

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **May 18, 2021 at 7 pm**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of March 16, 2021
4. Chair's Report
5. Planner's Report
6. Administrative Bylaws
 - a) Bylaw No. 4385, "Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, Amendment Bylaw No. 1, 2021" (Agricultural Land Reserve Exclusions)
 - b) Bylaw No. 4412, "Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021" and Bylaw No. 4413, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021" (Outdoor Recreation)
7. Adjournment

Please note that during the COVID-19 situation, the public may attend the meeting electronically through video or teleconference. Should you wish to attend, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details. Written submissions continue to be accepted.



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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, March 16, 2021, at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Director Mike Hicks (Chair), Stan Jensen (EP), Vern McConnell (EP), Roy McIntyre (EP), Ron Ramsay (EP), Dale Risvold (EP), Sandy Sinclair (EP)
Staff: Iain Lawrence, Manager, Community Planning (EP); Wendy Miller, Recorder (EP)

PUBLIC: 5 EP

EP – Electronic Participation

The meeting was called to order at 7:06 pm.

1. Approval of the Agenda

MOVED by Dale Risvold, **SECONDED** by Vern McConnell that the agenda be approved.

CARRIED

2. Approval of the Supplementary Agenda

MOVED by Dale Risvold, **SECONDED** by Vern McConnell that the supplementary agenda be approved.

CARRIED

3. Adoption of Minutes from the Meeting of February 16, 2021

MOVED by Sandy Sinclair, **SECONDED** by Vern McConnell that the minutes from the meeting of February 16, 2021, be adopted.

CARRIED

4. Chair's Report

No report.

5. Planner's Report

No report.

6. Zoning Amendment Application

a) RZ000271 – PID: 006-452-230 (9662 West Coast Road)

Iain Lawrence spoke to the staff report and the application to amend the Forestry (AF) zone to add a site specific provision to permit an industrial sawmill and associated log and lumber storage uses on the subject property as the current operation has expanded beyond the scope of the Home Industry regulations.

Iain Lawrence highlighted the subject property map, site plan and photos showing the sawmill operation and current sound proofing measures made by the applicants.

Iain Lawrence advised that proposed Bylaw No. 4407 was prepared to address the application proposal. It was confirmed that the bylaw includes a 30 m setback for the industrial sawmill operation as well as screening and fencing requirements.

Iain Lawrence directed attention to the supplementary agenda, noting that 36 submissions were received in support of the application. A further submission was received outlining concerns about the proposal.

The Chair confirmed that the applicants were present.

Iain Lawrence responded to questions from the LUC advising that:

- the letters of support were solicited by the applicants
- to the south of the subject property, there is a property zoned Neighbourhood Commercial and a property zoned Community Facility
- the properties to the north of subject property are zoned AF
- the Shirley – Jordan River Official Community Plan does not designate a town centre hub

Tony White, Shirley, stated that:

- he has owned a property adjacent to the subject property for 28 years
- he considered the community quiet until the sawmill operation started
- he can no longer enjoy being in his front or back yard due to the noise being generated by the sawmill operation
- he is recently semi-retired and would like to enjoy being outdoors
- should he sell his property, he has concern for the resale value of his property due to the sawmill operation
- he has been in ongoing dialogue with the subject property owners and CRD Bylaw Enforcement regarding his concerns
- he would like know what enforcement measures can be taken during consideration of the proposal and how long consideration of the proposal will take

Iain Lawrence responded to questions from the LUC advising that:

- the setbacks and screening requirements included in proposed Bylaw No. 4407 are intended to help mitigate noise concerns
- the current portable sawmill may operate for a period of not more than 30 days in a 12-month period
- proposed Bylaw No. 4407 would require a minimum 30 m front, side, rear and flanking yard setback
- the current portable sawmill meets the proposed 30 m setback requirements
- the Home Industry regulations provide language for no noise nuisance
- noise level defined in the Home Based Business regulations is subjective and difficult to regulate
- additional mitigation measures can be considered through referral of the proposal to agencies and the Shirley/Jordan River Advisory Planning Commission

MOVED by Vern McConnell, **SECONDED** by Ron Ramsay that staff be directed to refer proposed Bylaw No. 4407, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021" to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments and the following external agencies and First Nations for comment:

BC Hydro

District of Sooke

FLNR - Archaeology Branch

FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Island Health

Ministry of Environment & Climate Change Strategy – Hazardous Waste and Forestry,
Authorizations South

Ministry of Environment & Climate Change Strategy – Water Stewardship Division

Ministry of Transportation & Infrastructure

Pacheedaht First Nation

RCMP

Shirley Volunteer Fire Department

Sooke School District #62

T'Sou-ke First Nation

CARRIED

7. Adjournment

The meeting adjourned at 7:24 pm.

