

North Pender Island Local Trust Committee

Minutes of Regular Meeting

Date: January 26, 2024
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

Members Present: David Maude, Chair
Aaron Campbell, Local Trustee (electronic)
Deb Morrison, Local Trustee

Staff Present: Robert Kojima, Regional Planning Manager
Brad Smith, Island Planner
Bruce Belcher, Planner 1 (electronic)
Warren Dingman, Bylaw Compliance and Enforcement Manager (electronic)
Jennifer Isaac, Meeting Coordinator (electronic)
Lisa Millard, Recorder (electronic)

Others Present: Paul Brent, Capital Regional District Electoral Area Director for the Southern Gulf Islands
There were fifteen (15) members of the public present.

1. CALL TO ORDER

Chair Maude called the meeting to order at 10:01 a.m. He acknowledged that the meeting was held on the territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as presented.

3. TRUSTEE REPORT

Trustee Campbell reported the following:

- He is away and mainly communicating via email
- He attended the Trust Council meeting in December
- He noted that attending meeting electronically provide a different perspective to issues being discussed

Trustee Morrison reported the following:

- She attended Trust Council and found the informal discussions with other attendees helpful
- She received an anonymous letter from a community member stating that she speaks too much at meetings and she indicated that it is her responsibility to advocate on issues

- She attended the Remembrance Day ceremonies as a representative of Islands Trust and due to unforeseen circumstances had to bring her pet. She was given permission by the Chair of Ceremonies to have her pet walk with her to keep it calm. A member of the community felt this was disrespectful, for which Trustee Morrison apologized

4. CHAIR'S REPORT

Chair Maude reported that:

- The November Local Trust Committee meeting was cancelled because the Bylaw states in person meetings require at least two Trustees to be present, and an electronic meeting could not be conducted because advance notice is required to hold a meeting in a different manner than what was advertised
- The Islands Trust Chief Administrative Officer is retiring effective June 30, 2024
- The annual budget will be approved in March and there are competing pressures to not increase taxes combined with expectations to get projects completed. It is important to find a compromise when considering rising costs

5. ELECTORAL AREA DIRECTOR'S REPORT

Electoral Area Director Paul Brent was in attendance and reported the following:

- Housing continues to be the primary area of concern with focus on acquiring land for housing, complex care housing, and rural housing. The Capital Regional District is supporting the Housing Now program through funds attained from the Economic Sustainability Commission. The Capital Regional District is undertaking an alternative approval process to gain support for borrowing \$85,000,000 for housing while also seeking matching funds from both the provincial and federal governments
- There is a deficiency on protocol agreements between the Capital Regional District and Islands Trust but noted he communicates with Trustees frequently and attends Local Trust Committee meetings
- He has been involved in parkland acquisitions, water infrastructure improvements, food sustainability, and providing grants-in-aid to various environmental issue groups
- In response to a Trustee's inquiry about using the hotel tax for affordable housing Director Brent noted that the southern Gulf Islands tourism partnership participated with diverting some of the tax funds to housing and has committed to supporting the Capital Regional District's rural housing program
- When asked if the Mortimer Spit trail will be closed off to traffic Director Brent replied that the area contains archaeological sensitive sites and that the Capital Regional District is working with First Nations about the possibility of a protective cover that will stabilize the site and minimize artifacts from being washed away while still allowing residents access to the area

6. TOWN HALL AND QUESTIONS

- Don Korbin referenced the Plum Tree Court application and asked if the requirement to consult with First Nations is mandated by statute or if it is an Islands Trust administrative procedure, if Islands Trust believed failure to consult would be a violation of the United Nations Declaration on the Rights of Indigenous Peoples, and if a referral effectively gives First Nations a veto right on bylaw changes

