



Denman Island Local Trust Committee Minutes of Regular Meeting

Date:	October 27, 2015
Location:	Denman Seniors Hall 1111 Northwest Rd, Denman Island, BC
Members Present	Susan Morrison, Chair David Critchley, Local Trustee Laura Busheikin, Local Trustee
Staff Present	Rob Milne, Island Planner Miles Drew, Bylaw Enforcement Manager Vicky Bockman, Recorder
Others Present	Approximately eight (8) members of the public - am Approximately three (3) members of the public - pm

1. CALL TO ORDER

Chair Morrison called the meeting to order at 10:30 am. She welcomed the public and introduced herself, Trustees, staff and recorder. She acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The following additions to the agenda were presented for consideration:

- 13.1.3 Initiation of Meeting with K'omoks Treaty Negotiators
- 13.9 October, 2015 Trust Fund Board Report
- 14.2 Letter of Welcome to New Member of Parliament Gord Johns
- 14.3 Community Support Draft Letter re: Denman Community Land Trust Association's (DCLTA's) Application for Canada Housing and Mortgage Corporation (CMHC) Seed Funding

By general consent the agenda was adopted as amended.

Chair Morrison commented that late items to the agenda should be limited to those that are time-sensitive in order to provide the public with adequate opportunity to review them.

3. TOWN HALL AND QUESTIONS

Graham Brazier expressed concern that the Strategic Plan adopted at the last Trust Council did not include a fully developed approach to the issue of foreshore protection even though there was significant public input on this matter and the item is a Top Priority for Denman Island. He noted that there was little change from past Strategic

Plans on this topic, while another issue that he considers to be less critical, the Victoria Office Relocation Study, has been fast tracked. He hoped that there would be opportunity to address and change this at the next Trust Council. He suggested that the addition of an action item including terminology such as “develop a tool kit for protecting the foreshore” would be useful.

Chair Morrison responded that the Strategic Plan has been adopted, however, it is a fluid document and can change over the course of the term. She advised that she will be asking for public feedback on the Victoria Office Relocation Study to advise of next steps.

Trustees observed that the issue of foreshore protection is addressed in the Plan in broad terms, with a strategy of advocating for nearshore ecosystems and reduction of negative impacts of shellfish aquaculture and other industrial marine activities. They encouraged Mr. Brazier to share his viewpoint with the Trust Council as a whole.

Dean Ellis submitted a list of three questions for the Denman Local Trust Committee (LTC).

Chair Morrison answered that the LTC will not be responding to these questions as legal advice has been received that recommends that the LTC decline to discuss any matter that is currently in litigation or that has been litigated.

Mary Reid asked if there are any new developments in the medical marihuana grow-op issue that was discussed at the last LTC meeting.

Trustees responded that there is a staff report that will be providing information on the matter later in the agenda.

Harlene Holm, speaking on behalf of the Denman Community Land Trust Association (DCLTA), requested a letter of support from the LTC to support the group’s application for a Canada Housing and Mortgage Corporation (CMHC) Seed Funding grant.

By general consent agenda item 14.3 was moved to follow item 3.

14.3 Community Support Draft Letter re: Denman Community Land Trust Association’s (DCLTA’s) Application for Canada Housing and Mortgage Corporation (CMHC) Seed Funding

Harlene Holm provided information regarding the uses of the funding being requested in response to a Trustee’s inquiry.

DE-2015-067

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee supports the application of Denman Community Land Trust Association for seed funding from the Canada Housing and Mortgage Corporation.

CARRIED

Trustees discussed the request for a support letter. They noted their need to remain neutral and not fetter their discretion on the project at this point and

acknowledged that while there is no application before them for their consideration, there is a demonstrated need in rural areas for seniors' affordable housing projects, and the Official Community Plan does include supporting policies.

DE-2015-068

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee direct the Chair to sign a letter of support to Canada Housing and Mortgage Corporation in the form of the letter attached.

When asked by the Chair if there was any discussion on the motion, Trustees requested amendments to the text of the attached draft letter. The question on the following main motion, as amended, was then called.

