



Memorandum

Date June 16, 2015

File Number 6500-20 Waste Management

To North Pender Island Local Trust Committee
For the meeting of June 18, 2015

From Justine Starke, Local Planning Services

Re **Late Item Addendum to Agenda Item 11.2. (Amended Terms of Reference for Waste Management Task Force)**

This memo is an addendum to Agenda Item 11.2 (Projects: Waste Management). The Special Advisory Planning Commission is being recommended to be convened as a Task Force instead, in order to allow South Pender Residents membership on the advisory body. A member of the public has suggested the LTC not do this, and has raised questions as to whether a Task Force adequately protects the public interest in the way an Advisory Planning Commission would under the provisions of *Section 898* in the *Local Government Act*. Staff believe some additional information would be helpful to assist this discussion.

Both a Task Force and an Advisory Planning Commission would be appointed by the LTC as advisory bodies. The main ways to protect the public interest in the context of advisory bodies are to ensure:

- Meetings are open to the public
- Minutes of meetings are recorded and publically accessible
- Composition of advisory bodies specified to ensure the balance is made up of residents of the jurisdiction
- Clear roles for elected officials in how they are to participate in the business of the advisory body.

Section 898 of the *LGA* and excerpts from the *Community Charter* are attached as Appendix 1. Both pieces of legislation, in addition to the NPI LTC *Advisory Planning Commission Bylaw 166*, would apply to a Special APC; *Section 898* of the *LGA* would not apply to a Task Force, but the *Community Charter's* open meeting rules would. Islands Trust Council's *Indemnification Bylaw 145* ensures that advisory committee members (and all trustees, staff, and volunteers) are indemnified to the full extent permitted, whether its an APC or a Task Force that is advising a Local Trust Committee. Please see the table below for a summary of the salient distinctions between an APC and a Task Force.

| ISSUE | Advisory Planning Commission | Task Force |
|--|------------------------------|------------|
| Membership by South Pender Residents | No | Yes |
| Participation by elected officials in an ex-officio capacity | No | Yes |
| Meetings open to the public | Yes | Yes |
| Minutes of meetings made available to public | Yes | Yes |
| Notice of meetings posted | Yes | Yes |
| NPI APC Bylaw 166 applies | Yes | No |
| Section 898 LGA applies | Yes | No |
| Community Charter Open Meeting rules apply | Yes | Yes |
| Trust Council indemnification bylaw applies | Yes | Yes |

OPTIONS:

Option 1: Appoint a Waste Management Task Force

This option is seen as the most expedient and as such has been recommended by staff. However, although provincial legislation protects the public interest for the most part by requiring open meetings, the LTC may want to include additional provisions in the Task Force Terms of Reference to ensure transparency. Appendix 2 provides an updated Terms of Reference with further amendments to achieve this. This Terms of Reference would replace the ToR in the regular agenda package (dated June 10 2015 in Appendix 1 of the staff report dated June 10, 2015).

Option 2: Amend NPI LTC Advisory Planning Commission Bylaw 166

The LTC has the option of amending the *APC Bylaw 166* to allow South Pender residents membership on additional North Pender Advisory Planning Commissions. Under this option, the entire APC Bylaw would apply in addition to Section 898 of the Local Government Act. The current North Pender Island Local Trust Committee *Advisory Planning Bylaw* is attached Appendix 3; if the NPI LTC would like to amend the bylaw it should direct staff to bring for consideration an amending bylaw that includes the following provision:

2. (b) Despite 2.(a), for the purpose of a second or additional Advisory Planning Commission, 1/3 of members may be open to residents of the South Pender Island Local Trust Area.

As an administrative bylaw, an Advisory Planning Commission Bylaw can receive three readings in one sitting and does not require a public hearing. There is still a requirement for approval by the Executive Committee of the Islands Trust. If the LTC were to consider an amending bylaw on July 30, 2015 it could consider three readings and refer the bylaw to EC. The Executive Committee's next meeting after that would be at September Trust Council. The NPI LTC could then consider adoption at its meeting on October 29, 2015. This timeline would delay the work of the advisory committee considerably and for that reason has not been recommended by staff.

