



Islands Trust

ADOPTED

North Pender Island Local Trust Committee

Minutes of Regular Meeting

Date: July 28, 2023
Location: Anglican Parish Hall
4703 Canal Road, North Pender Island, BC

Members Present: David Maude, Chair
Aaron Campbell, Local Trustee
Deb Morrison. Local Trustee

Staff Present: Robert Kojima, Regional Planning Manager
Brad Smith, Island Planner
Warren Dingman, Bylaw Compliance and Enforcement Manager
Charly Caproff, Planner 1
Pat Todd, Recorder

Others Present: There were twenty-seven (27) members of the public present.

1. CALL TO ORDER

Chair Maude called the meeting to order at 10:00 a.m. He acknowledged that the meeting was held on the territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The following additions to the agenda were presented for consideration:

- 12.1 Correspondence – Clarification on Islands Trust Policy and Procedures
- 14.3 Plum Tree Court

By general consent, the agenda was adopted as amended.

3. TRUSTEE REPORT

Trustee Campbell reported that:

- The LTC finished the Land Use Bylaw review process
- Topics that continue to be raised include: tree cutting, Plum Tree Court, affordable housing, (what people want to see and what’s possible, Issue of housing for work force)

Trustee Morrison informed the Local Trust Committee (LTC) that:

- The past year had been difficult due to health and personal issues and her family will be moving to Salt Spring Island, with expectations of returning to North Pender in the future

- She has confirmed eligibility to continue as Trustee for North Pender and arrangements have been made to facilitate her participation at meetings, site visits, etc.
- Expressed appreciation to all who have helped with this transition
- From September onward, site visits will have to be scheduled at least a day in advance
- Reported on a number of upcoming meetings regarding forestry, Clam Bay situation, Plum Tree Court
- Encouraged everyone to please continue to contact her through email or text

4. CHAIR'S REPORT

Chair Maude reported that:

- Trust Council Policy Statement Amendment Project is progressing and next draft is scheduled for January 2024 with expectation of adoption in mid 2025.
- The next draft of the Trust Council Policy Statement will be circulated for comments and feedback is encouraged
- Next Trust Council meeting is on North Pender Island.

5. ELECTORAL AREA DIRECTOR'S REPORT - none

6. TOWN HALL AND QUESTIONS

Julia Nicholls:

- Referred to a Memorandum on Enhanced Forestry on Pender Island, the Galiano Fact Sheet, and a Toronto Star Article forwarded to LTC.
- Encouraged the LTC to consider forestry options such as enhancing Development Permit Areas (DPAs)
- Would like to follow Galiano example and put a tree cutting DPA on the whole island
- Some tree cutting is reasonable
- Get senior government involved to expand LTC oversight to make jurisdiction equal to municipalities
- Disappointed Trust Council turned down proposal seeking to expand responsibilities
- Need LTC to support request for stronger responsibilities regarding tree cutting
- Trust mandate is to preserve and protect and needs the tools to do so
- Spoke to enforcement and believes more meaningful penalties should be utilized.
- Some people are ignoring DPAs because they can still make a profit

Kathy Cronk:

- Has researched and studied connection of forest and water
- Water truck arriving daily with 2000-4000 gallons of water
- Increased demand and climate change will impact water availability in spite of typically abundant rainfall
- Tofino near state of emergency: received only 20% of average rainfall
- Pender island is at a level 5 threat, which means impacts on ecosystem and socioeconomic factors
- Encouraged Islands Trust regulatory management to ensure water resource

Andy Novak:

- Neighbouring lot logged in 2020 and 2021 and the lot is now full of invasive plants
- Canopy destruction left the lot much drier which increases fire risk

- Destruction for profit
- Impact on Covenant
- Private rights vs. community rights – need to balance both and live in harmony with land
- Activities on private property affect rights of the community to know when their water costs are altered, their enjoyment of the forest, and protection from fire danger
- Education has not been effective, a stronger message is needed

Alison Feargrieve:

- Increase in population – increase in pressures on the islands
- Eroding of forest cover due to clear cutting which has an impact on island groundwater
- Risk of water shortage and fire is increasing
- Decisions of one person impact on all

Heather Reed:

