

**Minutes of the Special Business Meeting of the
Gabriola Island Local Trust Committee
Held on Wednesday, June 26, 2013 at 6:30 PM
At the Haven, Phoenix Room
240 Davis Road, Gabriola Island, BC**

- Members Present:** David Graham, Chair
Sheila Malcolmson, Local Trustee
Gisele Rudischer, Local Trustee
- Staff Present:** Courtney Simpson, Regional Planning Manager
Aleksandra Brzozowzki, Island Planner and Recorder
Jessie Sherk, Recorder
- Media and Others Present:** Maggie Henigman, Ecosystems Biologist, Province of
British Columbia
Trystan Willmott, Qualified Environmental Professional
Two local media representatives and approximately 50
members of the public were in attendance

1. OPEN HOUSE:

2. CALL TO ORDER:

Chair Graham called the meeting to order at 6:30 p.m. He introduced himself, the staff and trustees in attendance and thanked everyone for coming.

3. APPROVAL OF AGENDA:

4. OPENING REMARKS:

Trustee Malcolmson said that there is more and more evidence showing that what happens on land effects what happens with fish. Ten years ago the province gave the responsibility to regulate and protect fish habitat to local governments. There are 100 local governments that have already regulated this and we are the last to comply. It is important work but it is also costly. They are committed to personalizing this bylaw to meet the island's needs. Trustee Malcolmson also mentioned how pleased she is that there was someone from the province here to speak about this. Gabriola has six development permit areas already and to be clear, she reminded the public that the steep slope project has been abandoned and that this meeting was only about riparian areas. The proposed bylaw will be going to public hearing next month. She explained that this meeting is to provide information so everyone understands what's going into the bylaw and also to give the opportunity for the public to have his or her say. She encouraged everyone to get their questions out and utilize the experts that were in attendance. She also thanked everyone for coming to the meeting.

5. PRESENTATIONS:

**5.1 Ministry of Forests, Lands and Natural Resource Operations,
Maggie Henigman, Ecosystems Biologist**

Ms. Henigman introduced herself and said she was very happy to be there to explain this legislation and the Riparian Area Regulation (RAR). She said that protecting fish habitat is a priority and that trees and vegetative streamside habitat is essential for healthy fish populations.

She explained some of the history of RAR and described that wetlands are highly productive areas that are critically important to the fish downstream and that homeowners may not realize how important these low wetlands are.

Ms. Henigman presented the key design principles of the RAR and explained that protecting the features, functions and conditions vital in the natural maintenance of stream health and productivity.

She then discussed what happens if your riparian area is already modified, and explained the process of getting a Qualified Environmental Professional (QEP) assessment.

Chair Graham invited questions from the audience.

A member of the audience asked why there is a split between people subjected to the riparian regulation and those not. Ms. Henigman advised that at the time the RAR was devised, it was determined by the Department of Fisheries and Oceans and others, that the Southern area of the Province is where all the development pressure was. There was a decision made to write the legislation for those regions specifically with the intent to expand to the rest of the Province.

5.2 Gabriola Island Local Trustee, Sheila Malcolmson

See 4. Opening Remarks, above.

**5.3 Madrone Environmental Services Ltd.,
Trystan Willmott, Qualified Environmental Professional**

Mr. Willmott explained the stream mapping project undertaken by Madrone Environmental Services on Gabriola. He presented a map showing the scope of the project noting that he was not contracted to map isolated wetlands, but to identify streams and creeks with the potential for fish habitat.

He explained the stream mapping methodology, including background research and walking the streams using a backpack GPS with external antenna, which is accurate between 1 and 5 meters.

Mr. Willmott then explained what was considered a stream under the RAR and what he was looking for including:

- Any watercourse, natural or man-made that contained water on a natural or seasonal basis;
- Visual clues where there was evidence that water has gone through, including ditches, channel beds, seasonally wetted areas, floodplains and wetlands; and
- Watercourses that may contain food and nutrients sufficient to support fish.