Recommendation:

THAT the North Pender Island Local Trust Committee adopt the amended Terms of Reference for a Waste Management Task Force, dated June 16, 2015.

LOCAL GOVERNMENT ACTAdvisory planning commission

- 898** (1) A council may, by bylaw, establish an advisory planning commission to advise council on all matters respecting land use, community planning or proposed bylaws and permits under Divisions 2, 7, 9 and 11 of this Part that are referred to it by the council.
- (2) A board may, by bylaw, establish an advisory planning commission for one or more electoral areas or portions of an electoral area to advise the board, or a director of the board representing the electoral area, on all matters referred to it by the board or by that director respecting land use, the preparation and adoption of an official community plan or a proposed bylaw or permit that may be enacted or issued under this Part.
- (3) The bylaw establishing an advisory planning commission must provide for
- (a) the composition of and the manner of appointing members to the commission,
 - (b) the procedures governing the conduct of the commission, and
 - (c) the referral of matters to the advisory planning commission.
- (4) At least 2/3 of the members of an advisory planning commission must be residents of the municipality or the electoral area.
- (5) A council member, board director, employee or officer of the local government, or an approving officer, is not eligible to be a member of an advisory planning commission, but may attend at a meeting of the commission in a resource capacity.
- (6) The members of an advisory planning commission must serve without remuneration, but may be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- (7) [Repealed 1999-37-202.]
- (8) If an advisory planning commission is established, minutes of all of its meetings must be kept and, on request, made available to the public.
- (9) If the commission is considering an amendment to a plan or bylaw, or the issue of a permit, the applicant for the amendment or permit is entitled to attend meetings of the commission and be heard.

COMMUNITY CHARTER – PART 4, DIVISION 3:

General rule that meetings must be open to the public

89 (1) A meeting of a council must be open to the public, except as provided in this Division.

Application of rules to other bodies

93 In addition to its application to council meetings, this Division and section 133 [*expulsion from meetings*] also applies to meetings of the following:

- (a) council committees;
- (b) a municipal commission established under section 143;
- (c) a parcel tax roll review panel established under section 204;
- (d) a board of variance established under section 899 of the *Local Government Act*;
- (e) an advisory body established by a council;
- (f) a body that under this or another Act may exercise the powers of a municipality or council;
- (g) a body prescribed by regulation.

TERMS OF REFERENCE: TASK FORCE

LAND USE PLANNING FOR WASTE MANAGEMENT ON NORTH PENDER ISLAND

BACKGROUND

North Pender Island has a need for appropriate and permanent location(s) for transfer facilities for solid waste. Solid waste transfer facilities have historically been provided on land without adequate zoning, sometimes operating under Temporary Use Permits, other times in contravention of the Land Use Bylaw (with the exception of the Recycling Centre which is located in the Recycling Facility (RF) zone and is a permitted use within the Land Use Bylaw). Neither the Light Industrial (I1) nor the Industrial (I2) zones in LUB 103 permit waste transfer. New CRD restrictions on food waste at Hartland Landfill require consideration of community composting facilities. The CRD is undergoing a regional process to update its Integrated Solid Waste and Resource Management Plan and offering opportunities for a coordinated approach. The Task Force is appointed to represent the local community and ensure the process to develop land use regulations for waste transfer facilities is steered by the community itself.

