

1

PROTOCOL AGREEMENT REGARDING THE PROVISION OF PARKLAND  
BETWEEN  
THE GALIANO ISLAND LOCAL TRUST COMMITTEE  
AND  
THE GALIANO ISLAND PARKS AND RECREATION COMMISSION REPRESENTING  
THE CAPITAL REGIONAL DISTRICT

WHEREAS the Galiano Island Local Trust Committee and the Galiano Island Parks and Recreation Commission consider it in the public interest of the Galiano Island Community for its Local Trust Committee and Parks and Recreation Commission to coordinate their administrative procedures to ensure the acquisition of appropriate lands for community parks, given the powers of the Galiano Island Local Trust Committee in relation to the provision of park land at the time of subdivision and the responsibility of the Galiano Island Parks and Recreation Commission to develop, operate and maintain community parks;

AND WHEREAS the Galiano Island Local Trust Committee has local government jurisdiction under Section 27 of the Islands Trust Act for land use regulation in the Galiano Island Local Trust Area within the Capital Regional District;

AND WHEREAS the Galiano Island Local Trust Committee jurisdiction includes:

i) The authority, through its Official Community Plan, to generally state broad objectives and policies respecting the form and character of existing and proposed park land use, and to designate the approximate location and type of present and proposed park land use, and to designate the approximate location and type of present and proposed public park facilities. (See Section 945 of the Municipal Act);

ii) The authority to designate lands for park use in regulatory bylaws (see Section 963 of the Municipal Act);

iii) the power to require, at time of subdivision, that park land be provided, or cash-in-lieu be paid (See Section 992 of the Municipal Act);

AND WHEREAS the Capital Regional District has jurisdiction over community parks pursuant to division XIV of its Letters Patent and as such is entitled to the possession and control of land within the Galiano Island Community Parks Defined Area dedicated to the public for a park, and has the authority to acquire, develop, operate and maintain community parks (See Section 992 of the Municipal Act);

AND WHEREAS the Capital Regional District, pursuant to its supplementary Letters Patent dated 28th day of August 1975, has established the Galiano Island Parks and Recreation

Commission by bylaw 2292, and in such bylaw delegated to the Galiano Island Parks and Recreation Commission all of the administrative powers of the Regional Board with respect to the development, maintenance, and operation of all community parks within the Galiano Island Community Parks Defined Area;

AND WHEREAS the Galiano Island Parks and Recreation Commission has an interest in the identification and acquisition of land for community parks purposes through the powers exercised by the Galiano Island Local Trust Committee in relation to the requirements for the provision of park land, or cash-in-lieu payments at the time of subdivision;

AND WHEREAS the Galiano Island Parks and Recreation Commission has an interest in providing community parks and the Galiano Island Local Trust Committee has an interest in identifying community park lands which preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of the Province generally, in cooperation with the Galiano Island Parks and Recreation Commission;

NOW THEREFORE both parties agree as follows:

1. The intent of the Galiano Island Parks and Recreation Commission (hereafter, "the Parks Commission) and the Galiano Island Local Trust Committee (hereafter, "the Trust Committee") is to improve the coordination of administrative procedures between the Parks Commission and the Trust Committee with respect to the Parks Commission's responsibility for the administration of community parks and the Trust Committee's powers in relation to the provision of park land, pursuant to 992 of the Municipal Act, and to facilitate the dedication of park land or cash-in-lieu payments for the acquisition of park land to be operated, developed and maintained by the Parks Commission.
2. The Trust Committee and the Parks Commission agree that the purpose of Section 992 of the Municipal Act is to provide dedicated park land or cash-in lieu for future acquisition of park land.
3.
  - i) The Parks Commission will adopt, by resolution, a Parks and Recreation Plan (the Plan) that will include recommendations for community parks and trails in a form amenable to consideration by the Trust Committee for inclusion in its Official Community Plan (the OCP), the recommendations to have been developed by a process providing for public participation at various stages, and in the context of an explicit recognition of the Trust Committee's role in the Trust's legislated object to preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and the Province generally, in cooperation with municipalities and the government of the Province (see Section 3 of the Islands Trust Act).
  - ii) The Trust Committee, when revising or reviewing its OCP, will consult with the Parks Commission with respect to community parks and trail network design designations, from

a land use planning perspective and with respect to appropriate policies and strategies relating to park land dedication versus cash-in-lieu payments, and will give due consideration to the recommendations of the Parks Commission.