He then discussed when a watercourse is not considered a stream under the RAR:

- If the watercourse does not support fish or connect to a fish habitat;
- Isolated wetlands that do not support fish or are not connected to a stream system;
- Roadside ditches that are not connected to a fish bearing stream; and
- When a stream has an obvious gradient barrier at tidewater, with no potential habitat for anadromous fish and no perennial habitat above the barrier for resident fish.

He noted that “non-fish” watercourses still provide important habitat for other aquatic organisms and also provide:

- Food;
- Water;
- Migration corridors for birds and wildlife;
- Water storage and cleansing; and
- Aesthetic values for people.

Mr. Willmott explained the fieldwork and noted that the mapping was done from late November, 2011 to early January, 2012 at a time of high seasonal stream flows. The fieldwork focused on stream mapping but general fish habitat attributes were also collected, such as channel morphology, extent of riparian vegetation, cover/security attributes and spawning gravel. He went through each area of Gabriola Island and in summary, noted that there was 17km of streams identified throughout the target watersheds that are applicable to the RAR.

Options and implications to landowners were then discussed. It was noted that as per the Provincial RAR, any new development within 30 meters of a stream from the top of the bank, triggers the completion of an assessment by a QEP.

Chair Graham invited questions from the audience.

A member of the public asked what happens if it is a man-made ditch?

Mr. Willmott answered by saying that the Streamside Protection and Enhancement Area (SPEA) varies regarding ditches. If the watercourse in question has natural springs or headwaters it may be a modified stream. If there is no obvious headwater then it is probably a ditch. A QEP would need to be engaged and would be able to indicate whether or not the area in question is a

ditch or a stream. If it was a fish-bearing ditch it could potentially have a five meter setback.

A member of the public asked where the water in the Dogwood ditch/stream went.

Mr. Willmott stated that it drains down into the main influence to Hoggan Lake.

**5.4 Islands Trust,
Courtney Simpson, Regional Planning Manager**

Regional Planning Manager Simpson gave a presentation that described the history of this project of the Local Trust Committee including the stream mapping, bylaw development, and community consultation so far. She also described the proposed development permit area and implications for landowners.

6. QUESTION AND ANSWER SESSION

A member of the public who is third generation on Gabriola Island and lives at Hoggan Lake had concerns, as he feels that there are no fish in the lake. His entire property is under the RAR, which, he feels, has made it useless. He also feels the permits are too expensive.

Mr. Willmott reaffirmed how important stewardship is. He also noted that in this situation where this landowner owns a farm, his farming activities are exempt from the RAR.

A member of the public wondered if there are any means for him to challenge the mapping. He also stated that he was not notified that a QEP was going to be coming through his property.

Planner Simpson stated that they do want to hear about any inaccuracies in the mapping and that anyone with specific concerns about the mapping should contact the Islands Trust office.

A member of the public stated that they feel this regulation will decrease property values, as most people will not want to go through the necessary permits.

Ms. Henigman stated that according to studies, properties with green spaces and riparian areas are usually valued at 10- 20% more.

A member of the public questioned how trenches and ditches, all done by excavators, could now be considered a riparian area. He wondered if this work was consistent with other islands.

Mr. Willmott explained that a large population in BC has to go through this process and it is consistent across the board. A QEP usually has a fish biology background but can also be a professional forester. There is a training process they must go through that is specific to riparian areas and they have to show that they are working within their area of expertise.

A member of the public wanted more information about the farming exemption. What about if you want to develop more gardening space?

Planner Simpson explained the difference between gardening and farming. Agricultural activity and existing garden areas are exempt but establishment of new garden areas are not exempt.

A member of the public brought up the Ministry of Highways ditch cleaning, stating that it has a huge environmental impact, and asking why this is not covered by the regulation.

Ms. Henigman stated that it was recognized that this is an area that needs improvement. The Ministry of Transportation and Infrastructure has permission right now to clear the ditches but it is something that needs further investigation.

A member of the public wondered if he would need to hire a QEP to modify his ditch when the culvert needs replacing.

Ms. Henigman discussed that if the ditch is considered a stream, work in a stream does not fall under the RAR, but falls under the *Water Act*. The RAR only applies to the banks of a stream and does not apply to something in the stream. It also does not cover road access.