1. The Task Force will be advisory to the North Pender Island Local Trust Committee.
2. The North Pender Island Local Trust Committee shall by resolution appoint up to eight (8) members to the Task Force.
3. A quorum for a meeting shall be a majority of the members.
4. All Task Force deliberations must take place at a meeting of the Task Force and such meetings must be open to the public.
- ~~2.5.~~ The Task Force meetings themselves are not intended to be community consultation events, and in the interest of time and agenda management, the Chair may limit community input during the Task Force meetings. The Task Force will be hosting additional events specifically designed for public input.
- ~~3.6.~~ The role of the Task Force is to make recommendations on appropriate locations and regulations for waste transfer facilities on North Pender Island.
- ~~4.7.~~ The Task Force shall, as part of its review, with assistance from Islands Trust staff, address the following:
 - a) Background research, context, best practices, lessons learned.
 - b) Inventory existing industrial land and land used for waste management activities.
 - c) Consult with target stakeholders (waste management operators, industrial land owners)
 - d) Facilitate and participate in community consultation events aimed at reaching community consensus on the location and scope of waste management on NPI
 - e) Develop criteria for the siting of waste transfer facilities
 - f) Evaluate land/sites according to research and criteria. Identify any new sites.
 - g) Make recommendations for the scope and intent of new land use bylaw regulations for waste transfer facilities
 - h) Make recommendations for where to locate for current/future waste transfer facilities.
 - i) Potentially, if requested, provide recommendations to CRD on solid waste management plan.
- ~~5.8.~~ The Task Force shall appoint a Chairperson at its first meeting.
- ~~6.9.~~ The Chairperson should ensure the Task Force considers the issues from an enlarged perspective aimed at solutions for the community as a whole.

~~7~~.10. The Chairperson should ensure deliberations are conducted with objectivity and that members are aware of any conflict of interests that may be present.

~~8~~.11. The Chairperson should ensure, to the best of their knowledge and ability, that any options or recommendations are consistent with:

- a) The Goals (“principles”) of the Official Community Plan;
- b) The Object of the Islands Trust;
- c) The policies of the Islands Trust Policy Statement;
- d) The statutory authority of the Local Trust Committee;
- e) Generally accepted good planning principles.

~~9~~.12. The Chairperson is, with assistance from the secretary, responsible for:

- a) Organizing meetings;
- b) Communicating with trustees and Islands Trust staff at each stage;
- c) Leading and facilitating discussion at the meeting(s);
- d) Ensuring that all points of view are heard;
- e) Ensuring that good order and civility are maintained at meetings;
- f) Ensuring that discussion is relevant and addresses the questions laid out in this terms of reference;
- g) Ensuring the meetings are conducted efficiently and that progress is made in accordance with the timelines established by the work plan attached as schedule 1.

13. A secretary shall be appointed by Islands Trust administration. The secretary shall:

- a) ensure that notification of the meeting times is posted on the Islands Trust bulletin boards on North Pender and South Pender Islands.
- b) provide members with agenda, reports and pertinent background material in advance of the meeting.
- c) keep legible minutes of all meetings and ensure that they are signed by the Chairperson or member presiding at the meeting, and maintain a record of approved minutes to be made available to the public upon request.

~~10~~.14. ~~Notice of the meeting times, places and topics will be prepared and circulated by Islands Trust staff or delegate.~~

~~11~~.15. Costs should be limited to rental of the meeting hall, secretarial services, materials such as paper and markers, and light refreshments.

~~12~~.16. Local Trustees may attend and participate in a non-voting capacity in any meeting, at the discretion of the trustees. The Chair of the North Pender Island Advisory Planning Commission or their delegate shall be a member of the Task Force.

~~13~~.17. The Capital Regional District director or delegate may be invited to participate in an ex-officio, non-voting capacity in order to provide coordination with the CRD Solid Waste Management Plan review.

~~14~~.18. One member of the South Pender Island Local Trust Committee may be invited to participate in an ex-officio, non-voting capacity in order to provide coordination with South Pender Island. One third of seats shall be opened for membership by residents of South Pender Island.

~~15~~.19. Islands Trust staff may be available to serve as a resource at any meeting, at the discretion of staff. As well Islands Trust staff will provide information required for the Task Force to carry out its review.

