

NOTE: This briefing was originally prepared in 2009 and updated in October 2015.

**ISLANDS TRUST
BRIEFING**

DATE: October 2, 2015

TOPIC: LOCAL GOVERNMENT RESTRUCTURE STUDIES IN THE ISLANDS TRUST AREA – TRUSTEE AND STAFF ROLES

DIRECTED TO: Executive Committee

CONFIDENTIAL: NO

DESCRIPTION OF ISSUE: Clarification of trustee and staff roles and implications for staff work programs where a community within the Islands Trust Area is either considering or actively engaged in a local study of governance structure such as a municipal incorporation study.

BACKGROUND:

Role of the Ministry of Community Sport and Cultural Development

- From time to time, island communities within the Islands Trust Area have expressed an interest in considering changes to their local governance structure.
- The province is responsible for the system of local governments in British Columbia and for the process through which changes to the system are considered.
- The province, through the Local Government Structure Branch of the Ministry of Community, Sport and Cultural Development (MCSCD), provides advice and support for communities in British Columbia that wish to consider changes to their governance structure.
- The province has identified the process by which communities can consider the most significant structural change, that being incorporation of a new municipality.
- Other types of governance restructure include municipal boundary adjustments, amalgamations, restructuring of regional districts, and dissolution of an improvement district with transfer of assets to a regional district.
- Any changes to local governance structure are ultimately the responsibility of the province, since restructuring is approved by the provincial cabinet, upon recommendation of the minister of MCSCD. However, s. 8 of the *Local Government Act* indicates that changes are usually locally-driven.
- In the case of incorporation, the minister may not recommend incorporation of a new municipality unless there has been a vote of those electors who would be within the incorporated area.
- The province has published information for communities interested in considering changes to local governance (see references below). The ministry website about [Municipal Incorporation](#) provides further information on the topic.

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Municipal Incorporation within the Islands Trust Area

- In 1989, the [Islands Trust Act](#) was amended to contemplate the creation of municipalities within the Islands Trust Area (see Part 5).
- In 1996, the Islands Trust Council and the Ministry of Municipal Affairs (now MCSCD) finalized an [agreement](#) that established a framework for incorporation of municipalities within the Trust Area. The agreement supplements the ministry's generic restructure process and recognizes that incorporation of a municipality within the Trust Area requires additional definition. It identifies roles and responsibilities of various parties during a restructure process. In the agreement, both parties acknowledge that "*residents of an island are entitled to make a decision on incorporation on the basis of objective information and with a clear understanding of the implications of municipal status in relation to the mandate of the Trust*".
- Also in 1996, the Islands Trust Council amended the [Islands Trust Policy Statement](#) to incorporate the following policy:

5.8.3. Trust Council holds that island communities within the Trust Area are themselves best able to determine the most effective local government structure to support their local autonomy and specific community needs within the object of the Islands Trust.

- Since adoption of this policy, the Islands Trust Council and Islands Trust staff have taken a neutral position in regards to local government restructure initiatives, although individual trustees have voiced opinions for or against incorporation in their own communities.
- In 1998, the Islands Trust Council adopted a guideline regarding the way in which restructure committees may request and receive information about Islands Trust budget expenditures. This guideline ([Policy 7.2.v – Incorporation Study Cost Allocations](#)) was updated in 2012.
- Since 1996, three local trust areas have engaged in formal municipal restructure studies and referenda as follows:
 - Bowen Island was incorporated as Bowen Island Municipality in 1999, following completion of the [Bowen Island Restructure Study](#) and an affirmative vote in a referendum.
 - A Salt Spring Island referendum in 2002, held after completion of the [Salt Spring Island Restructure Study](#), did not support incorporation.
 - A Gabriola Island referendum in 2004, held after completion of the [Gabriola Island Local Governance Review](#), did not support incorporation.
- Community members in other local trust areas have also expressed some interest in changes to local governance, but have not engaged in formal studies.
- During the 2005-2008 term, the Islands Trust Council studied Islands Trust governance, resulting in requests to the province for a variety of legislative changes. The most significant of these was a request for two additional trustees from the Salt Spring Island Local Trust Area, to sit as voting members on both the Salt Spring Island Local Trust Committee and the Islands Trust Council. The minister of the day was only willing to consider additional trustees for the Salt Spring Island Local Trust Committee and allowed for a referendum on that point

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during the 2008 general local election. The referendum failed and there were no changes to the number of trustees from Salt Spring Island.

