

**MINUTES OF THE HORNBY ISLAND
LOCAL TRUST COMMITTEE
SPECIAL MEETING
TO HOLD A COMMUNITY INFORMATION MEETING
HELD ON MONDAY APRIL 4, 2011 AT 6:00 PM
AT THE WEST VANCOUVER SENIORS ACTIVITY CENTRE
695-21ST STREET, WEST VANCOUVER, BC**

PRESENT:

Louise Bell	Chair
Tony Law	Local Trustee
Fred Hunt	Local Trustee
Brodie Porter	Island Planner
Kate-Louise Stamford	Recorder

There were 47 members of the public in attendance.

1. CALL TO ORDER

Chair Bell called the Hornby Island Special Business Meeting to order at 6:00pm.

2. COMMUNITY INFORMATION MEETING

Chair Bell introduced the Local Trust Committee and briefly outlined the structure of the Islands Trust and its general polices. She emphasized that the Trust does not provide or regulate services but focuses on land use planning.

2.1 Vacation Home Rentals

Trustee Law gave a history of Hornby Island's relationship with vacation rentals. He noted that the challenge for the Islands Trust has been the unique situation of a local economy based largely on short term vacation rentals that is not duplicated anywhere in the Islands Trust area. Trustee Law said that short-term vacation rentals do not fit within "home occupation" designations in the land use bylaws as the owner is typically not present on the property. Trustee Law stated that because short-term vacation rentals are not in the local bylaws, they are subject to the standing bylaw enforcement policy as administered by Islands Trust council (central body).

2.1.1 Short Term Vacation - see discussion paper Vacation Home Rentals on Hornby Island - Enhancing the status quo

Trustee Hunt outlined the current activities around "enhancing the status quo". He said public meetings/workshops were conducted which in part

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examined current bylaw enforcement infractions for short-term vacation rentals. Of four primary enforcement “triggers” – safety, nuisance, advertising and third party management – Trustee Hunt said that the last two were not considered a problem on Hornby and that advertising and third party management were required in order to maintain the status quo.

Chair Bell outlined the structure of a local trust committee. She defined the definition of the term “policy” which she said is usually used in terms of the Official Community Plan but when used in “standing policy” it can be seen as a set of guidelines without the requirement of legislative process.

Planner Porter noted that there are various planning tools available to the Hornby Island Local Trust Committee (see discussion hand-out entitled “Enhancing the Status Quo”) that can bring a level of management to vacation home rentals that is amenable to the current situation and future use. He also provided definitions of various terms that may not be familiar to the members of the public.

Planner Porter added that currently there is a supporting statement in the Official Community Plan for the continued existence of short-term vacation rentals as a home occupation but is not set in the Land Use Bylaw as it does not fit the definition of “home occupation” (owner absent). He said this technically triggers the Islands Trust Council’s Standing Bylaw Enforcement policy which is triggered by several activities normally practiced on Hornby Island (i.e. advertising of vacation rental or third party management).

Planner Porter said land owners who want to have a legal short-term vacation rental can also apply for a Temporary Use Permit

He noted that another alternate idea is to adopt a Standing Bylaw Enforcement Policy *that “specifies that investigation and enforcement of vacation home rentals will only be triggered when:*

- a) there is a bona fide written complaint of health, safety or nuisance issues;*
- b) renters are being accommodated other than in a dwelling unit;*
- c) more than one dwelling on Hornby Island is being used by the same owner as a vacation home rental.”*

Planner Porter said that a Standing Bylaw Enforcement Policy is a management structure that prioritizes enforcement priorities for staff.

2.1.2 *Community Discussion*

Clarification Questions

Michael Rushton – asked if most of the changes to the Official Community Plan were about short-term vacation rentals.

Trustee Law answered that there were some administrative changes and additional policies around affordable housing.

John Gellard - asked if Temporary Use Permits were issued to the land owner or to the land itself (if the land is sold does the Temporary Use Permit continue to be in force?)

