



File No.: 6500-20-Telecommunication Strategy

DATE OF MEETING: March 27, 2017

TO: Galiano Island Local Trust Committee

FROM: Kim Stockdill, Island Planner
Southern Team

COPY: Robert Kojima, Regional Planning Manager
Rob Milne, Island Planner

SUBJECT: Telecommunication Strategy Project – SAPC Recommendation Report

RECOMMENDATIONS

1. **That the Galiano Island Local Trust Committee request staff to draft Antenna Proposal Consultation Guidelines based on recommendations made in the Special Advisory Planning Commission Recommendation Report dated March 2017.**
2. **That the Galiano Island Local Trust Committee request staff to research options for an application fee for antenna proposals.**

REPORT SUMMARY

The purpose of this report is to provide an overview of the Special Advisory Planning Commission's (SAPC) final recommendation report which includes recommendations for an antenna system siting protocol, presents data from the community survey, and suggest recommendations for bylaw amendments, and telecommunication advocacy. This report also outlines the project's next steps.

BACKGROUND

Project Overview:

The Galiano Island LTC initiated a project in February 2016 to develop a telecommunications strategy. The purpose of this project is to review telecommunication options, policies, and procedures on Galiano Island and to appoint a Special Advisory Planning Commission to develop recommendations for consultation procedures. At the July 4, 2016 regular LTC meeting, the Galiano LTC adopted the terms of reference for the creation of a Telecommunication Strategy SAPC. At the August 29, 2016 the Galiano Island LTC appointed seven members of the Galiano Island community to the Telecommunication Strategy SAPC.

A Terms of Reference (TOR) was established for the 6 month SAPC term and outlined the role of the SAPC:

- a. Review the contents of the staff reports on telecommunication strategy project prepared for the Galiano Island LTC dated March 30, 2016 and June 22, 2016.
- b. Review Industry Canada policies and procedures relating to telecommunications.
- c. Inventory existing telecommunications infrastructure on Galiano Island and services available to Galiano Island.
- d. Identify gaps and needs in current services.

- e. Consider range of criteria for siting facilities and potential procedures for commenting on future telecommunications proposals.
- f. To provide recommendations to the LTC on potential siting criteria and consultation procedures for future proposals.

A community survey was completed in December 2016 to identify gaps and needs in current telecommunication services. The survey was available online via SurveyMonkey and was also mailed to Galiano addresses. The results of the online survey can be found on the Galiano Island LTC website under 'Current Projects': www.islandstrust.bc.ca/galiano/telecom. The results of the mailed survey can be found in the appendix of the SAPC Recommendation Report that can also be found on the Galiano Island LTC Projects website.

A request was granted to extend the SAPC term an extra month in order to provide additional time to complete the final recommendation report. The final recommendation report was received by the LTC in March 2017 and is now available to be viewed on the Galiano Island LTC Projects website.

Telecommunication Jurisdiction Overview:

The federal government (Industry Canada) has jurisdiction over telecommunications uses, such as radio broadcast towers and cellular telephone towers, which are licensed under the federal *Telecommunications Act*. Local governments have no lawful jurisdiction to manage the use of the telecommunication therefore cellular towers are immune from land use bylaws. The ultimate role of the land use authority is to issue a statement of concurrence or non-concurrence to the proponent and to Industry Canada when an antenna proposal is received. Although local governments cannot prohibit the siting of either licensed or unlicensed antenna systems, they may require a specific public consultation process, and have the opportunity to provide comments on the cell tower referral.

Land use authorities have the option to create their own antenna siting and consultation protocol that would outline a participation process and development guidelines (preferred locations and development and design preferences). The Federation of Canadian Municipalities in conjunction with the Canadian Wireless Telecommunications Association put together an Antenna System Siting Protocol Template that is consistent with Industry Canada's rules on antenna system consultations in order to help guide local governments to draft their own siting and consultation guidelines.

In the event that a land use authority's existing process has no public consultation requirement, proponents must then fulfill the public consultation requirements contained in Industry Canada's Default Public Consultation Process outlined in CPC-2-0-03 (Radiocommunication and Broadcasting Antenna Systems).

ANALYSIS

SAPC Recommendation Report

The SAPC submitted to the Galiano Island LTC a recommendation report as per Section 'f' of the TOR. The SAPC recommendation report includes an overview of telecommunication services on Galiano Island, information on the survey completed in December 2016 with visual representations of the mail-in responses, a draft antenna system siting protocol for the Galiano Island Local Trust Area (LTA), and further telecommunication recommendations for the LTC's consideration.