- In 2009 and again in 2012, the Salt Spring Island Local Trustees and the CRD Electoral Area Director requested provincial support for a formal review of governance structure on Salt Spring Island
- This briefing was originally prepared in response to a request from the Executive Committee in 2009, to clarify the role of local trustees and staff in local government structure studies within the Islands Trust Area. It was updated in October 2015, at the request of the Executive Committee

Local Government Restructure Process in the Islands Trust Area

- Table 1 attached, outlines the steps in the [Local Government Restructure Process](#) as outlined by MCSCD on its website. It identifies unique aspects of a an incorporation study within the Trust Area, as identified in Trust Council's agreement with MCSCD. It also indicates the anticipated role of local trustees and Islands Trust staff at each step and estimates the general level of trustee or staff work that may be required at each stage.
- The anticipated *trustee* roles indicated in Table 1 are based on previous experience as well as the guidance in the referenced documents. Although local trustees will likely wish to be involved as individual elected representatives of their community, review of a community's local governance structure is not part of a local trust committee's formal business or of its staff work program.
- The anticipated *staff* roles are also based on previous experience as well as guidance in the referenced documents. The CAO would typically coordinate the involvement of Islands Trust staff in a local government structure initiative, reporting to the Executive Committee and Trust Council. While planning staff for the relevant local trust area may assist in some of these tasks, they would do this through the CAO's office, rather than as part of their local trust committee work program.
- While the costs of an Islands Trust-initiated study to examine internal governance would be borne by the Islands Trust budget, budgets for studies related to structural changes at the local level come from provincial sources. A local trust committee may use some of its local expense account for initiatives that focus on options for better coordination with other agencies, including the relevant regional district. Such initiatives may include discussions about restructure studies. However, expenditures that primarily relate to a formal governance restructure initiative should not come from this account. (see [Policy 6.5.iii – Purchasing Procedure](#)).
- As a restructure study advances, Trust Council will need to assess and plan for the potential impacts of municipal incorporation on the Islands Trust. It will need advice from its senior administrative staff, who would develop recommendations and implement plans to respond to the incorporation initiative. The degree of work required would vary considerably depending on the size of the local trust area engaged in a restructure study.
 - NOTE: In regards to the 2015 Salt Spring Island incorporation study, MCSCD also funded a study that would estimate the potential impact on

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the Islands Trust, should Salt Spring Island incorporate. The [Islands Trust Impact Analysis](#) was released in March, 2015. It will inform Trust Council's preparations of an adaptation strategy, should the Salt Spring Island community vote to incorporate.

- Should a community engage in a formal municipal restructure study that leads to a successful incorporation referendum, Trust Council will need to spend a considerable amount of its senior administrative staff time to ensure a smooth transition from the status quo to the creation of a new municipality. Trust Council would require advice about service contracts and the development of agreements with a new municipality. Staff time would also be spent transferring information, files, data and knowledge to new municipal staff. Staff would also assist Council in developing and implementing a transition plan for the Islands Trust, indicating options to manage changes in revenue, services and staff levels.
- The attached Table 1 outlines the types of activities and the estimated level of effort from staff and trustees at each step in a standard local government restructure process. The roles played by Islands Trust representatives may be replicated at the Regional District level, and there would likely be a high degree of coordination between the staffs of the ministry, the regional district and Islands Trust.
- The province may provide some financial assistance to cover transitional services. While the degree of work would vary considerably depending on the size of the local trust area involved, transitional work would be of a significant level and Trust Council would need to recognize it in its Strategic Plan and in the work programs of senior staff.
 - Note: In regards to the 2015 Salt Spring Island incorporation study, Trust Council's Strategic Plan recognizes the need to develop both an 'initial' adaptation strategy and a 'long-term' one, should the Salt Spring Island community vote to incorporate.
- Where a local community may undertake a non-traditional review of local government structure, staff roles are less clear, but are expected to be somewhat similar in terms of participation and time commitments. There may be some additional staff input required in early phases to provide advice about a review.

