



Islands Trust

## Hornby Island Local Trust Committee Minutes of Special Meeting

**Date:** October 6, 2022  
**Location:** Electronic Meeting

**Members Present:** Sue Ellen Fast, Chair  
 Alex Allen, Local Trustee  
 Grant Scott, Local Trustee

**Staff Present:** Sonja Zupanec, Island Planner and Acting Regional Planning Manager  
 Patricia Maloney, Planner/Consultant  
 Sharon Horsburgh, Planner/Consultant  
 Nadine Wiepning, Student Planner  
 Wil Cottingham, Office Administrative Assistant  
 Katherine Vogt, Recorder

**Others Present** Approximately thirty two (32) members of the public

### 1. CALL TO ORDER

Chair Fast called the meeting to order at 6:33pm. She acknowledged that the meeting was being held in territory of the Coast Salish First Nations. She explained that the meeting was being held to provide an interactive public engagement opportunity regarding four subject areas impacting the Hornby Island Official Community Plan Project: Riparian Areas, First Nations, Housing, and Short-Term Vacation Rentals. She introduced Trustees, Staff, Consultants, and the Student Planner. She welcomed members of the public and provided instructions for their electronic participation.

### 2. WELCOME AND INTRODUCTIONS

Consultant Patricia Maloney thanked everyone for their attendance and introduced herself as residing in the traditional territory of Snuneymuxw First Nation and of being a Planning Consultant with many years of experience who had worked previously with the Islands Trust, Indigenous Communities and the 2018 Hornby Island Housing Needs Assessment.

Consultant Sharon Horsburgh introduced herself as currently residing in the traditional territory of the Coast Salish Cowichan specific tribes; as being a Land Use Planner for Bayshore Planning Services working on various crown land and development applications as well as policy work; and as currently working on the Gambier Island Official Community Plan Project.

Student Planner Nadine Wiepning introduced herself as residing on Snuneymuxw Territory; having a geography background; as presently attending the Masters of Community Planning Program at Vancouver Island University; and as having previously worked for Member of Parliament, Paul Manly.

**By general consent** the agenda was approved as presented.

### 3. OFFICIAL COMMUNITY PLAN REVIEW PROJECT - INTERACTIVE ENGAGEMENT SESSION

Facilitated by Patricia Maloney and Sharon Horsburgh, discussion of each of the topics of Indigenous Communications, Riparian Areas, Housing, and Short-term Vacation Rentals was preceded by background information and options for consideration for the benefit of attendees who were then invited to ask questions and provide feedback.

Consultant Horsburgh introduced the topic of Indigenous Communications by noting that most local governments are looking at updating their OCP to reflect indigenous perspectives. She asked members of the public to think about the following ways that Hornby Island could promote reconciliation: establishment of a liaison committee; editing of documents to make them more culturally sensitive; formally invite a K'ómoks representative to sit as a non-voting member of the Local Trust Committee (LTC) or Advisory Planning Commission (APC); establish a regular Trustee/K'ómoks Chief and Council meeting; other.

The following questions and points were noted:

- Why have the politician-to-politician Trustee/First Nations interactions been eliminated in favor of staff-to-staff interactions?
  - Chair Fast responded that staff communications to First Nations had been improved due to past Trustee resolutions; and, that Trust and First Nations policies around open and closed meetings was complicated and needed to be reviewed by the present consultants.
- The recent recommendations that the Hornby APC made regarding Indigenous issues language changes to the OCP hopefully do not get overlooked.
  - Consultant Maloney noted that they had reviewed the APC report and may be able to add to it. In addition to language changes to policy documents, relationship building communications was very important.
- Can the Hornby APC recommendations report be publicly circulated soon?
  - Chair Fast noted that staff would clarify this.
- What about reaching out to the local First Nation and asking how they might like to participate, rather than suggesting ways that they could participate?
  - Consultant Maloney appreciated that this would be an excellent way for Trustees to foster relationship building.
- Why would a First Nation representative be a non-voting member.
  - Consultant Maloney responded that on the LTC, a voting member would have to be elected. On the APC, which is more consensus-driven, a First Nation representative could work.
- What is happening with the indigenous burial site at the Thatch?
  - Planner Zupanec did not have any updates to provide but invited the questioner to contact the Islands Trust office directly.

Consultant Horsburgh introduced the topic of Riparian Areas, noting that it was defined within the Riparian Areas Provincial Regulation and applied to streams, watercourses, wetlands, ditches and bodies of water if they were capable of supporting fish or fish habitat. A Riparian Assessment Area (RAA) consists of a 30-metre strip on each side of a stream which would be considered a development permit area. Related to this is the 2016 *Water Sustainability Act* which moved to identify and secure domestic wells and to license commercial wells.

The following questions and points were noted:

- Can you speak to water licensing of affordable rental housing run by non-profits?
  - Consultant Horsburgh responded that there may be an exemption but that this would need to be clarified with the Province.