Chair



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**REPORT TO THE LAND USE COMMITTEE
MEETING OF TUESDAY, MAY 18, 2021**

SUBJECT Juan de Fuca Development Fees and Procedures Bylaw Amendment

ISSUE SUMMARY

To consider an amendment to the Juan de Fuca Development Fees and Procedures Bylaw No. 3885 to establish fees for Official Community Plan (OCP) and zoning amendment applications where Agricultural Land Reserve (ALR) exclusion is also requested.

BACKGROUND

Bylaw No. 3885, the Juan de Fuca Development Fees and Procedures Bylaw, was adopted in 2019. Applications for land development in the ALR are included in the scope of Bylaw No. 3885. The CRD Board approved the Juan de Fuca ALR Application Policy BRD05 at their December 9, 2020 meeting and passed the following resolution:

“That the staff be directed to initiate an amendment to the Juan de Fuca Electoral Area Development Fees and Procedures Bylaw, 2018, Bylaw No. 3885, to increase the application fees for OCP and zoning amendment applications where exclusion from the ALR is also required or requested.”

Staff have prepared an amendment to Bylaw No. 3885 to increase the applicable OCP and zoning bylaw amendment fee by \$2,000 where ALR exclusion is required. Proposed Bylaw No. 4385 is included as Appendix A.

ALTERNATIVES

Alternative 1:

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4385, “Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, Amendment Bylaw No. 1, 2021” be introduced, read a first, a second and a third time; and
2. That Bylaw No. 4385 be adopted.

Alternative 2:

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board that Bylaw No. 4385, “Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, Amendment Bylaw No. 1, 2021” not proceed.

IMPLICATIONS

Legislative

Section 460 of the *Local Government Act (LGA)* requires that a local government that has adopted an OCP bylaw or zoning bylaw must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or the issuance of a permit under Part 14 of the *LGA*. Bylaw No. 3885 establishes the fees and procedures for development applications in the Juan de Fuca Electoral Area.

Section 29 of the *Agricultural Land Commission (ALC) Act* came into force on September 30, 2020, and specifies that only government, First Nations or a prescribed body may apply to have land excluded from the ALR. Therefore, in cases where an individual land owner wished to have land excluded, they would request that the local government apply on their behalf. With the exception of exclusion applications, the application fee for ALR applications is \$1,500. From this fee, the affected local government is entitled to retain \$750 and the remaining \$750 is forwarded to the ALC along with

the local government resolution of support or non-support. With regards to exclusion applications, the amendments to the *ALC Act* only include the \$750 fee to be remitted by the local government submitting the application.

The powers of the Juan de Fuca Land Use Committee, as stated by Bylaw No. 3166, include making recommendations to the CRD Board on matters for the Electoral Area regarding Part 14 of the *LGA* and other specific matters, including ALR applications.

Financial

The application fee levied upon local governments by the ALC for review of an ALR exclusion application is \$750. In addition, the ALR application process undertaken by staff would require additional planning review, analysis, reporting and administration. Additional public notification, consultation and hearing costs would also be incurred prior to submitting the application to the ALC. Since an OCP and zoning bylaw amendment would be required in conjunction with exclusion requests, staff recommend that the fee specified by Bylaw No. 3885 for OCP and zoning amendment applications be increased by \$2,000 in order to recover costs associated with ALR exclusion applications. Staff have prepared Bylaw No. 4385 for consideration.

Public Consultation

This is an administrative bylaw; therefore, public consultation is not required. However, notice of the Land Use Committee meeting and agenda will be posted on the CRD website prior to the consideration of this item by the Committee.

CONCLUSION

Where an individual land owner wishes to have land excluded from the ALR, they would request that the local government apply on their behalf. The fee levied by the ALC upon local governments to apply for exclusion is \$750. In addition to the application fee, additional staff resources would be required to make application on behalf of a private land owner. Since exclusion requests would require a concurrent OCP and zoning amendment application, staff recommend that a portion of these additional costs be recovered through an increase to the OCP and zoning bylaw amendment application fee. Bylaw No. 4385 has been prepared to increase the OCP and zoning bylaw amendment application fee associated with a request for ALR exclusion by \$2,000.

