Airport. As the OCP Review process progressed, it became apparent that this matter could not be resolved within the time-frame of the OCP review so the RDN Board directed that a separate region-wide engagement process that focused on land use at the airport would be used. The Board also directed that the initial phase of the engagement process be conducted by an independent consultant.

The Nanaimo Airport Land Use Process has three phases. The first phase is to obtain the views of the community and other stakeholders. The second phase is discussions between the RDN and NAC on future land use at the Airport ideally leading to an agreement regarding future land use, community consultation and aquifer protection. The third phase is implementation which is likely to include a master plan for the airport, an amendment to the Electoral Area ‘A’ Official Community Plan and an amendment to the zoning bylaw which currently does not recognize the aviation related uses on the airport lands.

Following an open request for proposal process, City Spaces consulting was chosen to conduct the first phase of the process that would focus on future land use at the Nanaimo Airport. The purpose of Phase 1 of the process was threefold:

1. Increased awareness for the community and other stakeholders regarding the roles and responsibilities for planning and regulating uses on the Nanaimo Airport lands;

2. Greater certainty with respect to what is meant by non-aviation related uses at the Nanaimo Airport; and,

3. Clarification on the opportunities for community input into future development at the Airport.

City Spaces has completed phase one of the process and have prepared a report on their findings including recommendations on how to proceed with phases two and three of the process. This document is intended to provide background information for both the RDN and NAC as they enter into discussions in phase two of the process and is included in this report as Attachment 1.
As part of the community engagement process three public meetings were held in November 2011 and March 2012. As well, a meeting was held with the Electoral Area ‘A’ OCP Citizens Advisory Committee. Other stakeholders were approached directly and interviews were held with CAO’s and directors of planning for surrounding local governments, Chambers of Commerce, the Nanaimo Economic Development Corporation and others who had previously expressed an interest in the airport. As well, the RDN had a project web page and input was received through a dedicated email address on the RDN website. A summary of the input collected during Phase 1 is included in the consultant’s report.

As had been heard previously the main concerns regarding the Nanaimo Airport are:

- A significant concern is the “lack of certainty” about future use at the airport. This uncertainty gets translated into “mistrust”, toward the Regional District and the Nanaimo Airport Commission (NAC). Better communication could alleviate concerns that processes are not open and transparent.
- Impacts of aviation and non-aviation related uses on the environment, particularly the Cassidy aquifer.
- The airport is seen in the broader region as a vital transportation link, especially for business and attracting future business. It is a regional asset.
- Some local, rural residents feel they get little benefit from the airport and expansion means more noise and more potential risk to the environment.
- Engaging local residents is key but that other stakeholders throughout the region should be consulted as well.
- Future considerations for development of airport lands should be developed jointly between the NAC and the RDN and the community should be engaged through a public process.

To resolve the outstanding concerns and provide certainty on future use of the Nanaimo Airport Lands the consultants are recommending the following course of action:

1. Agreement of RDN Board to proceed with a collaborative process to develop an MOU and subsequent OCP amendment and zoning for the airport lands.
2. Joint meeting between the RDN and NAC to discuss “way forward principles” and structure of an MOU;
3. Assuming agreement, prepare draft MOU;
4. MOU agreement-in-principle between the RDN and NAC;
5. Provide public review of draft MOU (website, circulate to stakeholders and one public meeting);
6. Official signing of MOU;
7. Subject to the terms of the MOU, prepare/complete a plan for airport lands through a collaborative process. (Note: anticipate the MDP to be prepared on a broad land use level with visual vignettes of future opportunities);
8. Recognize the airport’s MDP in an amendment to the Area A OCP, including provisions for Development Permit Area designation; and
9. At the same time as the OCP amendment process, submit an application for a zoning amendment that reflects the MDP strategies.

ALTERNATIVES
1. Proceed as per the recommendations of the consultant to: hold discussions with the NAC to reach agreement on future land use at the airport, RDN approvals for development, measures to protect the Cassidy Aquifer, and opportunities for public input into future development at the Airport; participate in a process to develop a master development plan for the airport; and subsequently make amendments to the OCP and zoning bylaw.