Information regarding the current telecommunication services on Galiano Island and the responses from the survey found in the SAPC recommendation report should be received as information and can be used to assess and evaluate future antenna/cell tower applications.

Section 5 of the SAPC recommendation report includes a number of recommendations which the LTC may wish to consider:

1. Amendments to Land Use Bylaw (LUB) and the Official Community Plan (OCP)

The SAPC has made two specific recommendations to amend the LUB and OCP: to amend the LUB in order to recognize wireless transmission as a potential permitted use and to add policies to the OCP in order to support the antenna siting and consultation protocol. The Galiano Island LUB currently permits conduits, poles and towers for the transmission by cable of electricity, telephone signals or cablevision signals in all zones except the Nature Protection zone. Although the LUB is silent on wireless transmission towers, telecommunications towers are within federal jurisdiction and land use bylaws cannot prohibit the siting of either licensed or unlicensed telecommunication antennas (cell towers). Staff are of the opinion that an amendment to the LUB is not advisable as the LUB has no authority to permit, or not permit telecommunication towers. Staff recommend that the LTC focus on developing consultation guidelines first rather than amending bylaws to address a use that is outside the LTC's jurisdiction.

2. Telecommunication Advocacy

The SAPC has identified eight specific telecommunication policies that could be included as policies in the OCP. As the LTC has no lawful jurisdiction to manage this use, these policies would be strictly advocacy policies.

If the LTC wishes to establish their own antenna siting and consultation guidelines, staff recommends pursuing SAPC recommended advocacy policy no. 8 that suggests the LTC design a fee schedule to recover reasonable staff and process expenditures (see Application Fee section below).

3. Unresolved Issues

A number of unresolved issues were identified by the SAPC. Staff recommend receiving these issues for information only with the exception to point 5 regarding preferred antenna locations, and point 9 and 10 (referral to Industry Canada) as outlined below:

SAPC Unresolved Issue	Staff Comments
<i>Point 5 - Preferred locations: The Commission was unable to complete deliberations on the issue of preferred locations for the Antenna Siting Protocol identifying only two general locations: 500 meters from residences and outside nature protection zones. Other possible preferred locations that have been identified include parks, community forests or covenanted lands; other community-owned lands; or bylaw compliant private property. An exploration of Development Permit Areas language may help identify preferred locations.</i>	The LTC should give direction to staff if it believes there should be further criteria for preferred locations other than what was recommended by the SAPC. This can be done early in the process while the guidelines are being drafted, or tentatively at the May 2017 meeting when staff present the draft antenna siting and consultation guidelines. Criteria for preferred locations could also be discussed with the community at a Community Information Meeting.
<i>Point 9 - Whether or not the GILTC should consult with Industry Canada to determine if the adoption of the proposed antenna siting protocol would supplant Industry Canada's "default" consultation process and its exclusions?</i>	Staff recommend an early referral to Industry Canada regarding if or how a local government's siting and consultation guidelines may supersede Industry Canada's. Also, clarity is required to determine if proposals that are deemed to be exempt through the Industry Canada's consultation guidelines must also be exempt from a local government's consultation guidelines.

<p><i>Point 10 - Whether or not the GILTC should consult with Industry Canada to determine if telecommunications carriers' obligations to notify and consult extend to installations such as wireless internet repeaters and wifi "hotspots"?</i></p>	<p>Staff recommend contacting Industry Canada to determine if wireless internet repeaters or structures for wifi hotspots would trigger the consultation guideline process, or if these are exempt from consultation.</p>
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Galiano Island LTC Consultation Guidelines

The Galiano Island SAPC provided a detailed recommendation report which includes a draft antenna system siting and consultation protocol that includes the following information:

- Objectives of the protocol;
- Role of Industry Canada & the Federal Government;
- Role of the Galiano Island LTC;
- Summary of roles (proponent and LTC);
- Definitions; and
- Antenna Siting Protocol Procedures (including exemptions, notification and consultation requirements, application and consultation process outline and proposal submission requirements).

The SAPC draft protocol provides a strong foundation for the LTC's own guidelines. Staff is proposing to move forward with the SAPC's suggested protocol by making a few minor edits to ensure compliance with Industry Canada's consultation policies. If the LTC gives direction to staff to draft the guidelines, an early referral will be sent to Industry Canada to address a number of items:

- Timeline: Does a local government have the authority to determine its own timeline requirements?
- Exemptions: Must a local government exempt proposals from their consultation requirements that are exempt from Industry Canada's?
- Application requirements: Can a local government have more stringent requirements than Industry Canada's consultation guidelines?