SCHEDULE 1: TASK FORCE WORK PLAN

| PROJECT CHARTER WORK PLAN OVERVIEW | | |
|---|---|--------------------|
| Meeting | Deliverable/Milestone | Target Date |
| TASK FORCE Meeting #1 | Inaugural meeting of Task Force – Background presentations and orientation by CRD and Islands Trust staff. Develop understanding of task, terms of reference for the work, and best practices in the literature for achieving goals. Aligns with deliverable 4(a) in the ToR. | July, 2015 |
| TASK FORCE Meeting #2 | Review inventory of existing industrial land and land used for waste management activities (basic information provided by staff). Appoint a subcommittee to meet with the agreed upon targeted stakeholders, as needed. Discuss and agree on objectives and preferred outcomes of the stakeholder meetings. Summaries of the stakeholder meetings will be compiled and reviewed by the Task Force in a subsequent meeting. | August/Sept, 2015 |
| Community Engagement Session #1: | Understanding Waste Management – Roles and Responsibilities (with technical assistance from CRD staff, possible conducted as a joint consultation event). Third party facilitation (either a consultant or staff led, or with a volunteer facilitator from North Pender Island). | October, 2015 |
| TASK FORCE Meeting # 3: | Review summaries of stakeholder meetings and community engagement session #1. Brainstorm recommendations for what the scope of waste management should be on North Pender Island (what uses should be permitted by zoning?). Develop draft criteria for the siting of waste transfer facilities and begin to consider what the intent behind any new zoning regulations should be. Prepare to present these preliminary findings for feedback at Community Engagement Session #2. | November, 2015 |
| Community Engagement Session #2: | Presentation by Task Force on preliminary (draft) recommendations for siting waste transfer facilities, as well as proposed uses (scope) to be permitted by zoning on NPI. Small group discussion of findings; participatory process to scope and define waste management on North Pender Island. Includes Community Survey either before, after or during session. Potentially to include a discussion of CRD role/approach to regulating operations. | January, 2015 |
| TASK FORCE Meeting #4: | Review results of community process/input to date. Refine/revise preliminary recommendations for scope and criteria. Discuss and prepare for Community Engagement Session #3. | February, 2016 |
| Community Engagement Session #3: | Presentation of revised recommendations, apply criteria for siting waste transfer facilities, inventory of Industrial land and existing waste transfer sites. Group process to evaluate according to criteria. Community mapping exercise to identify eligible land for waste transfer facilities. Could benefit from professional facilitator, community mapper. | March, 2016 |
| TASK FORCE Meeting #5: | Review summary of findings from community engagement session, revise/refine recommendations, delegate/assign report writing. | May, 2016 |
| TASK FORCE Meeting # 6: | Review draft report, direct changes, finalize recommendations. | June, 2016 |
| NPI LTC | Chair of Task Force to present Draft Report to Local Trust Committee at regular business meeting. Invite feedback. | June, 2016 |
| TASK FORCE Meeting # 7: | Final revisions to report, if required. | July, 2016 |
| NPI LTC | Chair of Task Force to present Final Report to Local Trust Committee at regular business meeting. | July, 2016 |

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 166

ADOPTED

 A BYLAW TO ESTABLISH AN ADVISORY PLANNING COMMISSION FOR THE NORTH PENDER ISLAND LOCAL TRUST AREA PURSUANT TO THE *LOCAL GOVERNMENT ACT* AND THE *ISLANDS TRUST ACT*

The North Pender Island Local Trust Committee being the Local Trust Committee having jurisdiction on and in respect of the North Pender Island Local Trust Area in the Province of British Columbia, pursuant to the *Islands Trust Act*, R.S.B.C., 1989, enacts as follows:

1. Establishment

- (a) The North Pender Island Local Trust Committee may appoint one or more Advisory Planning Commissions (APC) for the North Pender Island Local Trust Area to advise as follows:
 - i) If one Advisory Planning Commission (APC) is appointed, that Commission shall advise the Local Trust Committee on matters respecting land use, community planning, or proposed bylaws and permits, pursuant to the *Local Government Act* that are referred to it by the Local Trust Committee.
 - ii) If a second or additional Advisory Planning Commission (APC) is appointed, those Commission(s) shall advise the Local Trust Committee on matters respecting one or more special projects that are matters respecting land use, community planning, or proposed bylaws and permits, pursuant to the *Local Government Act* that are referred to it by the Local Trust Committee

