



**Gabriola Island
Local Trust Committee
Public Hearing Record Regarding:**

**PROPOSED BYLAW NO. 265 CITED AS “GABRIOLA ISLAND OFFICIAL COMMUNITY
PLAN (Gabriola Island) BYLAW 166, 1997, AMENDMENT NO, 1, 2012”
AND**

**PROPOSED BYLAW NO. 266 CITED AS “GABRIOLA ISLAND LAND USE BYLAW 177,
1999, AMENDMENT NO. 1, 2012”**

Date of Meeting: Wednesday, September 4, 2013, at 6:30pm
Location: Gabriola Island Agricultural Hall
465 South Road, Gabriola Island, BC

Members Present: David Graham, Chair
Gisele Rudischer, Local Trustee
Sheila Malcolmson, Local Trustee

Staff Present: Courtney Simpson, Regional Planning Manager
Lisa Webster Gibson, Planning Clerk
Jason Youmans, Planner 1
Jessie Sherk, Recorder

Media and Others Present: Three (3) Local Media Representatives and
approximately (100) members of the public

1. CALL TO ORDER

Chair Graham called the meeting to order at 6:30 and introduced himself, the staff and trustees in attendance. He explained the purpose of this public hearing.

2. OPENING REMARKS

Planning Manager Simpson read aloud some questions and answers that have been asked by the public recently, also stating that there is a paper copy of this list available to all in attendance. She also explained what the next steps would be after this hearing. This project is on the agenda of the Local Trust Committee meeting tomorrow morning. It is not on the agenda for further readings. The trustees will consider what they heard tonight and they can make changes to the bylaw based on what they hear from the community. After tonight they cannot hear any new information.

**Public Hearing Record
Received for Information
By Local Trust Committee**

Trustee Malcolmson introduced herself and thanked everyone for coming. She noted that Gabriola is the 107th local government to implement the Riparian Areas Regulation (RAR) since the Provincial Government gave the instruction to do so in 2004. The good news is that there are lots of examples ahead of us, and ways that they have been able to add exemptions and local flavor to it. Unfortunately the Province didn't give the local government a lot of leeway. She stated that she is, along with her fellow trustee, committed to ensuring that this regulation fit the community the best it can. She also noted that she looks forward to hearing the public's ideas.

Trustee Rudischer introduced herself and stated this is not the end of the process and they are here to listen to what everyone has to say. She also thanked everyone for coming.

Chair Graham read an opening statement explaining the purpose of the Public Hearing and what bylaws are being considered. He let all in attendance know that they will be given a reasonable opportunity to be heard or to present written submissions respecting matters contained in the proposed bylaw(s).

Planning Clerk Webster-Gibson explained the proposed bylaws and read the public hearing notice. She stated that since August 19, 2013 there have been copies of this bylaw available for the public at the Islands Trust office. She reiterated that no new submissions can be heard by the Local Trust Committee after this hearing.

Planning Manager Simpson read out the agency referrals and responses.

3. PUBLIC COMMENTS AND QUESTIONS

Chair Graham opened the Public Hearing to submissions from the floor.

Liz Ciocea (880 Clarendon Road) – Liz stated that she is also a member of Gabriola Rescue of Wildlife Society and that over the years living on Gabriola she has seen some bad practices. She would like to see the development permit area go through, however, does not want to see Gabriolans so upset. Her concern is for wildlife, insects and frogs, but does feel that it should also work for all of us.

Laurie MacBride (2735 North Road) – Laurie stated that she has been involved with environmental public awareness and supports stream environment protection and the protection of fish habitat, however, does not embrace the proposed bylaws. She stated that the bylaw promotes "unfairness and social inequity". She listed a number of concerns including the costs. She stated that the expenses of fish protection should be spent from the community as a whole noting that there are many people on the island who will not be able to afford the added fees. She feels that this bylaw is unfair and she also stated that she did not agree with some of the designated watercourses that, to her knowledge, are not even natural watercourses and have no history of fish.