- Witness to impact of clear cutting
- Experienced significant event in forest and met a second person with same experience: wrote song to commemorate: performed for LTC
- Obligation to hold the line of profiteers
- “no you, no me, only us”

Elizabeth Miles:

- President of the Pender Islands Conservancy Association
- Supports the initiative to invite realtors, fire department, and conservancy together to present information to new property owners.
- Information for new residents should include: awareness of DPAs, why they are there, consequences for violation, importance of natural features, fire risks, and healthier forest management
- Reports that the Pender Islands Conservancy Association has not been contacted by the LTC or Islands Trust regarding the new residents information package
- Spoke to the Schooner Way permit application for remediation due to violation of DPA
- The health of the Medicine Beach Sanctuary is impacted by anything upstream, which includes the property at 4850 Schooner Way
- Remediation must include: Planting and protecting native trees, planting and protecting native understory shrubs, and surface remediation.
- Strongly recommends requiring a security deposit from the property owners for the full amount of the estimated cost of the remediation plan.
- Asked the LTC whether they will require the remediation described in the biologist report, and will they ask for a full deposit for the remediation

Joyce Thayer:

- Claimed that the Galiano DPA is enforceable, in spite of statements to the contrary
- Proposes that the LTC seek a legal opinion on whether the permit should have been issued in light of Bylaw 103 and the lack of horticulture taking place at the time
- Comprehensive DPA is the route to go

Michael Sketch:

- Indicated an issue with the record of the Public Hearing on May 13, 2023

- Public interest regarding Bylaw up for adoption
- Minutes need to be clear, readable, and unambiguous
- Concerned that the issues they discussed were not clear. Three points should be separated out in minutes with an explanation.
- Trust to make clear to public of importance of the public hearing

In response to Town Hall, Trustee Morrison expressed appreciation for respectful presentations.

7. COMMUNITY INFORMATION MEETING

7.1 Communications with New Landowners

Regional Planning Manager (RPM) Kojima spoke to a project of last term - a mail-out to all landowners with DPAs on property that was specific to each parcel's ecosystem. The project took about six months and a budget for staff time to write letters, create information sheets, generate maps, collate, and create mailing lists.

Discussion:

- Will need a way to identify new landowners
- Interested in a generic information package
- Newcomers lack understanding of the mandate and role of Islands Trust
- The LTC would like to see a small working group of interested community members to help with this project
- In the past, Pender Island had a community-based Welcome Wagon that would pull information from different sources and provide it to new owners
- Staff could help prepare information packages, as there are lots of materials available
- The LTC agreed to initiate a meeting or assist with organizing and bringing people together
- Could be a topic to discuss at the meeting scheduled for Saturday, October 21
- A member of the public reported that some property owners did not receive DPA correspondence
- A member of the public expressed the importance of one-to-one conversations with land owners
- Need to have a better connection with property owners, local realtors, and off island realtors
- A member of the public stated that the forestry group has already started a project with the conservancy where they send someone out to the property to provide specific information about the property, such as invasive species, DPA areas, etc.

8. PUBLIC HEARING - None

9. MINUTES

9.1 North Pender Island Local Trust Committee Special Meeting Minutes of May 13, 2023

By general consent the North Pender Island Local Trust Committee meeting minutes of May 13, 2023 were adopted.

9.2 Local Trust Committee Public Hearing Record of May 13, 2023

Received for information.

Public comments were put forth regarding some details of the record. Staff will review the record in regards to those comments and will bring back the item to the next meeting.

9.3 North Pender Island Local Trust Committee Minutes Dated May 26, 2023

By general consent the North Pender Island Local Trust Committee meeting minutes of May 26, 2023 were adopted.

9.4 North Pender Island Local Trust Committee Special Meeting Minutes Dated June 24, 2023

By general consent the North Pender Island Local Trust Committee Special Meeting minutes of June 24, 2023 were adopted.

9.5 Section 26 Resolutions-Without-Meeting Report - None

9.6 Advisory Planning Commission Minutes - None

10. BUSINESS ARISING FROM THE MINUTES

10.1 Follow-up Action List Dated July 2023

Island Planner Smith stated that Island Health representative(s) will be attending a September 29, 2023 meeting to engage with the community and the LTC on topics and issues related to Island Health.

