



**GABRIOLA ISLAND
LOCAL TRUST COMMITTEE
AGENDA**

**REGULAR BUSINESS MEETING
OF THE GABRIOLA ISLAND LOCAL TRUST COMMITTEE**
held on Thursday, September 5, 2013 at the Women's Institute,
476 South Road, Gabriola Island, BC

LATE ITEMS, ADDITIONS

**AMENDMENTS/ADDITIONS
TO ITEMS:**

9. NEW BUSINESS

- 9.3 Bike Path Referral from Ministry of Transportation and Infrastructure
Background and Further Information - *attached*
- 9.4 Gabriola Eagle Nest Report Proposal - *attachment*

16. LOCAL TRUST COMMITTEE PROJECTS

- 16.1 Official Community Plan/Land Use Bylaw Review
 - 16.1.2 Riparian Areas Regulation Implementation
Questions & Answers document – *attached*

Item 9.3 – Bike Path information

Background

On August 15 we received an email from the Ministry of Transportation and Infrastructure inviting us to participate in a conference call to discuss a road improvement project the Ministry intends to undertake on Gabriola. Improvements are proposed for the Taylor Bay Road/McConvey Road hill section with a view to increasing safety for bicycle and pedestrian travel. We also received a document illustrating two options under consideration.

After discussing the proposal with Ministry representative Jonathan Tillie, the Trustees informally asked the Transportation Advisory Committee for their advice on these options. The Chair of the Transportation Advisory Committee also consulted with Ministry representative Jonathan Tillie and conferred with other members. We received a response from the Committee which offered a rationale for their decision and a resolution for Gabriola Local Trust Committee consideration.

From: Steven Earle [Steven.Earle@viu.ca]
Sent: Wednesday, August 21, 2013 6:50 PM
To: Sheila Malcolmson; Gisele Rudischer
Subject: Proposed work on Taylor Bay Rd.

Hi Sheila and Gisele,

The Gabriola TAC has had an e-mail discussion about the proposed work on Taylor Bay Rd, and we've come up with the resolution below, which we'll be voting on. Although this is not yet official, I think it's likely to pass as three of the five members already appear to be in agreement. It may be a couple of days before we can give you the final word, however, since one of the committee members is in Europe and is only able to access e-mail every few days.

Regarding the issue of whether or not this complies with the OCP, the intention of specifying "paved bicycle shoulder lane both sides of the road, separated from the vehicle lanes by painted lines" was to ensure that any bike paths built by MOTI were on the road grade (and not meandering through the bush), because the authors of the bike-path OCP document were looking for commuter-style bike infrastructure, not recreational trails. This particular part of the road is a special case because of the steep drop-offs and the requirement for barriers. We believe that most pedestrians (and probably some cyclists) would be uncomfortable going through that section on a paved shoulder that is constrained by a barrier, and that's why we think the hybrid model, with a barrier-enclosed path on the uphill (east) side, is a good compromise. Although this does not conform exactly with the letter of the policy, we believe that it is definitely within the intent of the policy.

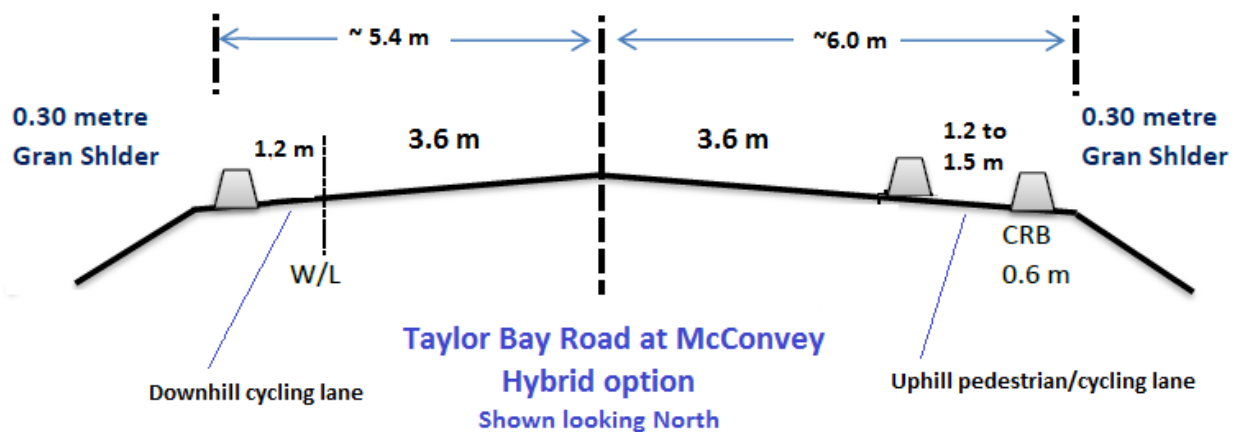
We have proposed the hybrid model because it will cost less than MOTI's Option 2, and it has a protected path on one side, which is where most pedestrians go now anyway, and which cyclists will likely appreciate because it takes long enough to bike up that hill that one can never be sure that a following vehicle won't overtake them before getting through. The path on the west side (downhill)

does not need to be protected because most cyclists can get through there in just a few seconds, with very little risk that a following car will overtake them within this section.