- Regional Planning Manager Robert Kojima replied that Islands Trust considers engagement a best practice, that there are internal policies that give guidance to consult with First Nations, that a Local Trust Committee could decide to not send referrals to First Nations however that decision would be contrary to reconciliation policies that both the Local Trust Committee and Trust Council have adopted, that the courts have determined that First Nations do not have veto rights, and that the Local Trust Committee would consider any information provided by First Nations due to their duty to consult
- A speaker noted that if a community member cuts down trees without a development permit the estimate for remediation work should reflect actual costs and the security deposit should reflect those costs. The speaker believed that not enough is being done to hold an individual accountable to bylaw requirements and that staff should be allowed to get a quote themselves
 - Regional Planning Manager Robert Kojima replied that a lot of time has been spent attempting to get adequate quotes from the property owner and that staff are not able to go onto private property to gather information for the purpose of seeking their own estimate

Michael Sketch stated the following:

- He requested that the Local Trust Committee make an amendment to the Official Community Plan relevant to James Island
- The James Island bylaws have the effect of creating a private island after subdivision
- The pre 2007 bylaws allowed for 20% of James Island to be owned by Islands Trust Conservancy plus a 5% parkland dedication and following the adoption of the bylaws there was no longer public access to the island
- A covenant in the revised bylaw allowed for a \$1,500,000 cash payment in lieu of parkland however he believes that the *Local Government Act* does not allow cash in lieu when there is not a parks commission
- The cash in lieu payment would have went towards the purchase of a watershed property
- He requested that should the bylaws proceed that the Local Trust Committee revoke that cash in lieu section of the first covenant for the purpose of showing good faith

Julia Nicholls made the following comments:

- The Local Trust Committee needs to ensure development permit area regulations are enforceable
- The Local Trust Committee had previously questioned its authority over logging practices however Galiano has an island-wide development permit area that is legal and enforceable
- A submission was made to Crown Council and the Bylaw Enforcement Officer informed her the submission was confidential to which she disagrees
- Trustees and the public should be able to see the submission now that Crown Council's decision not to prosecute has been made public
- The Islands Trust Chief Administrative Officer is responsible to ensure bylaws are enforceable and she asks what they are doing regarding this case

- Either Crown Council is wrong, bylaw enforcement procedures had errors, Islands Trust Lawyers' advice to Crown Council was wrong, or information given to Crown Council could be wrong
- She requests that staff be accountable, that violators be required to pay for restoration work, that there is follow up on Crown Council rules, that the submission be made public, and that Islands Trust follow up with an appeal or other levels of justice

In response Trustees noted the following:

- The issue was brought up with Trust Council
- The Ombudsperson is looking over the Bylaw and will provide feedback
- They are questioning why there is a difference between what Islands Trust Lawyers have said and what Crown Council as said
- The letter of concerns did go to Crown Council
- Trustees asked that the property owners get quotes on remediation costs not that staff get quotes and negatively towards staff regarding this is not correct
- Next steps to be taken need to be discussed and determined

7. COMMUNITY INFORMATION MEETING - None

8. PUBLIC HEARING - None

9. MINUTES

9.1 Local Trust Committee Minutes Dated September 29, 2023 (for Adoption)

The following amendments to the minutes were presented for consideration:

- On page 1 of the minutes Trustee Morrison's Report stated that she was feeling saturated with the politics of Trust Council and should have stated she was feeling challenged with effective ways to move forward with governance issues

By general consent the North Pender Island Local Trust committee meeting minutes of September 29, 2023 were adopted as amended.

9.2 Local Trust Committee Special Meeting Minutes Dated October 21, 2023 (for Adoption)

The following amendments to the minutes were presented for consideration:

- On page 1 of the minutes add Trustee Morrison arrived at 1:06 pm and apologized as she thought the meeting was being held at the Community Hall

By general consent the North Pender Island Local Trust committee meeting minutes of October 21, 2023 were adopted as amended.

9.3 Section 26 Resolutions-without-meeting Report Dated Jan 2024

Received for information.

9.4 Advisory Planning Commission Minutes - None

10. BUSINESS ARISING FROM THE MINUTES

10.1 Follow-up Action List Dated Jan 2024

Received for information.