RECOMMENDATION

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4385, “Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, Amendment Bylaw No. 1, 2021” be introduced, read a first, a second and a third time; and
2. That Bylaw No. 4385 be adopted.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning and Protective Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services and Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENT

Appendix A: Proposed Bylaw No. 4385

CRD Bylaw No. 4385

2

Schedule B of Bylaw No. 3885

Application Type or Planning Service	Fee	Additional Fees
OCP Amendment	\$3,750	\$500 for each public hearing \$2,000 where land is also required to be excluded from the ALR
Land Use Bylaw Amendment resulting in less than 3 additional lots	\$3,750	\$500 for each public hearing
Land Use Bylaw Amendment resulting in 3 or more additional lots	\$4,250	\$500 for each public hearing
Combined OCP and Land Use Bylaw Amendment	\$4,250	\$500 for each public hearing \$2,000 where land is also required to be excluded from the ALR
Development Permit	\$550	\$250 for each additional parcel created or included to a maximum total fee of \$1,300
Development Permit Amendment	\$225	
Floodplain Exemption	\$550	\$250 for each additional parcel included to a maximum total fee of \$1,300
Development Permit with Floodplain Exemption	\$750	\$250 for each additional parcel created or included to a maximum total fee of \$1,500
Frontage Exemption	\$750	\$250 for each additional parcel included to a maximum total fee of \$1,500
Development Variance Permit	\$750	\$250 for each additional parcel included to a maximum total fee of \$1,500
Development Permit with Variance	\$1,000	\$250 for each additional parcel created or included to a maximum total fee of \$1,750
Temporary Use Permit	\$2,500	\$500 for each newspaper notice
Temporary Use Permit Renewal	50% of the original Permit fee	

CRD Bylaw No. 4385

3

Subdivision	\$750	\$400 for each additional parcel created to a maximum total fee of \$1,950
Building Conversion to Strata	\$1,500	\$400 for each strata parcel created to a maximum total fee of \$2,700
Agricultural Land Reserve	In accordance with <i>ALC Act</i>	
Liquor License	\$1,500	
Cannabis Retail	\$1,500	
Radio Communication Towers and Broadcasting Antennas	\$2,500	
Application Renewal	\$500	
Legal Services Deposit	\$500	
Planning Services	\$100/hr	



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**REPORT TO THE LAND USE COMMITTEE
MEETING OF TUESDAY, MAY 18, 2021**

SUBJECT **Outdoor Recreation Bylaw Amendments**

ISSUE SUMMARY

To consider an amendment to the Land Use Bylaw for the Rural Resource Lands Bylaw No. 3602 and to the Juan de Fuca Land Use Bylaw No. 2040 to delete the *outdoor recreation* definition and permitted use from Bylaw Nos. 2040 and 3602.

BACKGROUND

The Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, was adopted in 2010 and established the Resource Land (RL) zone, Rural Resource Lands (RRL) zone and Resource Land – Meteorological Tower (RL-MT) zone. These zones all permit *outdoor recreation* as a permitted use. The definition of *outdoor recreation* at that time was:

OUTDOOR RECREATION means a recreational activity undertaken where the outdoor setting and landscape is a significant element in the activity, and the density of recreational users is not a significant element and includes: parks, trails, open space, playing fields, playgrounds, low-impact wilderness camping and hunting.

In response to inquiries regarding the scope of permitted *outdoor recreation* uses in Bylaw No. 3602, the definition for the use was amended in 2015 by Bylaw No. 3958 in order to clarify those activities that are permitted under the definition. The definition in Bylaw No. 3602 currently reads as follows:

OUTDOOR RECREATION means a recreational activity undertaken where the outdoor setting and landscape and the density of recreational users are not significant elements in the activity; excludes tourist lodges and cabins, marinas, recreational vehicle sites, resorts, and drive-in campgrounds.

The Juan de Fuca Land Use Bylaw No. 2040 was amended in 2013 by Bylaw No. 3759 to zone lands in Shirley and Jordan River that were previously regulated by the Juan de Fuca Subdivision Bylaw No. 189 and had no associated land use regulations. As part of the amendment, the Resource Land (RL) zone was added and included the following definition of *outdoor recreation*:

OUTDOOR RECREATION means a recreational activity undertaken where the outdoor setting and landscape is a significant element in the activity, and the density of recreational users is not a significant element and includes: parks, trails, open space, playing fields, playgrounds, and low-impact wilderness camping.

Bylaw No. 2040 was further amended in 2018 to add the Restricted Development – Flood Hazard Area (RD-1) zone, which permits *outdoor recreation*, but specifically excludes overnight camping.

