



Gabriola Island Local Trust Committee

Minutes of Regular Meeting

Date: May 23, 2024
Location: Gabriola Arts & Heritage Centre
 476 South Road, Gabriola Island, BC

Members Present: Peter Luckham, Chair
 Tobi Elliott, Trustee
 Susan Yates, Trustee

Staff Present: Renée Jamurat, Regional Planning Manager
 Stephen Baugh, Island Planner
 Lisa Millard, Recorder (via Zoom)

Others Present: There were approximately 12 members of the public in attendance.
 Vanessa Craig, Electoral Area Director (via Zoom)

1. CALL TO ORDER

"Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change."

Chair Luckham called the meeting to order at 10:40 am. He acknowledged that the meeting was held on the territory of the Coast Salish First Nations. He introduced Snuneymuxw Elders Geraldine Manson and Max Settler and welcomed them.

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as presented.

3. REPORTS

3.1 Trustee Reports

Trustee Yates reported the following:

- Attended a forum on collaborative politics featuring guest speakers MLA Adam Olsen and Vancouver City Councillor Christine Boyle;
- Attended a joint Executive Committee and Trust Conservancy meeting that addressed climate change;
- The June Trust Council meeting will be held on Salt Spring Island;

- There will be a committee of the whole meeting at the end of May to discuss the Islands Trust Draft Policy Statement;
- will be joining Trust Conservancy staff during an upcoming visit to Gabriola to monitor three covenanted properties;
- Ferry Advisory Committee anticipates that terminal safety upgrades will be addressed at their next meeting; and
- Attended a Regional District of Nanaimo Parks and Open Spaces Advisory Planning Committee meeting to discuss sports field access options and the discontinuation of the planned wildfire mitigation in the 707 Community Park.

Trustee Elliott reported the following:

- Continues to participate in the Chief Administrative Officer (CAO) Hiring Committee;
- Listened to a Mudge Island Town Hall meeting during which a community group was formed;
- Announced the Ocean Day event on June 8 at Reserve No. 5 which is being hosted by the Snuneymuxw First Nation and the Department of Fisheries and Oceans; and
- Will be helping to organize a Munu Canoe Journey fundraising event to take place at Twin Beaches at the end of June.

3.2 Chair's Report

Chair Luckham reported that he continues to do work with CAO Hiring Committee and is looking forward to the forthcoming Trust Policy Statement work.

3.3 Electoral Area Director's Report

Electoral Area Director Vanessa Craig reported the following:

- Regional District of Nanaimo (RDN) Parks and Open Spaces Advisory Planning Committee met to discuss sports field access and the decision to discontinue the 707 Community Park wildfire mitigation plan;
- RDN is working on taking over the management of Orlebar Point and hopes to replace the picnic tables in the coming months; and
- RDN is discussing the potential to increase the size of the green bin carts to allow more yard waste.

3.4 First Nations Reports

Chair Luckham welcomed Snuneymuxw Elder Max Settler, Snuneymuxw Elder Geraldine Manson, and Snuneymuxw Lands Referrals Officer Hannah Paulson.

Elder Max Settler, a Member of the Elders Advisory Group, Snuneymuxw First Nation, stated that he was in attendance for the purpose of observation and interpretation. He said that he was present twenty (20) years ago when a developer wanted to move forward with plans in an area where First Nations have cultural concerns, that the same concerns remain now, and that he hopes that today the issue might be resolved.

Elder Geraldine Manson introduced herself by her traditional name C'tasi:a. She is a Member of the Snuneymuxw Elders Advisory Group and noted that the importance of this group is to hold knowledge within their traditional territory. She stated that the land being discussed is very important to the Snuneymuxw and that the Hul'q'umi'num tribe chose this space for burial and for the spiritual significance of the land which is still with them. She said that the additional development that has occurred is disheartening, that the Snuneymuxw leadership was not consulted, and the proper protocols for discussion did not occur. She concluded by saying that the land is part of False Narrows, which forms part of their unceded territory, and they would like to come to the forefront of the discussion.