2. Do not proceed as per the recommendations of the consultant and choose a modified course of action.

FINANCIAL IMPLICATIONS

Expenses for Alternative 1 would largely be for staff’s and Directors’ time and expenses related to public consultation/reporting. The main factor will be the length of time it takes to complete the process as staff resources will need to be dedicated to the process so it can be finished in a timely manner. There will also be some legal expenses as it would be prudent to have the RDN’s solicitor review an agreement between the RDN and NAC before it is signed.

Should Alternative 2 take the form of a legal challenge it will be more costly, take much longer for a decision and would result in a winner and loser rather than a mutually agreed upon resolution. This route would also not be conducive to fostering a good working relationship with the Nanaimo Airport which has its own financial implications. Other alternatives which do not directly address the main concerns related to certainty over future land use will be more expensive in the long run as they will require more staff time and legal advice.

LAND USE IMPLICATIONS

Based on all of the community input received during the Electoral Area ‘A’ OCP Review and the subsequent first phase of the Nanaimo Airport Land Use Process there are three main issues. The first is that there is no certainty with respect to the types of uses that may be developed or proposed at the Nanaimo Airport in the future. The second is that there is no strategy for protecting the Cassidy Aquifer which is made more difficult with no certainty over future land use. Third, there is no opportunity for the community to have input on development proposals at the Airport unlike the Regional District has jurisdiction over land use. Alternative 1 (or a modified version of Alternative 1) will address all three of these concerns.

The RDN recognizes that it has jurisdiction over uses which are not related to the function of an airport. Further, that the NAC has jurisdiction over aeronautical uses and uses which are considered to be aviation related. There is a significant amount of uncertainty and divergent views with respect to which uses fall into the different categories. Rather than attempt to create an exhaustive list, Alternative 1 instead focuses on reaching agreement on land use and other important issues resulting in the desired certainty on future development and activities at the airport.

A course of action that aims to create a list of uses that fall under the RDN’s jurisdiction will also not address the main concern of uncertainty as the main problem with creating a list of uses that are not aviation related is that it is not the uses per se that is the concern, but rather the effect of an RDN regulation on the federal power. It is not a simple matter of simply stating that a use is not related to aviation but rather whether a use is separate and distinct from the operation of an airport. There are many uses that may appear to be unrelated to the operation of an airport but which, in the end, could
be found to be so vital to the airport that the local government cannot regulate in a manner that impairs the operation of the use.

Alternatively, a likely outcome of not following the proposed process outlined in Alternative 1, would be that decisions over land use would be made by the courts instead of the RDN. By not proceeding to work together to develop an agreement it is possible that other courses of action could trigger the commencement of legal action. Either the Airport begins to develop a use that the RDN believes is not aviation related or alternatively the RDN initiates bylaw amendments that would restrict land use on airport lands.

SUSTAINABILITY IMPLICATIONS

Future development at the Nanaimo Airport has two main implications for a sustainable region. The first relates to the economy. Many believe that the airport is a vital transportation link and as such is a key part of a healthy economy for the Nanaimo region. Activities or actions that negatively affect the operation of the airport would have implications for both the NAC and the local economy. A process that results in certainty regarding future use at the airport will be important for attracting investment in the region. The second relates to sustainable use and protection of natural resources, in particular the groundwater aquifer. An agreement between the RDN and NAC and subsequent plan for future use at the airport would specifically address issues related to sustainable use of the water in the aquifer and potential impacts on the aquifer from activities taking place on the surface.

SUMMARY/CONCLUSION

The Board directed staff to initiate a process which would lead to discussions between the NAC and the RDN with the aim of reaching agreement over land use jurisdiction, aquifer protection and public consultation. A three stage process was proposed for the Nanaimo Airport Land Use process and the first phase of this process is now complete. A consultant was hired to conduct the first phase of the process and has submitted a report which contains information on jurisdiction over airports, results of community and stakeholder engagement and recommended steps for proceeding to Phases 2 and 3 of the process. With the results of the community engagement, clarification of legal jurisdiction and identification of next steps outlined in the consultant’s report the RDN now has the necessary information to begin discussions with the NAC.

RECOMMENDATION

That the final report from City Spaces Consulting on Phase 1 of the Nanaimo Airport Land Use Process be received.

That the RDN proceed with Phase 2 of the Nanaimo Airport Land Use process as outlined in the Nanaimo Airport Land use Final Report by City Spaces Consulting.
Report Writer

General Manager Concurrence

CAO Concurrence
Attachment 1