



Local Planning Committee Meeting Agenda

Date: February 17, 2011
Location: Boardroom - Victoria

Time: 10:00 am – 2:30 pm

DISTRIBUTION: Joyce Clegg, Gambier - FPC Rep.
Jen Gobby, Lasqueti
Derek Masselink, North Pender - Vice Chair
Tony Law, Hornby
Gary Steeves, North Pender - EC Rep.
Sheila Malcolmson, Chair, Islands Trust Council
David Graham, Denman
Louise Decario, Galiano
Fred Hunt, Hornby
Jan Hagedorn, Gambier

CHAIR: George Ehring, Salt Spring

FROM: Mac Fraser, Director Local Planning Services

GUEST(S): Miles Drew, Bylaw Enforcement Coordinator
David Marlor, RPM Southern Region

COPIES TO: Linda Adams, CAO
Craig Elder, Director Administrative Services
Lisa Dunn, Director Trust Area Services
Chris Jackson, RPM Northern Region
Leah Hartley, RPM SSI Region
David Marlor, RPM Southern Region
Miles Drew, Bylaw Enforcement Coordinator
Mark van Bakel, GIS Coordinator

**COMMITTEE
SECRETARY:** Stephanie Somers

(*)= Attachments | (**) =Pending

TIME	SECTION	WHO	ACTION
5	1) <u>AGENDA</u>		
	1.1 Adoption of Agenda	Chair	Approval
	1.2 Follow Up Action List (*)	MF	Approval
5	2) <u>ADOPTION OF MEETING MINUTES</u>		
	2.1 Minutes of November 10, 2010 Meeting (*)	Chair	Decision
	3) <u>STRATEGIC OBJECTIVES</u>		
15	3.1 Community Housing Task Force Update (*)	DM	Information
15	3.2 Riparian Area Regulation Implementation Update (*)	MF	Information
15	3.3 Ministry of Transportation Letter of Agreement Update (*)	MF	Information

30	3.4 Conservation Covenant Management (*)	DM	Decision
30	3.5 Policy 4.1.viii – LTC Sponsored/Initiated Development Applications (*)	MF	Decision
30	3.6 LPC Participation in Development Application Fee Analysis Project (*)	MF	Decision
5	3.7 LPC Meeting Dates for 2011 (*)	SS	Decision
30	LUNCH (12:30 – 1:00 pm)		
30	3.8 Bylaw Enforcement Projects Update (*)	MD	Information
10	3.9 Food Security Guidebook and Follow-Up Work (*)	DM	Information
45	3.10 DLPS Update on On-going Items	MF	Information
	3.10.1 GHG and RAR Communications Update		
	3.10.2 Islands Trust Green Shores for Homes Project		
	3.10.3 Green Technology Structures		
	3.10.4 Natural Boundary of the Sea		
	3.10.5 Integrated Watershed & Shoreline Approach Update		
	3.10.6 GHG Emission Reduction Work		
	3.10.7 OCP/LUB Review Schedule		
4)	<u>LOCAL PLANNING COMMITTEE WORK PROGRAM</u>		
5	4.1 Local Planning Committee Report (*)	MF	Decision
5)	<u>ADJOURNMENT</u>	Chair	

George Ehring
Chair
Local Planning Committee

LOCAL PLANNING COMMITTEE
FOLLOW UP ACTION LIST

1.2

Meeting Date: February 17, 2011
Updated: February 8, 2011

File: LPS/LPC

ACTIVITIES	FROM	TO	TARGET
<u>TOP PRIORITY ITEMS</u>			
1. RAR Implementation	TC	LPC	Strategic Plan
• Implement and report on status	LPC	MF	February LPC
2. MoTI Protocol / Letter of Agreement	TC	LPC	Strategic Plan
• Re-confirm and monitor semi-annual meetings of MoTI staff and Islands Trust trustees and staff	LPC	MF	February LPC
3. Community Housing Task Force	TC	LPC	Strategic Plan
• Continue work and report on status	LPC	Task Force/DM	February LPC
<u>ONGOING ITEMS</u>			
Food Security	TC	LPC	Strategic Plan
• Work towards a final report to March TC	LPC	DM/KK	February LPC
Conservation Covenant Monitoring	TC	LPC	Strategic Plan
• develop a conservation covenant monitoring program	LPC	BP	February LPC
OCP/LUB Review Program	TC	LPC	Ongoing
• monitor and report on status	LPC	MF	February LPC
Bylaw Dispute Adjudication System Implementation	TC	LPC	Strategic Plan
• implement and report on status	LPC	MD	February LPC
Islands Trust Green Shores for Homes Project	TC	LPC/EC	Strategic Plan
• implement and report on status	LPC	MF	February LPC
Green Technology Structures	TC	LPC	Ongoing
• consider means to encourage green technology structures	LPC	TBD	February LPC
Staff Time Allotted to Public Enquiries	LPC	LPC	LPC Initiative
• staff to inform a Committee discussion	LPC	MF	May LPC

**MINUTES OF THE LOCAL PLANNING COMMITTEE MEETING
HELD ON NOVEMBER 10, 2010 AT 10:00 AM
AT THE ISLANDS TRUST OFFICE, VICTORIA, BC**

<u>Present:</u>	George Ehring Joyce Clegg Tony Law Jen Gobby Fred Hunt Louise Decario David Graham Derek Masselink Gary Steeves Sheila Malcolmson	Chair Committee Member Committee Member - via teleconference Committee Member - via teleconference Committee Member Committee Member Committee Member - via teleconference Committee Member Committee Member - via teleconference Ex-officio Member
<u>Staff:</u>	Mac Fraser Stephanie Somers	Director, Local Planning Services Committee Secretary
<u>Guest:</u>	David Marlor Kaitlin Kazmierowski Clare Frater	Regional Planning Manager Island Planner Trust Area Policy Analyst

Regrets:

There were no members of the public in attendance.

Chair Ehring opened the meeting at 10:00 am, with Trustees Law, Gobby, Graham, and Steeves attending via telephone.

1. AGENDA

1.1 Adoption of Agenda

Chair Ehring asked for any additions to the agenda and the following changes were made:

- Numbering after 3.9 should be 3.9.1 to 3.9.9 as opposed to 3.10.1 to 3.10.9
- 3.9.7 should read GHG Emissions Reduction through Land Use Planning
- 3.9.9 should read Bylaw Dispute Adjudication System

Resolution LPC 40/ 2010

It was Moved and Seconded that the Local Planning Committee meeting agenda be approved as amended.

CARRIED

1.2 FUAL

Director Fraser updated the status of the FUAL items. Most items are on this agenda, item 2 – MOTI Protocol/Letter of Agreement – has had action since the agenda has been published and will be updated. With respect to Ongoing Items on the LPC Work Program, the items Green Technology Structures and Staff Allotted to Public Enquiries are to be reported on in February 2011.

2. ADOPTION OF MEETING MINUTES

2.1 Minutes of August 11, 2010 Meeting

Chair Ehring asked for any amendments to the minutes; there were three errors;

1. Section 1.2: October 2010 should be November;
2. Section 2.1: Resolution should be May 19; and
3. Section 3.2: should read RPM Marlor.

Resolution LPC 41/ 2010

It was Moved and Seconded that the Local Planning Committee meeting minutes of August 11, 2010, be adopted as amended.

CARRIED

3. STRATEGIC OBJECTIVES

3.1 Trust Council Food Security Guidebook

Director Fraser noted that the successful Food Security workshop at the September 2010 Trust Council meeting was an indication of the excellent work done by staff members Kaitlin Kazmierowski, Clare Frater and Alison Fox.

Planner Kazmierowski reviewed the changes made to the report since the August LPC and September Trust Council meeting and provided a revised Chart 9.

RPM Marlor presented the associated Request For Decision and the Committee identified a few issues needing clarification. The Committee directed that RPM Marlor and Planner Kazmierowski bring an amended Request For Decision back for consideration by the end of day and that this item of business would be tabled until then.

Resolution LPC 42/ 2010

It was Moved and Seconded that the Local Planning Committee to table this item until later in the meeting.

CARRIED

3.2 Islands Trust MapIT Project Introduction

GIS Coordinator van Bakel provided an overview of mapping software at the Islands Trust and demonstrated the new Map Islands Trust (MapIT) website, noting that roll out is planned for early 2011.

3.3 Bylaw Enforcement Projects Update

Director Fraser reviewed briefing, and appendix. He clarified that we hired a third BEO on contract for a total of 60 days that need to be completed before the end of March 2011.

Director Fraser and BEC Drew are to bring forward a Trust Council briefing on the status of Bylaw Enforcement projects for consideration at the February 2011 LPC meeting.

3.4 Conservation Covenant Management

Director Fraser presented the two briefings on this subject and will bring forward a Trust Council Request For Decision on the subject for consideration at the February 2011 LPC meeting.

3.5 December Trust Council Planning Session Topic

Director Fraser advised the Committee that Randall Arendt, a noted landscape architect with experience in small communities planning, is going to conduct a webinar on the concept of compact communities in rural settings during the Planning Session at the December 2010 Trust Council meeting.

3.6 Community Housing Task Force (CHTF) Update

RPM Marlor gave a verbal update on the actions of the CHTF, noting that;

- the guide is currently being completed and it is intended to have a draft guide to CHTF members in December;
- planning staff will be meeting with the Ministry of Agriculture and Lands and the Agricultural Land Commission on November 24 on a number of issues to include farm housing; and
- a briefing on the use of Temporary Use Permits for affordable housing in the Islands Trust Area will be submitted to the February 2011 LPC meeting.

The committee broke for lunch at 12:29pm and reconvened at 1:00pm. Trustee Steeves did not return after lunch.

3.1 Food Security

RPM Marlor presented the amended Request For Decision and associated recommendations.

Resolution LPC 43/2010

It was moved and seconded that the Local Planning Committee forward the Request For Decision Staff Report on Food Security to the Trust Council in December.

CARRIED

3.7 GHG and RAR Communications Update

Director Fraser gave a verbal update on RAR and advised that a staff workshop on GHG emission reduction scenario software (GHGProof) had taken place on November 3rd 2010, in accordance with Trust Council direction. RPM Marlor gave an overview of the workshop and advised the Committee that the software will be value to staff planners in assisting Local Trust Committees with their future actions in reducing GHG emissions.

3.8 LPC Meeting Dates for 2011

Director Fraser presented the proposed 2011 LPC meeting dates for consideration.

Resolution LPC 44/ 2010

It was moved and seconded that the Local Planning Committee approve the Committee meeting dates for 2011 as presented and that the Secretary look at other possible dates for the May and August meetings to facilitate Trustee Gobby's attendance.

CARRIED

3.9 DLPS Update on On-Going Items

3.9.1 Riparian Area Regulation Implementation Update

Director Fraser advised the Committee that the Vancouver Island Regional office of the Ministry of Environment (MoE) had completed its review of Riparian Area Regulation designated watersheds in the Islands Trust Area in its region and was unable to confirm designations for Hornby Island and Lasqueti Island. Work will continue with the Vancouver Island region of MoE as a priority to confirm all designated watersheds and formally acknowledge the designations by letter.

Director Fraser advised that the Gambier Island Local Trust Area was located in the Lower Mainland region of MoE and that formal designation of RAR watersheds will be pursued as a priority.

3.9.2 Ministry of Transportation Protocol Update

Director Fraser advised that he will be meeting with Ministry of Transportation and Infrastructure (MoTI) staff on January 21st, 2011 to re-

commence staff-to-staff meetings, in accordance with the existing Islands Trust / MoTI protocol. All Islands Trustees will be solicited for discussion items at this meeting and Director Fraser will provide a briefing on the outcome of the meeting to the February 2011 Committee meeting.

3.9.3 Islands Trust Green Shores for Homes Project

Director Fraser presented an update, noting that;

- only \$8,000 of the project budget for the current year will come from the Islands Trust through the Scientific Studies fund as \$40,000 has been received from the Pacific Climate Impact Consortium and \$20,000 has been received from the Stewardship Centre for British Columbia;
- our American project partners met with their major project funder, the US Environmental Protection Agency, in October;
- the bi-national program steering committee is expected to meet in mid-December 2010; and
- the project advisory committee and project technical committees are to start meeting in early 2011.

3.9.4 Green Technology Structures

Director Fraser advised that work had not progressed on this subject as the staff member assigned to this work had recently left the Islands Trust. The Director will assign another staff member shortly to advance the work.

3.9.5 Natural Boundary of the Sea

Director Fraser advised that this Local Planning Committee item of work had been submitted through the Executive Committee to the September 2010 Trust Council meeting and the LPC's responsibilities on the subject were complete.

3.9.6 Integrated Watershed & Shoreline Approach Update

Director Fraser advised that the Islands Trust is awaiting a formal partnership letter from UBC for this project and that staff are concurrently finalizing a Request For Proposals to provide technical assistance to UBC in completing this work.

3.9.7 GHG Emission Reduction through Land Use Planning

Director Fraser advised that work on two OCPs remain outstanding with respect to completing the requirements of Bill 27.

3.9.8 OCP/LUB Review Schedule

Director Fraser advised that;

- in the Northern Region, five OCP reviews are planned for completion this term;
- in the Saltspring Region, work on the OCP and LUB are planned for completion this term; and
- in the Southern Region, one OCP review is planned for completion this term and various LUB updates are underway.

3.9.9 Bylaw Dispute Adjudication System

Director Fraser advised that;

- Six Local Trust Committees have received Orders In Council to allow them to participate;
- On October 25th, the Minister of Community and Rural Development approved the Islands Trust entering into a contract with the North Shore Bylaw Dispute Registry; and
- There will be a contract BEO in the Southern Region for a portion of the current budget year to allow the Bylaw Enforcement Coordinator to complete implementation of the Bylaw Dispute Adjudication System.

BEC Drew advised that he expects to meet with Local Trust Committees in January and February.

4. LOCAL PLANNING COMMITTEE WORK PROGRAM

4.1 Local Planning Committee Report

Director Fraser recommended that the Local Planning Committee Report reflect that;

- the Conservation Covenant work item to go to the Trust Council for consideration in March and not December, as noted in the draft LPC Report to Trust Council; and
- the Food Security Report is a final report and not a draft.

Resolution LPC 44/ 2010

It was moved and seconded that the Local Planning Committee approve the LPC work program as revised and forward it to the Trust Council.