Snuneymuxw Lands Referrals Officer Hannah Paulson introduced herself and stated that they have responded to the referral for this application and do not consent to the subdivision being approved by Islands Trust. She acknowledged, and agreed with, the Elders' statements.

4. PUBLIC COMMENTS

A member of the public commented on the following:

- Supports additional single user housing and the Housing Needs Assessment shows that affordable housing is needed;
- When development has taken place without permission, and it is in contradiction to local bylaws and Provincial regulations, applications to expand the development should not be considered until the land is returned to its prior state;
- Understands there is a letter on public record, sent by a former Local Trust Committee, specifying that development conditions must be met, including consent of the Nation and these conditions have not been met; and
- Does not support approval of the development permit application.

A member of the public stated the following:

- Support the recommendation that the Local Trust Committee send their comments about the Centre Stage Holdings application to the Provincial Approving Officer, encouraged that it be stated that they recognize the Snuneymuxw First Nation's right to free, prior and informed consent, and that the Nation's consent-based decision-making framework be followed before any permission for subdivision is granted; and
- The Wild Rose Garden Center application shows it might establish one of the residential dwellings as affordable housing via an affordable housing agreement. Supported a requirement for a Housing Agreement.

A member of the public made the following comments:

- He and his wife are the Centre Stage Holdings development permit applicants;
- Expressed gratitude that the Snuneymuxw Elders were in attendance and appreciated the opportunity for communication;
- Previously, there have been at least three (3) visits with First Nations Elders at the site;
- Understood the value of the property, due in part, to members of the First Nation that have shared their knowledge with them;

- Common goal is to protect the land;
- There is a requirement to enter into a covenant with the Heritage Branch prior to subdivision and the Heritage Branch involves First Nations in the consultation process;
- Conversations with the First Nation became more complicated when talks began about Snuneymuxw's interest in buying the land;
- His understanding is First Nations would like all communication to go through the Ministry of Transportation and Infrastructure (MOTI) for subdivision referrals;
- Interested in further communications with First Nations as understood all their previous concerns had been addressed; and
- Thinks that the First Nation does not support the property being developed and, if that is the case, it needs to be said so a solution can be worked out; and
- Work that has been done on the property has been done under the supervision of engineers and Ministry of Transportation and Infrastructure.

Item 8.2 and Item 8.1 were moved up on the agenda to follow Public Comments.

5. DELEGATIONS - none

6. MINUTES

6.1 Local Trust Committee Minutes dated April 18, 2024 – for adoption

By general consent, the Local Trust Committee meeting minutes of April 18, 2024 were adopted.

6.2 Section 26 Resolutions-Without-Meeting Report - none

6.3 Advisory Planning Commission Minutes - none

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List dated May 15, 2024

It was noted that, while funds had been allocated to screen the film Dust and Bones, plans had not been finalized yet.

7.2 Local Trust Committee Budget Accounts – Brief

The Regional Planning Manager summarized the brief and provided suggestions for appropriate expenditures within the communication budget.

Discussion ensued and Trustees received the brief for information.

7.3 Choose Location for Local Trust Committee Meeting August 8, 2024 - Verbal Discussion

GB-2024-039

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee Regular Business Meeting be held electronically on August 8, 2024.

8. APPLICATIONS AND REFERRALS**8.1 GB-RZ-2022.1 (Moen) - Staff Report**

The Planner summarized the staff report and highlighted the following:

- The land use designation on the subject property will be changed to Village Commercial and it will become part of the Village Centre Development Permit Area; and
- A site-specific Village Commercial zone will maintain the existing uses and will expand the principal uses to include retail sales and rentals; personal services; a restaurant; a limited public market; a bakery; offices, and up to two residential dwellings.

The applicant was present and spoke to the application.

Discussion ensued and Trustees made the following comments:

- Concern about water availability based on the extent of potential uses;
- There are no development plans provided with the application, so there is uncertainty about what the water needs will be;
- There has been significant discussion within the community about providing affordable rental housing above commercial buildings;
- It is difficult to approve rezoning and send the application out for referral without having more specific development details; and
- As this is site-specific zoning, there is an opportunity to include a housing component for flexibility for future use even if the current owner does not build housing.