ATTACHMENT(S): YES

Table 1 - Islands Trust Area Municipal Restructure Process – Suggested Trustee and Staff Roles

REFERENCES:

Islands Trust webpage – [Island Municipalities, Restructure Studies and Referenda](#)

MCSCD - Municipal Incorporation http://www.cscd.gov.bc.ca/lgd/boundaries/municipal_incorporation.htm

MCSCD – Municipal Restructure Process
http://www.cscd.gov.bc.ca/lgd/boundaries/municipal_restructure_process.htm

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MCSCD – Managing Changes to Local Government Structure in BC: A Review and Program Guide:
http://www.cd.gov.bc.ca/lgd/gov_structure/library/local_gov_structure_managing_changes.pdf

Agreement between the Islands Trust Council and Ministry of Community Sport and Cultural Development (formerly Municipal Affairs) Establishing a Framework for Incorporation of Municipalities within the Trust Area:
<http://www.islandstrust.bc.ca/tc/pdf/orgagrfeb201996pro.pdf>

[Trust Council Policy 6.5.iii – Purchasing Procedure](#)

[Trust Council Guideline 7.2.v – Incorporation Study Cost Allocations](#)

[Islands Trust Policy Statement](#)

AVAILABLE OPTIONS:

1. Post briefing to Islands Trust website, as presented.
2. Request additional information to be included in briefing, before posting to website.

FOLLOW-UP:

1. Further follow up to be determined by Executive Committee.

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SUBMITTED BY: Linda Adams

REVIEWED BY: n/a
(Chief Administrative Officer)

REVIEWED BY EXECUTIVE COMMITTEE:

July 28, 2009, April 2015

OTHER REVIEW:

n/a

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Table 1
Islands Trust Area Municipal Restructure Process
Typical Trustee and Staff Roles
Based on Process outlined by the Ministry of Community Sport and Cultural Development¹

Process Steps*	Local Trustee Role	Trustee Time**	Staff Role	Staff Time**	Comments
1. An individual, group, or local government contacts the ministry to indicate there is community support for a restructure study and to inquire about the restructure process.	<p>On request, provide community members with links to ministry information and contacts, links to other Trust Areas incorporation studies, etc.</p> <p>Communicate with community members about support or non-support for an incorporation study or alternatives to a formal incorporation study.</p>	M	<p>On request, provide trustees and community members with links to ministry information and contacts, links to other Trust Area incorporation studies, general information about local government restructure, advice about process, etc. (CAO)</p> <p>Liaison with ministry staff in Local Government Structure Branch and relevant regional district staff (CAO)</p>	L	<p>Ministry literature indicates that an incorporation study would not likely proceed without the support of the electoral area director (EAD). In the Trust Area, this has traditionally meant that a study would not proceed without the support of the EAD and both local trustees.</p>
2. The ministry, along with the municipality and local citizens, assess the local context to determine if a broad base of community support exists for considering incorporation.	<p>Communicate with community members and ministry about support or non-support for an incorporation study or about alternatives to a formal incorporation study.</p>	M	<p>On request of trustees or ministry staff, provide available data about community characteristics related to a local government restructure study. (CAO, with assistance as required of other staff such as Director of Admin. Serv., RPM)</p>	L	

¹ The [Municipal Restructure Process](#) referred to in this table is the one outlined by the Ministry as of October 14, 2015