She also stated that the selection of the affected areas is inappropriate as some of these designations are not even natural watercourses. Some waterways that have been designated do not even have history of fish. She stated that the designation process is

**Public Hearing Record
Received for Information
By Local Trust Committee**

arbitrary. Loss of property value is also a concern. Seniors on pension rely on their property value to finance their old age. Seems like this is contrary to the trust goal. Another concern is public safety, increased fire risk. Another concern, implications of food security. More people should grow food but this bylaw is a disincentive for people, as they will not put in a new garden with the costs for permits. In conclusion, fish habitat should be protected but we believe the measures have to support other key values and find this seriously flawed. These concerns need to be fully addressed.

Eva Gibson (3010 North Road) – Eva spoke about if designated streams or creeks get altered somehow naturally. Her understanding is that the riparian rights move with the water. They are not stationary. She also spoke about culverts. She feels that the system used to designate whom riparian bylaws cover is not fair. She wonders why Gabriola's stream protection has to be so different from Nanaimo's. She feels that if this was a court case and the Riparian Areas Regulation went through, it would be reversible on appeal. She thinks this map is too old, as North Road and South Road don't even connect on the map. There is no reason to do this. They are being discriminated.

Owen Clearkin (1430 Peterson Road) – Owen stated that he was attending this Public Hearing to question the trust representatives on their justification for designating Dicks Brook as a possible fish habitat. He has been informed by fisheries biologists that:

1. The fact that there is no water for 6 months it's not possible for fish to survive; and
2. The large amount of excess nitrogen from manure spreading creates high levels of algae bloom which also kills the fish and affects the water.

He feels the designation is wrong, no value. He also stated that he has no problem with the Riparian Areas Regulation where it is known that fish exist. He feels that there is no evidence to designate a mostly dry ditch and that this is expropriation of land rights. He said he would appreciate it if the Local Trust Committee would take another look at this and other watercourses that have no fish.

Eric Moeller (940 Horseshoe Road) – Eric stated that he has filed an intervention. He began by talking about the object of the trust and that he felt they weren't following their mandate to preserve and protect the trust area for the benefits of the residents. He feels that this project does not support fire protection. There are homes on the island that cannot comply with fire safety rules and riparian rules. He also wanted to know how and why a ditch is exempt from Riparian Areas Regulation until it enters your property. He wants the panel to see how the setbacks interfere with the 100-mile diet. Riparian Areas Regulation is also contradicting some of the social goals in the Official Community Plan such as encouraging local food systems. He opposes the Riparian Areas Regulation and the cost for taxpayers. He feels the Riparian Areas Regulation creates a problem where none existed in the past. He wondered if Islands Trust can stop the regulation or reduce the affected area and that the trust considers a tax exemption. He wanted to go on record asking every property owner to appeal his or her property taxes to the Regional District of Nanaimo.

Deb Ferens (387 Lyngail Place) – Deb is a member of Stream Keepers and on the Advisory Planning Commission, but is speaking on her own behalf and as a property owner. She does support the regulation. She does want to commend the local trustees

**Public Hearing Record
Received for Information
By Local Trust Committee**

for putting the development permit area into the land use bylaw because it does give the community a bit more options later on for changing bylaws. She also would like to ask the trustees to look closely at the regulation as there may be opportunities to add some advocacy statements.

Guy Mireau (1040 Coates Drive) – Guy said bylaws are meant to help resolve problems but this one is not a response to any problems. Problems here are from utility companies and new infrastructure. This bylaw is obscene. Arbitrarily destroy the environment and we as individual private property owners will have to pay for the privilege to look after the environment that we live in. This bylaw is one more wedge in dividing the community. He feels that Islands Trust should persuade the province, not the community. Most of the province is exempt. Controlling vegetation for fire protection should not fall under this regulation. There should be no barriers to the prevention of the destruction of fire. Fire prevention should be a major focus.

Bart Jessop (776 Roxanne BLVD) – Bart is a member of the Property Rights Action Group and has submitted a 60-page brief on this matter. He would like, for various reasons, to request this hearing and all proceedings to consider these bylaws to cease and desist immediately. His brief provided 38 categories of evidence against this bylaw. He then went through each of the points covered in his submission.

Tom Kirchmayer (1055 McClay Way) – Tom has a highways ditch that fell into riparian regulation. His ditch is dry from May to October. He strongly disagrees with the regulation and bylaws. His entire property will fall under the guidelines and devalue his property. He feels that the Qualified Environmental Professional's only interest is his fee and Islands Trust only cares about application fees. Not against fish habitat, but a dry ditch should not be included.