GB-2024-040**It was MOVED and SECONDED**

that the Gabriola Island Local Trust Committee request the applicant of GB-RZ-2022.1 – Land Use Bylaw and Official Community Plan Amendment for commercial and residential development of Wild Rose Garden Centre to work with staff to explore options in the Housing Options Tool Kit #3.

CARRIED**GB-2024-041****It was MOVED and SECONDED**

that the Gabriola Island Local Trust Committee request staff forward the Staff Report GB-RZ-2022.1 – Land Use Bylaw and Official Community Plan Amendment for commercial and residential development of Wild Rose Garden Centre to Freshwater Specialist William Shulba and request comment and analysis on proposed water uses.

CARRIED

8.2 GB-DP-2021.1 Centre Stage Holdings - Staff Report

The Regional Planning Manager summarized the staff report.

It was noted that the applicants are present.

It was determined that the Trustees would consider the referral comments to the Provincial Approving Officer prior to the consideration of the approval of the development permit application.

Discussion ensued and Trustees asked questions and commented on the following:

- Why do staff continue to recommend approval of the development permit application and, based on precedents set on North Pender and James Islands, is it possible to consider issuing the permit only if the Provincial Approving Officer approves the subdivision and the Snuneymuxw are satisfied with the consultation and consent to the project?
 - The Regional Planning Manager indicated that the rationale for the recommendation is due to the specific guidelines for the development permit area, that requiring a condition of subdivision approval might not be legislatively correct, and that the Provincial Approving Officer needs a clear decision from the Local Trust Committee about the development.
- The North Pender Island Local Trust Committee withheld a signature on a covenant. Can staff clarify the difference between a covenant and a development variance permit?
 - The Regional Planning Manager stated that a restrictive covenant is a legal document that is registered on the property title and a development variance permit is a legislative process.
- The development permit relates to steep slopes and, while the application meets the technical requirements of the permit, it does not meet the moral obligations of the Reconciliation Declaration made by Trust Council, the Local Trust Committee, and the Islands Trust Conservancy;
- The staff report explains the process from a technical and legal standpoint, but approving the application seems morally and ethically wrong;
- The inadequacy is not associated with the applicant but within the guidelines for application approval which are outdated and do not stand up to the Declaration of Reconciliation;
- The Provincial Approving Officer has the authority to approve the subdivision layout and the development permit is a requirement of that approval, but perhaps the permit application can occur post subdivision approval;
- The Snuneymuxw referral response, and the Elders who have spoken today, have made it clear that they do not support any further spiritual or physical changes to the land;
- The development permit discussion should be deferred until the discussion about the subdivision referral response is concluded;

- The lack of consultation related to the adoption of the 2005 bylaws that allowed for the creation of forty-nine (49) lots in the absence of comment or consultation with the Snuneymuxw First Nation, and in spite of the Nation's request for more than thirty (30) days to consider the matter, needs to be considered and should be rectified by the current Local Trust Committee;
- The First Nation has been clear that the entire area is sacred and connected to their culture and their sense of well being; and
- A prioritization of parkland and green space over sacred sites has occurred and the Nation has never consented.

The applicants made the following comments:

- The process has taken twenty (20) years of their life;
- They did not do this for money, but to protect seven hundred (700) acres of land that they paid for; and
- They would have never dedicated the parkland had they thought consultation had not been done correctly.

Discussion ensued and Trustee Elliott noted the following:

- She has provided the Local Trust Committee with rationale behind each of the points in the motion;
- There are public hearing files available for reference;
- Reconciliation is necessary in order to establish a new foundation from which to move forward;
- Property owners have rights, but the principles of reconciliation and rights of Indigenous Peoples, which have been ratified through the Declaration Act, are in conflict with this application; and
- The bylaws do not supersede the Declaration Act.