2. Appointment of Members

- (a) The Advisory Planning Commission(s) consists of not more than eight members for each Commission. Every member must be an elector of the Local Trust Committee, as defined in Section 5 of the *Local Government Act*, and at least 2/3 of the members must be residents of the Local Trust Area.
- (b) A Local Trustee, officer or employee of the Islands Trust, or an approving officer is not eligible to be a member of the APC.
- (c) The Local Trust Committee shall by resolution appoint members to serve up to a one year term commencing March 1.
- (d) The Local Trust Committee may, by resolution, remove a member at any time.
- (e) Where a member resigns or an appointment is otherwise terminated, the Local Trust Committee may appoint a member to serve the balance of the term of the appointment.
- (f) The members must, during the first meeting after their appointment, from among the members elect a Chairperson, and a Deputy Chairperson to act in the place of the Chairperson in the absence of the Chairperson.
- (g) The Deputy Chairperson shall, in the absence of the Chairperson, serve as described in Section 3(b).

- (h) In the event that the Chairperson resigns or the Chairperson position is otherwise terminated, the Secretary shall write the North Pender Island Local Trust Committee to advise them and the Deputy Chairperson shall serve until a Chairperson is elected in accordance with Section 2 (f).

3. Roles

(a) Secretary

- (1) The Local Trust Committee shall appoint a Secretary to the Advisory Planning Commission. For certainty a Secretary appointed by the Local Trust Committee is not a member of the APC.
- (2) The Secretary is to:
 - i) assist the Chairperson, as required, in arranging meetings of the APC;
 - ii) ensure that proper notification of meetings is given in compliance with this Bylaw;
 - iii) keep legible minutes of all meetings;
 - iv) provide copies of all minutes and recommendations of the APC to the Local Trust Committee and the Secretary of the Islands Trust; and
 - v) maintain an annual record book of approved minutes to be available to the public upon request.
- (3) If a Secretary has not been appointed under Section 3(a)(1), the APC may continue to meet provided the Chairperson appoints or acts as a Secretary pursuant to Section 3(b)iv) or v). For certainty the Secretary who is a member of the APC will serve without remuneration..

(b) Chairperson

- (1) The Chairperson is to:
 - i) receive referrals from the Local Trust Committee and, in response, decide when and where meetings shall be held;
 - ii) ensure proper conduct of all meetings in accordance with the requirements of this Bylaw, the principles of procedural fairness, and in accordance with the requirements of the *Islands Trust Act*, the *Local Government Act*, the Community Charter or regulations under those Statutes;
 - iii) sign the minutes certifying that they are true and correct after they have been approved by the APC;
 - iv) in the absence of a Secretary, appoint a member of the APC to record the minutes of the meeting; and
 - v) in the absence of a Secretary, to act in the capacity of a Secretary for purposes established in this Bylaw, unless another member of the APC is appointed by the Chair to undertake such responsibilities.

4. Referrals to the Commission

- (a) The Local Trust Committee may by resolution, refer any matter respecting land use, community planning or proposed bylaws and permits under Divisions 2, 7, 9 and 11 of Part 26 of the *Local Government Act*.
- (b) The APC must meet, when there is a need to consider a referral, at a duly constituted meeting as defined under this Bylaw and as called by the Chairperson.
- (c) At its first meeting, the APC shall select a regular monthly meeting day to consider referrals.
- (d) In the event that no referral is received by the Secretary at least 7 calendar days prior to the date of the next regular meeting, then no meeting need be held.
- (e) A meeting of the APC on any particular referral must be held not more than 40 days after the date of receipt of that referral unless the Local Trust Committee has requested a response by an earlier specified date.
- (f) The Local Trust Committee may refer a plan or bylaw amendment or permit that has been partially processed and seen at the application stage by the Advisory Planning Commission for additional recommendations if it feels changes to the application warrant the review. In these cases the APC may be asked to respond in a briefer than normal time period.
- (g) The Chairperson may call an extraordinary meeting after consultation with the Secretary and all other members of the APC to deal with any matter for which a quick response is requested.
- (h) Although the recommendations of the APC must be received by the Local Trust Committee, the Local Trust Committee is not bound by the recommendations.