Planner Porter responded that although he needed to confirm it, the Temporary Use Permit is issued on the land and would continue to its scheduled end date if the land was sold. Trustee Law concurred.

Wendy Torqueson –outlined the situation with her family’s property that is managed by a third party but primarily only used for family gatherings a few times a year. Given this, she asked if the family would need to have a Temporary Use Permit.

Planner Porter responded that the key is whether a property is used for commercial purposes (short-term vacation rental) if not, then it comes under permitted residential uses for that zone and does not require a Temporary Use Permit.

Mary Segal – asked how many times Temporary Use Permits could be applied for.

Trustee Law clarified that the goal for this process was not to have to apply for Temporary Use Permits at all unless a land owner was intending to use the property outside of the discussed way outlined in the lower right-hand proposal in the discussion table “Enhancing the Status Quo”. For example, someone was to purchase several properties to be used as vacation rentals.

In response to Mary Segal’s specific question Trustee Law said that land owners could apply for a three year Temporary Use Permit, renewable for another three years. On expiry of that permit, the woner could apply again, and so forth.

Lorraine Bennet –asked about the difference between a home occupation and third party management.

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Planner Porter responded that home occupation is generally when a land owner has a primary residence in which they are the proprietor of a small business. As the current regulations stand, a vacation rental would only qualify as a home occupation if there were two dwellings on one parcel of land, one of which is rented out, and the other being the primary residence. The purpose of the proposed standing bylaw enforcement policy is to acknowledge that this is not generally the situation on Hornby and to prevent bylaw enforcement from being triggered.

Katherine Robinson - requested clarification about when a Temporary Use Permit is not required.

Trustee Law emphasized that the whole purpose of implementing the proposed Standing Bylaw Enforcement Policy to recognize the support that short-term vacation rentals has on Hornby Island and prevent the need for a Temporary Use Permit in the general situation as it stands now. Land owners will be permitted to advertise and rent their homes on a short-term basis either by themselves or through a third party, without the need for a Temporary Use Permit. A Temporary Use Permit will have to be applied for in situations above and beyond what has become standard practice on the Island – for instance, if several residences are purchased by one owner (or corporation) for short-term vacation rentals.

Trustee Law added that the point is to maintain the neighbourly structure that currently exists on the island without onerous regulation.

Ken Bernard – asked if a bed and breakfast is a home occupation

Planner Porter responded that bed and breakfasts are considered a home occupation in residential zones where it is a permitted use which, on Hornby, includes all residential zones.

Miriam Ulrych – noted that it was still confusing that there has to be any “enhancement” at all. She asked why there needed to be any changes to the home rental situation as she had not heard of any problems.

Planner Porter responded that the Hornby Island Land Use Bylaw does not have vacation rentals as a permitted use. He added that provincial legislation requires that the Islands Trust provide planning for the future community needs of Hornby Island. The tremendous growth in short-term vacation rentals on the Island has, and will continue, to impact community structure.

Mick Rushton – how is a Standing Bylaw Enforcement Policy created and how can it be changed.

ADOPTED

Planner Porter – responded that a standard Land Use Bylaw regulation goes through a formal legislative process. A Standing Enforcement Policy is developed primarily to manage staff resources and can be passed by the Local Trust Committee. The Local Trust Committee can also discontinue the policy by a simple motion. As it is not as transparent as other Bylaws, there are ways of monitoring a standing policy. Planner Porter suggested that, if passed, the Standing Enforcement Policy be placed on every agenda of the Local Trust Committee and be present on the Island website.

Avi Dolgin – outlined a scenario in which there are several consecutive “wild” parties at a vacation rental; how would this situation be handled if the Standing Enforcement Policy was in place?