- iii) Both parties agree to collaborate in their respective planning initiative through cross-representation on plan preparation steering committees, background study information, circulation drafts, community forum hosting, and other similar mutually beneficial measures.
4. Upon receipt of a copy of the Plan, and any amendments thereto, the Trust Committee will give due consideration to those recommendations pertaining to its jurisdiction, and in particular, to those recommendations pertaining to the designation and use of community park land and trail networks, with a view to incorporating appropriate and relevant provisions into the Trust Committee's OCP and associated regulatory bylaws.
  5.
    - i) The Trust Committee will refer to the Parks Commission all those applications received which invoke section 992 of the Municipal Act.
    - ii) The Trust Committee will refer to the Parks Commission all those referrals for subdivision, and applications for rezoning or a permit under Division 5 of part 29 of the Municipal Act which relate to land mapped or designated in the Plan as having park or trail network potential, or are identified through designations or policies in the OCP with respect to park or trail network potential.
    - iii) The Trust Committee will, to the best of its ability, include complete copies of all such referrals and applications, and subsequent amendments to such referrals and applications including all relevant maps, plans, and other attachments when referring items identified under 5 (i) and (ii) to the Parks Commission.
  6. The Parks Commission will review the applications referred to it by the Trust Committee and will respond in writing within thirty (30) working days of receipt for the purpose of commenting on the potential effects of such applications upon general and specific community park and trail network objectives and, where applicable, will make recommendations to the Trust Committee respecting park land dedication or cash-in-lieu payment pursuant to section 992 of the Municipal Act.
  7. The Trust Committee will exercise its statutory powers with respect to the question of park land dedication, or the payment of cash in lieu of parkland dedication, with due consideration for the recommendations of the Parks Commission and with full respect for the spirit and intent of Section 992 of the Municipal Act. The Trust Committee will endeavour to maintain close communications with and be open to advice from the Parks Commission. The Parks Commission acknowledges that the statutory responsibility of the Trust Committee in this regard cannot be delegated, nor can any discretion be fettered by

reference to another body such as the Parks Commission.

8. The Trust Committee will investigate and will strive to implement procedural policies designed to ensure that a phased approach to property development is not used as a means of circumventing the requirements of Section 992 of the Municipal Act.
9. The Trust Committee will advise the Parks Commission in writing within ten (10) working days of its final determination of park land dedication or cash-in-lieu requirements in respect to applications which invoke Section 992 of the Municipal Act.
10.
  - i) The Trust Committee will direct, through its communications with the Approving Officer, that all money received as cash-in-lieu pursuant to Section 992 of the Municipal Act to be paid to the Capital Regional District pursuant to Section 27 of the Islands Trust Act for the Capital Regional district to place in a reserve fund established for community park land acquisition in the Galiano Island Community Parks Defined Area.
  - ii) Where appraisal costs are incurred pursuant to Section 992(7) of the Municipal Act, those costs will be borne by the applicant and the Parks Commission.
11. The Trust Committee and the Parks Commission will confirm all verbal communication in writing and will forward all written communication to the following addresses by mail and fax:

Trust Committee:                   Galiano Island Local Trust Committee  
  Attn: Senior Planner,  
  Islands Trust  
  2nd Floor, 1627 Fort Street,  
  Victoria, B.C. V8R 1H8  
  Fax 952-4193

Parks Commission:               Galiano Island Parks and Recreation Commission  
  Attn: Chairperson  
  P.O. Box 111  
  Galiano Island, B.C. V0N 1P0

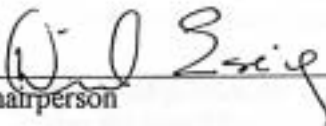
12. The Trust Committee and the Parks Commission agree that this Protocol Agreement may

be amended at any time by mutual written consent and to jointly review the Protocol Agreement when requested by either party.

13. The Trust Committee and the Parks Commission acknowledge and agree that this agreement will not be interpreted as prejudicing or affecting the rights and powers of the Trust Committee, the Trust Council, The Parks Commission or the Board of the Capital Regional District in the exercise of their functions under any public or private statute, regulation or by-law.

Dated this 6<sup>th</sup> day of November 1996

For the Galiano Island Local Trust Committee

  
Chairperson

Dated this 29<sup>th</sup> day of September 1996

For the Galiano Island Parks and Recreation Commission

  
Chairperson