LTC will identify date for a standalone meeting in regards to communications with local landowners. Staff to provide background information package in preparation for the meeting.

11. DELEGATIONS - none

12. CORRESPONDENCE

Trustee Morrison requested clarification as to the organization and location of correspondence pertaining to applications. When Trustees are reviewing past files, it would be helpful if all the correspondence was in one location.

RPM Kojima reviewed the process for correspondence for on-going applications. Rezoning applications would be posted on web page. Temporary Use Permit and Development Permit Areas, in the agenda package; distributed to the LTC by email; and filed in internal directory.

Island Planner Smith advised trustees that they can request a copy of all of the correspondence for an application from staff if needed.

Correspondence must be received one week prior to a meeting to be included in agenda package. Any correspondence received after that is sent to the LTC and raised by staff at the meeting. All of the correspondence is filed and saved as part of the public record.

The LTC discussed the possibility of publishing the agenda earlier than normal. Chair Maude added that this is an Islands Trust-wide issue. Staff indicated that competing demands for time would also make publishing the agenda earlier challenging, as well as may conflict with statutory notification timelines.

13. APPLICATIONS AND REFERRALS

13.1 NP-DP-2023.2 (Shaw)

Planner Caproff reviewed the application for a permit to develop within the Sidney Island Geotechnical DPA. Geotechnical report has been provided that supports development of a single family dwelling 15 metres from the crest of the foreshore slope. Referrals were sent to agencies at time of Strata creation.

Discussion:

- The Committee asked the applicant whether the Sidney Island Strata Corporation has been in conversation with the Tsawout First Nation
- Applicant stated that there is an old Archeological Report that didn't find historical evidence of archaeological material/artifacts
- Applicant stated that there is ongoing engagement with Tsawout First Nation on deer management
- Applicant stated their development is well over 30 to 40 metres offset from the foreshore area
- The Committee suggested that the Strata Corporation establish a more formal relationship with First Nations and make sure that the Sidney Island Strata are meeting their Declaration on the Rights of Indigenous Peoples (DRIPA) obligations. The applicant replied that they will pass this on to the Strata Council

NP-2023-077

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2023.2 (Shaw)

CARRIED

13.2 NP-TUP-2023.4 (Gu)

Planner Caproff spoke to the application for a Temporary User Permit (TUP) to allow a Short Term Vacation Rental (STVR). Two neighbours submitted correspondence in opposition to the application as they felt the STVR will increase congestion at recreation areas, there are already too many existing B & Bs and STVRs on the island, the property is difficult to locate, and prefer the property be used as a residence only.

Committee Discussion:

- The Committee asked if 2000 L was the actual cistern size – applicant unclear on cistern volume
- The Committee asked whether a TUP for STVR use was required outside of Magic Lake Estates; RPM Kojima confirmed a TUP is required for this use when the property owner does not reside on the property

- The Committee asked whether the well was sufficient for the proposed use and for fire-fighting purposes based on the groundwater region. Planner Caproff stated that it was not included and referred to the available aquifer vulnerability mapping
- Fire Department has mapped island for access points for water
- Trustee Morrison stated she would like to defer the application until the water quantity on-site was further reviewed, staff to contact the Fire Department, Senior Freshwater Specialist, and receive clarification on cistern volume

NP-2023-78

It was Moved and Seconded,

that North Pender Island Local Trust Committee defer this Application NP-TUP-2023.4 (Gu) to the September 2023 Local Trust Committee meeting and direct staff to get confirmation from the applicant on the size of the cistern, refer the application to Senior Freshwater Specialist William Shulba for comment, and refer to the local fire department for comment.

CARRIED

The LTC suggested that comments above be added to checklist for future applications. RPM Kojima will update the checklist.

Committee recessed at 11:59 a.m. and resumed at 12:06 p.m.

13.3 NP-RZ-2022.1 (Sidney Island Strata Corporation) - Proposed Bylaw No. 232

RPM Kojima explained that the public hearing was held in March and it had been approved by the Executive Committee.

NP-2023-079

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No 232, cited as “North Pender Associated Islands Land Use Bylaw No. 148, 2003, Amendment No. 1, 2022”, be adopted.