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Process Steps*	Local Trustee Role	Trustee Time**	Staff Role	Staff Time**	Comments
3. A restructure study committee is formed from residents that is broadly representative of the community.	Participate in creation of restructure study committee. Sit as ex-officio members of restructure study committee Updates to Executive Committee and Trust Council.	H	No specific role. Communicate with Trust Council, Executive Committee and staff about status of restructure study committee. (CAO)	L	IT/MCRD agreement states that trustees must be invited to participate in creation of a restructure study committee and that they will be ex-officio members of it.
4. The committee asks the minister for approval in principle to conduct a restructure study.	Participate as a committee member Updates to Executive Committee and Trust Council	H	No specific role	L	
5. If the minister decides that approval in principle can be given, the committee establishes terms of reference for both the committee and the restructure study and selects an independent consultant to conduct the study.	Participate as a committee member in committee functions as noted. Updates to Executive Committee and Trust Council	H	No specific role. On request of ministry or local trustees, provide advice about draft terms of reference. (CAO) Provide Executive Committee, Trust Council and staff with status update and preliminary assessment of potential implications (CAO).	L	
6. The committee makes a formal request to the minister for a restructure planning grant to fund the study.	Participate as a committee member in committee functions as noted.	L	No specific role.	L	

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<p>7. If the minister approves the grant, the consultant works with the committee to produce an objective study on the impact of municipal restructure to both municipal and rural area citizens.</p>	<p>Participate as committee members in committee functions as noted.</p> <p>Update Executive Committee and Trust Council.</p>	<p>H</p>	<p>On request of the restructure study committee, provide information about the Islands Trust and its operations (i.e. jurisdiction, budget, etc.) and provide comments on written reports.(CAO, with assistance of other staff as required, such as Director of Admin. Serv., Director of Local Planning Services, RPM)</p> <p>Provide advice and carry out decisions of Trust Council regarding the potential impacts of incorporation on organizational budget and services. (Director of Admin. Services; may require contract assistance to assess).</p> <p>Initiate communications with staff and partner agencies.</p>	<p>M</p>	<p>Administration of funds for contract work is the responsibility of the regional district.</p> <p>To ensure clarity and avoid duplication of effort, the restructure committee should identify a single point of contact (i.e. the consultant) with the Islands Trust.The Islands Trust CAO would normally be responsible for coordinating responses on behalf of the Islands Trust to information requests, and may call upon other staff for assistance as required. Requests and responses should not flow directly between restructure committee members to other Islands Trust staff.</p>
<p>8. The ministry provides an offer of provincial assistance, financial and otherwise, that it will give to the municipality if the restructure proceeds. This information is incorporated into the restructure study.</p>	<p>Participate as a committee member in committee functions as noted</p> <p>Update Executive Committee and Trust Council.</p>	<p>H</p>	<p>Liaison with ministry to provide information about transitional financial arrangements between the Islands Trust and a proposed island municipality. (CAO with assistance of other staff as required, such as the Director of Administrative Services)</p>	<p>M</p>	

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9. The final study is presented to both the municipal and rural area communities for public discussion and input.	Participate as a committee member in committee functions as noted. Update Executive Committee and Trust Council.	H	No specific role. As requested by restructure study committee, participate in community meetings to provide information about the Islands Trust. (CAO) Provide support to Trust Council in providing input to draft Letters Patent and on proposed boundaries of an island municipality. (CAO with assistance of other staff as required, such as Director of LPS, RPM)	M	IT/MCRD agreement indicates that both the restructure study committee and the Islands Trust will be provided an opportunity to review draft Letters Patent before the incorporation vote and that the ministry will consult with the Islands Trust about the proposed boundaries of an island municipality.
10. Based on community input, the committee decides whether to recommend to the minister that a vote be held to decide if the majority of the electorate support the municipal restructure.	Participate as a committee member in committee functions as noted. Update Executive Committee and Trust Council.	H	No specific function. If a vote is recommended, provide advice to Trust Council, staff and the public about potential impacts of incorporation on organizational budget and services. (CAO, with significant involvement of the Director of Administrative Services, who will likely require contract assistance; assistance of communications staff would also be required to respond to public interest).	M	Prior to a referendum vote, members of the public may request information about the potential impacts of incorporation on the Islands Trust's organizational budget and services, if this has not been addressed previously.
11. If the committee recommends that a vote be held and the minister agrees, an order to hold the vote will be given. Community meetings are held leading up to the vote so that local citizens have every opportunity to make	Participate as a committee member in committee functions as noted. Update Executive Committee and Trust Council.	H	Provide updates and advice to Executive Committee, Trust Council and staff. (CAO) As requested by incorporation study committee, participate in community meetings to provide information about the Islands Trust. (CAO, Director of Administrative Services).	L	Administration of an incorporation referendum is the responsibility of the regional district.