Bob Andrew (445 Taylor Bay Road) – Bob supports bylaws. They aren't the best, given the intent but they are the best that could be drawn up in response to the provincial requirements. Riparian Areas Regulation is necessary for stream health and watershed health; it's not just about fish. There is a responsibility to the natural environment and most people try even without the bylaws. There are people that don't care. He has seen ugly examples of this. More than the methods of protection outlined in the bylaws are needed. There needs to be better encouragement and tax reduction incentives. He believes the Local Trust Committee should lobby for these sorts of refunds and incentives. He feels they should add a line in the Official Community Plan to encourage the restoration of riparian areas.

Susan Yates (445 Taylor Bay Road) – Susan is in support of proposed Riparian Areas Regulation. She stated that she did submit this in writing. She doesn't like more regulations either but understands why we need them as we should be doing everything we can to protect streams. Our presence on the earth does not come with a right to destroy the habitats and build monuments to our brief existence on this planet. Instead of defending rights we should think of our responsibilities and consider yourself blessed that you live somewhere that still has something to preserve. Find a better way to monitor and enforce the regulation. There needs to be incentives for landowner to protect riparian areas on private property. Similar to NAPTEP for tax breaks. If it came out of tax dollars it would be far better than paying the costs. She also noted that after

**Public Hearing Record
Received for Information
By Local Trust Committee**

listening to the people tonight she gathers that some mapping may not be accurate enough to make this bylaw a really truly good one, so asked the trustees to take a look at the mapping.

Randy Young (1278 The Strand) – Randy objected to the map. In the past we have had a situation where a consultant has been hired and a report has been issued that really didn't match what we have on Gabriola. Islands Trust has got together a local advisory committee to come up with local knowledge that is far better than a consultant that comes in, in other situations. All of us for a sustainable future would love to see that we could have fish and a sustainable environment. Urges the trust committee to put together a local advisory committee to figure out what waterways should actually be on the map.

Wendy James (651 Wildwood Crescent) – Wendy asked the Islands Trust to take a stand against the province. It's not true that there will be ramifications if they don't pass this legislation. She noted that one of the threats to a riparian area is invasive species, but this bylaw says we can't remove it. She stated to stop finger pointing and have some accountability.

Dayna Currie (785 North Road) – Dayna stated that with owning the alpaca farm she is responsible for every bit of feces from the llamas but it seems that the highway department can do whatever they want. She stated that her next-door neighbor has rotting vehicles but it's not Islands Trust's problem? There are vehicles oozing waste into the creek bed. We all have to be aware of what is coming off of our land no matter what time of the year. Personally she thinks planting gardens helps dilute toxins and she is pro-fish. If she has to be accountable why doesn't her neighbor?

Robert Seaton (1170 Suzanne Avenue) – Robert gave some responses to some of the things said here. His issue is not the principle of protecting but rather the science needs to be correct and the protection is effective. He stated that food security is a key issue. He stated that it's not true to say that the public has to comply with these regulations but other industries don't have to do it, as he knows that the forestry regulations regarding riparian areas are lengthy.

Lindsey Godfrey – Lindsey stated that fish is important and science is important. We have intimate knowledge of our land and she suggests that we should devise a paper on how to address riparian areas in our community rather than someone in the city

Luke Vandeross (Pat Burns Avenue) – Luke stated that he is all in favor of the environment but he feels there is a jurisdictional problem here. He stated that the regulation is here to protect the environment not fish. He says Islands Trust has no jurisdiction to deal with these bylaws. He thinks that the Trust's authority is limited to enhancing and protecting the environment. He suggests that we take a close look at this and decide if this matter should be deferred to Regional District of Nanaimo.

Alex Dewer (561 Wildwood) – Alex's main concern is the costs associated with this regulation. He feels that protecting the environment falls on everyone.

**Public Hearing Record
Received for Information
By Local Trust Committee**

Earl Jacobson (1035 Descanso Valley Drive) – Earl stated that he has not personally seen the problem that this regulation is trying to fix. He has not seen the environment being damaged on his land or adjacent land. What we're seeing is continual escalation of cost of protecting the land. He wonders if this is causing a significant problem in a different area.