DE-2015-068

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee direct the Chair to sign a letter of support to Canada Housing and Mortgage Corporation in the form of the letter attached, amended as follows:

- first paragraph, last line: delete "in the village area";
- last paragraph, last line: delete "an ideal location";
- last paragraph, fourth line: change "will be" to "are proposed to be";
- inclusion of a caveat stating that this support does not guarantee future approval of any application.

CARRIED

4. COMMUNITY INFORMATION MEETING - none

5. PUBLIC HEARING - none

6. MINUTES

6.1 Local Trust Committee Minutes dated September 8, 2015 – for adoption

By general consent the Local Trust Committee meeting minutes of September 8, 2015 were adopted.

6.2 Local Trust Committee Public Hearing Record dated September 8, 2015 - for receipt

The Public Hearing Record was received.

6.3 Section 26 Resolutions-without-meeting Report dated October 8, 2015

Received.

6.4 Advisory Planning Commission Minutes - none

6.5 Marine Advisory Planning Commission Minutes – none

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List dated October 8, 2015.

Planner Milne provided an update on the meeting described under the September 8, 2015 Activity column, reporting on the stakeholders invited and responses received thus far.

Trustees noted that neither the K'omoks First Nation (KFN) nor the Aboriginal Aquaculture Association have responded yet. Possible approaches were suggested to engage their participation as well as the consideration of the invitation of additional groups of interest if appropriate. LTC members agreed that it might be effective for a Trustee to contact a known individual in the KFN Band and Trustee Busheikin offered to do so.

7.2 Marihuana for Medical Purposes Regulation

7.2.1 Staff Report dated September 28, 2015

Planner Milne presented the staff report outlining the background and an analysis of the issues regarding production of marihuana on Denman Island. He advised that options include regulating, limiting to specific zones, or prohibiting as appropriate with the exception of lands within the Agricultural Land Reserve (ALR), subsequent to the required public process.

Regarding the complaints of a marihuana operation in the Fillongley neighbourhood, Planner Milne reported that a review shows that the current Land Use Bylaw (LUB) does not contain regulations which would prohibit the proposed use in its location.

Trustees discussed possible approaches to address the growing of marihuana that included zoning or limiting the permitted number of plants to be grown in a variety of zones. Trustees expressed concern with a strategy that might have the unintended consequence of affecting small scale agriculture and acknowledged the complexities of the issues.

Bylaw Enforcement Manager Drew advised that horticulture is regulated as an accessory to principal residential use, however, suggested that the concern is with the commercial aspect of marihuana growing operations and the intensive scale that those entail. He indicated that Bylaw Enforcement would not be in favour of regulation by designating a number of plants and provided some examples of his rationale.

Planner Milne commented that there would be a relevant report provided by the Bylaw Enforcement Manager in a closed meeting to occur later in the LTC meeting, and suggested that the LTC members may wish to delay any further discussion or decisions until after that information has been received.

By general consent agenda item 7.2.1 was continued after item 17.3.

8. DELEGATIONS - none

9. CORRESPONDENCE - none

10. APPLICATIONS AND REFERRALS - none

11. LOCAL TRUST COMMITTEE PROJECTS

11.1 Riparian Areas Regulation (RAR) - Public Hearing Report

11.1.1 Staff Report dated September 22, 2015

Planner Milne presented the staff report that summarizes the results of the September 8, 2015 Public Hearing to consider Bylaw Nos. 212 and 213 and recommends a number of changes based on public input. He provided a submission from the Islands Trust GIS Coordinator that addresses the concerns expressed at the Public Hearing regarding mapping accuracy which indicates that the RAR mapping is accurate to a very high degree while property boundary accuracy is more variable.

Trustees debated the response to take regarding the issue of RAR mapping concerns:

- a trustee supported taking steps to respond to concerns of the public by allowing for the opportunity to ensure that the maps are as accurate as possible before the bylaw process is final. It was suggested that the time and cost of this process would likely not be excessive and would eliminate the financial burden on the property owner to correct any errors;
- it was noted that the proposed bylaws have been available to the public for months with minimal concerns expressed about the mapping, that staff would walk a property should this consideration be necessary in an application process, and that the additional process might be lengthy and complicated; and
- a Trustee supported moving forward with the current mapping, observing that mapping is always evolving, that the current mapping is more accurate than previous map data, and that priorities and the LTC's work plan must be considered.