Comments from Industry Canada will be incorporated where necessary into the final draft guidelines. After the guidelines have been reviewed by the LTC and community, and finalized, the LTC must create a mechanism to enable the antenna siting and consultation guidelines. Staff recommend adding a policy to the Galiano Island LTC's Policy and Standing Resolutions to require all antenna applications to follow the Galiano Island LTC's Antenna Siting and Consultation Guidelines. Adding this policy should only be done once the Antenna Siting and Consultation Guidelines are finalized (Summer 2017).

Application Fee

In the recommendation report under 'Recommendations – Advocacy and Other' the SPAC recommends that the LTC design a fee schedule to recover reasonable staff and process expenditures. The fee could cover the cost to review the proposal, write staff reports, issue a Concurrence/Non-Concurrence Letter, community information meeting, and administration costs. To date, the Galiano Island LTC Fee Bylaw No. 196 does not include an application fee for antenna applications.

There are two mechanisms to collect a fee: by stating an application fee in the LTC Fee Bylaw No. 196 or by cost recovery agreement. In order to add an application fee for an antenna application to the Fee Bylaw No. 196, an amendment would be required to the bylaw. As this is an administration bylaw, the amendment process would include first, second, and third reading, approval by Executive Committee, and then final adoption – a public hearing is not required.

Section 462 of the *Local Government Act* outlines the types of fees a local government may charge by bylaw. It is not clear if a local government is authorized to impose a fee for antenna applications by use of Section 462. This question has been forwarded to legal counsel and at the time of writing the staff report, no response was received.

If the LTC is unable to amend the fee bylaw, the LTC has the option to enter into a cost recovery agreement with the proponent to cover the expense of the application. The difficulty with this approach is putting a monetary value on staff's time (drafting staff reports, issuing letter, administration costs, etc.) and to track expenses. If the LTC were to move forward with the cost recovery approach, staff would be required to track time worked on the proposal and all costs associated with the proposal (scheduling community information meetings, hall bookings, advertisement, etc.). A monetary value would also have to be agreed upon for the cost of each hour of staff's time spent on the application.

Consultation

The Deliverables/Milestone section of the Project Charter includes a Community Information Meeting (CIM) in May 2017 in order to present the draft antenna siting and consultation guidelines. This CIM could be scheduled after the May LTC meeting to allow additional public input after the LTC has the opportunity to review the guidelines at their May 2017 meeting. A resolution will be required from the LTC to schedule a CIM, although staff recommends having this discussion at May 2017 LTC meeting after the guidelines have been reviewed.

Referrals

If the LTC gives direction to staff to draft antenna siting and consultation guidelines, staff recommend sending out referrals in a two-step process:

1. Send early referral to Industry Canada to answer any initial questions and clarify issues that may influence the drafting of the antenna siting and consultation guidelines. A LTC resolution is not required for this action.
2. After the draft antenna siting and consultation guidelines are completed and the LTC has provided its initial comments (tentatively scheduled for the May 2017 regular LTC meeting), staff will send a formal referral to Industry Canada, applicable agencies (CRD Building Inspection), and other stakeholders identified by the LTC (for example, telecommunication providers) for comment. The LTC may also wish to forward the guidelines to the Galiano Island APC. A LTC resolution is only required for the guidelines to be sent to the APC for referral.

Rationale for Recommendation

The Galiano Island LTC has identified the telecommunication strategy as a Top Priority in order to develop antenna siting and consultation procedures. The Galiano Island SAPC has provided a detailed recommendation report which includes a draft antenna system siting and consultation protocol that can be used to lay the foundation for the LTC's own guidelines. Staff recommends proceeding with the siting and consultation procedures suggested by the SAPC in order to establish specific antenna guidelines for the LTC. These guidelines can also be used as a template for other LTAs.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

- 1. Receive for information.**

The LTC may receive this staff report for information.

2. Request staff to draft Antenna Proposal Consultation Guidelines with specific guidelines.

The LTC may wish to give staff specific direction on how to draft the antenna proposal consultation guidelines.

3. Schedule a Community Information Meeting.

The LTC may wish to schedule a CIM to discuss the next steps of the project.

4. Refer to Galiano Island Advisory Planning Commission.

The LTC may wish to forward the SAPC recommendation report to the APC for further comment.

5. Proceed no further with the project.

NEXT STEPS

If the recommendations are adopted, staff will proceed to draft an Antenna Siting and Consultation Guideline Protocol based on recommendations from the SAPC and the LTC. Staff will report back to the LTC with the draft guidelines for LTC's consideration. Staff will also engage in early referral to Industry Canada regarding questions and issues related to drafting the guidelines.

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