

South Pender Island Local Trust Committee Minutes of Special Meeting

Date: January 17, 2025
Location: South Pender Fire Hall
8961 Gowlland Point Road, South Pender Island, BC

Members Present: Tobi Elliott, Chair
Dag Falck, Local Trustee
Kristina Evans, Local Trustee

Staff Present: Kim Stockdill, Island Planner
Katherine Vogt, Recorder (electronic)

Others Present: Hereditary Chief Eric Pelkey
There were approximately eighteen (18) members of the public present

1. CALL TO ORDER

Chair Elliott called the meeting to order at 10:31 a.m. She acknowledged that the meeting was being held on the territory of the Coast Salish First Nations. She welcomed everyone to this special meeting of the Local Trust Committee and introduced Hereditary Chief Eric Pelkey.

2. TERRITORIAL ACKNOWLEDGEMENT

Hereditary Chief Eric Pelkey (WĪĆKINEM) presented a map showing the SENĆOTEN place names and significance of sites within the territory of the WŚÁNEĆ People. He explained that the map originated from a precedent setting BC Supreme Court case by which WŚÁNEĆ First Nations upheld their territorial rights to hunting and fishing.

Chief Pelkey explained the color codes in the map representing various activities and the arrows that represented the path of the salmon where reef nets were placed for harvesting. Chief Pelkey's family, home, hereditary status, and traditional reef net site originates in QENEN, IW, at Poet's Cove. Reef net demonstrations are presented at this site every summer and are hoped to be expanded to other sites in the future.

WŚÁNEĆ First Nations used the map to achieve an injunction against the construction of a marina right outside their village and demonstrate the validity of the 1852 Treaty rights to hunt and fish in their territory.

Chief Pelkey was glad to share the map and WŚÁNEĆ nation's history with everyone at the meeting and looked forward to sharing this knowledge with others going forward.

Chair Elliott thanked Chief Pelkey for his presentation.

3. APPROVAL OF AGENDA

The following additions to the agenda were presented for consideration:

- add item 4. Townhall, move other items forward

By general consent the agenda was approved as amended.

4. TOWN HALL

Members of the public made the following comments:

- Greater setback requirements means that neighbors are able to provide input on a building development that they do not pay taxes on, yet property taxes are not being lowered
 - The speaker would not be able to build on 20% of their property and the waterfront properties in front them would lose 40% of their buildable space by a 20% increase of side setbacks and the increase in the setback from the sea
 - This could affect property values; and some assessments in their neighborhood have gone down this year
 - None of the other 6 major Gulf Islands have gone to 20-foot side setbacks
- The environment should be a higher priority than property values or having more buildable area
- Trustees should take a stand, to move this long-stalled project forward, as there has already been a lot of public feedback
- Assessed value and market value are quite different and restrictions that improve privacy and natural value can improve a property's value
- There is no Advisory Planning Commission concurrence on the issue of legal non-conforming status, nor is it addressed in the recent staff report, but this issue needs to be clarified to provide community certainty
- A community member thanked the Local Trust Committee and Chief Pelkey for the reconciliation presentation
- It is concerning that a property owner can build and then suddenly have the rules changed, which adds costs, insecurity, and community resentment
- When the setbacks were changed in 2022 there was a lot of dissent, but they were changed anyways
 - It is and was intimidating to some people to come to these meetings and be questioned about their beliefs in climate change
 - Losing rights on one's property is concerning
- The focus should be on preserving and protecting the environment for the long-term future
- Bylaw No.122 makes about 45% of the homes legal non-conforming and the Advisory Planning Commission worked on solutions for minimizing legal non-conforming issues

5. BUSINESS ITEMS

5.1 Minor Land Use Bylaw Amendments Project - Staff Report

Chair Elliott acknowledged that the Land Use Bylaw Amendment Project had been stalled for various possible reasons; and invited Trustees to speak on what goals they were hoping to accomplish through the project.

Trustee Evans expressed the goal of wanting important community discussions to not be cut short, so that community differences can be resolved to a point that almost everyone can live with.

Trustee Falck expressed the goals of wanting to resolve, through discussion, the rift in the community that was created due to concerns over Bylaw No. 122; a rift that could lead to reduced protection of the environment, given that it is the people in a community that protect it; to ensure that bylaw proposals are defensible and arrived at through an integral, thorough process and that they adequately address the actual environmental concern. Trustee Falck also acknowledged that people were very different in how they preferred to live their lives on their properties, and that it was not up to Trustees to dictate to them.