GB-2024-042

It was MOVED and SECONDED

that due to the significant First Nations cultural heritage values present on the subject property, that the Gabriola Island Local Trust Committee request staff to forward the following comments from the Local Trust Committee to the Provincial Approving Officer in consideration of subdivision referrals GB-SUB-2024.1 and GB-SUB- 2024.2 (Centre Stage Holdings) [MOTI FILE 2020-02789/02214].

The Gabriola Island Local Trust Committee does not support this subdivision application for the following reasons:

- 1) That there is a clear record from 2005 that establishes Snuneymuxw First Nation consistently and unequivocally have never consented to any development on these sacred lands;
- 2) That the Snuneymuxw First Nation have long standing concerns and strong objections to any development of this parcel of land, due to the presence of several significant cultural heritage and archaeological sites, and claim the sole right to

- determine how to care for, access and protect their own burial, cultural and sacred sites;
- 3) That these sacred areas are considered critical to the health and wellbeing and connectivity for Snuneymuxw First Nation, since time immemorial, and should not be held in private lots that would exclude Snuneymuxw from access to their cultural heritage areas, and the sacred resting places of their ancestors;
 - 4) That Snuneymuxw First Nation has consistently asserted their rights and title on Gabriola Island, Douglas Treaty rights, and the Constitutional rights to determine how their cultural heritage areas should be protected, and those rights have not been respected in the development of the bylaws that allocated densities to the parcel in 2005;
 - 5) That the Local Trust Committee acknowledges there was inadequate consultation with the Snuneymuxw First Nation in 2005 in the development and adoption of bylaws that allowed a density swap and covenant to be negotiated between Centre Stage Holdings and Islands Trust, in the absence of comment or consultation with the Snuneymuxw First Nation, and in spite of their request for more time to consider the matter with than a 30-day referral;
 - 6) That the Snuneymuxw First Nation's interests and concerns over the protection of their most sacred sites were not adequately considered in the density swap, and while the parkland and green space achieved through the density transfer achieved large benefits for the Gabriola community, there was no corresponding benefit to the Nation;
 - 7) That regarding the protection of cultural heritage generally, and Indigenous cultural heritage specifically, the Gabriola OCP and LUB policies and bylaws and the Islands Trust Policy Statement insufficiently protect cultural heritage resources, and do not reflect the principles of the Declaration Act, nor UNDRIP, nor the Islands Trust's Reconciliation Declaration;
 - 8) That there exists an active protocol agreement between Snuneymuxw First Nation and Islands Trust (2008) that establishes the agreement between two governments with how to proceed with development proposed in sensitive cultural areas, which agreement has not been followed to address the Nation's critical concern over development on this parcel; and
 - 9) That there are insufficient buffers for the extensive archaeological and cultural heritage sites with the proposed covenant, and no assurances that the Snuneymuxw First Nation will be able to exercise their rights to access those sacred areas in perpetuity.

CARRIED

Discussion ensued about advising the Provincial Approving Officer and the Lieutenant-Governor-in-Council that the Local Trust Committee considers the approval of the subdivision plan of MOTI-FILE 2020-02789/02214 as being against the public interest. A motion was moved, seconded, discussed, and amended. The amended motions reads as follows:

GB-2024-043

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee

1. Notes that considerable sustained objections to the subdivision continue to be expressed by the Snuneymuxw First Nation and therefore resolves to advise the Provincial Approving Officer that the Gabriola Island Local Trust Committee considers approval of subdivision referral of GB-SUB-2024.1 and GB-SUB-2024.2 (Centre Stage Holdings) [MOTI FILE 2020-02789/02214] as being against the public interest, and does not have the consent of the rights and title holders of the area of the territory of the Snuneymuxw First Nation.
2. Advise the Lieutenant-Governor-in-Council that the Gabriola Island Local Trust Committee considers the deposit of the subdivision plan of MOTI FILE 2020-02789/02214 as being against the public interest; and
3. Requests staff forward this resolution to the Provincial Approving Officer and the Lieutenant-Governor-in-Council.