CARRIED

5. ADJOURNMENT

The meeting was adjourned at 2:06 p.m., by consensus.

RECORDER

CHAIR

DRAFT

ISLANDS TRUST REQUEST FOR DECISION

DATE: February 7, 2011

TO: Trust Council

Target Decision Date: March __, 2011

SUBJECT: COMMUNITY HOUSING TASK FORCE

RECOMMENDATION:

1. That the Islands Trust Council approves the extension of the Community Housing Task Force to the end of the current trustees' term of office.
2. That the Islands Trust Council receives and distribute to local trust committees and Bowen Municipality the Staff Report entitled "Use of Temporary Use Permits for Regulating Affordable Housing"
3. That the Islands Trust Council receives and distributes to local trust committees and Bowen Municipality the briefing note on "housing agreements"

CHIEF ADMINISTRATIVE OFFICER COMMENTS:

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:

Staff assignment is required (regional representation) for three teleconference meetings and for the writing of up to three reports to Local Planning Committee.

FINANCIAL:

Minimal. All meetings will be by teleconference. No other expenses anticipated.

POLICY:

Consistent with and implements Trust Policy Statement 5.8.5 and 5.8.6 and the Trust Council Strategic Plan direction on affordable/accessible/appropriate housing.

IMPLEMENTATION/COMMUNICATIONS:

Release through e-news and update to Community Housing website.

OTHER:

None.

BACKGROUND

In 2009/10 fiscal year, the Community Housing task Force (CHTF) produced two documents: “Islands Trust Community Housing Tool Kit” and the “Seniors Housing Strategy”. Both documents provided options for implementing affordable housing and seniors housing in the Trust Area.

In 2010/11 fiscal year, the CHTF focused on providing further information to assist local trust committees in implementing some of the tools and options in the reports. To this end, the CHTF met with the ALC and Ministry of Agriculture and Lands to learn more about housing for farm workers in the ALR; completed research on the use of Temporary Use Permits for provision of affordable housing; completed research on limitations and opportunities for the Islands Trust to hold housing agreements; and expects to complete a guide to the development application process for affordable and special needs housing by the end of the fiscal year.

The CHTF is of the opinion that the local trust committees should implement affordable housing initiatives and the needs and approaches to doing this will vary by local trust committee; however, the CHTF sees value in continuing the CHTF for the purposes of monitoring affordable housing initiatives and issues at the local level, providing a venue for discussion, and bringing issues to the attention of the Local Planning Committee and Trust Council as required.

The CHTF is made up of trustees appointed from the Local Planning Committee and staff appointed by the Director of Local Planning Services. Experience indicates that a mix of trustees and professional staff is effective for sharing ideas and advancing affordable housing concerns for the trust area.

It is proposed that the CHTF be extended to the end of the term with a terms of reference to meet quarterly to monitor affordable housing issues and initiatives and report to LPC. Continuation of the CHTF beyond the end of term should be left to the incoming council.

The CHTF has received two reports – one on the use of temporary use permits for regulating affordable housing and the other on the use and limitations of housing agreements. The CHTF has requested that these be forwarded to Trust Council for information.

REPORT/DOCUMENT: Draft CHTF 2011 Terms of Reference Attached.

KEY ISSUE(S)/CONCEPT(S):

- Monitoring local initiatives and issues around affordable housing
- Providing a venue for discussion outside of LPC and TC
- Quarterly meetings timed between LPC meetings
- Sharing of information on use of temporary use permits and housing agreements for affordable housing.

RELEVANT POLICY:

Consistent with and implements Trust Policy Statement 5.8.5 and 5.8.6 and the Trust Council Strategic Plan direction on affordable/accessible/appropriate housing.

DESIRED OUTCOME:

Continuation of the CHTF to the end of the term.

Sharing of information on use of temporary use permits and housing agreements for affordable housing

RESPONSE OPTIONS

Recommended: As above

Alternatives:

Not extend the CHTF to the end of the term.

PREPARED BY: David Marlor

REVIEWED BY EXECUTIVE COMMITTEE:

SUBMITTED BY: Local Planning Committee

REVIEWED BY: (Chief Administrative Officer)

OTHER REVIEW:



STAFF REPORT

January 12, 2011

File No.: CHTF

To: Community Housing Task Force
For Meeting of January, 2010

From: Alison Fox
Planner 2

CC: David Marlor
Regional Planning Manager

Re: Use of Temporary Use Permits for Regulating Affordable Housing

THE PROPOSAL:

At its July 28 2010 meeting, the Community Housing Task force (CHTF) directed Staff to research the potential for using Temporary Use Permits as a means of regulating affordable housing, and to report back prior to March 2011. The purpose of this report is to outline the findings of staff research into this topic.

LEGISLATIVE BACKGROUND

Section 921(3) of the Local Government Act (LGA) outlines the ways in which a local government can use Temporary Use Permits. Previously, the use of these permits was restricted to temporarily allowing commercial or industrial uses in zones where these uses would otherwise be prohibited. Recent changes to the LGA have broadened the scope of potential use of these permits by allowing any type of use which is not permitted by a zoning bylaw to be conducted temporarily on a parcel of land. Section 921(3) of the LGA now reads:

A temporary use permit may do one or more of the following:

- (a) allow a use not permitted by a zoning bylaw;
- (b) specify conditions under which the temporary use may be carried on;
- (c) allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued.

A local government can designate certain areas in an OCP or zoning bylaw where temporary use permits could be issued. The local government may also specify conditions under which the temporary use may be conducted. Conditions can be very specific to the particular temporary use on a property. They may include things which are not normally mentioned in an OCP or zoning bylaw such as hours of operation, but may not specify who can carry on the use.

TEMPORARY USE PERMITS AND AFFORDABLE HOUSING

Under the new legislation, Temporary Use Permits could be used to permit residential uses in zones which currently do not allow residential use (such as industrial or commercial zones). They cannot be used to increase the density of a permitted residential use, but could potentially be used to permit different types of residential uses in areas which currently allow residential use. For instance, a Temporary Use Permit could not be used to increase the number of single-family dwelling units permitted on a lot from 1 to 2, or to increase the density from 4 units per acre to 8 units per acre, but could be used to permit a secondary suite on a lot zoned only for single-family residential. Secondary suites have typically been considered in planning law to be a different kind of residential use from regular single-family residential, likely due to the fact that they tend to have restrictions on size and have different requirements in the BC building code. However, allowing secondary suites under a temporary use permit could present some problems for enforcement if the permit lapses and is not renewed. The permit would need to contain conditions for removal of the unit after the permit lapses, and the provisions of the Residential Tenancy Act regarding the eviction of tenants should also be considered.

As is the case for zoning, a Temporary Use Permit is not an appropriate tool for imposing conditions regarding the type of occupant or affordability. Housing agreements under s. 905(1) of the LGA or including affordable or special needs housing in a zoning or land use bylaw under s. 904(3) are the appropriate tools.

ALTERNATIVES TO TEMPORARY USE PERMITS

The only two provisions in the LGA that provide local governments with the ability to discriminate by type of person are housing agreements under s. 905(1) and affordable or special needs designations under s.904(3). These provisions are appropriate alternatives to using TUPs to regulate affordable housing.

Housing Agreements

Under s. 905 of the Local Government Act, local governments have the authority to enter into housing agreements. Housing agreements can be used to regulate particular types of housing a developer can build or to restrict occupancy to a particular class of person. They can be used alone, as in the case where they are used as a condition for rezoning, or as part of a density bonus scheme or affordable or special needs designation. They may also be used to control affordability through restrictions on rental and lease rates, or sale or share prices of the units, and on the rate of increase over time¹.

Affordable or Special Needs Designations

Designating certain areas within a zone as areas for “special needs housing” or “affordable housing” is an option provided by Section 904(3) of the LGA. Special needs housing could be for senior citizens or persons with disabilities or even for temporary seasonal workers. Local governments are permitted to define the terms “affordable” and “special needs” as they see fit. Consent of the property owner is a necessary condition of this designation. The occupancy requirements of this type of zone designation can be easier to enforce than the contractual restrictions found in a housing agreement, as the

¹ Buholzer, W. British Columbia Planning Law and Practice. LexisNexis Canada Inc. Section 8.16

restrictions on occupancy are contained within the zoning bylaw itself². However, if rent control is a desired attribute of this type of housing, then a housing agreement is required in addition to the zoning regulations.

CONCLUSION

Temporary Use Permits do have the potential to be used as a tool for allowing secondary suites or other types of residential development in areas in which these uses are not currently permitted, provided that enforcement concerns are taken into consideration. However, Temporary Use Permits are not an appropriate tool to ensure affordability or to determine a class of occupant for a particular unit. Housing agreements and affordable housing or special needs designations under s. 904(3) of the LGA should be used instead. While Temporary Use Permits could be used to allow a use in a zone which is not currently permitted, they would need to be used in conjunction with a housing agreement or affordable or special needs designation in order to ensure occupancy by certain persons or to maintain affordability.

RECOMMENDATION

Staff recommends:

1. that the Community Housing Task Force receive this report for information.

Prepared and Submitted by:

Alison Fox
Planner 2

January 17, 2011
Date

Concurred in by:

Date

² Buholzer, W. British Columbia Planning Law and Practice, LexisNexis Canada Inc. Section 7.16

ISLANDS TRUST BRIEFING

DATE:

TOPIC: HOUSING AGREEMENTS

DIRECTED TO: Community Housing Task Force

CONFIDENTIAL: no

DESCRIPTION OF ISSUE:

Housing agreements permit Local Trust Committees to enter into agreements with landowners to provide affordable housing; however, agreements carry an administrative burden.

BACKGROUND:

At the October 20, 2010 meeting of the Community Housing Task Force, it became clear to the Task Force that there is little understanding and confusion around the options available to Local Trust Committees' to administer and manage Housing Agreements. The purpose of this briefing is to bring together the options and limitations imposed on Local Trust Committees by Provincial legislation and practical considerations.

DISCUSSION:

Section 905 of the *Local Government Act* (via Section 29 of the *Islands Trust Act*) allows Local Trust Committees to use Housing Agreements as a means of securing affordable housing in their communities. Section 905 states that:

Housing agreements for affordable and special needs housing

905 (1) A local government may, by bylaw, enter into a housing agreement under this section.

(2) A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions respecting one or more of the following:

(a) the form of tenure of the housing units;

(b) the availability of the housing units to classes of persons identified in the agreement or the bylaw under subsection (1) for the agreement;

(c) the administration and management of the housing units, including the manner in which the housing units will be made available to persons within a class referred to in paragraph (b);

(d) rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time, as specified in the agreement or as determined in accordance with a formula specified in the agreement.

(3) A housing agreement may not vary the use or density from that permitted in the applicable zoning bylaw.

(4) A housing agreement may only be amended by bylaw adopted with the consent of the owner.

(5) If a housing agreement is entered into or amended, the local government must file in the land title office a notice that the land described in the notice is subject to the housing agreement.

(6) Once a notice is filed under subsection (5), the housing agreement and, if applicable, the amendment to it is binding on all persons who acquire an interest in the land affected by the agreement, as amended if applicable.

(7) On filing under subsection (5), the registrar must make a note of the filing against the title to the land affected but, in the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making of a note of the filing,

(a) neither the registrar, nor the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

(a.1) neither the assurance fund nor the Land Title and Survey Authority of British Columbia, as a nominal defendant, is liable under Part 19.1 of the *Land Title Act*, and

(b) neither the assurance fund nor the minister charged with the administration of the *Land Title Act*, as a nominal defendant, is liable under Part 20 of the *Land Title Act*.

(8) The Lieutenant Governor in Council may prescribe fees for the filing of notices under subsection (5), and section 386 of the *Land Title Act* applies in respect of those fees.

Section 905(2) provides a list of terms and conditions that could be included in the Housing Agreement. Because the introduction of the list states “including but not limited to” housing agreements may include other conditions or terms not listed.

Management of Housing Agreements

There is nothing in Section 905 that expressly authorizes a local government to delegate administration or management of the Housing Agreement to a third party. While other local governments may have powers to do this under the *Community Charter*, Local Trust Committees are limited to the authorization listed in Section 24(2)(c) of the *Islands Trust Act*.

Section 24(2)(c) of the *Islands Trust Act* states that local trust committees may:

(c) enter into agreements with municipalities, regional districts, boards of school trustees and francophone education authorities respecting the coordination of activities in the local trust area.

Option 1: Local Trust Committee Manages the Housing Agreement

By default, if a local trust committee enters into a housing agreement, then the local trust committee must accept all of the duties imposed on it by the terms of that housing agreement. Administration of the housing agreement management would be an added duty of existing staff, or alternatively, Islands Trust could reorganize staff to provide this function or hire additional staff to provide this function.

Under Option 1, Islands Trust Staff would management the housing agreement in one of the following ways:

1. Planner assigned to the local trust committee would be responsible for tracking, administering and managing housing agreements for that local trust committee;
2. Local Planning Services staff are reorganized to allocate a planner or another staff person to be responsible for tracking, administering and managing housing agreements either regionally or for all of local planning services;
3. Islands Trust staff is reorganized or additional staff hired to create a position that is responsible for tracking, administering and managing housing agreements.

Option 2: Third Party Manages the Housing Agreement

Local trust committees are limited to entering into agreements with third parties as specified under s.24(2)(c) of the *Islands Trust Act*; the agreements may only be for “service coordination” and with “specific parties” (municipalities, regional districts, boards of school trustees and francophone education authorities).

Given the above list, the only means available to a local trust committee for third party administration of a housing agreement is through a service coordination agreement with the regional district, provided that the regional district has a housing program of some kind. In this case, an agreement for the regional district to administer the housing agreement would fall under service coordination (coordinating local planning objectives with the regional district housing objectives for instance). For management of housing

agreements to be undertaken by the regional district, the following would need to be true:

1. the regional district has a housing program that includes the relevant local trust committee area; and
2. the regional district and local trust committee have entered into a service coordination agreement related to the provision of housing subject to the housing agreement.