DE-2015-069

It was **MOVED** and **SECONDED**, that Schedule 1 of Bylaw No. 212 be amended by the insertion of the word "qualified" between the words, "another professional" in the last sentence of the second paragraph of the "Category" section of the bylaw.

CARRIED

DE-2015-070

It was **MOVED** and **SECONDED**, that Attachment 1 of Bylaw No. 212 be amended to graphically represent the ALR portions of the following properties which are identified in Section 4.4.2, "Exemptions" of Schedule 1 of Bylaw No. 213 as "seasonally flooded agricultural fields:

- Lot A, Section 32, Denman Island, Nanaimo District, Plan VIP 61295;
- Lot 1, Section 17, Denman Island, Nanaimo District, Plan 43576;
- Lot 2, Section 17, Denman Island, Nanaimo District, Plan 43576;
- The South East ¼ of Section 26, Denman Island, Nanaimo District;
- The North West ¼ of the North West ¼ of Section 22, Denman Island, Nanaimo District; and
- The South West ¼ of Section 13, Denman Island, Nanaimo District.

CARRIED**DE-2015-071**

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee give third reading to Bylaw No. 212, cited as the "Denman Island Official Community (Denman Island) Plan Bylaw No. 185, Amendment No. 2, 2014", and Bylaw No. 213, cited as the "Denman Island Land Use Bylaw No. 186, Amendment No. 2, 2014.

CARRIED**Trustee Critchley Opposed****DE-2015-072**

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee submit Bylaw No. 212, cited as the "Denman Island Official Community (Denman Island) Plan Bylaw No. 185, Amendment No. 2, 2014", and Bylaw No. 213, cited as the "Denman Island Land Use Bylaw No. 186, Amendment No. 2, 2014 to Executive Committee for approval.

CARRIED**Trustee Critchley Opposed****DE-2015-073**

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee submit Bylaw No. 212, cited as the "Denman Island Official Community (Denman Island) Plan Bylaw No. 185, Amendment No. 2, 2014 to the Minister of Community, Sport and Cultural Development for approval.

CARRIED**Trustee Critchley Opposed**

11.2 Visitor Accommodation Review

11.2.1 Staff Report dated October 7, 2015

Planner Milne presented the staff report which reviews the outcome of the agency referrals for Bylaw No. 216. He confirmed that the Islands Trust Policy Statement Directives Only Checklist did not contain any relevant policies.

Trustees noted that the referral response from Vancouver Island Health Authority did not express any concerns and observed that the lack of response from the BC Assessment Authority was not considered to be an impediment to moving forward.

DE-2015-074

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee confirms that it has reviewed the Directives Only Policies and that Bylaw No. 216 is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

DE-2015-075

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee Bylaw No. 216, cited as "Denman Island Land Use Bylaw 186, Amendment No. 1, 2015" be read a second time.

CARRIED

DE-2015-076

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee proceed to a Public Hearing for Bylaw No. 216 to be held prior to the regular meeting of the Local Trust Committee to be held on December 1, 2015.

CARRIED

12. BREAK

By general consent the meeting was recessed at 12:02 pm and reconvened at 12:15 pm.

13. REPORTS

13.1 Work Program Reports

13.1.1 Top Priorities Report dated October 8, 2015

Planner Milne reviewed the Top Priorities Report. Trustees noted that the item stated as No. 3 on the report: "Development of a Memorandum of

Understanding with K'omoks First Nation" was resolved to be moved to the Projects List at the previous meeting and Planner Milne confirmed that he would make that correction.

Trustee Busheikin updated the LTC members on her efforts to contact a representative from the K'omoks First Nation, noting that she has not had success thus far. She observed that a past meeting with the Federal Treaty Negotiators had included K'omoks First Nation and suggested that initiating another such meeting might be an effective way to engage with a representative from the K'omox First Nation. LTC members agreed with this strategy.

DE-2015-077

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee request staff to set up a meeting with representatives of the Federal Treaty Negotiation team for the K'omoks Band.