11. DELEGATIONS – None

12. CORRESPONDENCE

Correspondence received concerning current applications or projects is posted to the Local Trust Committee webpage

12.1 Michelle Marsden re Proposing a Ban on Fireworks

The correspondence was received for information. It was noted that the use of fireworks is an issue for Fire Department consideration and the letter will be forwarded.

12.2 Michael Symons re Housing on North Pender Island

The correspondence will be added to the housing project file.

12.3 Julia Nicholls re Short Term Vacation Rentals

The correspondence will be added to the housing project file.

12.4 Karen Bell re Lighting Issues on Pender Islands

The correspondence was received for information. Paul Brent, Capital Regional District Electoral Area Director for the Southern Gulf Islands, noted that it is challenging to create new regulations based on an issue that appears to be related to one specific structure; however, they can bring up the issue with bylaw enforcement.

12.5 Letter of Support for BC Housing Funding Applications for Affordable Housing Projects

Received for information.

13. APPLICATIONS AND REFERRALS

13.1 NP-RZ-2023.1 (Pender Islands Housing Society) - Staff Report

Island Planner Brad Smith summarized the staff report and discussion ensued.

NP-2024-001

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” be read a first time.

CARRIED

NP-2024-002

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” be read a second time.

CARRIED

NP-2024-003

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” be read a third time.

CARRIED

NP-2024-004

It was Moved and Seconded,

that North Pender Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

NP-2024-005

It was Moved and Seconded,

that North Pender Island Local Trust Committee proposed Bylaw No. 234 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.

CARRIED

NP-2024-006

It was Moved and Seconded,

that North Pender Island Local Trust Committee directs staff to initiate a resolution without meeting for adoption of proposed Bylaw No. 234 following Executive Committee approval.

CARRIED

13.2 NP-SUB-2023.2 (James Island Properties) - Staff Memo

Regional Planning Manager Robert Kojima reviewed the staff memo and indicated that in a previous term the application was refused by the provincial approving officer. The proposed layout application is identical to the previous one, and it is being treated as a new application.

Legal counsel for the landowner was in attendance and stated the applicant is in support of the staff memo.

Staff will send a background summary regarding the previous application to Trustees.

Discussion ensued and it was noted that signing a conservation covenant is a positive step but that it should not be confused with agreement with the subdivision application. There are challenges for the Tsawout First Nation to consult with the applicant because the Tsawout is in dispute with the federal government regarding treaty rights on James Island.

NP-2024-007

It was Moved and Seconded,

that North Pender Island Local Trust Committee request staff to provide the provincial approving officer with information regarding LTC's concerns with First Nations consultation.

CARRIED

13.3 NP-DP-2023.3 (Shave) - Staff Report

In response to questions from the Trustees, Island Planner Brad Smith clarified the following:

- Staff have made an extensive effort to get further quotes from the applicant and have had no response
- The security deposit is considered a bond to ensure that the work is completed
- The deposit is not released until the conditions of a development permit have been satisfied including the requirement that replanted trees have survived for three years or reached a height of 1.5 metres
- The only legal avenue to pursue is the requirement to get the development permit and once a permit is issued to comply with the permit conditions

The Trustees made the following points:

- The remediation quote received from the applicant seems inadequate based on the amount of work that needs to be done and the type of equipment required to perform required work
- There is reluctance to issue a development permit without receiving the additional quotes previously requested, it is important for the restoration work to begin but without a permit that work is delayed
- Jurisdiction regarding forestry practices needs to be defined as the province has the ability to issue a fine while the Local Trust Committee does not

Bylaw Compliance and Enforcement Manager Warren Dingman stated that he would ask Islands Trust legal counsel if there can be a reconsideration of the staying of the charges, and if it is possible for Crown counsel to give Islands Trust legal counsel the authority to proceed at Islands Trust cost.

NP-2004-008

It was Moved and Seconded,

that North Pender Island Local Trust Committee request that the applicant submit three Pender Island based quotes to the Islands Trust.

CARRIED

13.4 NP-DP-2023.4 (Balmer) - Staff Report

Planner Bruce Belcher summarized the staff report and Trustees thanked the applicant for their environmentally sensitive approach to the application.