Section 9(1)(a) of the *Islands Trust Act* allows Trust Council to enter into agreements on behalf of a local trust committee with the government of British Columbia or an agent of the government of British Columbia (among other entities). Section 10 of the *Islands Trust Act* allows Trust Council to delegate its powers under Section 9(1) to local trust committee, subject to restrictions or conditions. Through this mechanism, there may be the ability to establish an agreement with a Provincial Crown agency, such as BC Housing, for the purpose of managing housing agreements on behalf of the Local Trust Committee. This would, of course, depend on whether or not the housing goals of the local trust committee fit with the Provincial Crown agency and the ability and willingness of that agency to take on the management function. For this to be a viable option, the following would need to be true:

1. Trust Council is willing to either enter into an agreement with the Province or an agent of the Province on behalf of a local trust committee or delegate its powers to a local trust committee to enter into an agreement with the Province or an agent of the Province; and
2. The Province or an agent of the Province must be willing to be a party to the housing agreement and take on the management function of that agreement.

Option 3: Islands Trust Council Establishes a Housing Program

The Community Housing Task Force has discussed or mentioned the possibility of Trust Council establishing a housing program presumably to take on the function of managing housing agreements. Staffs review of the legislation indicates that, at the least, the Minister would need to approve a regulation to allow Trust Council to undertake this role. Legal advice would be required on the mechanisms and procedures required if this option is considered further.

ATTACHMENT(S):

AVAILABLE OPTIONS:

FOLLOW-UP:

PREPARED BY: David Marlor, MCIP

SUBMITTED BY: David Marlor, MCIP

REVIEWED BY: _____
(Chief Administrative Officer)

REVIEWED BY EXECUTIVE COMMITTEE:

--

OTHER REVIEW:

--

COMMUNITY HOUSING TASK FORCE

TERMS OF REFERENCE

DRAFT – Feb 7, 2011

Introduction

Trust Council passed the following resolution at the March 2011 Trust Council Meeting:

That the Islands Trust Council approves the extension of the Community Housing Task Force to the end of the current trustees' term of office.

Purpose:

1. To monitor local initiatives and issues around affordable and special needs housing and to provide a venue for discussion of affordable and special needs housing issues outside of Trust Council and Local Planning Committee.

Term:

2. The term of the Community Housing Task Force is from April ,1 2011 to November 15, 2011 (election day), unless otherwise amended by Trust Council.

Membership:

6. The Community Housing Task Force is made up of members of the Local Planning Committee appointed by the Committee Chair, up to three planning staff members appointed by the Director of Local Planning Services and two members of the Executive Committee.
7. Names of appointed members are included in Appendix A.
8. Trustee membership appointments may be amended from time-to-time at the discretion of the Chair of the Local Planning Committee.
9. Staff membership appointments may be amended from time-to-time at the discretion of the Director of Local Planning Services.
10. A quorum is 50% of the number of trustees on the Committee.

Meeting Schedule:

11. At the first meeting of the Community Housing Task Force, the Chair of the Community Housing Task Force will establish a tentative meeting schedule for the duration of the Community Housing Task Force.
12. Meetings may be cancelled or added at the discretion of the Chair of the Community Housing Task Force. Notice of meeting changes shall be circulated 72 hours in advance of the meeting date being changed.

Roles:

13. At its first meeting, the members of the Community Housing Task Force will select a committee Chair and, if desired, a Vice-Chair.
14. The role of each member of the Community Housing Task Force is to further the knowledge base of community housing issues within the Islands Trust Area by participating in the Task Force discussion and to ensure that issues on each island in the Islands Trust Area are addressed.
15. The role of member trustees is to represent Trust Council and local trust committees, including those local trust committees that do not have a representative trustee on the Community Housing Task Force.
16. The role of staff members is to provide advice to the trustees on the planning implications of various options and to represent local planning services.

Consultation:

17. Consultation methods and procedures will be established by the Community Housing Task Force, and such meetings will follow Islands Trust acceptable practices for holding community meetings.
18. Advertising and community liaison communication will be via the Islands Trust communications staff.

Reporting:

19. The Chair of the Community Housing Task Force will provide regular updates to the Local Planning Committee in a format acceptable to the Chair of the Local Planning Committee.
20. The Chair of the Community Housing Task Force should ensure, to the best of the Chair's knowledge and ability that any options or recommendations are consistent with:

- a. The Object of the Islands Trust;
- b. The policies of the Islands Trust Policy Statement;
- c. The statutory authority of local trust committees;
- d. Generally accepted good planning principles.

21. Final recommendations will be provided in writing to the February, 2011 Local Planning Committee meeting.

Budget:

22. Trust Council has not allocated a budget for the Community Housing Task Force during this term. Cost of meetings and expenses would be taken from the LPC meeting budget. Work requiring external contracts would require alternate funding before being undertaken.

23. The Task Force will develop work plan and include staff resource requirement estimates. The work plan should identify budget shortfalls and make a request for funding to the Director of Local Planning Services.

Miscellaneous:

24. Work requests of staff that require research or work beyond the work detailed in these terms of reference, or require attendance at public meetings is subject to assignment and approval by the relevant manager.

Community Housing Task Force Terms of Reference - Appendix A

Membership

Trustee Membership

- Louise Decario – Galiano
- George Ehring – Salt Spring
- Jen Gobby – Lasqueti
- Tony Law – Hornby

Staff Membership

- Management -
- Administrative Support -
- Planning Support –
- Planning Support -

Executive Committee

- Gary Steeves
- Sheila Malcolmson

ISLANDS TRUST BRIEFING

DATE: February 7th, 2011

TOPIC: RIPARIAN AREA REGULATION UPDATE

DIRECTED TO: Trust Council (thru Local Planning Committee)

CONFIDENTIAL: NO

DESCRIPTION OF ISSUE: To update the Trust Council, through the Local Planning Committee, on the status of implementation of the Riparian Area Regulation in the Islands Trust Area.

BACKGROUND: The Islands Trust has been working collaboratively with the BC Ministry of Environment to expedite the implementation of the Riparian Area Regulation (RAR) in the Islands Trust Area. This work has consisted of interpretative mapping of over 700 watersheds by UBC and the subsequent categorization by MoE of which watersheds fall under the requirements of the RAR.

Due to a lack of confirmed data on three islands (Lasqueti, Hornby and Mayne) the Ministry has introduced a temporary category of “unverified” for a few specific watersheds until such time as they are able to confirm whether these watersheds fall under the RAR. Subsequent work is also required with the Ministry to complete this work for the Gambier Local Trust Area.

As a function of recent meetings with MoE, a letter from MoE Vancouver Island Region confirming the designation of which watersheds fall under the RAR in their region and within the Islands Trust Area is expected in the near future. The letter will also outline the ongoing process to update and sustain this data base for years to come. This arrangement is unique in British Columbia and the letter will state that, upon completion of the associated local government legislative action required by the RAR, the Islands Trust will be considered compliant with the RAR.

On February 10th, 2011 the planners of the Islands Trust met to review a model staff report for Local Trust Committees on RAR implementation. This model will now be used by Island Planners to request Local Trust Committee consideration of bylaw amendments to facilitate appropriate development permit area designations as soon as possible.

ATTACHMENT: No

FOLLOW-UP: DLPS will;

1. monitor and report upon the completion of legislative action to fully implement the RAR in the Local Trust Areas;
 2. in collaboration with the Vancouver Island Region of MoE, expedite the final categorization of all “unverified” watersheds in the Islands Trust Area; and
 3. in collaboration with the Lower Mainland Region of MoE, expedite the designation of watersheds falling under the RAR in the Gambier Local Trust Area.
-

PREPARED BY: Mac Fraser, DLPS**REVIEWED BY EXECUTIVE COMMITTEE:****SUBMITTED BY:** Mac Fraser, DLPS**REVIEWED BY:** _____
(Chief Administrative Officer)**OTHER REVIEW:**

ISLANDS TRUST BRIEFING

DATE: February 7th, 2011

TOPIC: MINISTRY OF TRANSPORTATION LETTER OF AGREEMENT 1992

DIRECTED TO: Local Planning Committee

CONFIDENTIAL: No

DESCRIPTION OF ISSUE: To re-establish staff-to-staff meetings between the Ministry of Transportation and Infrastructure as the first step in fulfilling the Islands Trust's obligations under the 1992 Letter of Agreement between the two organizations.

BACKGROUND: A Ministry of Transportation and Islands Trust Letter of Agreement was signed in October 1992, shortly after the Islands Trust was granted enhanced authority to regulate land use planning, with the intent of defining mutual responsibilities with respect to the following:

- an ongoing consultative process;
- agreement to road standards and classifications for new roads and major upgrades of existing roads; and
- to establish a procedure for the designation of scenic/heritage roads and bicycle route plans.

The intent of the ongoing consultative process was to

... foster common understanding and hereby agree to facilitate the process by arranging meetings between respective staff and Local Trust Committees as required.

The Agreement calls for the following actions to achieve the ongoing consultative process:

- an annual meeting of Ministry and Islands Trust staff held in the Fall to review any current issues;
- routine exchange of information regarding specific concerns;
- the establishment of Islands Trust Local Advisory Transportation Committees to make recommendations to the LTCs and the Ministry as specific issues arise and to assist in the development of bicycle route and Heritage/Scenic route plans;
- jointly reviewing the road classification networks and road standards every five years;

- discussion in 1992 and 1993 of bicycle routes and Heritage/Scenic route designations; and
- the Ministry routinely consulting with the Islands Trust prior to upgrading of designated Heritage/Scenic routes

The existing road standards and classifications for new roads and major upgrades of existing roads are considered to be generally acceptable in that rural road standards have changed little in the past 35 years.

The designation of scenic/heritage roads and bicycle route plans has not been completed despite a commitment in the Letter of Agreement to do so by September 1993. The original protocol was augmented in 1996 with an addendum that provided technical and procedural detail with respect to subdivision of lands but did not address the outstanding detail for scenic/heritage roads and bicycle route plans.

DISCUSSION

On January 21st, 2011 the DLPS met with Dave Edgar, MoTI Regional Transportation Planner, and came to a consensus on the following items:

- the timing of an annual Fall staff-to-staff meeting remains valid and a specific date should be confirmed shortly;
- the specific maintenance issues noted by the DLPS will be passed on MoTI to operational staff;
- the routine exchange of information on an as needed basis seems to be functioning well by way of the existing referral system;
- the timing of a review of the road classification networks and road standards should be part of the staff-to-staff Fall meeting in 2011;
- the designation of Heritage/Scenic routes and bicycle routes should be detailed and confirmed in each of the Official Community Plans of the Islands Trust (after the normal referral to MoTI as part of an OCP review) rather than through a detailed and complex appendix to the Letter of Agreement. This would allow the entire Letter of Agreement to be reviewed on a five year basis with an expectation that the review of road classification networks and road standards would usually be the only area of possible revision. The further review of relevant changes to all the Islands Trust OCPs at the annual staff-to-staff Fall meeting would allow MoTI to be informed without having to amend the Letter of Agreement; and
- the criteria for a Heritage/Scenic route and bicycle routes should be reviewed at the Fall 2011 staff-to-staff meeting.

ATTACHMENT: nil

FOLLOW-UP: DLPS will;

1. coordinate a staff-to-staff meeting with MoTI for Fall 2011 to;
 - a. schedule a subsequent review of the road classification networks and road standards;
 - b. discuss a draft amendment to the Letter of Agreement to state the general criteria for Heritage/Scenic routes and bicycle routes and that details for each Local trust Area will be confirmed in each of the Islands Trust OCPs; and
2. Present a draft completed Letter of Agreement to the Local Planning Committee immediately after the Fall 2011 staff-to-staff meeting.

PREPARED BY: M. Fraser, DLPS

SUBMITTED BY: M. Fraser, DLPS

**ISLANDS TRUST
REQUEST FOR DECISION**

DATE: February 7, 2011

TO: Trust Council

Target Decision Date: March 9, 2011

**SUBJECT: MONITORING COSTS OF LTC CONSERVATION COVENANTS AND
DEVELOPMENT PERMITS (LOCAL PLANNING COMMITTEE
REQUEST)**

RECOMMENDATION: That

- 1. Islands Trust Council endorses the program of using a rent charge to recover costs of monitoring conservation covenants for use by local trust committees.**
- 2. Local Trust Committees be provided with this briefing of the covenant monitoring program and be advised of the implications of committing to any monitoring requirements.**
- 3. Options be developed for the monitoring of development permits as a separate analysis.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS: The Islands Trust Council's Strategic Plan includes a strategy to "monitor and enforce LTC conservation covenants". Council also has a policy indicating that conservation covenants must be regularly monitored and the costs of such monitoring should be born by the LTC or by the party granting the covenant. This decision would endorse a procedure to provide for monitoring costs when new conservation covenants are negotiated. The procedure would not apply to existing covenants.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:

Local Planning Services staff will negotiate with applicants who are asked to grant new conservation covenants to provide for a rent charge to provide for monitoring costs of such covenants.

Administrative Services staff will be required to invoice and collect funds for covenant monitoring and follow up on any delinquent rent charge payments.

Staff time to be allocated, as work program priorities and available staff resources allow, to develop options for the monitoring of development permits.

FINANCIAL:

Annual rent charge payments provide funding to cover costs of monitoring of conservation covenants granted to local trust committees, that are currently not funded other than as available by local trust committee expense accounts.

Some legal costs may be incurred to address delinquent payments but measures to mitigate such costs can be initiated through use of small claims court actions and batching of claims.

POLICY:

Conservation covenant monitoring is consistent with Trust Policy 5.3.v “Best Practices for Local Trust Committee in Holding Conservation Covenants” which provides that where a conservation covenant is developed as part of an agreement related to development approval, the costs of monitoring should be borne by the development applicant, or through LTC local expense account, if consistent with policy. Covenants may also be held jointly with third parties but this does not assume that the third party will cover any monitoring costs.

IMPLEMENTATION/COMMUNICATIONS:

Local Trust Committees may wish to explore options as part of their application procedures to communicate the recommendations outlined in this report to prospective applicants to address monitoring costs for conservation covenants. The development of a Conservation Covenant Guide is an example of work that could be undertaken by individual LTCs or a model guide template could be developed for use by LTCs.

OTHER:

A failure to monitor a conservation covenant can create grounds that could lead to a discharge of the covenant. The use of a rent charge tool for purpose of recovering costs of monitoring is novel in application and is not immune from potential challenge.

The imposition of a regular rent charge is unique. Property owners are familiar with annual payments associated with property taxation, but a rent charge would be a distinct and unique financial obligation. Current and future property owners would have to be advised of the additional financial obligation and provided with reasoning for such costs.