- Planner Zupanec noted that some Denman non-profits had successfully received a water license and the questioner was invited to contact the Islands Trust office directly.
- Can you clarify if a home-based business such as an art gallery open to the public or a yoga studio would need a water license to operate? If so, this would be new for Hornby. Would the OCP then be changed to require a water license for all home-based businesses?
  - Consultant Horsburgh responded that Short-term Vacation Rentals were considered a home-based business equivalent to hotels and motels providing public water facilities and would need to be licensed. Other businesses were not specifically noted, and the issue needed further clarification.
- Would one family renting within a house be considered domestic or commercial use of water?
  - Consultant Horsburgh noted that domestic water was considered a public good and became commercial when a profit was derived from it. Consultant Maloney offered to review the categories of businesses that might require water licenses.
- Can the discussion on the APC recommendations on Riparian Areas be postponed due to lack of notice?
  - Trustee Allen noted that there was confusion around Provincial initiatives regarding water usage.
- As Hornby tourism increases, my well goes black; so, if I register my well, will that protect it?
  - Chair Fast offered that it would be a good idea as a domestic user to register the well, which is not the same as a commercial water license.
  - A member of the public noted that years ago, Hornby Islanders were advised to register their wells based on the principal of First in time/First in right; so, if a future water user depleted someone's existing well, that existing user would have rights.
- The existing Hornby water review reports are not in agreement, so perhaps a third review is needed.
  - Consultant Horsburgh responded that the 2011 Mimulus and 2014 Madrone technical reports that mapped watersheds and watercourses on Hornby seemed complementary rather than confounding and perhaps just needed to be updated.
  - Trustee Allen responded that Hornby was the only island to have two companies do riparian reports; one of the companies focused almost entirely on ditches; and, a third riparian report is hoped for.
  - A property owner noted the disparity between the reports; and, that a neighbor's drainage ditch adjacent to the owner's property had precipitated large setbacks within which nothing could be done without paying for a Qualified Environmental professional (QEP). Another ditch was polluted and should be diverted away from fish bearing streams. The disparity between the mapped and on-the-ground realities of Hornby ditches was substantial.
- The APC spent considerable time reviewing the Madrone and Mimulus Reports which appeared to be complementary. The issue seems to be how the Province defines streams which causes frustration regarding ditches. Rather than another report, an expert could come and look at the 3 questionable ditches.
  - Consultant Maloney responded that the topic of reviewing ditches needed to be included in the consultant's list of final recommendations.
  - Consultant Horsburgh noted that it was the job of QEPs to determine if a ditch was fish sustaining or not. If it was not, the property owner could be exempt from setbacks.
- Is the islands Trust aware that the Agricultural Land Reserve (ALR) regulations supersede Riparian Areas regulations, so that an owner could legally completely deforest or level a setback area?

- Sea level rise over 32 years adjacent to the property owner has been about 2 inches, so there is practically no sea level rise within one's lifetime on Hornby.

Consultant Maloney introduced the topic of Housing, providing background information and options for secondary suites, secondary dwellings, and multiunit housing with varying restrictions, while acknowledging concerns regarding the environmental impacts of increased housing density.

The following questions and points were noted:

- You cannot ask someone to take on the risk of entering into a *Residential Tenancy Act* agreement based on a Temporary Use Permit (TUP). The Land Use Bylaw should be changed to allow stand-alone secondary dwellings with approved septic and water since most people would prefer a separate dwelling rather than to be within an existing residence.
- I would like to see the special resolutions on second dwellings end as it is supposed to on December 31, 2023; and anyone who has a secondary dwelling being used illegally be required to get a special use permit so that the community could see who is out there doing this. All options for increasing year-round housing should be looked at.
- Proposals for affordable housing with rental agreements on Public Use zoned land should be fast-streamed. Two years is too long to get through the Islands Trust.
- What is the future process to continue the conversation on housing issues?
  - Consultant Maloney responded that draft recommendations based on the current meeting's feedback would be forwarded to the Local Trust Committee (LTC) and then presented to the community in the new year for discussion.
- Multi-unit housing, while very much needed for seniors, is also needed for other groups.
- 20 out of 24 places this resident has rented over the last 31 years have been illegal; an elder housing project for multi generations should be developed; and, composting and rainwater collections should be moved forward.
  - Consultant Maloney asked if coop housing had been considered for Hornby Island.
  - A person in chat agreed that more coop housing should be considered.
- Fast-tracking of zoning and batching of future permits needs to be considered to prevent people losing their housing and ending up on the beach or in the woods.
  - Consultant Maloney asked if a housing agreement restricting rent to 30% of a renter's income had been considered.
  - A resident responded that a housing agreement would need to be community driven.
- Can the consultants be engaged outside of this forum?
  - Consultant Maloney acknowledged the sensitive nature of the housing issues and offered that an email address would be provided at the end of the meeting for further comments which would be shared with the Islands Trust.
- It is unfortunate that long-term rentals are not currently being addressed by bylaw enforcement.
- Besides water and septic, the habitability of the living area (free from mold, not in a garage) should be addressed.
- In Whistler, over the last 30 years, every new home had to provide a rental suite for an employee. This incredibly successful program could be implemented on Hornby.
- Banks will not lend money to property owners for secondary suites or dwellings based on short term permits.
- Long-term rentals regulations outside of their connection to short-term vacation rentals was not part of the APC's referral. On Page 4 number 6 of the APC recommendations, reference to long-term rentals has been made, but is being misunderstood in this meeting context.