Staff have continued to receive inquiries regarding the scope of permitted *outdoor recreation* uses on land zoned RL in both the Bylaw No. 2040 and Bylaw No. 3602 areas. In particular, proponents have requested clarification as to what constitutes “low-impact wilderness camping” in order to

determine the feasibility of developing campgrounds. As written, the bylaws have no controls for regulating the density, servicing, accessory buildings or siting for such operations.

The *outdoor recreation* definitions continue to pose challenges for interpretation and may result in unintended forms of development. Therefore, staff have prepared Bylaw Nos. 4412 and 4413 to delete the *outdoor recreation* definition and all related references to the term (Appendix A and B).

ALTERNATIVES

Alternative 1:

That staff be directed to refer proposed Bylaw Nos. 4412 and 4413 to appropriate CRD departments, the Shirley/Jordan River Advisory Planning Commission, T'Sou-ke First Nation and Pacheedaht First Nation for comment.

Alternative 2:

That proposed Bylaw Nos. 4412 and 4413 not proceed.

Alternative 3:

That more information be provided by staff.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

Should the *outdoor recreation* use be removed from Bylaws 2040 and 3602 as a permitted use, outdoor recreation facilities operating prior to adoption of the amending bylaws would be considered legal non-conforming (i.e. grandfathered), and would be allowed to continue in accordance with Section 528 of the *Local Government Act (LGA)*.

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 14 of the *LGA*. Staff recommend referring the proposed bylaw amendments to the Shirley/Jordan River APC. There is no APC established for the Rural Resource Lands. Staff also recommend referring the bylaws to T'Sou-ke and Pacheedaht First Nations.

Should the proposals proceed, public hearings pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendments passing second reading by the CRD Board. As more than 10 properties and property owners are affected by the proposed bylaw amendments, individual property owners will not be directly notified; however, public hearings on the proposed bylaw amendments will be advertised in the local paper and on the CRD website.

REGIONAL GROWTH STRATEGY IMPLICATIONS

Section 445 of the *LGA* requires that all bylaws adopted by a regional district board after the board has adopted a Regional Growth Strategy (RGS) be consistent with the RGS. Since the proposal includes an amendment to the Land Use Bylaw for the Rural Resource Lands, the bylaw will be considered by the Planning and Protective Services Committee and the CRD Board for a determination of consistency with the RGS prior to first reading. This procedure is consistent with the Board's Juan de Fuca Development Application RGS Consistency Policy, 2012.

LAND USE IMPLICATIONS

The policies in the Official Community Plan (OCP) for the Rural Resource Lands, Bylaw No. 3591, support uses including outdoor recreation; tourism, including agri-tourism; and parks and wilderness activities.

Lands zoned RL and RD-1 in Bylaw No. 2040 are designated either Coastal Upland or Renewable Resource in the Shirley-Jordan River OCP, Bylaw No. 4001. The Coastal Uplands policies support consideration of low-impact recreation and low-impact tourism uses if removed from the Private Managed Forest Land program. Lands designated Renewable Resource in Bylaw No. 4001 are intended to support forestry and resource use.

Outdoor recreation opportunities in the Rural Resource Lands and in Shirley-Jordan River OCP areas are valued by local residents and by the region. Formal recreation sites and trails in the area, such as Tanksy, Avatar Grove, Lizard and Fairy Lakes, and the Kludahk Trail, are managed by the Province and not subject to the local government zoning. There are also many informal outdoor recreation opportunities occurring on Crown, forestry and private lands, such as hunting, fishing, off-road motorcycling, and hiking. The commercial tourism sector relies considerably on access to parks, trails and wilderness areas. As such, the scope of outdoor recreation in the Resource Lands and Shirley-Jordan River areas is broad and not easily captured in one definition.

The broad scope of what may be permitted as *outdoor recreation* in the bylaws is problematic as there are no regulatory measures to control density, servicing, access or other associated infrastructure. Such implications were not fully contemplated when the definitions were added to the bylaws and staff suggest that such uses are best addressed through submission of a zoning amendment application and public consultation. Therefore, staff propose deleting the definitions of *outdoor recreation* and all references to the term from Bylaw No. 2040 and Bylaw No. 3602. Deleting the term from the bylaws is not intended to minimize the significance of these lands for outdoor recreation by the regional population; rather, it is an approach that aims to protect the lands from undesired development and allow for site-specific approvals and public consultation. Proposals for outdoor recreation activities that include low-impact or wilderness camping could be considered on a site-by-site basis through a zoning amendment application initiated by individual land owners, in accordance with the policies of the applicable OCP.