BACKGROUND

REPORT/DOCUMENT: Draft template covenant attached.

Conservation Covenants

Local Planning Committee initiated a review of issues related to recovery of costs for monitoring of conservations covenants granted to Local Trust Committees and explored options for such recovery.

When an applicant grants a conservation covenant, the covenant includes a base line analysis from which to measure and an outline of the conservation obligations. The covenant will usually include a statutory right of way that will allow the Local Trust Committee or its appointee to enter the site on an annual basis (or such other frequency as is agreed to) to confirm that the applicants have complied with their conservation obligations. There are costs associated with such monitoring.

The concept of using a rent charge as part of a conservation covenant to recover monitoring costs is proposed. Recently Local Planning Committee received a copy of an academic paper titled “Monitoring Development Permits and Restrictive Covenants on Salt Spring Island. The paper examined the benefits of ongoing monitoring.

When an applicant is granted a development permit, the applicant may have time frames within which to complete development. The applicant may have also been required to provide a security to address certain obligations. The security is either refunded upon confirmation of compliance with the Permit or is used by the Local Trust Committee to complete the obligations of the Permit. Monitoring is required to assess such compliance.

Secondly Development Permits impose an obligation upon a property owner that is ongoing and may require ongoing actions to achieve compliance (e.g. maintenance of landscaping requirements). Current Islands Trust practices for monitoring of development permits arise basically by opportunity as staff resources are available. There is no formal program in place at present for monitoring. Planning staff may visit a development permit site while on an island to confirm compliance. In certain instances expert opinion may be required to assess such compliance that planning staff are not able to provide directly.

KEY ISSUE(S)/CONCEPT(S):

The following is with reference to the attached conservation covenant template and the use of rent charges for cost recovery:

- Base line information – Clause 6 – 7 of the template outlines requirements for baseline information which is essential in covenant monitoring as a basis to measure any changes that may occur from the date that the covenant is granted.
- Statutory right of way – Clause 8 grants a right for access to monitor the terms of the covenant at least once per calendar year (can be adjusted based requirements of what is to be protected) at a time agreeable to both parties and at other times as conditions may warrant (emergencies or with 72 hour notice)
- Rent Charges – Clauses 10 to 20 address enforcement remedies and options. Rent charges are used in accomplish two objectives and two separate rent charges are established for these purposes:
 - a. An annual rent charge of \$200 is payable to cover monitoring costs which is an amount that may cover most situations. (The amount may vary depending upon what is to be monitored and what costs are incurred to monitor what is to be conserved). In order to limit administrative costs but still address inflation over time, this charge remains fixed for a ten year period and is then adjusted based upon Statistics Canada Consumer Price Index (CPI).
 - b. A rent charge that is not payable unless there is a violation and the owner has not corrected the violation. This rent charge is in essence a punitive charge that is not exercised as long as there is compliance with the terms of the covenant. This rent charge also is adjusted by the CPI and in addition it is increased by 110% of the market value of any timber or other flora, mineral, rock, gravel, soil, mineral or other material harvested or removed from the Land in contravention covenant..
- Administration – An administrative system is required to invoice and collect costs. Given there are relatively few conservation covenants granted at this time and procedures would only be

applicable to new covenants, administrative impacts are minimal. If the volume of such covenants increases significantly, a review of administrative implications may be warranted.

- Priority agreements – Priority Agreements are normally required in any Islands Trust covenant to insure that a rent charge is a priority over any other financial obligations. Clause 36 provides for a priority agreement but clause 15 has been added to allow an LTC to waive its entitlement to the Rent Charge as against any mortgagee that has commenced foreclosure proceedings or otherwise realizes against security on the property. This should alleviate concerns by a financial interest that might preclude a conservation covenant from being granted, at the discretion of the LTC.
- Valuation of Rent Charge – A fixed charge is proposed in the template covenant. An LTC can establish a fixed amount for all covenants or can vary the amount based upon the work required to monitor the particular values that are to be conserved.

RELEVANT POLICY:

Trust Policy 5.3.v “Best Practices for Local Trust Committee in Holding Conservation Covenants” states the following under section D2, “Regular Monitoring and Landowner Contact” - “Best Practices”:

“Regular monitoring of conservation covenants and contact with landowners affected by conservation covenants is critical to the enforceability of the covenant. Before entering into conservation covenants, local trust committees must ensure that arrangements are in place for on-going regular (preferably annual) monitoring and reporting by a qualified third party regarding the state of the protected values. Arrangements must include the production of a regular report by a qualified third party and a written record that documents the property owner’s knowledge of and compliance with the conservation covenant. Regular monitoring reports should be consistent with the guidelines in Chapter 11 of Hillyer and Atkins (2005). Local trust committees should ensure that funds or staff time are in place to ensure regular monitoring, and if necessary, an endowment is received for this purpose.

A local trust committee may hold a covenant jointly with another party that has the responsibility to monitor and enforce, and if so, these responsibilities must be clearly expressed in the wording of the covenant. A local trust committee must ensure that the joint covenantee has the ability to undertake regular monitoring and that appropriate assignment clauses are in place in the event of the dissolution of the joint covenantee.

The Trust Fund Board monitors its conservation covenants annually and has developed a template for this purpose. It will consider requests to monitor conservation covenants held by others, including local trust committees, provided costs are covered and sufficient information is provided (see related policy referenced above).

Section D.6 then states:

“In cases where a conservation covenant is developed as part of an agreement related to a development approval, the costs of developing, reviewing, registering and monitoring the conservation covenant should be borne by the development applicant, or through the local trust committee’s local expense fund, if consistent with Island Trust Policy 4.1.xiii (Guidelines for Local Trust Committee Sponsored or Initiated Development Applications).”

STRATEGIC PLAN:

- Consistent with strategy to “Monitor and Enforce LTC Conservation Covenants”.

DESIRED OUTCOME:

- To provide for an effective funded program to monitor conservation covenants that are granted to local trust committees to achieve conservation objectives and to protect the covenant obligations from discharge.

RESPONSE OPTIONS

Recommended:

That

1. Islands Trust Council endorses the program of using a rent charge to recover costs of monitoring conservation covenants for use by local trust committees.
2. Local Trust Committees be provided with this briefing of the covenant monitoring program and be advised of the implications of committing to any monitoring requirements.
3. Options be developed for the monitoring of development permits as a separate analysis.

Alternatives:

That

1. Islands Trust Council seeks further information regarding the implications of using rent charges as a cost recovery mechanism; or

That

1. Islands Trust Council requests review of Trust policy 5.3.v regarding the costs of covenant monitoring being borne by the development applicant and requests staff report back on the implications of funding such a program through general tax revenues.

PREPARED BY: Brodie Porter
Island Planner

SUBMITTED BY: Local Planning Committee

REVIEWED BY: _____
(Chief Administrative Officer)

REVIEWED BY EXECUTIVE COMMITTEE:

February 21, 2011

OTHER REVIEW:

Mac Fraser, Director of Local Planning
Services

COVENANT TEMPLATE

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office use)

Page 1 of 22 Pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)

(LEGAL DESCRIPTION)

~~

~~

~~

~~

3. NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

See Schedule

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

—

D.F. No.

(b) Express Charge Terms

X

Annexed as Part 2

(c) Release

—

There is no Part 2 of this Instrument.

A selection of (a) include any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

~~ [as to Covenant and SRW]; ~~ [as to Priority]

6. TRANSFEREE(S): (including postal address(es) and postal code(s))*

LOCAL TRUST COMMITTEE, Suite 200, 1627 Fort Street, Victoria, B.C. V8R 1H8

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1

Page 7

7. ADDITIONAL OR MODIFIED TERMS:*

N/A

8. EXECUTION(S):**This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature

Execution Date

Transferor Signature

Y M D

2011 ____

~~ by its authorized
signatory(ies):

Name:

Name:

(as to both signatures)

Transferee Signature

LOCAL
TRUST COMMITTEE, by its
authorized signatory(ies):

Chair:

CAO:

(as to both signatures)

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Page 8

8. EXECUTION(S):**This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature

Execution Date
Y M D

Party(ies) Signature

Name of Officer

2011 ____ ____

~~ by its authorized
signatory(ies):

Name:

Name:

LAND TITLE ACT
FORM E
SCHEDULE

Page 9

Enter the required information in the same order as the information must appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

3.	NATURE OF INTEREST:* Description	Document Reference (page and paragraph)	Person Entitled to Interest
	S. 219 Covenant	Entire Agreement	Transferee
	Statutory Right of Way	Page ____, Section 8	Transferee
	Rent Charge	Page ____, Sections 13 and 14	Transferee
	Priority Agreement granting Covenant ____, SRW _____, and Rent Charge _____ priority over Mortgage ~~	Page ____	Transferee

TERMS OF INSTRUMENT - PART 2
SECTION 219 CONSERVATION COVENANT

THIS AGREEMENT dated for reference _____, 20__ is
BETWEEN:

(the "Owner")

AND:

_____ LOCAL TRUST COMMITTEE, a Local Trust
Committee under the *Islands Trust Act*, having a mailing
address of Suite 200, 1627 Fort Street, Victoria, B.C. V8R
1H8
(the "LTC")

GIVEN THAT:

- A. The Owner is the owner in fee simple of the land located on _____ Island, British Columbia, and legally described as:

PID: ●, ●
(the "Land");

- B. The Land contains a [environmentally significant/riparian] area of great importance to the Owner, the LTC and the public, and the Owner wishes to grant a covenant under s.219 of the *Land Title Act* (British Columbia), including a rent charge under s.219(6) payable by the Owner and the Owner's successors in title, and a statutory right of way under s.218 of the *Land Title Act*, in order to protect and conserve that area as described in this Agreement; and

- C. The statutory right of way granted by this agreement is necessary for the operation and maintenance of the LTC's undertaking.

This Agreement is evidence that in consideration of the payment of \$2.00 by the LTC to the Owner (the receipt and sufficiency of which is acknowledged by the Owner), and in consideration of the promises exchanged below, the Owner covenants and agrees as follows with the LTC in accordance with ss. 218 and 219 of the *Land Title Act*:

Interpretation and Definitions

1. The Owner and the LTC agree that the intent of this Agreement is to ensure that the Conservation Zone is protected, preserved and kept in its natural state as of the reference date of this Agreement, and the Owner and the LTC agree that this Agreement is to be interpreted, performed and applied accordingly.

2. In this Agreement:

- (a) "Conservation Zone" means that part of the Land which is contained within heavy black line on the Explanatory/Reference Plan of prepared by _____,

B.C.L.S. on _____, 20____, and deposited in the Victoria Land Title Office under number _____, a copy of which is attached hereto as Schedule “A”;

- (b) “enactment” has the meaning given in the *Interpretation Act* (British Columbia);
- (c) “Remainder” means that part of the Land outside the Conservation Zone; and
- (d) “Report” means the baseline documentation report prepared by a Registered Professional Biologist that: describes the Conservation Zone in the form of text, maps, photographs, and other records of the Conservation Zone and the natural, environmental, wildlife, vegetation and plants, and streams and wetland amenities located in and on the Conservation Zone as of [insert Report Date], a copy for which is on file with the LTC; of which a [copy/overview] is attached as Schedule “B”.

No Disturbance Or Alteration of the Conservation Zone

3. The Owner covenants and agrees with the LTC that the Conservation Zone must be protected, preserved and conserved, including by strictly adhering to the following non-exhaustive conditions:

- (a) no component of the Land within the Conservation Zone, including soil, gravel or rock, may be disturbed, explored for minerals, moved or removed from the Conservation Zone; [delete “including soil, gravel or rock” and “explored for minerals” if title to property shows mineral exploration right]
- (b) subject to ss. 4 and 5, no living or dead tree, which in this section includes bushes and shrubs, or other plant life on the Conservation Zone, may be trimmed, pruned, cut down, damaged, destroyed, moved, harvested or removed from the Conservation Zone;
- (c) no herbicides, insecticides or pesticides may be applied or introduced on or to the Conservation Zone;
- (d) there may be no alteration or interference with the hydrology of the Conservation Zone, unless the Owner receives the prior written consent of the LTC;
- (e) the Conservation Zone must not be polluted or contaminated by any matter;
- (f) there may be no interference with, or alteration of, any wetland or body of water in the Conservation Zone;
- (g) no fixtures or improvements, including buildings or other structures, may be built, affixed or placed on the Conservation Zone, and no motor vehicles may travel over or park within the Conservation Zone;
- (h) no road, trail, path or other way may be laid out or constructed in the Conservation Zone;

- (i) without limiting s. 3(e), no fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the Conservation Zone may be deposited in or on the Conservation Zone;
- (j) no hunting, fishing, commercial gathering or grazing of domesticated animals may be carried out in the Conservation Zone; and
- (k) no other acts may be carried out on or in respect of the Conservation Zone which, in the opinion of the LTC, acting reasonably, may have a detrimental impact on the Conservation Zone.

Habitat Enhancement Activities

4. Despite s. 3, the LTC agrees that activity necessary for fish or wildlife habitat protection, preservation, conservation, restoration or enhancement may be undertaken in the Conservation Zone, but only with the prior written consent of the LTC.

Exception For Risk To Humans or Property

5. Despite the rest of this Agreement,

- (a) if any living or dead tree on the Land poses a threat to the safety of those on or immediately adjacent to the Land by its falling or fire, that tree may be cut down or trimmed with the prior written consent of the LTC, not to be unreasonably withheld, so as to remove the risk, but the Owner and the LTC agree that unless it would, in the LTC's reasonable opinion, constitute a fire hazard, the cut tree or trimmings must be left on the Land so that natural processes can occur, and
- (b) the Owner may cut down or trim any living or dead tree on the Land without the consent of the LTC in an emergency situation, such as a fire or imminent threat to human safety, but the Owner must promptly advise the LTC of the Owner's actions.

Baseline Documentation Report

6. The parties acknowledge and agree that the Report will serve as an objective information baseline to enable the parties to monitor compliance with the terms of this Agreement, and the parties agree that the Report provides an accurate description of the Land and the Conservation Zone, including natural, environmental, wildlife, vegetation and plants, and streams and wetland amenities located in and on the Conservation Zone, as of the date of this Agreement.