Trustee Law responded that the immediate situation requires the intervention of the Royal Canadian Mounted Police (RCMP). In the longer term, the “nuisance” property needs to be addressed in terms of land use and this is where the Standing Enforcement Policy would be triggered. A call or written notice to the Bylaw Enforcement Officer would be investigated and possible legal action would be taken against the land owner if a resolution could not be agreed upon. The point of this, he noted, is to provide some measure of protection for neighbours of vacation rentals (including other vacation rental properties) as the land owners are sometimes far removed from the immediate situation and difficult to reach.

Planner Porter added that if there is a demonstrated pattern of use that is beyond the accepted use demonstrated by the community then it becomes a land use issue.

Chair Bell also noted that there are two full-time bylaw enforcement officers and one administrator in Victoria for the Islands Trust Area. Their contact information is available on the Islands Trust website.

Miriam Ulrych asked which Bylaw is being violated and since when does the Land Use Bylaw supersede the Official Community Plan. She also suggested that the proposed Standing Enforcement Policy seems to be another way for the Islands Trust to control what people do on their properties. Miriam Ulrych noted that short-term vacation rentals have been managed very well in the past on Hornby Island and that there is a strong community spirit supporting them.

Chair Bell responded that the Official Community Plan is not regulatory rather it is a set of guidelines for community direction. In the case of Hornby Island, the Land Use Bylaws are silent on the regulation of short-term vacation rentals and the proposed use of the standing bylaw enforcement policy is the least onerous and controlling way of providing legal accountability.

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Unidentified person – asked if short-term vacation rentals could continue to be managed by a third party management company.

Trustee Hunt confirmed that with the proposed Standing Bylaw Enforcement Policy the use of a third party management company would not trigger a bylaw enforcement investigation.

Al Sheir – asked what actual enforcement power the Islands Trust has.

Trustee Law responded that ultimately unresolved bylaw infractions become a court matter but that the Islands Trust is working towards becoming part of the provincial remediation process.

Sarah Didcott – asked if a neighbouring land owner has a Temporary Use Permit what recourse does one have if there are problems (i.e. sewage leakage, overuse of water etc).

Planner Porter responded that a Temporary Use Application is reviewed in a public process and any number of requirements can be required by community input. If a land owner violates their own Temporary Use Permit then they will lose the right to undertake the permitted use until the violation is corrected.

Diane Salter - asked if there was a cost to a Temporary Use Permit.

Planner Porter said that there is a discussion about an estimated fee of \$440.00 and a \$140 renewal fee.

Trustee Law reiterated that for the majority of current short-term vacation rentals on Hornby a Temporary Use Permit would not be required if the proposed Standing Bylaw Enforcement Policy is passed by the Hornby Island Local Trust Committee.

Mike Tarbotton – asked who is ultimately responsible for health and safety, and when referring to “health” in the proposed Standing Bylaw Enforcement Policy that the term includes sewer and water.

Trustee Hunt confirmed that the proposed Standing Bylaw Enforcement Policy is referring to sewer and water under health. He added that health and safety are governed by the Vancouver Island Health Authority and that the RCMP is responsible for safety.

Public Discussions and Comments

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Avi Dolgin – stated his overall support for the proposed Standing Bylaw Enforcement Policy but has some concerns about third party management. He said he would like to see a process to develop a Better Business Bureau type of structure for managers. He said that this would go a long way in addressing some of the concerns about specific vacation rental issues.

Lorraine Bennet – thanked the Local Trust Committee for their work and saw the Standing Bylaw Enforcement Policy as a reasonable way to maintain the status quo. She noted that as enforcement of the short-term vacation rentals on Hornby is currently at the Islands Trust Council level, it made more sense to bring it to a local level.

Lorraine Bennet also asked if the development of a short-term vacation rental would trigger a business licence requirement

Trustee Law stated that there are no business licence requirements on Hornby

Mick Rushton – stated that the proposed Standing Bylaw Enforcement Policy seemed to be a common sense local solution and would like to see it adopted. He asked whether or not this policy could be enshrined in the Land Use Bylaws rather than be left to the changeable will of the Hornby Island Local Trust Committee.