Edward Jones (660 Jackpine Street) - Edward doesn't have a stream but sympathizes with those who do. The Riparian Areas Regulation should be implemented in principal but the costs are the issue. Is there any mechanism that these costs could be removed? Maybe a biologist on staff to decide? He was a BC Conversation Officer and to him it seems that the *Water Act* might be disregarded in some respects here. No work should take place on or about a stream in the *Water Act*. He agrees with Randy, maybe we should look over the designation of some of the waterways. This is not only protecting fish it is supporting water supply, and all of the wetland habitats.

Vern Packham (539 Wildwood Crescent) – Vern wondered when a beaver makes a dam and he can't remove it what will happen when it floods over south road?

Cameron Murray – Cameron supports the principal of the Riparian Areas Regulation. He feels that the idea of protecting the rights of downstream neighbors and mapping creeks and watersheds is important and well within the Islands Trust mandate. The accuracy of the maps is a concern.

Carol Hobson (Lot 37 Wildwood Crescent) – Carol has a property that is now riparian due to a man-made ditch that is dry most of the year. She also noted that it bothered her that fish from Nanaimo were brought to the community information meeting when it should have been fish from Gabriola.

John Jamison (Hill Road) – John stated that he has the only lot on Hill Road that floods and he tolerates it. Everyone's properties around him dump on his property. If these regulations come in he can no longer use his property even though he has cleared a spot for his shop and his home. It's strictly runoff from highways, but if he did anything other than allow the water onto his property he will get a fine from the Ministry of Transportation and Infrastructure. Now he can't build a shop or a house. He wonders what he is supposed to do.

Nadia Small (1925 Martin Road) – Nadia stated that a few years ago she wanted to protect the frogs and made ponds and creeks on her property. Now she is being penalized for this.

Fred Walton (Hill Road) – Fred asked what the high water mark is. Trust staff couldn't answer that on the spot.

Doug Hodges (595 Wildwood Crescent) – Doug stated that the vast majority doesn't want anything to do with the proposed bylaw and wants the trust committee to do something about it.

Brigit Buy (816 Horseshoe Road) – Brigit wondered if she has a biologist say something on her property is not a fish habitat, would it still be a riparian area?

**Public Hearing Record
Received for Information
By Local Trust Committee**

Jeff Molloy (401 Berry Point Road) - Jeff feels that since the effects this will have on property owners is extreme, the mapping has to be accurate. He feels that the province pushing this stuff on Gabriolans is wrong. More work needs to be done and mapping needs to be dead accurate.

John King (765 Roxanne Blvd) - John owns 6.8 acres and if this Riparian Areas Regulation goes through he will lose 2.5 acres of his property. His property will become non-conforming. He questioned the legality of this. He also noted that according to the description in the Official Community Plan, there are hardly any streams on Gabriola.

Noella Sale (650 Wildwood Crescent) - Noella read from something she found on the internet, which explained the reasoning behind going from the streamside protection to Riparian Areas Regulation. She stated that it was designed to provide certainty and flexibility to development. She also said they are shifting the cost and resources from the government to us. She proposed that we find another way to have this work for Gabriola.

Eva Gibson - Eva had questions regarding the Islands Trust pamphlet and was directed to ask staff during regular business hours.

Liz Ciocea - Liz stated that she has seen bad practices on the island. As far as the beaver... why do we always think we have to remove, kill, and destroy? We need to work together to keep this place beautiful. As a GROWLS member she's seen bad practices.

Lynn Vanderworden (539 Wildwood Crescent) - Lynne made some comments about the wildlife and environment. She said that no one is kinder to the environment than she is and that she does the best she can, but has still received a lot of flak.

Bart Jessop - Bart picked up where he left off going through each of the categories of concern in his submission to the trust committee.

Joe Madson (671 Wildwood) – Joe wanted to go on record saying he is opposed to the proposed bylaw. He noted that his mother has lived here many years and is a great steward. This bylaw will make her property unsellable. He wanted to be on record saying he is opposed to the proposed regulation.

John King (765 Roxanne BLVD) - He stated that the geotechnical report is full of errors. He does not believe that Islands Trust personnel were diligent providing landowners with information packages. He stated that he did not give permission to the qualified environmental professional to enter his property, therefore he was trespassing. He also noted that Castell Brook does not enter the ocean and should not be considered a spawning stream. He listed all the other poorly defined waterways in the geotechnical report.