7. The parties acknowledge and agree that the flora and fauna on the Conservation Zone will evolve through natural succession over time and, unless otherwise expressly stated, references to the Report are intended to take into account the natural flow of the sea and the succession of the flora and fauna over time, without human intervention on the Conservation Zone other than as expressly permitted by this Agreement.

Statutory Right of Way

8. In accordance with s. 218 of the *Land Title Act*, the Owner grants to the LTC the statutory right of way for the LTC to enter, leave and be on the Land:

- (a) to inspect the Conservation Zone:
 - (i) at least once each calendar year, with the date for each inspection to be agreed upon by the parties, but if the parties cannot agree on a date the LTC is entitled to enter upon and inspect the Conservation Zone in accordance with s. 8.1(a)(ii); and
 - (ii) at all other reasonable times upon prior notice by the LTC to the Owner of at least seventy-two (72) hours, unless there is an emergency or potential threat to the Conservation Zone which does not make giving such notice practicable;
- (b) as part of inspection of the Conservation Zone, to take samples, photographs and video recordings as may be necessary to monitor compliance and enforce the terms of this Agreement;
- (c) to protect, preserve, conserve, maintain, enhance, restore or rehabilitate at the LTC's expense and in accordance with the provisions of this Agreement, the natural state of the Conservation Zone to as near the condition described in the Report as is practicable if an act of nature or human agency, beyond the Owner's reasonable control, destroys, impairs, diminishes or negatively affects or alters the Conservation Zone from the condition described in the Report;
- (d) to protect, preserve, conserve, maintain, enhance, restore or rehabilitate, at the Owner's expense and in accordance with the provisions of this Agreement, the Conservation Zone to as near the condition described in the Report as is practicable if an action of the Owner or any other person acting with the actual or constructive knowledge of the Owner:
 - (i) destroys, impairs, diminishes, or negatively affects or alters the Conservation Zone from the condition described in the Report; other than as expressly allowed in this Agreement; or
 - (ii) contravenes any term of this Agreement;
- (e) to carry out or evaluate, or both, any program agreed upon among the parties for the protection, preservation, conservation, maintenance, enhancement, restoration or rehabilitation of all or any portion of the Conservation Zone;
- (f) to place pegs or other similar markings on the ground of the Conservation Zone; and
- (g) for any purpose necessary to monitor, implement or enforce this Agreement.

For clarity, the LTC may bring workers, vehicles, equipment and other personal property onto the Land when exercising its rights under this Agreement.

LTC May Perform Obligations Of Owner

9. If the Owner has breached any of its obligations under this Agreement, the LTC may in its sole discretion enter the Land and perform the obligation at the expense of the Owner. The cost to the LTC of performing the obligation is a debt due and owing by the Owner to the LTC, with interest accruing on that debt at the annual rate of interest that is equal to 3% above the annual rate prime rate of interest charged from time to time by the Bank of Montreal at its main branch in Vancouver, BC, being the annual rate of interest charged by it for Canadian dollar demand commercial loans extended to its most credit-worthy customers. The LTC may exercise its rights under this section only if the Owner has not cured the breach in question within 45 days after notice to do so is given to the Owner by the LTC. Exercise by the LTC of its rights under this section does not limit, or prevent the LTC from enforcing, any other remedy or right the LTC may have against the Owner.

Enforcement Remedies of the LTC

10. If the LTC, in its sole discretion, believes that the Owner has neglected or refused to perform any of the obligations set out in this Agreement or is in breach of any provision of this Agreement, the LTC may serve on the Owner a notice setting out particulars of the breach together with an estimate of the maximum costs of remedying the breach.

11. The Owner shall have 60 days from receipt of such notice to remedy the breach or make arrangements satisfactory to the LTC giving notice for remedying the breach.

12. If the Owner does not remedy the breach within a reasonable period of time, to the satisfaction of the LTC giving notice, the LTC may, but is not required to, enter upon the Land and carry out the Owner's obligations. Where the LTC carries out the obligations of the Owner, the Owner must reimburse the LTC for any expenses incurred, up to the estimated maximum costs of remedying the breach set out in the notice. Such costs, until paid, constitute a debt owed by the Owner to the LTC, recoverable by all remedies available to a creditor in respect of a debtor.

Rent Charge

13. As security for the performance of the Owner's obligations under this Agreement, the Owner grants to the LTC in perpetuity a Rent Charge, which Rent Charge shall be the absolute property of the LTC in fee simple and issue and be payable from the Land without any set-off or deduction. The Rent Charge is granted both under s. 219 of the *Land Title Act* as an integral part of the statutory covenant created by this Agreement and as a fee simple rent charge at common law.

14. The Rent Charge secures payment to the LTC of:

- (a) \$200 per calendar year, on account of the LTC's costs for performing annual monitoring of the Conservation Zone, subject to adjustment under s. 17(a). This Rent Charge amount is due to the LTC on June 1 of every calendar year; and
- (b) \$15,000 as a partial remedy for each violation of this Agreement occurring within that year, subject to adjustment under s. 18(a). The obligation of the Owner to pay this Rent Charge amount is suspended and deferred so long as the Owner is

not in breach of this Agreement, or is diligently working to cure the breach in accordance with s. 11 of this Agreement.

15. The Rent Charge shall rank in priority to all financial charges and encumbrances burdening or charging the Land. The LTC agrees to waive its entitlement to the Rent Charge as against any mortgagee that has commenced foreclosure proceedings or that otherwise realizes against its security in the Land.

16. The LTC may exercise any and all remedies available at law or in equity for enforcement of the Rent Charge, and without limiting the foregoing may sue in debt and levy distress against the Land.

17. **Annual Rent Charge for Monitoring Costs:**

- (a) The Rent Charge amount specified in s. 14(a) shall be adjusted on January 1 of tenth anniversary year of the date following that in which this Agreement is executed, by increasing or decreasing, as the case may be, the Rent Charge Amount by the amount determined by multiplying the Rent Charge amount on December 31 immediately preceding by the percentage increase or decrease, as the case may be, in the CPI between the previous January 1 nine years prior and that December 31, and adding the amount so determined to the Rent Charge amount as it stands on that December 31. If Statistics Canada or its successor in function ceases to publish a CPI or comparable indicator as determined by the LTC in its sole discretion, the parties agree that the factor to be used in determining the Rent Charge Amount for each year shall be 3% increase. The adjusted Rent Charge amount will be applicable for the following ten-year term.
- (b) The LTC will make reasonable efforts to inform the Owner of each tenth anniversary adjustment of the Rent Charge amount for annual monitoring costs, by giving written notice to the Owner, in accordance with section 31, in advance of the day such amount is due.

18. **Rent Charge for Violation:**

- (a) If the LTC wishes to enforce the penalty Rent Charge specified in s. 14(b), it shall provide notice to that effect to the Owner. This notice may be given at any time after notice is given under s. 10.
- (b) The Rent Charge amount specified in s. 14(b) shall be adjusted on January 1 of each year beginning in the year following that in which this Agreement is executed, by increasing or decreasing, as the case may be, the Rent Charge Amount by the amount determined by multiplying the Rent Charge amount on December 31 immediately preceding by the percentage increase or decrease, as the case may be, in the CPI between the previous January 1 and that December 31, and adding the amount so determined to the Rent Charge amount as it stands on that December 31. If Statistics Canada or its successor in function ceases to publish a CPI or comparable indicator as determined by the LTC in its sole

discretion, the parties agree that the factor to be used in determining the Rent Charge Amount for each year shall be 3% increase.

- (c) For clarity, the Rent Charge amount in s. 14(b) will only be due upon the Owner being in breach of the Agreement. The Rent Charge of \$15,000 shall forthwith become due and payable by the Owner to the LTC, and the Rent Charge shall thereafter accrue so long as the breach continues, to a maximum of \$60,000, and shall be paid on demand.
- (d) The Rent Charge specified in s. 14(b), as adjusted pursuant to s. 18(b), shall be increased by 110% of the market value of any timber or other flora, mineral, rock, gravel, soil, mineral or other material harvested or removed from the Land in contravention of this Agreement.

LTC's Right to Specific Relief

19. Notwithstanding anything in this Agreement, the Owner agrees that the LTC is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement. The Owner agrees that this section is reasonable given the public interest in the need for effective protection of the Land from breaches of this Agreement.

20. No reference to or exercise of any specific right or remedy by the LTC in enforcing the Rent Charge shall preclude, prejudice or limit the LTC from exercising any other remedy at law or in equity not expressly provided for in this Agreement. Without limiting the generality of the foregoing, the LTC may sue in debt for recovery of the Rent Charge. No remedy shall be exclusive or dependent on any other remedy, and the LTC may from time to time exercise any one or more of the remedies available to it independently or in combination.

Limitation on Owner's Obligations

21. The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner or which the Owner permits or allows. The Owner is not liable for the consequences of the requirements of any enactment or law or any order, directive, ruling or government action thereunder. The Owner is liable only for breaches which occur while the Owner is the registered owner of any part of the Land.

Release and Indemnity

22. The Owner irrevocably releases the LTC from, and waives, any claim, right, remedy, action, cause of action, loss, damage, expense or liability which the Owner may have against it in respect of this Agreement or its performance or breach.

23. The Owner hereby indemnifies and saves harmless the LTC, its officers, employees, contractors and agents at all time from all loss, damages, actions, suits, claims, demands, costs, expenses, fines and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the LTC shall or may become liable, incur or suffer by reason of any injury to person or loss or damage to property or economic loss arising directly or indirectly from any act or omission, negligent or otherwise, in the use, occupation and maintenance of the Land or the

Conservation Area by the Owner, its officers, employees, agents, contractors, licensees, invitees and others of the Owner.

24. The Owner agrees with the LTC that for the purposes of the *Occupier's Liability Act* (British Columbia), all other enactments and the common law, the Owner is, as between the Owner and the LTC, the sole occupier of the Land.

No Obligations on LTC

25. The rights given to the LTC by this Agreement are permissive only and nothing in this Agreement imposes any duty of any kind on the LTC to anyone or obliges the LTC to perform any act or to incur any expense for any of the purposes set out in this Agreement. Where the LTC is required or permitted by this Agreement to form an opinion, exercise a discretion, make a determination or give its consent, the Owner agrees that the LTC is under no public law duty of fairness or natural justice in that regard and agrees that the LTC may do any of those things in the same manner as if it were a private party and not a public body.

Dispute Resolution

26. If a breach of this Agreement occurs or is threatened, or if there is disagreement as to the meaning of this Agreement, the LTC or the Owner may give notice to the other party requiring a meeting of the parties within 10 business days of receipt of the notice.

27. All activities on the Conservation Zone giving rise to a breach or a threatened breach shall immediately cease or be dealt with by the parties, upon receipt of notice.

28. The parties must attempt to resolve the matter, acting reasonably and in good faith, within 20 business days of meeting under s. 26.

29. If the parties are not able to resolve the matter within said time, the parties may agree to appoint a mutually acceptable person to mediate the matter and the parties must equally share the cost of the mediator and act reasonably and in good faith and cooperate with the mediator and with each other in an attempt to resolve the matter within 30 business days after the mediator is appointed.

30. These sections 26 through 29 do not affect the right of either party to pursue any other legal or equitable remedy in relation to a breach or a threatened breach or a disagreement as to the meaning of this Agreement or part thereof.

Notice

31. Any notice to be given pursuant to this agreement must be in writing and delivered personally or sent by pre-paid express mail. The addresses of the parties for the purpose of notice are the addresses on the first page of this agreement and in the case of any subsequent Owner, the address will be the address shown on the title to the Land in the Land Title Office. If notice is delivered personally, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is sent by mail, it will be

considered given 5 days after mailing. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice for the purposes of this agreement must do so by delivery as provided in this section. A party may change its address for the purposes of this section by giving notice in accordance with this section.

No Effect On Laws or Powers

32. This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the LTC under any enactment or at common law, including in relation to the use or subdivision of the Land,
- (b) affect or limit any enactment relating to the use or subdivision of the Land, or
- (c) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

Covenant Runs With the Land

33. Unless it is otherwise expressly provided in this Agreement, every obligation and covenant of the Owner in this Agreement constitutes a personal covenant and a covenant granted under s. 219 of the *Land Title Act* in respect of the Land. This Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated.

No Effect on Property Taxation

34. Nothing in this Agreement of itself affects any obligation of the Owner to pay all property taxes, rates, charges and levies payable under any enactment on or in respect of the Land.

Modification, Discharge or Abandonment

35. The Owner agrees that this Agreement is intended to be perpetual in order to protect the Land as set out in this Agreement. In view of the importance of protecting the Land for ecological and other reasons, the Owner agrees not to seek a court order modifying, discharging or extinguishing this Agreement under the *Property Law Act* (British Columbia), any successor to that enactment, any other enactment or the common law.

Registration

36. The Owner shall, at the Owner's expense, do or cause to be done all acts reasonably necessary to register this agreement against title to the Land with priority over all financial charges, liens and encumbrances registered or pending registration at the time of application for registration of this agreement against the title to the Land.

Waiver

37. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

No Liability in Tort

38. The parties agree that this agreement creates only contractual obligations. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract.

Severance

39. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

No Other Agreements

40. This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

Further Assurances

41. The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.

Enurement

42. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

Deed and Contract

43. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

PRIORITY AGREEMENT

No. _____ (the "Chargeholder") being the holder of Mortgage
No. _____ (the "Charge")

The Chargeholder, in consideration of the premises and the sum of One Dollar (\$1.00) now paid to the Chargeholder by the Transferee, hereby approves of, joins in and consents to the granting of the within Agreement (containing a s. 219

covenant, s. 218 statutory right of way, and rent charge) and covenants and agrees that the same shall be binding upon its interest in or charge upon the Lands and shall be an encumbrance upon the Lands prior to the Charge in the same manner and to the same effect as if it had been dated and registered prior to the Charge.

IN WITNESS WHEREOF the Chargeholder has executed this Agreement on Form D to which this Agreement is attached and which forms part of this Agreement.

Schedule “A” – Conservation Zone

Schedule “B” – Biologist Report

END OF DOCUMENT

PRE-AMBLE

A Request For Decision on this subject was submitted to the Trust Council meeting of September 2010 and the extract of the meeting minutes for the subject are as follows;

Resolution TC 162/10

It was Moved by Trustee Gary Steeves and Seconded:

That the Islands Trust Council approve the Islands Trust Policy 4.1.xii, Guidelines for Local Trust Committee Sponsored or Initiated Development Applications and revise Trust Policy 4.1.viii - Local Trust Committee Local Expense Account as submitted.