Trustee Law noted he recognised that the weakness of this proposed solution was the ease by which it could be changed. If it is enshrined in the Bylaws then there is no flexibility for non-permitted uses. He suggested that this provides some protection where there is none now for short-term vacation rentals.

Leagh Farrell – noted that there are regulations governing weekly rentals in the Lower Mainland and that the status quo is not good enough for Hornby Island. Given that, he allowed that the proposed Standing Bylaw Enforcement Policy does provide some reassurance.

Mike Tarbottom – clarified that the new Hornby Island Home Renters association is not for home owners but for people who are profiting from rentals.

Trustee Law suggested the Home Renters Association may consider expanding for a more broad representation. Trustee Hunt added that there were several people who had referenced the need for a home owners association on Hornby Island.

Mia Hajys – requested clarification on item (b) of the proposed Standing Bylaw Enforcement Policy that renters must be housed within a dwelling. She

outlined a situation in which renters bring a trailer or tent for family members to use in conjunction with the primary rental premises.

Planner Porter confirmed that item (b) did restrict renters to the use of a dwelling and not to use a trailer or tent. This trigger does not apply to land owners using their own land. He emphasized that all enforcement is commonly done on a complaint basis only. If there is an informal agreement with neighbours and an occasional quiet tent is pitched without issue then there is no problem. Planner Porter stated that neighbourly, common sense interaction is always the first line of community management. He added that if there is a need for a more structured solution then a Temporary Use Permit can be applied for.

Mark and Sean Pederson – stated their support for the proposed Standing Bylaw Enforcement Policy and noted that if you are a responsible land owner, and vacation rental owner, then there are no problems.

Chris Allen – Thanked the Local Trust Committee and other attendees. He stated that short-term vacation rentals have a huge impact on the local Hornby economy. Chris Allen said that ultimately the Land Use Bylaw should be subordinate to, and in line with, the Official Community Plan and that is where the Local Trust Committee focus should be. He added that as far as was indicated, there have been little or no complaints about short-term vacation rentals and as overall issues (i.e. health and safety) are covered by other agencies, then the situation should be left alone. Finally, he noted that there seemed to be an encouragement to having two dwellings on a property to comply with the definition of home occupation, therefore this added development would be a huge stress on the local environment.

Unidentified person (family has been on the island since the 1930's) – noted that there seemed to be an attitude that land owners with short-term vacation rentals used more resources (i.e. sewer and water) than full-time residents. This was demonstrably not true and she wanted to see the same entitlements to all land owners. She stated that she simply wanted less bureaucracy.

Bill Calum – asked if there is a gap between current standards and what Islands Trust wanted to enforce.

Trustee Law stated that commercially zoned businesses are held to a higher standard of accountability and have more hoops to jump through in terms of health and safety.

Planner Porter added that in principle the Local Trust Committee cannot regulate impact when considering land use but they can look at potential land impacts.

Unidentified person – expressed his frustration at the lack of response from Islands Trust to two written complaints he forwarded regarding bylaw violations and considered this another demonstration that the Trust has little power. He added that the Vancouver Island Health Authority has also not responded to him. His conclusion was that bureaucracy is a waste of time.

Sara Dipcot – stated that she saw the proposed Standing Bylaw Enforcement Policy as a way of providing more leniency to land owners than what is currently enforced by the Islands Trust. She added that there was a need to look to the future and prevent long-term damage to the environment.

Judy Cross – stated that there seemed to be a real double standard as summer people were seen to be more detrimental to the environment and community than full-time residents. She requested that Islands Trust push Vancouver Island Health Authority harder about sewer concerns. Overall, Judy Cross said she would like to see fewer year-round residents on Hornby Island and return it to its original focus as a summer place. She also expressed concern about proposed policies in the Official Community Plan that would permit secondary suites on properties of 3.5 acres or more.