At his request, I have sent a copy of this to Johnathan Tillie, and we had a short discussion about it this afternoon. At that time he did not express any issues with this approach.

Steve

RESOLVED that the Transportation Advisory Commission has considered the two options prepared by the Ministry of Transportation and Infrastructure for the road section on Taylor Bay Road immediately south of the intersection with McConvey Road and for reasons of pedestrian and cycling safety, recommends a hybrid approach with a 1.2 m wide Option-1-style shoulder lane on the west side and a 1.2 to 1.5 m wide Option-2-style pedestrian/cycling lane on the east side. While the total width is similar to option 1, there would be two curbs on the east side instead of one. (Refer to diagram below.)



From: Steven Earle [Steven.Earle@viu.ca]
Sent: Monday, August 26, 2013 2:29 PM
To: Sheila Malcolmson; Gisele Rudischer
Cc: Jim Ramsay (jgramsay@telus.net); John Hodgkins (jchodgkins@shaw.ca)
Subject: Resolution regarding proposed work on Taylor Bay Rd.

August 26, 2013: The following resolution (moved: J. Ramsay, seconded: J. Hodgkins) has been unanimously approved by the Gabriola TAC, although one member ("tinaofgabriola") did not participate in the debate and did not vote.

Please let me know if you need more documentation.

Steven Earle (acting Chair)

GABRIOLA EAGLE NEST REPORT PROPOSAL

August 23, 2013

PROPOSAL:

This proposal is for GROWLS, in partnership with the Islands Trust, to create a comprehensive summary report on the status of Gabriola Eagle Nests and Chick Production from 2004-2014. This report will be created by employing Ian Moul, WITS Coordinator (RPBio) with the volunteer cooperation of GROWLS eagle nest monitors assisting in volunteer data collection. Similar to the report that has been recently provided by Ian Moul to the City of Nanaimo **xxx**, it would be delivered to The IT, RDN and GROWLS, and provide a completed data inventory of local nests and territory, including, maps, photographs, UTM and GPS coordinates. This report would also be made available online for applicable web-based habitat inventory directories, including WITS.

PURPOSE :

The purpose of this report will be to provide verifiable information regarding local eagle nests to be used as a tool to aid and inform local government agencies, planners, biologists, and the public (omitting sensitive information of private property confidentiality). The aim of which will be to assist local govt. agencies in determining development permits for sensitive areas, provide educational information about eagles and their nesting practices in the local community, and further fulfill the common mandates of both the IT and GROWLS- to preserve and protect the natural environment of Gabriola Island, BC.

BUDGET: The budget proposal for this project is \$2000.00- 1000.00 to be donated from GROWLS and 1000.00 from The Islands. These monies are to be paid to Ian Moul for his services in creating and supervising this report, making it accessible both online and in printed format, and delivering it to the supporting organizations within an **eight month** commencement period. The reason for the much reduced cost of this report (as compared with the cost of the Nanaimo Report produced in **xxx**) is that much of the data collection services has been and will continue to be donated by GROWLS eagle nest monitoring volunteers: Iain Lawrence, Darlene Mace, Jill Haras & Jean Wyenberg.

CONTACT:

Darlene Mace
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Ian Moul - RPBio.
(250) 890-0713
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Q & A's

Proposed Development Permit Areas for Riparian Areas (Bylaws 265 & 266)

August 28, 2013

This document was developed in response to questions received at and since the Community Information Meeting in June, 2013. For more general, basic background information on the project, please visit our website at www.islandstrust.bc.ca

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Q. Why does the RAR only apply to a limited number of regional districts in the province? What about the impacts of the pipelines they're planning up north?

A. The regional districts to which RAR applies are characterized by relatively small lot, relatively dense urban forms which are under increasing development pressure. The rest of British Columbia does not face these same issues. The Riparian Areas Regulation is part of an effort to prevent cumulative impacts that results from intensified land use. While northern BC is under development pressure from natural resource extraction, this is a different sort of development that is subject to its own environmental assessment and permitting process.

Q. Trustees have stated publicly that the Local Trust Committee has no choice but to implement the RAR. What are the consequences if these bylaws are not adopted?

A. The Riparian Areas Regulation is a piece of legislation under BC law and as such the requirements under it for local governments are legal requirements. A local government who refuses to meet its obligations is vulnerable to legal challenge. More immediately, the Minister of Community, Sport and Cultural Development who must approve all local trust committee bylaws that adopt or amend an official community plan, may withhold their approval until the Riparian Areas Regulation is met thus preventing communities from achieving other, unrelated planning work.