CARRIED

13.4 NP-TUP-2023.5 (Grimmer)

Island Planner Smith spoke to the application for a Temporary Use Permit which is to be followed by a rezoning application (not submitted yet). Island Planner Smith reviewed the history of the application:

- All conditions have been met
- Environmental inspection completed
- No complaints or concerns raised
- Two new recommendations for consideration: storing excess concrete during rainfall, and installation of groundwater monitoring well
- The process would likely take 1 to 2 years for rezoning and that the Temporary Use Permit (TUP) could be approved for 3 years.

- Condition added in permit requiring submission of a rezoning application within 6 months of TUP issuance

NP-2023-080

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve the issuance of Temporary Use Permit NP-TUP-2023.5 (Grimmer) for a term of three years.

CARRIED

13.5 NP-DP-2023.3 (Shave)

Island Planner Smith provided an update on the application:

- DPA1 no raptors nest present; DPA2 may have a nesting tree
- Comprehensive report is included with a number of recommendations
- Trees removed without permission
- Could request a Security Deposit
- No estimate at this time for restoration/remediation

NP-2023-081

It was Moved and Seconded,

that North Pender Local Trust Committee defer NP-DP-2023.3 (Shave) and direct staff to obtain an estimate for a security deposit.

CARRIED

Bylaw Compliance and Enforcement Manager (BCEM) Dingman added that the file is being reviewed by Crown Counsel, information is confidential at this time and will report back after the review. He explained that Bylaw Compliance and Enforcement Officers gathered evidence regarding the contravention, and Crown Counsel will decide whether to go forward with prosecution.

13.6 Saturna Island Local Trust Committee SA-ALR-2023.1 Application

Island Planner Smith advised that the applicant is applying to exclude a 12 hectare portion of the lot from the ALR and include a different 12 hectare portion of land in the ALR. A professional assessment concluded that the property to be included has higher quality soil than the land to be excluded.

NP-2023-082

It was Moved and Seconded,

that North Pender Island Local Trust Committee interests are unaffected by the Saturna Island Local Trust Committee SA-ALR-2023.1 Application.

CARRIED

14. LOCAL TRUST COMMITTEE PROJECTS

14.1 Raptor Nest DPA Project Update

RPM Kojima outlined the Minor Project. A Project Charter has been developed that establishes a timeline. The staff report highlights some of the risks associated with this project. The budget available for this fiscal year is \$5000. The project will include

mapping done by North Pender Island residents. A professional Biologist will need to be included in this project.

NP-2023-083

It was Moved and Seconded,

that North Pender Island Local Trust Committee endorse the Project Charter for the Raptor Nest Development Permit Area Project.

CARRIED

14.2 Housing Access and Affordability Project

RPM Kojima reviewed the draft business case for the allocation of funding and staff resources. A preliminary timeline is included in package.

Discussion:

- The \$10,000 budget includes costs for materials, meetings, and First Nations engagement.
- The expected budget for staff time remains unknown until the LTC provides more details about the project scope.
- Denman, Mayne, and Gabriola Island LTCs have been working on housing projects.
- Planner Narissa Chadwick could present information at the Community Information Meeting of October 21, 2023
- Trustee Morrison would like to see options from other LTCs for consideration of viability on North Pender
- The Housing Tool Kit provided by Islands Trust staff includes mapping, land use suitability analysis, and examples from other islands and similar communities
- Staff resourcing included in Staff Report
- Start community discussion in September
- Would like to increase the budget to provide for community consultation costs and education materials

NP-2023-084

It was Moved and Seconded,

that North Pender Island Local Trust Committee endorse the business case for the Housing Access and Affordability Project with a modified budget of \$15,000 and that staff forward the business case to the relevant committees and to Trust Council.

CARRIED

NP-2023-085

It was Moved and Seconded,

that the North Pender Island Local Trust Committee Special Meeting scheduled for October 28, 2023 be moved to October 21, 2023.

CARRIED

14.3 Plum Tree Court

Trustee Campbell reviewed the situation. He has heard the plans and they sound feasible. The definition of Community Housing in the zoning bylaw is limited to duplexes because it says 2 families allowed. The Pender Islands Housing Society changed their name to be more inclusive. The applicant suggested changing “2 family” to “multi-family” with no change to density.

