

# Memo

---

To: RDOS Chairman Ashton and Area "E" Director Chapman  
Copy: Randy Kowalchuk, Bill Newell, Donna Butler  
Date: June 6, 2011  
From: Brad Elenko  
Subject: Naramata Benchland Properties Ltd. – Zoning Exchange

---

The purpose of this memo is to advise you of an unexpected and unfortunate situation that will cause Naramata Benchland Properties Ltd. (NB) considerable problems in moving forward with their OCP amendment bylaw 2458.03 and zoning bylaw amendment 2459.06.

At the April 7<sup>th</sup>, 2011 RDOS Board meeting, the Board resolved to attached some conditions that needed to be fulfilled prior to the adoption of the bylaws. One of the conditions was as follows:

“a transfer agreement between the property owner and the Regional District is entered into requiring that the area to be zoned Conservation Area is transferred to a conservation organization and /or local government within 24 months (with an option for a 12 month renewal) of the rezoning being adopted;”

Naramata Benchland Properties Ltd. has made the effort as required in the Board resolution to provide the subject property to a Conservation organization (The Natures Trust of British Columbia) which was the organization that accepted other conservation lands in the areas. The Natures Trust has advised that they “are not in position to take on the management requirements that we feel would be necessary to adequately maintain the property”.

In addition, Naramata Benchland Properties Ltd. has also contacted the Rocky Mountain Elk Foundation regarding accepting the lands, and they have also advised that they are not interested in accepting the lands as they have assigned all of their BC property holdings to other conservation organizations, as they could no longer provide the required management of the lands.

I have attached for your review a copy of email correspondence with Carl MacNaughton of the Nature Trust of BC and correspondence regarding NB’s efforts to provide the land to the Rocky Mountain Elk Foundation.

Naramata Benchland Ltd.’s willingness to have the long term ownership of the subject lands be a conservation group the RDOS or the province was based the premise that NB would receive a benefit from the transfer by way of an eco-gift tax credit or a credit for parkland dedication. NB never agreed that the lands would be donated without some level compensation or benefit. With little or no prospect in the near future of having the lands being transferred to a conservation group in exchange for an eco-gift, NB feels it cannot proceed with the execution of the transfer agreement as proposed by staff as the transfer agreement indicates that the transfer of the lands would occur be \$1.00. Signing this agreement would in essence allow the RDOS to acquire the lands for \$1.00, which is certainly not what Naramata Benchland Properties Ltd. anticipated or expected.

As such, Naramata Benchland Properties Ltd. is respectfully requesting that the RDOS Board remove the requirement for the transfer of the lands to a Conservation Organization and allow the wildlife corridor to be protected for conservation by rezoning the lands to the Conservation Area zone as proposed. Naramata Benchland Properties Ltd. will continue to pursue all options for the transfer of the subject lands to an appropriate organization that could and would provide an eco-gift or equivalent compensation for the transfer of the land.

I have provided below a brief summary of the recent past regarding the efforts of the RDOS and NB to find reasonable solutions to solve some of the problems that were preventing the NB rezoning application from moving forward.

On April 1, 2011, a meeting was held between Chair Ashton, Director Chapman, Bill Newell, Donna Butler, Randy Kowalchuk and me. At the meeting we discussed a number of items regarding the Naramata Benchland Properties rezoning proposal and the proposed bylaw amendment. On April 4, I provided an email (attached) to staff, outlining our understanding of the agreements and conclusions of the meeting. The third item in my memo to staff indicated our understanding that there would not be a requirement for the future wildlife corridor to be donated to a conservation organization. As a result of our meeting and in collaboration with staff, who reviewed and did not disagree with our understanding of the meeting, Naramata Benchland properties Ltd., at the direction of staff, provided Chair Ashton and Director Chapman with a memo (attached) which outlined the adjustments to the bylaw as discussed and agreed our April 1<sup>st</sup> meeting. The memo indicated Naramata Benchlands' request based on the April 1<sup>st</sup> meeting, and requested that the requirement that the wildlife corridor be donated to a conservation organization be removed.

I have attached for your reference a copy of the April 12<sup>th</sup> letter from the RDOS which confirmed the April 7<sup>th</sup> RDOS Board resolution. I have highlighted the portion of the resolution that NB respectfully requests be removed from the resolution, to allow the rezoning bylaw to proceed without the requirement for the transfer of the land, as this is proving to be problematic. You will note on the attached letter that condition (1) is the condition that is being requested to be removed.

Naramata Benchland Properties was never in favour of the mandatory donation of the subject land without some compensation, and although the RDOS Board made it a requirement of the rezoning application, NB has shown that conservation organizations are not interested in accepting the land, and NB does not believe that the rezoning should not be postponed or delayed due to a condition precedent that is not achievable.

I trust you will see the merit in Naramata Benchland Property's request, and will bring this matter back to the RDOS Board to make the necessary adjustments to the April 12<sup>th</sup> resolution as noted herein.

Thank you Chair Ashton and Director Chapman for your consideration of Naramata Benchland's request. If you have any questions, please do not hesitate to contact either Randy or me.

Regards,

Brad Elenko,  
Urban Connections