Island Planner Stockdill presented the Staff Report, dated January 17, 2025, which contains Advisory Planning Commission's recommendations for review. The following comments and responses were noted:

- Island Planner Stockdill confirmed that the only situation where the adoption of Bylaw No. 122 created a legal non-conformity on South Pender is regarding building height, not floor area or setbacks
 - There is additional protection in the wording of Bylaw No. 122, beyond the Local Government Act, to be able to rebuild a dwelling as it previously stood as of September 15, 2022
 - Confusion and concern regarding this issue continues to be expressed by members of the public
 - Trustee Falck acknowledged that many people had a negative response to their property being labeled legally non-conforming
- Advisory Planning Commission Recommendation No. 1 would require "substantive evidence" rather than "an appropriately qualified person," for submitting building site documents for rebuilding dwellings within the new 50-foot setback (changed from the original 25-foot setback) to the natural boundary of the sea
 - A table that clearly spells out before September 15, 2022 and after September 15, 2022 was requested
- The Local Trust Committee considered Advisory Planning Commission Recommendation No. 2 to revert interior and exterior lot lines back to 10 feet
 - Support was expressed for this recommendation, given that trees could still be cut, and outbuildings or driveways developed within the setback the restriction does not appear to accomplish much
- Trustees expressed support for reverting the height restriction back to the way it was written prior to Bylaw No. 122
- Another table could help clarify the clauses on Page 14 of the Bylaw under siting and setback regulations, where it says "despite section..." in 3.3(3), (4) and (5)
- With regard to shipping containers, Article 3.5(6)(b) on page 16 of the Land Use Bylaw No. 114 be changed from 3 to 4 acres and Item 3.5(6)(c) be changed to 4 acres for alignment with housing sizes
- Section 3.10 regarding the use of recreational vehicles as a dwelling, was supposed to be under a new subsection
- The Planner offered to update clerical items for Trustee review

- The Planner presented Advisory Planning Commission Recommendation No. 3a to exclude attached garage from floor area and to define “attached garage”
 - Staff did not support this recommendation, because it provided a loophole for garages to be converted into living space
 - Excluding attached garages from the floor area could force the building of bigger footprint with detached garages
 - Previous floor area allowances were greater, and easily allowed for attached garages without reducing permittable living space
- The Planner presented the Advisory Planning Commission Recommendation No. 3b to amend the Land Use Bylaw to provide two separate total and maximum floor area tables, one for prior to September 12, 2022, and one for on or after that date
 - The planner noted that staff supported this recommendation
 - The reduction of allowable house sizes in the bylaw did not account for large families and other lifestyles, including wheelchair accessibility
 - Support was expressed for increasing floor size by 500 square feet in each category as recommended, which would compensate for the attached garage
 - Further support was expressed for allowing attached garages, as this would promote less scattered building footprints
 - The clause associated with the tables could be removed for clarity
 - The Planner offered to come back with options for garages/dwelling sizes and aligning the bylaws with the BC Building Code height standards
- The Planner presented Advisory Planning Commission Recommendation No. 3c: “agriculture maximum floor area and align it with the Land Use Bylaw,”
 - It was noted that the Local Trust Committee is restricting, by lot size, the maximum allowable floor area of 500 square meters, as is permitted
 - It had been previously recommended to refer to the Agricultural Land Commission Act regulations rather than write them up in the Land Use Bylaw, since they may change
 - The Planner would report back regarding if there was a total maximum allowable floor area of all buildings on Agricultural Land Commission land
 - Last term it was stated that there would be no change to the total floor area of all buildings; yet, on 10 acres or more in each of the sections it was reduced from 20,000 feet to 15,000 feet
 - Will need to determine if this was error

SP-2025-001

It was Moved and Seconded,

that South Pender Island Local Trust Committee request staff to prepare a draft bylaw for the Minor Land Use Bylaw Amendments Project in accordance with the staff report and trustee discussions dated January 17, 2025.

CARRIED

6. ADJOURNMENT

By general consent the meeting was adjourned at 12:57 pm.

Tobi Elliott, Chair

Certified Correct:

Katherine Vogt, Recorder