Lynn Vanderworden (539 Wildwood Crescent) - Lynne feels that the proposed bylaws are ill conceived and are going way overboard. There needs to be a more sensible and harmonious way.

**Public Hearing Record
Received for Information
By Local Trust Committee**

Wendy James - Wendy feels that property owners were not properly informed of the full impact.

Mark Coats (909 South Road) - Mark says his property is unusable now. There are no salmon in his streams, yet he is subjected to all this and his property has no value. They do not clear-cut but now he can't cut any trees down.

Julie Lee (665 wildwood) - Julie stated that she received no notification and she has a seasonal watercourse. 95% of her property will be unusable.

Wendy James - Wendy would like the Islands Trust to post the actual notifications that have been supposedly put out to all the property owners affected with the dates they were sent out.

Eric Moeller (940 Horseshoe Road) - Eric spoke about the Madrone report wondering why a ditch is exempt from the Riparian Areas Regulation until it enters a property. He also noted that fish would have to come up 200 feet from sea level and jump up a 5 ft. dam in order to affect any properties above his yard. He feels that the mapping is not accurate and asks that Islands Trust staff go back and do something about the Madrone map.

Paul Metcalf (420 North Road) - Paul stated that after listening to everything tonight he feels that the database is flawed and that there is a disturbing similarity between this and the steep slopes. Urge at least to correct the database, which means a summer survey of the watercourse.

Vern Packham (Wildwood Crescent) - Vern stated that if he doesn't keep his creek clean it would flood. He also noted that people would be doing everything they can now before the regulation is in place.

Lori McBride - Lori feels that Madrone's surveying methods were sloppy. Some people say that no one came to their property and others say that they trespassed. She also noted that over the summer she had a huge willow tree fall down over her lower pond. If she hadn't been able to have someone cut it up and cart it out, her pond would no longer be a duck and frog habitat. If Riparian Areas Regulation were in effect, she wouldn't have been able to do that.

Cheryl Bailey (1040 Coats Drive) - Cheryl spoke about the section of the bylaw that talked about removal of trees. She feels that it is not realistic that if a tree was threatening her life, that she would have to hire an arborist as well as get approval from the DFO to remove it.

Bart Jessop – Bart stated that it's people that support rights that are the most responsible. He feels that its government that is not responsible as the Islands Trust made the decision that the 707 be logged. The bylaw is about removing property owner's rights. He also stated that a lot hinges on the Madrone report and to his knowledge this report was carried about before the contract was approved and signed,

**Public Hearing Record
Received for Information
By Local Trust Committee**

which is grounds for legal challenge. Madrone access permission was not granted. He feels there are strong grounds to reject these proposed bylaws.

Tom Kirchmayer - Tom stated that they have discovered flaws in this research and wondered if Islands Trust is prepared to take on another court battle. He hopes this can be resolved in a typical Gabriolan way, so that everyone comes out happy including the fish, without taking away peoples' rights or properties.

Guy Mireau (1044 Coats Drive) - Guy stated that he has spent weeks examining things and trying to figure out how this bylaw will affect Gabriolans. The bylaw, as proposed, has caused a great deal of stress. Some people are fearful to get involved in the process because of the stress they feel on this issue. He feels that it seems to be more about protecting fish than the people that live here. Don't we care about the people on this island? He stated that there are two realtors on this island that say it's highly likely that properties designated as riparian area will likely decrease in value. Is Islands Trust prepared to take responsibility if a mental health crisis is to happen? He is trying to prevent wildfires on his property. Islands Trust needs to find other ways to encourage the protection of the environment. He feels that there has to be a better solution.

Doug Hodges (595 Wildwood Crescent) – Doug proposed that the Islands Trust scrap the whole thing because that is what the people want.

Chair Graham called three times for further submissions on proposed bylaw No. 265 cited as "Gabriola Island Official Community Plan (Gabriola Island) Bylaw 166, 1997, Amendment No. 1, 2012" and Proposed Bylaw No. 266 cited as "Gabriola Island Land Use Bylaw 177, 1999, Amendment No. 1, 2012". There were no further submissions.

Chair Graham closed the Public Hearing at 9:00pm.

I CERTIFY THAT THIS IS A FAIR AND ACCURATE SUMMARY OF THE NATURE OF REPRESENTATIONS RESPECTING THE MEETING HELD.

Jessie Sherk, Recorder