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an informed choice.			CAO may also be called upon to respond to public enquiries regarding potential impacts of incorporation on the Islands Trust. Communications staff may need to support the Chair and/or CAO in this role.		
12. If local citizens in the area outside the municipality and within the municipality both vote in favour of the municipal restructure, Supplementary Letters Patent are prepared for approval by Cabinet. Supplementary Letters Patent are required to change the municipality's boundary description and to address some transitional issues.	<p>If requested, participate as a member of the Committee in reviewing Letters Patent.</p> <p>Participate as a member of Trust Council in providing input to Letters Patent and in considering changes to Islands Trust budget and organizational structure.</p>	M	<p>Provide updates and advice to Executive Committee, Trust Council and staff. (CAO)</p> <p>Provide support to Trust Council in providing input to Letters Patent.(CAO)</p> <p>Liaison with ministry regarding transitional issues and transfer of services (CAO with assistance of other staff as required, such as the Director of Local Planning Services, Director of Admin Services and RPM)</p>	H	IT/MCRD agreement indicates that both the restructure study committee and the Islands Trust will be provided an opportunity to review draft Letters Patent after a successful incorporation vote and prior to submission of the Letters Patent to Cabinet.
13. The restructure takes place on a date set out in the Supplementary Letters Patent.	<p>Participate as a member of LTC in preparing for transition: complete works in process, establish protocols for dealing with new land use applications, housing agreements, covenants etc.</p> <p>Trust Council implements</p>	L	<p>Support to Trust Council and liaison with interim municipal administrator regarding service contract, upcoming transfer of services, etc. (CAO, Director of Administrative Services, Director of Local Planning Services, Regional Planning Manager). Arrange transfer of applications in process.(Regional Planning Manager)</p>	H	IT/MCRD agreement states that a new island municipality must enter into a contract with the Island Trust whereby the municipality will receive and pay for local planning services provided by Islands Trust staff for an

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	changes in its structure.		<p>Liaison with interim municipal administrator and CAO, once hired. (CAO)</p> <p>Review of protocol agreements to determine applicability to new municipality. (CAO with assistance of other staff as required such as Directors of TAS and LPS)</p> <p>Development of organizational transition plan regarding changes to revenue sources and reduction in planning services provided to new municipality, staffing transition, etc. (CAO with assistance of other staff as required, such as Directors of Admin Serv. and LPS, RPM)</p>		initial period of three years.
14. The first municipal election takes place on a date set out in the Letters Patent.	Trustees' term of office ends on a specified date after municipal election. Trustees may choose to run for municipal council.	L	Provide information as requested by interim municipal administrator or candidates about the role of Municipal Trustees. (CAO, Legislative Services Manager)	L	Administration of municipal election, including election of Municipal Trustees is responsibility of interim municipal administrator.
15. After first municipal election	<p>Local trustee positions no longer exists.</p> <p>Transfer of information/discussion with new council members, as required.</p>	L	<p>Orientation of new Municipal Trustees (CAO and other staff as required)</p> <p>Support for Trust Council in attendance at inaugural meeting of municipal council, development of protocol agreement and service contract with island municipality. (CAO with assistance of other staff as required, such as Directors of Admin. Serv. and LPS, RPM)</p> <p>Implementation of organizational transition plan, transfer of staff as</p>	H	<p>IT/MCRD agreement specifies the relationship between the Islands Trust and a new municipality, including the transitional period.</p> <p>Specific details would be subject to negotiation.</p>

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			arranged, and transfer of any assets (eg: office lease, equipment, data, files, legal matters) (CAO with assistance of other staff as required, such as Director of Admin. Serv., Director of LPS, planning team)		
* As defined by MCSCD documents, supplemented by the Agreement between the Islands Trust Council and Ministry of Community Sport and Cultural Development					
** Estimated time requirements: H = High time requirement; M = Moderate time requirement; L = Low time requirement					