Following discussion, trustees expressed support for further work by staff on guidelines and recommendations in the policy prior to approving it.

On the Motion
OPPOSED
UNANIMOUSLY

Resolution TC 163/10

It was Moved by Trustee Tony Law and Seconded:

That the Islands Trust Council refer Islands Trust Policy 4.1.xii, Guidelines for Local Trust Committee Sponsored or Initiated Development Applications policy to the Local Planning Committee and the Executive Committee for further development.

On the Motion
CARRIED
UNANIMOUSLY

In respect of these motions the original RFD is submitted below to the Local Planning Committee for further development and subsequent submission to the Trust Council.

**ISLANDS TRUST
REQUEST FOR DECISION**

DATE: September 1, 2010

TO: Trust Council

Target Decision Date: September 15, 2010

SUBJECT: REVISIONS TO ISLANDS TRUST GUIDELINES FOR LOCAL TRUST COMMITTEE SPONSORED OR INITIATED DEVELOPMENT APPLICATIONS

RECOMMENDATION: THAT Trust Council approve the *Islands Trust Policy 4.1.xii, Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* and revise Trust Policy 4.1.viii - *Local Trust Committee Local*

Expense Account as submitted.

CHIEF ADMINISTRATIVE OFFICER COMMENTS: The proposed amendments will provide a positive perception of local trustee objectivity in the consideration of a sponsored development application and are thus supported by staff. Funding is already in place in the annual operating base budget to allow immediate implementation and the transition to a new related staff procedure will be easily completed.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: If the proposed policy revisions are approved, consideration of the sponsorship of development applications will be included in the proceedings of the tri-weekly Executive Committee meetings. Local Trust Committees will not be involved in this consideration and thereby able to remain totally objective in the consideration of the development application.

FINANCIAL: \$5,000 has already been allocated to the Executive Committee in the Islands Trust Fiscal Year 2010/2011 base budget for the sponsorship of eligible development applications in anticipation of the proposed policy change.

POLICY: Revisions to Islands Trust Policy 4.1.xiii – *Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* are the subject of this Request for Decision. A consequential amendment is required to Islands Trust Policy 4.1.viii - *Local Trust Committee Local Expense Account* to remove reference to use of the local expense account for payment of LTC sponsored development applications.

IMPLEMENTATION/COMMUNICATIONS: If the subject policies are revised, appropriate communications of those revisions will occur in accordance with normal administrative procedures.

OTHER: nil

BACKGROUND

The Executive Committee directed the Director of Local Planning Services to revise the *Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* policy to enable expenditures within the new \$5000 budget item for sponsorship of applications that was approved for the 2010-2011 fiscal year.

Under the current policy, there are two ways in which applicants may not have to pay for all of their application costs.

1. The first is sponsorship, in which under certain conditions, the local trust committee may pay up to half of the application fee. The conditions are set out in Section 3 of Policy 4.1.xiii but generally refer to non-profit organizations and

taxpayer funded organizations undertaking work of a community benefit; or anybody undertaking work of a community benefit as established in the OCP. The policy also establishes that a for-profit organization, any work that is not of a community benefit or the argument that the applicant cannot afford to pay the fee are not valid reasons for sponsorship.

2. The second is by a Local Trust Committee initiating the development application because the LTC either believes it made a mistake in the zoning or wishes to modify regulations to avoid or to reduce the number of variance applications.

The proposed amendment to Policy 4.1.xiii would substitute the Executive Committee as the sponsor of development applications eligible for sponsorship in-lieu of a Local Trust Committee (LTC). The primary rationale for this amendment is that the sponsorship of an application by a LTC gives a negative perception of support for an application when in fact trustees are required to maintain “an open mind” when considering applications. All LTCs do not have the means to financially sponsor applications without adversely affecting LTC operations.

For the current (Fiscal Year 2010/2011) Islands Trust Council has allocated \$5,000 in the base budget to the Executive Committee for the sponsorship of applications from any LTC.

If the proposed amendment is approved, a consequential amendment is required to delete C 2 a) vi) in Policy 4.1.viii, which currently states that disbursements typically include “Payment of LTC sponsored development applications (subject to authority provided in separate related policy)”.

If the proposed amendments are approved, Staff will develop internal procedures requiring that sponsorship applications to the Executive Committee be in writing; upon written application, Local Planning Staff will then forward requests for sponsorship via the Director, Local Planning Services to the Executive Committee, along with a RFD, background information and review of the criteria set out in Section 3 of the revised Policy to assist in the decision. From time to time, LTCs may be approached for sponsorship and in these situations the request will be re-directed to the Executive Committee via the Director of Local Planning Services.

Trust Council should be aware of the effects or potential effects of this amendment:

1. a positive outcome of this approach is that switching the decision on sponsoring applications from the LTC to the Executive Committee will help to safeguard a positive perception that the local trustees are maintaining an open mind in the consideration of the application;
2. applications involving bylaw amendments will require the approval of the Executive Committee and that by switching the sponsorship decision from the LTCs to the Executive Committee simply switches the perception issue as well; however, as the Executive Committee authority is limited and more removed, it is likely to be less of an issue than LTC sponsorship;
3. with a budget of \$5,000, Executive Committee will have limited ability to cover the cost of applications;
4. sponsorship requests occur at the time an application is made and therefore, Executive Committee may not be in a position to consider one application against

another but more likely will be considering each application on its own merits and its remaining available budget; the policy provides no direction on how to allocate limited sponsorship funds to applications between the LTCs (assuming this is or could be a concern).

Alternatives

The option provided is one method of addressing potential bias concerns with respect to the decision making process when considering sponsored development applications; however, the option does not completely remove this concern for bylaw amendments in which the concern could be transferred to the Executive Committee. Other alternatives to address this include:

1. transferring sponsorship to the Executive Committee but providing more direction and clarity on applications for sponsorship and criteria and procedures to be used for consideration of such applications; or
2. amending the policy to be more clear on the criteria for local trust committee sponsorship, including more clear wording on the definition of community amenities; or
3. making no changes to the policy and allowing local trust committees to continue to consider which applications in their community are suitable for sponsorship under the guidelines and with the limited funding available to them; or
4. removing the sponsorship option altogether in which case all applicants would be required to pay for their application regardless of whether or not they are non-profit or the application is considered a community amenity.

The proposed amended policies are enclosed as Appendix 1 and Appendix 2.

REPORT/DOCUMENT:

Appendix 1 – draft revisions to Trust Policy 4.1.xiii – *Guidelines for Local Trust Committee Sponsored or Initiated Development Applications*;

Appendix 2 – draft revisions to Trust Policy 4.1.viii - *Local Trust Committee Local Expense Account*

KEY ISSUE: Improvements to Trust Policy 4.1.xiii – *Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* and consequential amendments to Trust Policy 4.1.viii *Local Trust Committee Local Expense Account*

RELEVANT POLICY: Trust Policy 4.1.xiii – *Guidelines for Local Trust Committee Sponsored or Initiated Development Applications*; Trust Policy 4.1.viii - *Local Trust Committee Local Expense Account*

DESIRED OUTCOME: To consider the requested revisions to the subject policies.

RESPONSE OPTIONS

Recommended: THAT Trust Council revise *Islands Trust Policy 4.1.xii, Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* and revise Trust Policy 4.1.viii - *Local Trust Committee Local Expense Account* be approved as submitted.

Alternatives:

1. THAT the revised *Islands Trust Policy 4.1.xii, Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* as submitted be forwarded to the Executive Committee for further development;
2. THAT revisions to *Islands Trust Policy 4.1.xii, Guidelines for Local Trust Committee Sponsored or Initiated Development Applications* proceed no further

PREPARED BY: David Marlor, RPM

SUBMITTED BY: Mac Fraser, DLPS

REVIEWED BY: Linda Adams
(Chief Administrative Officer)

REVIEWED BY EXECUTIVE COMMITTEE:

September 1, 2010

OTHER REVIEW:

Appendix 1



Policy Manual

Code: 4.1.xiii

Date: May 2004 Date Approved June 10, 2004

Title: Guidelines for Executive Committee Sponsored or Local Trust Committee Initiated Development Applications

Approved By: Trust Council Last Updated: September 15, 2010

PURPOSE:

To clarify the circumstances when it is appropriate for a committee to sponsor or initiate a property-specific development application.

Note: This policy does not apply to general changes to Official Community Plan policies or zoning regulations that would apply to many properties and that are initiated by a local trust committee as part of a general review of policies or regulations.

DETAILS:

Definitions:

- **Executive Committee Sponsored Application** – means when the Executive Committee assumes sponsorship of a development application for a specific property or properties and pays the appropriate fee on behalf of an applicant.
- **Trust Committee Initiated Application** – means when a local trust committee initiates a development application for a specific property or properties without fee on its own behalf or on behalf of a property owner.

Policy:

1. Development Applications
 - a) May include OCP & Zoning Bylaw Amendments, Development Permits, Development Variance Permits and Temporary Use Permits.
2. Covenants
 - a) Covenants are not considered development applications. If a covenant results from a development application approval condition, the costs of preparing the covenant are to be born by the applicant.
3. Conditions **appropriate** for Executive Committee **sponsorship** of a property-specific development application are:
 - a) When the applicant is a non-profit agency or organization seeking to establish, expand or modify a facility for the benefit of the community at large and consistent with goals in the OCP.
 - b) When the applicant is an established or establishing institution supported by taxpayers that is seeking to establish, expand or modify a community facility. In this instance, the Executive Committee may consider sponsorship of up to one half of the costs of the application.
 - c) When the applicant seeks to implement specific objectives of an OCP with broad community benefits such as the development of affordable or special needs housing.
4. Conditions **not appropriate** for Executive Committee **sponsorship** or local trust committee **initiation** of a property-specific development application include:
 - a) When the applicant is a registered for-profit corporation under the *Corporations Act*.
 - b) When the applicant is a non-profit agency or organization seeking to establish, expand or modify a facility that would not benefit the community at large.
 - c) When an applicant claims that he or she cannot afford the cost of the application, and the application would not otherwise qualify for sponsorship or initiation.
5. Conditions **appropriate** for a local trust committee **initiated** development application on a specific property or properties.

- a) Where a local trust committee has made an error (e.g. as part of a bylaw consolidation) in assigning an appropriate designation or land use regulation to a specific property and moves to correct the error.
 - b) Where a local trust committee wishes to modify an existing land use regulation on a specific property or properties as an alternative to entertaining a host of development variance applications that it believes are appropriate.
6. Where the Executive Committee wishes to **sponsor** a property-specific application, the costs of the relevant application fees will be charged to the fund for the sponsorship of development applications that is allocated to the Executive Committee in the base budget following an appropriate resolution from the Executive Committee.
7. Initiation of a development application by a local trust committee does not fetter the discretion of the local trust committee when it makes decisions about the outcome of the application. Local trust committee members and staff must ensure that applicants and members of the public are fully aware of the distinction between a local trust committee's initiation of an application and the local trust committee's role in decision-making regarding that application.
8. Sponsorship by the Executive Committee for a development application that requires approval of the Executive Committee under s. 27 of the Islands Trust Act does not fetter the discretion of the Executive Committee. Executive Committee members and staff must ensure that applicants and members of the public are fully aware of the distinction between the Executive Committee sponsorship of an application and the Executive Committee role in decision making regarding that application.

4.1.viii. Policy & Procedure

LOCAL TRUST COMMITTEE LOCAL EXPENSE ACCOUNT

Trust Council: June 6, 1992

Amended: September 16, 2005; June 13, 2008; September 15, 2010

A: PURPOSE:

To define procedures for the planning, accounting and administration of Local Trust Committee (LTC) Local Expense account as provided for in the annual budget. Implementation of the policy will allow for independent management of and responsibility for the funds by the Local Trust Committee.

B: REFERENCES:

1. Annual Budget Document
2. *Islands Trust Act, S. 14*

C: POLICY:

1. Planning

- a) A funding allocation for each local trust committee (LTC) will be prepared at the beginning of every fiscal year, subject to the total amount approved in the Islands Trust budget;
- b) The allocation will be based on the pro-rata share of converted assessed values for each local trust area, adjusted as follows:
 1. the minimum local expense budget for an LTC is adjusted to \$3,000
 2. any adjustment required to bring the total of all LTC Local Expense budgets to the total amount approved by the Islands Trust Council shall be applied to the three highest local expense budgets in proportion to those budgets
 3. the resulting calculated amounts for each LTC shall be rounded to \$100 until the total result equals the total amount approved by the Islands Trust Council
- c) Local Expense funds may be enhanced through an internal transfer for funds from the LTC Trustee (Travel) Expense account. Similarly, funds may be transferred from Local Expenses to Trustee Expenses; and
- d) LTCs should prepare and adopt by resolution a detailed working budget that outlines the anticipated expenditures for the year.

2. Disbursement

- a) Disbursements must only be made as authorized by the *Islands Trust Act* and typically include the following:

- i) Advisory Planning Commission expenses (meeting and secretarial costs)
 - ii) LTC meeting costs including hall rental, external facilitation costs, and secretarial costs
 - iii) Local mail-outs and/or trustee newsletters
 - iv) Open house costs
 - v) Funding to outside organizations or individuals for goods or services that support the land use planning mandate of the LTC.
- b) Disbursements must be made in accordance with the budget allocation, be processed via the Trust's financial system, and comply with all financial policies and procedures, including use of purchase orders or service contracts where required, and appropriate approvals by the Treasurer and/or designate;
- c) Disbursements should be approved by a local trustee as authorization to charge the expense against the local expense account, however any disbursement over \$200 must be approved by resolution of the local trust committee;
- d) Expenditures under \$20 should be charged as a personal expenditure and will be reimbursed accordingly through an expense voucher submission; and
- e) Expenditures cannot exceed the annual budget allocation provided to each LTC by Trust Council. However, if an LTC anticipates extraordinary costs they should approach Executive Committee for a budget adjustment.

3. Reporting

- a) LTCs, via the Regional Planning Managers, will be provided with monthly expense summaries; and
- b) Trust Council will be apprised of the status of the overall Local Expense budget on a quarterly basis.