RPM Kojima suggested that the Pender Islands Housing Society make an application to rezone and then seek a refund of fee from the Executive Committee. The rezoning application would be the fastest route to make these changes. Island Planner Smith advised that an Official Community Plan (OCP) amendment would not be needed. The LTC could move forward with a minor amendment to the Land Use Bylaw (LUB) to remove that language altogether or change it to multi-family dwellings.

15. REPORTS

15.1 Work Program Report

15.1.1 Active Projects Report Dated July 2023

Island Planner Smith will confirm that LTC receives decisions made by the Board of Variance.

15.1.2 Future Projects Report Dated July 2023 – received for information

15.2 Applications Report Dated July 2023 – received for information

15.3 Trustee and Local Expense Report Dated May 2023 – received for information

15.4 Adopted Policies and Standing Resolutions – received for information

15.5 Local Trust Committee Webpage – updated upon conclusion of meeting

Questioned inclusion of Planner’s email address on web page – removed as contacts and questions were not applicable to LTC. Island Planner Smith monitors Saturna LTC and North Pender LTC emails.

15.6 Islands Trust Conservancy Report - None

16. NEW BUSINESS

16.1 Options for Establishing a Water Advisory Commission

RPM Kojima reviewed the process to establish a water advisory planning commission. He suggested advertising first to determine participation numbers. Islands Trust staff could advertise membership opportunities on the Advisory Planning Commission with a clear link to ground water feasibility and housing initiatives.

NP-2023-086

It was Moved and Seconded,

that North Pender Island Local Trust Committee direct staff to readvertise for membership interest for the Advisory Planning Commission with a focus on water and housing issues.

CARRIED

16.2 North Pender Island LTC Freedom of Information and Protection of Privacy Bylaw No. 233

NP-2023-087

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 233, cited as “North Pender Island Local Trust Committee Freedom of Information and Protection of Privacy Bylaw No. 233, 2023”, be adopted.

CARRIED

17. UPCOMING MEETINGS

17.1 Next Regular Meeting Scheduled for September 29, 2023, at the Anglican Church Hall, Pender Island

18. TOWN HALL

Ken Sheaves:

- Lives on a property adjacent to STVR application which was approved
- Concerned with commercial operation in a residential area
- The property was originally designed to have water and septic for a single family, but the STVR has 11 people maximum
- The water system is too fragile to support this overuse of property

Michael Sketch:

- Spoke to Community Information Meeting May 13, 2023
- The LTC Bylaws shall not contravene Agricultural Land Reserve Regulations, so it would be inappropriate to approve as no force or effect
- Why Industrial Zoning?
- The inclusion of the parcel between Razor Point and Hamilton Road would not be of equal value, as it has inferior soil top the land being excluded
- Upon reconsideration the LTC should reverse decision and bring in LUB amendment after Agricultural Land Commission decision to include or exclude
- Rural and agricultural strip on the parcel could cause confusion, so the LTC needs to be careful to follow the Agricultural Land Commission (ALC)

LTC Discussion:

- Agriculture is not an appropriate use on the parcel between Razor Point and Hamilton Road
- Executive Committee cannot approve until response received
- Urged staff to follow up with the ALC and request a response.

- Staff to check with ALC as to status regarding inclusion/exclusion and verify with Executive Committee

Kathy Cronk:

- A Question was raised as to when Bylaw went to Crown Council
 - BCEM Dingman responded that concerned members of the public can go to Court Services online and search the case to find the date

19. CLOSED MEETING

19.1 Motion to Close the Meeting

NP-2023-088

It was MOVED and SECONDED,

that the meeting be closed to the public in accordance with the *Community Charter*, Part 4, Division 3, s. 90(1)(d) the security of the property of the municipality;, and (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment; and that the recorder and staff attend the meeting.

CARRIED

Committee closed the meeting at 1:40 p.m.

By general consent Committee reconvened in open meeting at 2:36 p.m. to rise and report.

19.2 Rise and Report

Chair Maude reported on the following:

The North Pender Island Local Trust Committee In-Camera Minutes of May 15, 2023 were adopted

20. ADJOURNMENT

By general consent the meeting was adjourned at 2:37 p.m.

David Maude, Chair

Certified Correct:

Pat Todd, Recorder