Q. Are farming activities outside of the Agricultural Land Reserve but within the Riparian Assessment Area exempt from the RAR?

A. Yes. The land in question must be zoned for the agricultural uses taking place there, but those uses are exempt from the RAR insofar as they can be considered "farm uses" under the Farm Practices Protection Act. The most important consideration in this case is whether those activities are being carried out as part of a "farm business." If the produce is being sold for profit, then the activity is running a farm business, the use is agricultural and is thus RAR exempt. If the produce is being grown only for personal consumption, then the activity is gardening, the use is residential and the RAR applies.

Q. If my septic field is in the 30 metre Riparian Assessment Area and it fails, can I replace it on the same spot without a development permit?

Yes. Replacement of a septic field does not require a development permit.

Q. My lot is tiny and entirely within the RAR. Do you honestly expect me to get a QEP report every time I alter the land?

A. If your activities meet the definition of “development” as defined in the RAR then a report from a QEP is required. If you plan to undertake multiple “developments” on your property over a few years, consider asking a QEP to assess all of the planned developments in a single site visit and include them all in a single report that will inform a single development permit.

Q. To reduce the risk of wildfire, property owners are encouraged by the BC Forest Service and the Office of the Fire Commissioner, Emergency Management BC, to clear a zone around their house to better protect it in case of wildfire. Is a development permit required for vegetation clearing for wildfire protection?

If you have not yet built your house, and you wish to build it in the development permit area, include the vegetation clearing in your when you make your application for the house. This way, you don’t require any additional development permit or QEP report to clear vegetation for wildfire protection.

If your house already exists, and you already keep an area around it clear for wildfire protection, you can continue to do so after the new development permit area guidelines are adopted.

If your house already exists, is within 30 metres of a RAR stream (the development permit area), and you would like to begin clearing vegetation around it that you have not cleared before, you will require a development permit. The QEP will assist you in striking a balance between protecting your property from wildfire risk and protecting the riparian area.

Q. The draft development permit area (DPA) provides an exemption for “ecological restoration or enhancement projects undertaken or authorized by a public body” What is considered a public body? Can this exemption include local conservation organizations?

A. Neither the RAR itself or the Province’s literature on it provide insight into what is a “public body” that can be permitted to undertake this work without the need for a development permit or a QEP report. It is clear that a government agency is a public body, but it is less clear whether or not a non-governmental organization (NGO) with a conservation mandate is.

Staff investigated whether the Local Trust Committee would be compliant with the RAR if it were to allow a NGO with relevant expertise to be considered a “public body” for the purposes of this exemption. At least one other local government already has such a process in place. The advice we have is that if the group proposing the work does has the relevant, science-based expertise, and understands that this exemption would only include work outside the wetted width of the stream (i.e. no instream enhancements, as this is covered under different legislation), then there does not appear to be a conflict with the RAR. Therefore, the Local Trust Committee could, as a follow up step to implementing the new development permit area, direct staff to develop criteria for acceptable “public bodies” and keep a list in the office of those who can undertake restoration or enhancement without the need for a development permit.

Q. Is ditch clearing allowed within watercourses that are covered by the Riparian Areas Regulation?

A. Yes, but these activities could be subject to the *Water Act* where applicable. The Riparian Areas Regulation applies only to land above the high water mark. Proposed Gabriola Bylaw 266 exempts emergency measures to protect property and lives from imminent flood threat from the provisions of the RAR in the 30 metre riparian assessment area. However, non-emergency flood protection measures like dikes, berms, or channels within the riparian assessment area would require a development permit.

Q. Has the Ministry of Forests, Lands and Natural Resources Operations (MFLNRO) secured an agreement with the Ministry of Transportation and Infrastructure (MoTI) and its contractors that they won't damage potential fish habitat in their ditch dredging?

A. In theory, an agreement is not needed, because MoTI and its contractors are expected to operate under a set of Best Management Practices (BMPs) developed by MFLNRO for government agencies and its contractors that guard against deleterious impacts to fish habitat. Those BMPs can be found here:

http://www.th.gov.bc.ca/publications/eng_publications/environment/bestpractice.htm

These BMPs demand that work in any ditches that support fish habitat are supposed to occur when the watercourse is dry. Furthermore, MoTI and its contractors are held to the same standard as the general public when it comes to creating HADDs (harmful alteration, disruption or destruction of fish habitat). Where HADDs occur, it is expected that DFO, or the province's Conservation Officer Service, will respond appropriately.

Furthermore, remember that the RAR applies only to the streamside area beyond the high water mark. Anything within the actual ditch/stream is governed by the *Water Act*, a separate piece of legislation with a different purpose. We would, of course, hope that the two are complementary and adhered to not only by private citizens but by government as well.

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