4. Responsibilities

- a) Trust Council is responsible for approving the annual LTC Local Expense budget allocation;
- b) The Treasurer is responsible for preparing the annual budget request; for calculating the distribution to LTC's, for ensuring that periodic reports are provided to LTCs, and for ensuring that all financial controls, policies and procedures are adhered to;
- c) Regional Planning Managers are responsible for coordinating LTC budget requirements and for assisting LTCs in the planning and disbursement of Local Expense funds; and
- d) Local Trust Committees are responsible for adopting a budget for the funds allocated to them, for spending funds according to that budget, and for ensuring that all planned disbursements are reported to the Trust's finance department.

**ISLANDS TRUST
REQUEST FOR DECISION**

DATE: February 8, 2011

TO: Trust Council

Target Decision Date: March 9, 2011

**SUBJECT: LPC PARTICIPATION IN DEVELOPMENT APPLICATION FEE
ANALYSIS PROJECT (LOCAL PLANNING COMMITTEE REQUEST)**

RECOMMENDATION: THAT the Trust Council establish a joint Task Force of the FPC and LPC to complete a review of development application fees and advise the Trust Council about an appropriate rate of fees at the September 2011 Trust Council meeting.

CHIEF ADMINISTRATIVE OFFICER COMMENTS: This recommendation would result in the establishment of a Task Force to review development application fees. Should the Task Force recommend changes to application fees, each Local Trust Committee would need to consider whether it wished to amend its Fees Bylaw before fees would actually change.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: The membership of the proposed Task Force would consist of trustees and existing management staff. Task force work may displace other priorities of the Financial Planning Committee and the Local Planning Committee, particularly if a significant amount of staff research is required to support the work of the Task Force.

FINANCIAL: The proposed Task Force would meet by teleconference and any expenses would be minimal and covered by the existing base budget.

POLICY: The Task Force would be established in accordance with Islands Trust policy 2.3.i.10.5 – (Council Committee System).

IMPLEMENTATION: The Task Force would meet as required by teleconference over a six month period and disband upon submission of its review.

COMMUNICATIONS: The Task Force would submit its review to the September 2011 Trust Council meeting and the Trust Council decision on the review would be communicated through the normal distribution of the Trust Council highlights.

OTHER: The LPC membership currently contributes four trustees to the Community Housing Task Force. A joint Task Force of the FPC and LPC would require two or three trustees from each Committee.

BACKGROUND

A Finance staff briefing regarding progress in development fee analysis was presented to the August 31, 2010 Financial Planning Committee meeting and is enclosed for information as Annex A. The minutes of that meeting note the following discussion and direction on the subject.

Craig Elder discussed the information provided in the briefing called Development Application Fee Comparisons. He noted that the information was provided for the Financial Planning Committee to discuss and decide upon further steps in the analysis. It was discussed that there are differences between the current application fees charged by Local Trust Committees (LTCs) based on each LTCs application fees bylaws.

Craig Elder suggested that he would need to work with Local Planning Services on the financial impact and help to develop policies regarding cost recoveries but that the issue of fee increases should go to the Local Planning Committee for discussion. (emphasis added)

Resolution FIN743/10

It was moved and seconded that the Financial Planning Committee request that staff complete the time tracking report and related costs for processing applications.

CARRIED UNANIMOUSLY

Linda Adams advised that Trust Council would need to give both FPC and LPC further direction and priority setting regarding this issue. (emphasis added)

Trustee Malcolmson requested that the minutes reflect that the tables presented in the briefing have inaccuracies.

In light of the above noted FPC discussion, and in particular the CAO's advise that Trust Council would need to give further direction to both FPC and LPC, Trust Council will be asked to consider at the March Trust Council meeting an amendment to Strategic Plan Objective 4.1 (To provide services on an increasingly effective basis) to include LPC in the following work that was previously assigned to FPC alone;

Strategy 4.1.8 Review of development application fee levels and cost recovery mechanisms:

- *Activity 4.1.8.1 Develop terms of reference and identify budget and data needs for review of application fees; and*
- *Activity 4.1.8.2 Review application fees, development of amendments to model fees bylaw and related policies.*

The change reflects the anticipated need to have a significant amount of LPS staff time involved in the Task Force's work. This work is planned to occur in Fiscal Year 2011/2012 and all expenses would be borne by the existing base budget.

A Fiscal Year 2011/2012 budget submission for \$20,000 to upgrade the existing Islands Trust Time Tracking system for enhanced development application cost accounting was submitted to the FPC and was not included in the proposed Fiscal Year 2011/2012 budget.

DISCUSSION: The inclusion of the LPC in the work noted above would require the establishment of a Task Force in accordance with Islands Trust policy 2.3.i.10.5 – (Council Committee System). The resultant Task Force would consist of trustees from the FPC and LPC and appropriate staff members.

It is submitted that this joint work should be completed within the current term of office and thus the terms of reference and resource requirements should be confirmed at the June 2011 Trust Council meeting and the review should be submitted to the September 2011 Trust Council meeting.

REPORT/DOCUMENT: Annex A – Briefing – Development Application Fee Comparison
- FPC Meeting of 31 August, 2010 regarding

KEY CONCEPT: Formation of a joint Task Force of the FPC and LPC.

RELEVANT POLICY: Islands Trust policy 2.3.i.10.5 – (Council Committee System)

DESIRED OUTCOME: To form a joint Task Force to advise the Trust Council about appropriate development application fees.

RESPONSE OPTIONS

Recommended: THAT the Trust Council establish a joint Task Force of the FPC and LPC to complete a review of development application fees and advise Trust Council about an appropriate rate of fees at the September 2011 Trust Council meeting.

Alternatives:

1. Proceed no further on this matter; or
2. Direct the FPC to independently complete a review of development application fees and advise the Trust Council about an appropriate rate of fees at the September 2011 Trust Council meeting.
3. Recommend that LTCs amend their fees on the basis of a simple percentage change.

PREPARED BY: M. Fraser, DLPS

SUBMITTED BY: Local Planning Committee

REVIEWED BY: _____
(Chief Administrative Officer)

REVIEWED BY EXECUTIVE COMMITTEE:

February 21, 2011

OTHER REVIEW:

3.6 Annex 1
**ISLANDS TRUST
BRIEFING**

4.6

DATE: August 31, 2010

TOPIC: DEVELOPMENT APPLICATION FEE COMPARISONS

DIRECTED TO: Financial Planning Committee

CONFIDENTIAL: No

DESCRIPTION OF ISSUE: Staff were directed by FPC to collect comparative data on development application fees within Islands Trust and in relation to Regional Districts in the Islands Trust area.

BACKGROUND:

Development application fees are intended to cover the cost of processing the relevant applications. In a typical year, Islands Trust income from application fees averages around \$120,000 while the total cost of operating Local Planning Services is around \$4 million. Therefore, on the face of it, it seems that Islands Trust is not charging enough for application fees.

Staff have assembled data on fees from other regional districts in the Islands Trust area, as well as a listing of the fees charged by each LTC, since each LTC controls their own fees bylaw. The information is contained in the appendices to this briefing.

Further work needs to be done to analyze planning staff timesheet data to determine if the direct labour costs of processing applications are covered by the revenue from applications.

ATTACHMENT(S):

- Appendix 1 – Comparison of Islands Trust application fees with Regional Districts in the Islands Trust area
- Appendix 2 – Comparison of application fees charged by each LTC
- Appendix 3 – Applications received in fiscal years 2006/07 through 2008/09, plus the average number of applications received over the 3 years

FOLLOW-UP:

- Further research will be directed by FPC

PREPARED BY: Craig Elder
Director, Administrative Services

REVIEWED BY EXECUTIVE COMMITTEE:

SUBMITTED BY: Financial Planning Committee

N/A

REVIEWED BY:
(Chief Administrative Officer)

OTHER REVIEW:

FPC August 31, 2010

**APPLICATION FEES COMPARISON
ISLANDS TRUST WITH REGIONAL DISTRICTS**

APPLICATION TYPE	ISLANDS TRUST	CRD	COWICHAN	NANAIMO	COMOX	MT. WADDINGTON	SUNSHINE COAST	POWELL RIVER
OCP	\$4,400	\$3,500	\$2,200	\$1,500	\$1,500	\$750	\$2400-\$2900	\$500
REZONING	\$3520-\$4400	\$2,700	\$2,200	\$1,500	\$3,000	\$715	\$1400-\$2900	\$500
TUP	\$1,100	\$500+	\$1,500	\$800	\$3,000	\$450	\$500+	N/A
DP	\$450	\$550+	Res. - \$200					
DVP	\$572-\$935	\$550+	Com - \$400	\$400+	\$250-\$3000	N/A	\$25-650	\$250
			\$400	\$400	\$3,000	\$450	\$150-\$1000	N/A

Note: Islands Trust application comparision done with the Southern Office Islands fees

	Denman	Gabriola	Gambier	Hornby	Lasqueti	Thetis	Galiano	Mayne	North Pender	Saturna	South Pender	Salt Spring
BYLAW AMENDMENTS												
Official Community Plan (OCP) Amendment	\$4,400	\$3,500	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400
OCP amendment in combination with a consistent application for amendment to a Land Use Bylaw	\$4,950	\$4,500	\$4,950	\$4,950	\$4,950	\$5,500	\$4,950	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500
Land Use Bylaw or Zoning Bylaw amendment	N/A	N/A	N/A	N/A	N/A	\$4,400	N/A	N/A	N/A	N/A	N/A	\$4,400
Application to amend a Land Use Bylaw for the purpose of rezoning a property to permit a seasonal cottage for use as affordable housing	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	\$1,100
Application from a non-profit organization or society to amend a Land Use Bylaw for the purpose of rezoning a property for use as affordable housing	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	\$1,000
Land Use Bylaw, Zoning Bylaw or Subdivision Bylaw amendment	\$4,400	\$3,500	\$3,520	\$4,400	\$3,520	N/A	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	N/A
Land Use Contract amendment	\$4,400	\$3,500	\$3,520	\$4,400	\$4,400	N/A	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400	\$4,400
Amendments to an OCP to transfer density into or out of the Density Bank in conjunction with a land use bylaw amendment	\$4,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

PERMITS												
Development Permit (DP) in respect of a protection area	\$440	\$450	\$440	\$440	N/A	\$550	\$440	\$550	\$200	\$440	\$550	\$1,100
DP in respect of a commercial revitalization area	N/A	N/A	N/A	N/A	N/A	\$550	\$660	\$550	\$550	\$550	\$550	\$1,100
DP in respect of form and character area	\$660	\$550	N/A	\$600	N/A	\$550	\$660	\$550	\$850	\$550	\$550	\$1,100
DP Amendment	\$165	\$150	\$165	\$165	N/A	\$165	\$165	\$165	\$165	\$165	\$165	\$330
DP in combination with a companion application for a Development Variance Permit (DVP) in respect of a residential development	\$770	\$650	\$770	\$770	N/A	\$770	\$770	\$770	\$770	\$770	\$770	\$1,320
DP in combination with a companion application for a DVP in respect of a commercial, industrial or institutional development	\$935	\$800	\$935	\$935	N/A	\$990	\$935	\$990	\$990	\$990	\$990	\$1,540
DVP in respect of a residential development	\$715	\$600	\$572	\$715	\$440	\$715	\$715	\$715	\$715	\$572	\$715	\$715
DVP in respect of a commercial, industrial or institutional development	\$935	\$750	\$748	\$935	\$715	\$935	\$935	\$935	\$935	\$935	\$935	\$935
Heritage Alteration Permit	N/A	N/A	N/A	N/A	N/A	N/A	\$1,100	\$1,100	\$1,100	\$500	\$1,100	N/A
Temporary commercial and industrial use permit	\$1,100	\$900	\$1,100	\$1,100	\$770	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100
Temporary Use Permit, non-profit & home based business < 3 months per annum	N/A	N/A	\$440	\$440	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Temporary Commercial and Industrial Use Permit renewal	\$165	\$150	\$165	\$165	\$165	\$165	\$165	\$165	\$165	\$165	\$166	\$165
Siting and Use Permit (SUP)	\$220	N/A	N/A	\$176	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SUP in combination with a companion application for a DVP in respect of a residential development	\$715	N/A	N/A	\$715	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SUP in combination with a companion application for a DVP in respect of a commercial, industrial or institutional development	\$935	N/A	N/A	\$935	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

	Denman	Gabriola	Gambier	Hornby	Lasqueti	Thetis	Galiano	Mayne	North Pender	Saturna	South Pender	Salt Spring
PERMITS - continued												
SUP in combination with a companion application for a DP in respect of a protection area	\$550	N/A	N/A	\$550	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SUP in combination with a companion application for a DP in respect of a commercial revitalization area	\$660	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SUP in combination with a companion application for a DP in respect of a form and character area	\$660	N/A	N/A	\$550	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Soil Deposit and Removal Permit non commercial	N/A	N/A	N/A	N/A	N/A	N/A	\$220	\$220	\$220	\$220	\$220	N/A
Soil Deposit and Removal Permit commercial	N/A	N/A	N/A	N/A	N/A	N/A	\$550	\$550	\$550	\$550	\$550	N/A

SUBDIVISION REFERRALS												
Application for subdivision review – first parcel	\$1,100	\$900	\$1,100	\$1,100	\$825	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100
Application for Subdivision Review – every additional parcel that would be created by the proposed subdivision	\$110	\$100	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110
Application for subdivision review - parcel line adjustments only, creating no additional parcels	\$330	\$300	\$330	\$330	\$100	\$330	\$330	\$330	\$330	\$330	\$330	\$330

OTHER APPLICATIONS												
Board of Variance	\$990	\$800	\$990	\$900	\$440	\$990	\$990	\$990	\$990	\$990	\$990	\$1,100
Strata Conversion	\$1,100	\$1,100	\$1,100	\$1,000	\$825	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$825
Liquor Control and Licensing Branch	\$825	\$850	\$825	\$750	N/A	\$825	\$825	\$825	\$825	\$825	\$825	\$825