NP-2024-009

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2023.4 (Balmer).

CARRIED

13.5 NP-DP-2023.6 (Funk) - Staff Report

Island Planner Brad Smith noted that this was a development permit area amendment for a permit that had previously been approved and that the applicant wished to adjust the siting of the proposed house for solar power access and the siting for the garage to improve access and reduce impact on two trees. The Trustees had no questions.

NP-2024-010

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of amending Development Permit NP-DP-2023.6 (Funk).

CARRIED

13.6 Saturna Island Local Trust Committee Referral for Proposed Bylaws 140 and 141 (for Response)

NP-2024-011

It was Moved and Seconded,

that North Pender Island Local Trust Committee interests are unaffected by the Saturna Island Local Trust Committee Draft Bylaws No. 140 and 141.

CARRIED

13.7 Salt Spring Island Local Trust Committee Referral for Draft Bylaw No. 536 (for Response)

NP-2024-012

It was Moved and Seconded,

that North Pender Island Local Trust Committee interests are unaffected by the Salt Spring Island Local Trust Committee Draft Bylaw No. 536.

CARRIED

The meeting was recessed for a break at 12:40 pm and reconvened at 12:48 pm.

14. LOCAL TRUST COMMITTEE PROJECTS

14.1 North Pender Island Local Trust Committee Draft Fees Bylaw No. 226 - Staff Report

Discussion ensued and the Local Trust Committee indicated concern that governance issues had not been resolved prior to increasing fees and that advocacy is needed at Trust Council for the timely resolution of governance report recommendations. It was

noted that while the fees might not adequately reflect actual costs the increases are not large.

NP-2024-013

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given First Reading.

CARRIED

NP-2024-014

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given Second Reading.

CARRIED

NP-2024-015

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given Third Reading.

CARRIED

NP-2024-016

It was Moved and Seconded,

that North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

CARRIED

14.2 Raptor Nest Mapping Development Permit Area Project – Staff Memo

Received for information.

15. REPORTS

15.1 Work Program Report

15.1.1 Active Projects Report Dated Jan 2024

Received for information.

15.1.2 Future Projects Report Dated Jan 2024

Trustee Morrison would like a note included in Item No. 5 “Review Development Permit Areas” referencing the Galiano forest cover protection bylaw.

15.2 Applications Report Dated Jan 2024

Received for information.

15.3 Trustee and Local Expense Report Dated Nov 2023

Received for information.

15.4 Adopted Policies and Standing Resolutions

Received for information.

15.5 Local Trust Committee Webpage – No updates

15.6 Islands Trust Conservancy Report - None

16. NEW BUSINESS - None

17. UPCOMING MEETINGS

17.1 Next Regular Electronic Meeting Scheduled for February 23, 2023

18. TOWN HALL

Michael Sketch stated that when the James Island bylaws were up for consideration of adoption a letter was received from a Chief of the Tsawout First Nation and the Treaty Manager objecting to the James Island bylaws and at that time the Local Trust Committee decided not to receive the letters of objection. Today it looks like the duty to consult is being put upon the crown however it should be the Local Trust Committees duty to consult on their own bylaw, and the local government act requires that duty when considering a change to the Official Community Plan.

19. CLOSED MEETING (Distributed Under Separate Cover)

19.1 Motion to Close Meeting

NP-2024-017

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)(a) for the purpose of considering:

- personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;

AND that the recorder and staff attend the meeting.

CARRIED

The regular meeting was closed to the public to go in-camera at 1:15 pm.

19.2 Recall to Order

The meeting was recalled to order at 1:55 pm

19.3 Rise and Report

Chair Maude will rise and report at the next Local Trust Committee that

- The in-camera minutes of the Local Trust Committee meeting of July 28, 2023 were adopted
- An appointment to the Board of Variance was made

- Appointments were made to the Advisory Planning Commission

20. ADJOURNMENT

By general consent the meeting was adjourned at 1:56 pm.

David Maude, Chair

Certified Correct:

Lisa Millard, Recorder