Consultant Maloney introduced the topic of short-term vacation rentals (STVRs), noting that the topic was controversial everywhere; that there was no proof that restricting STVRs would increase long-term housing because feedback from owners indicates that many of them use their residences for part of the year and thus could not manage a long-term renter; that the Bylaw Enforcement Officer has indicated that Temporary Use Permits (TUPs) do seem to be a way of managing STVRs on the Islands; that STVRs on Hornby may be legal or illegal and may have legal non-conforming status; that bylaws cannot control numbers of people, only numbers of bedrooms; that rentals of 30 days are not illegal anywhere and are considered a long-term rental; that bylaw enforcement cannot proceed based on whether the homeowner lives off-island or on-island; that there are concerns that STVRs are increasing housing values beyond affordability and that septic and water issues are of concern to many Hornby residents.

The following questions and points were noted:

- How do we align the present discussion with recent APC recommendations and members of the community who are not at this meeting?
  - Chair Fast noted that the project was long term and there were opportunities to be involved by writing or participating in future meetings, or by viewing the recording of this meeting and providing feedback.
  - Consultant Maloney noted that the virtual meeting was inclusive in allowing presently off-island residents to participate. A consultant's email address would be provided at the end of the meeting for further feedback.
- Hornby Island decided as a community back in the 1980s that they wanted low key tourism that allowed visitors to stay in residential areas rather than resorts or motels/hotels. In contrast to destinations such as Ucluelet and Whistler that have a hotel alternative and lobby that seeks to limit STVRs, Hornby needs a made-on Hornby approach. Many members of the Hornby Island Short Term Rental Association (HISTRA) are long-term community members that take a responsible approach to sharing their homes. The Co-op store could never be afforded without the existence of STVRs, and visitors contribute to the general enrichment of the island.
  - Consultant Maloney confirmed that they had reviewed the recent APC referral recommendations, the HISTRA counter proposals, and all the extra (approximately 30) letters responding to the referral issues as recorded by the Islands Trust.
- Hornby Water Stewardship does not consider water usage by STVRs a problem, so why consider requiring rainwater collection?
  - Consultant Maloney responded that it would be necessary to address that some residents do consider summer tourist water use to be a problem.
- If a use is granted legal non-conforming status, if that use is stopped for more than 6 months, the status can be lost; does this also apply to vacation rentals?
  - Consultant Maloney responded that Bylaw Enforcement has indicated that since STVRs are seasonal, that a longer time frame such as 2 to 3 years would be used to determine cessation of STVR activity.
- Two people have dominated most of the evenings question and answer period and their opinions are not necessarily those of the whole island.
- Many people on the island have problems with well water in the summer, it is a huge issue, and residence self-sufficiency in water should be a high priority.
- A Hornby solution should involve a combination of regulating STVRs and promoting affordable housing with bylaws. Workers in the Health and Human Services sector such as Home Support workers, Educational Assistants, Youth Outreach workers, many of them

- women, need places to live. Property owners should be able to build or buy a small secondary stand-alone dwelling which should be prevented from becoming an STVR.
- Consultant Maloney noted that a Housing Agreement could accomplish this.
  - Trustee Scott noted that Housing Agreements need defining and could be an interesting approach.
  - There are multiple categories of rentals on Hornby Island.
    - Consultant Maloney noted that bylaws can only be enforced based on usage and number of rooms. Having a person living in your house as a boarder is not illegal.
    - Planner Zupanec added that it is only when you have a separate sleeping and kitchen facility that the rental may be considered illegal.
    - Planner Zupanec clarified that Local Trust Committees have the capability of allowing a second dwelling for year-round rentals through a zoning requirement and so would not necessarily need a Housing Agreement.
  - Water capture and adequate septic capacity should apply to all residents, not just STVRs. TUPs and goalpost changing make long-term investments and plans more difficult. STVR owners should educate visitors on water conservation.

Consultant Maloney noted that a review and summary of the meeting comments would be prepared in October, a draft set of recommendations on all four topics would be prepared in November for review by the LTC in January 2023, after which another round of public engagement could occur in February or March, preferably virtual but possibly split between a virtual and an in-person format, before a final set of recommendations would be drafted before the end of the March contract ending. She provided an email address for further feedback.

Trustee Scott expressed that hopefully fibre optic would be ready on Hornby in the new year to provide for a virtual and in-person meeting.

**4. ADJOURNMENT**

**By general consent** the meeting was adjourned at 8:36 pm.

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Sue Ellen Fast, Chair

Certified Correct:

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Katherine Vogt, Recorder