DEFEATED

GB-2024-044

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee notes that considerable sustained objections to the subdivision continue to be expressed by the Snuneymuxw First Nation and therefore resolves to advise the Provincial Approving Officer that the Gabriola Island Local Trust Committee considers approval of the subdivision referrals of GB-SUB-2024.1 and GB-SUB-2024.2 (Centre Stage Holdings) [MOTI FILE 2020-02789/02214] as not being in the public interest, and does not have the consent of the rights and title holders of the territory, the Snuneymuxw First Nation. The Gabriola Island Local Trust Committee requests that the response provided by the LTC be forwarded to the Provincial Approving Officer in consideration of the subdivision application.

CARRIED

There was a discussion regarding the Local Trust Committee writing a letter to the Lieutenant-Governor-in Council or if a request should be made for the Executive Committee to write an advocacy letter.

GB-2024-045

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee request staff provide clarity on the process of sending a letter to the Lieutenant-Governor-in-Council that the Gabriola Island Local Trust Committee considers the deposit of the subdivision plan of MOTI FILE 2020-02789/02214 as being against the public interest, and draft the letter accordingly.

CARRIED

GB-2024-046

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee defer approval of Development Permit GB-DP-2021.1 (Centre Stage Holdings) until we have received the response from the approving officer regarding the referral, and include this motion in the referral.

CARRIED

The applicants reiterated the statements they had made prior to the Local Trust Committee discussing the subdivision referral from the Ministry of Transportation and Infrastructure and the development permit deferral.

9. LOCAL TRUST COMMITTEE PROJECTS - none

10. CORRESPONDENCE - none

(Correspondence received concerning current applications or projects is posted to the LTC webpage)

11. NEW BUSINESS

11.1 Invite to a Fall Meeting with Snuneymuxw First Nation regarding Official Community Plan Project - Verbal Update from Trustee Elliott

Trustee Elliott suggested, and it was agreed, that she explore the possibility of applying for a Community-to-Community grant for the purpose of holding a government-to-government relationship-building event between the Local Trust Committee and the Snuneymuxw First Nation.

11.2 Draft Letter from Trustees to Ministers Fleming and Rankin and Member of Legislative Assembly Doug Routley regarding Community Petition on Turn Over of "Crown Land" - Trustee Elliott

Trustee Elliott summarized the draft letter. Discussion ensued and it was determined that Trustee Elliott would send the letter on her own behalf and not in her capacity as a Trustee.

12. STAFF REPORTS

12.1 Trust Conservancy Report

Received for information.

12.2 Trust Conservancy Heron - Spring Edition

Received for information.

12.3 Applications Report dated May 15, 2024

Received for information.

12.4 Trustee and Local Expense Report dated March, 2024

Received for information.

12.5 Adopted Policies and Standing Resolutions

Received for information.

12.6 First Nations Relationship Building Update

No update was provided.

12.7 Climate Change Action Update

No update was provided.

12.8 Local Trust Committee Webpage

No changes or additions at this time.

13. WORK PROGRAM

13.1 Active Projects Report dated May 15, 2024

Received for information.

13.2 Future Projects Report dated May 15, 2024

Discussion ensued regarding the status of active and future projects and the current priorities of the Local Trust Committee.

GB-2024-047

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee request staff review the current and future projects list and report back with issues, and opportunities, in order to help prioritize the Local Trust Committee's work.

CARRIED

GB-2024-048

It was MOVED and SECONDED

that the Gabriola Island Local Trust Committee request staff amend the future projects list to review and explore options of rezoning PID: 003-134-806 northeast 1/4 of Section 3 Gabriola Island Nanaimo District except Parcel A (DD 773261) and except Plans EPP19453 and EPP66666.

CARRIED

4. UPCOMING MEETINGS

14.1 Next Regular Meeting Scheduled for Thursday, June 27, 2024 at 10:30 am at the Gabriola Arts and Heritage Centre.

15. ADJOURNMENT

By general consent, the meeting was adjourned at 3:30 p.m.

Peter Luckham, Chair

Certified Correct:

Lisa Millard, Recorder