5. Notice of Meeting

- (a) An employee of the Islands Trust shall mail or otherwise deliver documentation associated with any referral from the Local Trust Committee to all members and the Secretary of the APC.
- (b) The Secretary must send a notice of meeting upon receipt of a referral to be discussed to each APC member at least 5 calendar days prior to the regularly scheduled meeting.
- (c) The Secretary must confirm by telephone or note, the date and time of any extraordinary meetings with each member of the APC.
- (d) The Secretary must ensure an applicant is notified of the date, time and place of the APC meeting at which his or her application or proposal will be discussed at least five calendar days prior to the meeting.
- (e) The Secretary shall post a schedule of the date, time and place of any regular APC meeting at least five calendar days prior to the meeting on a bulletin board on island that is accessible to the public, such bulletin board to be the same as is used by the Local Trust Committee for the posting any schedule of Local Trust Committee meetings.
- (f) The Secretary must ensure the Local Trustees and the employee as referred to in Section 5.(a) are notified of each APC meeting at least five calendar days prior to the day of the meeting.

- (g) Where a matter upon which a recommendation has been made is referred back to the APC for further comment within a limited time period, the Secretary must notify the Local Trust Committee of an extraordinary meeting. The Secretary may invite the applicant if further information is required at least two days prior to the meeting unless the applicant agrees to a lesser notice.

6. Conduct of Meeting

- (a) All deliberations of the APC must take place in a meeting, and all APC meetings must be open to the public with the exception that the meeting may be closed if it relates to a matter specified in S.90(1) of the Community Charter.
- (b) A quorum of the APC is 50% of those appointed.
- (c) The Chairperson is to convene the meeting and may adjourn it from time to time.
- (d) An applicant must be afforded the first opportunity to present his or her proposal and to answer any questions asked by APC members.
- (e) If the applicant or his or her agent fails to appear and was duly notified as required by this Bylaw, the APC may proceed to reach its recommendation in his or her absence.
- (f) At the request of any member of the APC, the Chairperson must invite any elected official, staff or resource person present or member of the public at the meeting to comment on the matters before the APC. Any Local Trustee, officer or employee of the Islands Trust may attend at a meeting of the APC in a resource capacity.
- (g) The APC must not receive development proposals and other applications directly from applicants.
- (h) The APC must not consult directly with other government agencies.
- (i) The Chairperson shall make provision for a public participation period within each meeting.
- (j) If the Chairperson considers that another person at the meeting is acting improperly, the Chairperson may order that the person is expelled from the meeting.

7. Notice of Recommendation

- (a) If a Local Trustee did not attend an APC meeting, the Local Trustee may require a verbal report from the Chairperson.
- (b) The Secretary must ensure minutes of each meeting of the APC are recorded and approved by the APC at its subsequent meeting.
- (c) The Secretary must ensure a completed referral form recording the response of the APC and a copy of the draft minutes are submitted to the Local Trust Committee and Islands Trust office within seven calendar days of the meeting.
- (d) A recommendation of the APC may be in the form of recorded commentary, in the form of minutes or in the form of a resolution, provided that, where requested by any member, all dissenting opinions are also recorded.

8. Transition

(a) North Pender Island Local Trust Committee Bylaw No.94 cited as the "North Pender Island Local Trust Committee Advisory Planning Commission Bylaw, 1994" is repealed.

9. This Bylaw may be cited as the "North Pender Island Local Trust Committee Advisory Planning Commission Bylaw No. 166, 2005".

READ A FIRST TIME THIS 24th DAY OF February , 2005

READ A SECOND TIME THIS 24th DAY OF February , 2005

READ A THIRD TIME THIS 24th DAY OF February , 2005

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
9th DAY OF March , 2005

ADOPTED THIS 31st DAY OF March , 2005

DEPUTY SECRETARY

CHAIRPERSON