Average # of Applications over 3 years	Denman	Gabriola	Gambier	Hornby	Lasqueti	Thetis	Galiano	Mayne	North Pender	Saturna	South Pender	Salt Spring	TOTAL
Agricultural Land Reserve	2.3							1.0	1.0			5.0	9.3
Board of Variance	-	-	0.3	-	-	-	-	-	0.7	-	-	0.3	1.3
Building Permit Referrals	-	-	47.7	-	-	7.0	-	-	-	-	-	72.0	126.7
Crown Lease	-	-	-	-	-	-	-	-	-	-	-	0.3	0.3
Development Permits	0.7	0.3	0.3	1.0	-	-	2.3	0.3	5.3	-	-	4.3	14.7
Development Variance Permits	1.0	2.3	7.0	2.7	-	0.3	3.3	5.0	6.7	2.0	0.7	11.3	42.3
Heritage Alteration Permits	-	-	-	-	-	-	-	-	-	-	-	0.3	0.3
LCB	-	0.3	-	-	-	-	-	-	-	-	-	-	0.3
Liquor Licencing	-	-	-	-	-	-	-	-	0.3	-	-	-	0.3
Rezoning	2.0	1.7	1.0	1.3	-	-	2.3	0.7	-	0.7	-	3.3	13.0
Siting and Use Permit	17.0	-	-	13.3	-	-	-	-	-	-	-	-	30.3
Soil deposit and Removal	-	-	-	-	-	-	-	-	-	-	-	1.0	1.0
Strata Conversion	-	-	-	-	-	-	-	-	-	-	-	0.7	0.7
Subdivision	3.0	2.7	2.0	2.3	1.0	1.0	1.3	1.0	2.7	0.7	1.3	9.7	28.7
Temporary Use Permit	-	0.7	-	0.3	-	-	-	0.3	1.7	-	-	1.3	4.3
LUB	-	-	-	-	-	-	-	-	-	-	-	0.3	0.3
	26.0	8.0	58.3	21.0	1.0	8.3	9.3	8.3	18.3	3.3	2.0	110.0	

2007-08	Denman	Gabriola	Gambier	Hornby	Lasqueti	Thetis	Galiano	Mayne	North Pender	Saturna	South Pender	Salt Spring	TOTAL
Agricultural Land Reserve	2								1	1		5	9
Board of Variance			1									1	2
Building Permit Referrals			38			5						81	124
Crown Lease													0
Development Permits		1					3	1				3	8
Development Variance Permits		5	8	5			5	4	7	1	1	13	49
Heritage Alteration Permits													0
LCB		1											1
Liquor Licencing													0
Rezoning	4	3	3	1			4			1		4	20
Siting and Use Permit	23			17									40
Soil deposit and Removal													0
Strata Conversion												2	2
Subdivision	3	3	3	3	3		2	2	3	1	1	11	35
Temporary Use Permit		2							1				3
LUB													0
2007/2008 TOTAL													293

2008-09	Denman	Gabriola	Gambier	Hornby	Lasqueti	Thetis	Galiano	Mayne	North Pender	Saturna	South Pender	Salt Spring	TOTAL
Agriculture Land Reserve	1	1		1				1				4	8
Board of Variance													0
Building Permit Referrals			47			9						81	137
Crown Lease													0
Development Permits			1	3			3		9			5	21
Development Variance Permits		1	3	2		1	5	5	9	1	1	14	42
Heritage Alteration Permits												1	1
LCB													0
Liquor Licencing													0
Rezoning	2	1		2			1			1		4	11
Siting and Use Permit	11			11									22
Soil Deposit and Removal												1	1
Strata Conversion													0
Subdivision	3	3	2	2			2		5		3	15	35
Temporary Use Permit				1				1	2			3	7
LUB													0
2008/2009 TOTAL													285

2009-10	Denman	Gabriola	Gambier	Hornby	Lasqueti	Thetis	Galiano	Mayne	North Pender	Saturna	South Pender	Salt Spring	TOTAL
Agriculture Land Reserve	4	3		1								2	10
Board of Variance									2				2
Building Permit Referrals			58			7						54	119
Crown Lease												1	1
Development Permits	2						1		7			5	15
Development Variance Permits	3	1	10	1				6	4	4		7	36
Heritage Alteration Permits													0
LCB													0
Liquor Licencing									1				1
Rezoning		1		1			2	2				2	8
Siting and Use Permit	17			12									29
Soil Deposit and Removal												2	2
Strata Conversion													0
Subdivision	3	2	1	2		3		1		1		3	16
Temporary Use Permit									2			1	3
LUB												1	1
2009/2010 TOTAL													243
TOTAL	78	28	175	65	3	25	28	24	53	10	6	326	821

Proposed Local Planning Meeting Dates

February 17, 2011

May 18, 2011

August 18, 2011

None in November due to election

Changes in red text

**ISLANDS TRUST
BRIEFING****DATE:** 7 February 2011

TOPIC: BYLAW ENFORCEMENT PROJECTS UPDATE**DIRECTED TO:** Local Planning Committee**CONFIDENTIAL:** NO

DESCRIPTION OF ISSUE: To advise the Local Planning Committee of the status of initiatives in Bylaw Enforcement and Litigation Management.**BACKGROUND:** A staff report to the LPC in March 2009 identified four major initiatives for enhancing service in bylaw enforcement and litigation management. The status of each initiative is as follows

- 1. Increased staffing** The establishment of a third bylaw enforcement officer position has been considered for the past two years but not requested in light of the following, not yet been fully implemented, activities in the bylaw enforcement program;
 - a.** proactive bylaw enforcement on STVRs has been undertaken in several Trust Areas. This has caused a dramatic increase in the number of bylaw enforcement files from 150 in November of 2009 to 260 in November of 2010. Most of these files will require significant follow up work during 2011 but may well be a spike in activity before returning to a lower level;
 - b.** significant work in the establishment of the Bylaw Dispute Adjudication system is expected to have a positive effect in the coming year; and
 - c.** complaints about unlawful residences on Gabriola Island are a large but seemingly transient workload.

In order to respond to the above transient pressures over the past year, a part time contract bylaw enforcement officer was hired for 105 hours to work on a back log of files in the Southern Gulf Islands. As a means of managing the continuing, but transient, work load noted above, staff have made a budget submission for the coming budget year for \$24,000 of the expected surplus of \$70,000 in the litigation account to be carried forward to continue the part time contract

enforcement officer to September 2011. This proposal would result in a temporary increase in the bylaw enforcement budget but would not result in an increase in the taxation level as the funding source is the previous year surplus. The contract extension would also provide ample opportunity to assess the long term bylaw enforcement work load and staffing needs. A full report on these findings will be submitted to the August 2011 LPC meeting.

2. Improved ticketing and/or establishment of a bylaw dispute adjudication system process The Municipal Ticketing Information System is no longer used by the bylaw enforcement officers. There are many technical and legal issues which make it too cumbersome to be used for minor violations and ineffective for major issues. In light of this, the Bylaw Dispute Adjudication System is being adopted as it is much more effective and more easily administered. Implementation of the adjudication system has been frustratingly slow due to the need for provincial authorization of each Local Trust Committee to participate and for the Islands Trust to enter into a contract with the North Bylaw Adjudication Registry, the adjudicating tribunal.

The following implementation requirements have been completed;

- The Province has authorized the use of the Bylaw Adjudication System in six Local Trust Areas through Orders-In-Council;
- Staff has sought Orders-In-Council for the six remaining Local Trust Areas;
- The Islands Trust contract with the North Shore Bylaw Adjudication Registry has been authorized by the Province and subsequently completed; and
- The North Pender Island Local Trust Committee has given three readings to the first bylaw adjudication bylaw and Salt Spring Island and Denman Island Local Trust Committees will review bylaws in March of 2011;

The following implementation requirements are scheduled to be completed by August 2011;

- Consideration of bylaws for all LTCs (this is dependant on granting of OICs for six LTCs);
- Training of staff; and
- Full implementation of Bylaw Adjudication in the Islands Trust Area.

3. Effective litigation management Litigation management has worked well under the new system. New litigation has not initiated over the past year while the bylaw enforcement coordinator concentrated on resolving many old litigation issues. When new litigation is being considered now it is with a more strategic approach. Instead of initiating new legal actions in the order in which they come up in each Trust Area, staff now carefully

consider which files will best advance the Islands Trust goals and best represent all the issues in dispute. When the Islands Trust wins such a legal action the bylaw enforcement officers are then able to use the decision to convince property owners elsewhere with similar violations to comply voluntarily. Better management of the legal case load and a delay in legal action on short term vacation rentals has resulted in the elimination of last year's deficit and the production of an estimated \$70,000 surplus.

4. Enhanced internal and external communications Internal and external communications involving bylaw enforcement has developed considerably. The Director of Planning, by separate report, will present a chart which analyzes the flow of bylaw enforcement work and identifies the various points in that flow which result in a need for internal reporting and external communications. Internal reporting as it affects the Local Trust Committees, the Executive Committee, Local Planning Committee and Trust Council largely involves identifying what and when reports will be submitted to which committees. External communications identifies what, when and how bylaw enforcement issues will be communicated to the public. The Islands Trust Communications Officer has developed a draft bylaw enforcement communications policy which will be submitted to the August 2011 LPC meeting.

ATTACHMENT: No

FOLLOW-UP: The Bylaw Enforcement Coordinator will continue to advance this work as directed by the LPC.

PREPARED BY: Miles Drew, BC Coordinator

REVIEWED BY EXECUTIVE COMMITTEE:

SUBMITTED BY: Miles Drew, BC Coordinator

--

REVIEWED BY: _____
(Chief Administrative Officer)

OTHER REVIEW:

--

ISLANDS TRUST BRIEFING

DATE: February 11, 2011

TOPIC: FOOD SECURITY GUIDE AND IMPLEMENTATION

DIRECTED TO: Trust Council

CONFIDENTIAL: No

DESCRIPTION OF ISSUE:

The purpose of this briefing is to provide Trust Council with a status report on Food Security Implementation.

BACKGROUND:

In December 2011, Trust Council received the report "Exploring Food Security in the Trust Area" and passed five resolutions on advancing food security. The following provides the resolution and resulting work undertaken or planned to be undertaken.

Trust Council Resolution (Action)	Status
That Islands Trust Council continue to include food security in the strategic plan and that "success" be measured by: a. how many protocols are revised or developed to include food security; and b. how many local trust committee OCPs/ LUBs are amended to address food security.	Planning Staff has forwarded the resolution to relevant staff.
That Islands Trust Council forward the report "Exploring Food Security in the Islands Trust Area" to the Islands Trust Fund Board, local trust committees and Bowen Island Municipality for consideration of the recommendations.	Staff has forwarded the report with a cover letter from the Islands Trust Council Chair by email to the Islands Trust Fund, local trust committees and Bowen Island Municipality.
That Islands Trust Council make the report "Exploring Food Security in the Islands Trust Area" available to the Provincial agencies, regional districts, First Nations, interest groups and the general public by posting to the Islands Trust website and through a news release.	Staff has released a News release and has posted the report on the Islands Trust website.
That Islands Trust Council suggest that Trust	A copy of the resolution has been forwarded to the

Fund Board explore the feasibility of establishing a farm land trust.	Islands Trust Fund Board staff.
That the Islands Trust Council instruct Staff to:	
a. report back on recommended further work required in gathering background and context information, including timelines, budgets requirements and First Nations interests	Planning Staff has not completed any work on this resolution. Staff will provide a report and recommended further work at a future LPC Meeting.
b. develop internal organisational policies and procedures regarding procurement that supports local food security	Planning Staff has forwarded the resolution to relevant staff.
c. include provisions for food security and reflect the inter-disciplinary nature of food in our communities in the topic review inventory of the Islands Trust Policy Statement	Planning Staff has forwarded the resolution to relevant staff.
d. report back on appropriate topic areas for the development of model bylaws to address food security issues	Planning Staff has not completed any work on this resolution. Staff will provide a report and recommended further work at a future LPC Meeting.
e. include food security in any reviews of existing protocols and explore opportunities to develop new protocols around food security.	Planning Staff has forwarded the resolution to Trust Area Services staff.

ATTACHMENT(S): NO

AVAILABLE OPTIONS:

n/a

FOLLOW-UP:

n/a

PREPARED BY: David Marlor, MCIP

REVIEWED BY EXECUTIVE COMMITTEE:

SUBMITTED BY: Local Planning Committee

REVIEWED BY:

(Chief Administrative Officer)

OTHER REVIEW:

Islands Trust
Local Planning Committee Report

To: Islands Trust Council

Date: February 17, 2011

WORK PROGRAM

1. COMMUNITY HOUSING

Current – The Community Housing Task Force continues to work in accordance with its renewed Terms of Reference from Trust Council.

Planned – The LPC will continue to monitor the work of the Community Housing Task Force on behalf of the Trust Council.

2. RIPARIAN AREA REGULATION IMPLEMENTATION

Current – The Vancouver Island regional office of the Ministry of Environment has formally designated watersheds that fall under the RAR within their area of responsibility. Specific watersheds on Hornby, Lasqueti and Mayne Islands are unverified and the Ministry requires further information before completing their designation. Gambier Island LTA is the only outstanding area and completion of this work is underway with the Lower Mainland regional office of the Ministry of Environment. Planning staff have received a model staff report to facilitate Local Trust Committee implementation of the RAR through local legislative action.

Planned – DLPS will ensure that all Local Trust Committees receive staff reports for amending LTC bylaws to become compliant with the Riparian Area Regulation as soon as possible.

3. PROTOCOL WITH THE MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE

Current – The Director of Local Planning Services met with MoTI staff in January and reported back to the Local Planning Committee on the outcomes of the meeting.

Planned – The LPC will continue to monitor the success of the re-established staff meetings on behalf of the Trust Council. It is anticipated that a report on this subject will be submitted to the Trust Council in September 2011.

ON-GOING ITEMS

GREENHOUSE GAS EMISSION REDUCTION – Monitoring ongoing work of the LTCs
BYLAW DISPUTE ADJUDICATION SYSTEM – Monitoring implementation.

FOOD SECURITY – Report to March 2011 Trust Council meeting

CONSERVATION COVENANT MANAGEMENT – Report to March 2011 Trust Council meeting.

ENCOURAGING GREEN TECHNOLOGY STRUCTURES – the LPC is considering means to encourage green technology structures

OCP/LUB PROGRAM STATUS - Monitoring progress and funding availability

NATURAL BOUNDARY OF THE SEA - Monitoring clarification of definition by LTCs

INTEGRATED WATERSHED & SHORELINE PROTECTION APPROACH - Monitoring implementation

IT GREEN SHORES FOR HOMES PROJECT – Monitoring implementation