A member of the public wondered how the Islands Trust is set up to handle the mass influx of development permits that will be coming in, how long a permit takes to be approved and the cost.

Planner Simpson stated that the permit fee is currently \$450. At present, the timeline is four to six weeks from receiving the application to having it on a Local Trust Committee meeting agenda. An influx of applications is not anticipated.

Mr. Willmott advised that the cost of a RAR assessment by a QEP is likely \$1500 - \$2000.

A member of the public wondered what would happen if they had a small lot bisected by a riparian stream and a very old septic field that needed replacing/relocating.

Ms. Henigman advised that currently there **is** a variance protocol that you can go through. If the septic is already inside what would be the SPEA, no one is going to stop you from replacing it.

A member of the public asked if there is any thought to compensating property owners whose properties have been devalued by the RAR.

Ms. Henigman advised there are no resources. The hope is that people in communities will adopt reasonable ways of protecting the riparian areas.

A member of the public asked what the difference is between a creek and a brook.

Mr. Willmott stated that any difference has no bearing on the RAR.

A member of the public felt that this process is flawed on three levels; science, law and civil liberties. He wanted to see the evidence that locating a garage or deck in a riparian area would affect fish. He also stated that the RAR methods state that optimum flow tests are done in July and August and wondered why Mr. Willmott did his study in the winter?

Ms. Henigman stated that the RAR website is a great resource where you will find information that provides the science and legal background that has been looked at by a number of different parties.

Mr. Willmott noted that he was not trying to prove the non-fish presence and that it was not in the scope of this project. Even if you had salmon using the stream one out of three years, it would still be considered a habitat.

A member of the public wanted to know what the reliability of the QEP studies are considering they know that the City of Nanaimo has had issues and have even considered hiring their own in-house biologist.

Ms. Henigman stated that the City of Nanaimo's problems are internal and have nothing to do with the QEP.

The meeting was recessed at 8:32 p.m. while Ms. Henigman, Mr. Willmott and the Recorder, Jessie Sherk left the meeting. .

Session resumed at approximately 8:35 p.m. with Islands Trust Planner, Aleksandra Brzozowski taking minutes.

A member of the public stated he has an issue with the Ministry of Transportation and Infrastructure enlarging culverts, expanding the pooling of water and the riparian area over time on Daniel Way. Is the mapping written in stone? He was questioning the accuracy of the mapping based on the fact that Madrone could not come to their neighbour's property, and the effect of how their property was mapped.

Planner Simpson stated that they will take in any mapping questions about inaccuracies at the office.

A member of the public was concerned about the time allotted for questions by going over time on the presentations.

A member of the public requested that at the next meeting, presenters not leave before the meeting is over to catch a ferry.

A member of the public stated that they support the concept of protecting fish habitat, but the issue is cost. It is unfair to download the costs to the few people who live on RAR properties when it benefits the entire community/ecosystem. They also felt that there are people on Gabriola who could be QEPs with some training.

A member of the public stated he would like to know how much the Madrone mapping cost. He also stated that there will be expropriation without compensation. He quoted from BC Assessment: "The appraiser must evaluate whether the RAR will affect or

impact the property in question” [sic]. He went on to quote the *Fisheries Act*, “that they can arrest anyone” [sic], so why are we pursuing this violation of civil liberties?

A member of the public asked why all the effort to protect these few fish? He brought up the issue of removal of invasive species. He wanted to know if he would need to ask an arborist to come down and remove from a grandfathered picnic area. He said that they didn’t receive a letter about Madrone coming to the property. He also said they did not get a letter reply to the questions they asked after the last CIM.

A member of the public stated that he would like to get a letter stating what he can and cannot do on his property at Hoggan Lake.

7. CLOSING REMARKS

The public was thanked for coming to the meeting and assured that staff and trustees would stay behind and answer any questions that there was not time to answer during the meeting.

8. ADJOURNMENT

The meeting was adjourned at 9:00 pm

Recorder

Chair

Recorder