Proposed Bylaw Nos. 4412 and 4413 have been prepared for consideration (Appendix A and B). Staff recommend referring the proposed bylaws to the Shirley-Jordan River APC, T'Sou-ke and Pacheedaht First Nations for comment.

CONCLUSION

Outdoor recreation is a permitted use in the Resource Land (RL) and Restricted Development – Flood Hazard (RD-1) zones in the Juan de Fuca Land Use Bylaw No. 2040 and in the Resource Land (RL), Rural Resource Land (RRL) and Resource Land – Meteorological Tower (RL-MT) zones in the Land Use Bylaw for the Rural Resource Lands Bylaw No. 3602. There are no regulatory measures to limit the density of *outdoor recreation* uses or structures in the bylaws. Staff recommend that specific proposals for outdoor recreation uses be addressed through submission of individual zoning amendment applications and public consultation on a site-specific basis, and that the definitions and related references to the term be deleted from the bylaws. Staff have prepared proposed Bylaw No. 4412 and 4413 and recommend referral to the Shirley/Jordan River APC and to T'Sou-ke and Pacheedaht First Nations for comment.

RECOMMENDATION

That staff be directed to refer proposed Bylaw Nos. 4412 and 4413 to appropriate CRD departments, the Shirley/Jordan River Advisory Planning Commission, T'Sou-ke First Nation and Pacheedaht First Nation for comment.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning and Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

Appendix A: Proposed Bylaw No. 4412

Appendix B: Proposed Bylaw No. 4413

CAPITAL REGIONAL DISTRICT

BYLAW NO. 4412

A BYLAW TO AMEND BYLAW NO. 3602, THE "LAND USE BYLAW FOR THE RURAL RESOURCE LANDS, BYLAW NO. 1, 2009"

The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 3602 being the "Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009" is hereby amended as follows:
 - A. SCHEDULE A, II DEFINITIONS**
 - (a) By deleting the "OUTDOOR RECREATION" definition in its entirety.
 - B. SCHEDULE A, PART 4, SECTION 4.1 RESOURCE LAND (RL) ZONE**
 - (a) By deleting Subsection 4.1.1, Paragraph "d) Outdoor Recreation; and" and re-numbering the section accordingly.
 - C. SCHEDULE A, PART 4, SECTION 4.1A RESOURCE LAND – METEOROLOGICAL TOWER (RL-MT) ZONE**
 - (a) By deleting Subsection 4.1A.1, Paragraph "d) Outdoor Recreation".
 - D. SCHEDULE A, PART 4, SECTION 4.2 RURAL RESOURCE LAND (RRL) ZONE**
 - (a) By deleting Subsection 4.2.1, Paragraph "d) Outdoor Recreation".
2. This Bylaw may be cited as "Land Use Bylaw for the Rural Resources Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021".

READ A FIRST TIME THIS	day of	2021
READ A SECOND TIME THIS	day of	2021
READ A THIRD TIME THIS	day of	2021
ADOPTED THIS	day of	2021

Chair

Corporate Officer

Appendix B: Proposed Bylaw No. 4413

CAPITAL REGIONAL DISTRICT

BYLAW NO. 4413

A BYLAW TO AMEND BYLAW NO. 2040, THE “JUAN DE FUCA LAND USE BYLAW, 1992”

The Capital Regional District Board, in open meeting assembled, enacts as follows:

1. Bylaw No. 2040 being the "Juan de Fuca Land Use Bylaw, 1992" is hereby amended as follows:
 - A. SCHEDULE A, PART 1, SECTION 2.0 DEFINITIONS**
 - (b) By deleting the “OUTDOOR RECREATION” definition in its entirety.
 - B. SCHEDULE A, PART 2, SECTION 1A.0 RESOURCE LAND ZONE – RL**
 - (a) By deleting Subsection 1A.01, Paragraph “d) Outdoor Recreation” and re-numbering the section accordingly.
 - C. SCHEDULE A, PART 2, SECTION 34.0 RESTRICTED DEVELOPMENT – FLOOD HAZARD AREA – RD-1**
 - (a) By deleting Subsection 34.01, Paragraph “l) outdoor recreation, but excludes overnight camping”.
2. This Bylaw may be cited as "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021".

READ A FIRST TIME THIS	day of	2021
READ A SECOND TIME THIS	day of	2021
READ A THIRD TIME THIS	day of	2021
ADOPTED THIS	day of	2021

Chair

Corporate Officer