2.2 *Official Community Plan/Land Use Bylaw Review – See Draft Hornby Official Community Plan Revisions April 2011*

(17 members of the public stayed for this portion of the meeting)

Planner Porter outlined the general formatting, legislative and terminology changes and then highlighted some policy changes that the Local Trust Committee would like feed back on:

- 3.3.8 and 6.1.5 (page 60) amenity zoning concepts
- 3.3.7 Heritage values and roads
- 4.4.2 Power and energy sources
- 6.1.2 Providing a minimum size for Section 946 of the Local Government Act which permits land owners who have owned for more than five years to “peel off” a portion of their lot for a relative.
- Some residential zones have been amalgamated.
- 6.3.3.3 a specific subdivision where lots have two dwellings and joint ownership
- 6.3.5.12 and 13 – these policies came from the Hornby Island Advisory Housing Commission and outline potential kinds of housing and uses of secondary suites for affordable housing solutions. Planner Porter said the Local Trust Committee is looking for public feedback here.
- Agriculture section – addition of secondary dwellings for farm use accommodation

- 6.5 - commercial usages policies 6.5.1.1. – 4.
- vacation home rentals (page 83)
- Home occupations
- 6.8 Climate Change adaption and mitigation

Planner Porter added that the language in an Official Community Plan in reference to Temporary Use Permit is not binding.

Comments from the Public

Judy Cross – commented that the process seems to be top down in comparison to the previous Official Community Plan review.

Chair Bell responded that this was a targeted review as opposed to a full review of the Official Community Plan. It was opened primarily to deal with the inconsistencies of vacation home rental between the Official Community Plan and the Land Use Bylaw.

Trustee Hunt added that additional changes to the Official Community Plan arose from two advisory planning workshops that were conducted specifically around affordable housing options. He said that the Local Trust Committee was surprised at how many changes have been recommended in the draft, but that most of them are to update technical and legislative language.

Trustee Law added that a letter was sent to all land owners informing them of the Official Community Plan review and the Advisory Planning workshops.

Mike Rushton – requested an outline of actual draft changes to the Official Community Plan. He added his support for low-cost housing options on Hornby Island. Mike Rushton noted that in Section 6.5 there seems to be a move to go back to earlier concepts of commercialization and he wanted to see a further focus on tolerance rather than more layers of bureaucracy. Finally, he asked whether or not the Standing Bylaw Enforcement Policy would be referenced in the Official Community Plan.

Planner Porter responded that the draft Official Community Plan with tracked changes is available on the Islands Trust website and noted that the Standing Bylaw Enforcement Policy does not fit within the legislation of an Official Community Plan so any reference to it would not be included.

Bruce McNamara – asked whether or not water quality and table levels have changed over the past decade and if the water stewardship group is still active.

Trustee Law said that the water stewardship group is still active on Hornby Island but to varying degrees. Trustee Hunt added that as far as he understands reports

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show that the test wells in the Sandpiper and Whaler Station Bay areas slowly getting lower but there has been no change in water quality. He suggested that Bruce McNamara contact Mary Mackenzie for further information.

Chris Allen – added that there is a Geotechnical/Hydrology study available for all wells on Hornby Island (2002). Planner Porter added this report is referenced on the last page of the draft Official Community Plan.

Unidentified person (family has been on the island since the 1930's) – asked if written submissions would be responded to. She also asked where, or how, to read other submissions to the Official Community Plan process.

Chair Bell responded that all correspondence (written or electronic) comes to the Local Trust Committee at each business meeting for review and they are compiled as part of the meeting package available on the website. In regards to the Official Community Plan process, Chair Bell said that all correspondence is available for review on the website as a separate project.

3. ADJOURNMENT

The meeting was adjourned by consensus at 9:10 pm.

Chair

Recorder