CARRIED

Trustees confirmed that the purpose of the meeting is for an update on the K'omoks First Nation Treaty Negotiation process. They indicated their preference for a meeting prior to the holiday season with allowance for inclusion of other parties if suggested.

13.1.2 Projects List Report dated October 8, 2015

Trustee Busheikin advised that a report on Alternative Dispute Resolution (ADR) is scheduled to be presented at Executive Committee and that there may subsequently be more information for the LTC to review on the topic.

Bylaw Enforcement Manager Drew commented that the ADR process might be best initially explored by commencing with a single Local Trust Area rather than Trust-wide. He added that it might be difficult to apply the ADR approach to land use issues, although it might prove to be more effective in resolving nuisance issues.

13.1.3 Initiation of Meeting with K'omoks Treaty Negotiators

This item was discussed under agenda item 13.1.1.

13.2 Applications Report dated October 8, 2015

Planner Milne presented the Applications Report and provided updates.

13.3 Trustee and Local Expense Report dated September, 2015

Received.

13.4 Adopted Policies and Standing Resolutions

Received.

13.5 Local Trust Committee Webpage

Planner Milne advised that Trustee Notebook submissions may be sent to him and he will ensure that they are posted to the website.

13.6 Chair's Report

Chair Morrison reported that she is now a member of the Victoria Office Relocation Study Committee. She commented that this project is stated to be for the benefit of constituents in the Trust Area and that she will be asking for feedback from communities to assess the public interest in this undertaking. In Executive Committee news, she remarked that their agendas are now being distributed to Trustees for input and work is now being conducted on the December Trust Council agenda. She noted that the September Trust Council was successful and that the Natural Area Protection Tax Exemption Program (NAPTEP) has been extended throughout the entire Trust Area.

13.7 Trustee Reports

Trustee Busheikin reported that her work with Executive Committee and the Chief Administrative Officer Hiring Committee is ongoing. She provided a summary of the recent Ferry Advisory Committee meeting that she attended. She commented that she recently attended the annual meeting with the Comox Valley Regional District (CVRD) which she felt was productive. She remarked that she attended the recent Denman Island Residents Association meeting and expressed her appreciation for the work that this group does for the community.

Trustee Critchley noted that he held Trustee Office Hours twice and attended the Trust Council on Bowen Island. He reported on meetings with several groups including the Baynes Sound Initiative; Ministry of Transportation and Infrastructure to discuss their policies regarding access, barriers and signage; the CVRD for the annual meeting; and the South Sewer Project. He commented that he attended the opening ceremony of the Denman Island Natural Burial Cemetery.

13.8 Electoral Area Director's Report - none**13.9 Trust Fund Board Report**

Chair Morrison summarized the October, 2015 Trust Fund Board Report.

14. NEW BUSINESS**14.1 Denman Island Local Trust Committee Tentative Meeting Schedule for 2016 - To be distributed at meeting**

Trustees reviewed the proposed 2016 meeting schedule and there were no apparent conflicts in the dates suggested. They expressed their appreciation to staff for arranging the schedule.

DE-2015-078

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee schedule its 2016 regular business meetings at the Denman Activity Centre, 1111 Northwest Road, Denman Island, beginning at 10:30 am on the following dates:

Tuesday, January 12, 2016
 Tuesday, March 15, 2016
 Tuesday, April 19, 2016
 Tuesday, May 17, 2016
 Tuesday, July 5, 2016
 Tuesday, September 20, 2016
 Tuesday, October 18, 2016
 Tuesday, November 15, 2016

CARRIED**14.2 Letter of Welcome to New Member of Parliament (MP) Gord Johns**

Trustee Busheikin suggested the LTC send a letter of welcome to the in-coming MP for the riding of Courtenay-Alberni, Gord Johns, and LTC members agreed with this initiative.

DE-2015-079

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee send a letter signed by the Chair to Member of Parliament Elect Gord Johns congratulating him on his election.

CARRIED**15. UPCOMING MEETINGS**

Trustees confirmed that the next regular meeting is scheduled for Tuesday, December 1, 2015 at 10:30 am at the Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC.

A Public Hearing for Bylaw No. 216 is scheduled to be held prior to the regular LTC business meeting on December 1, 2015.

By general consent, agenda item 16 was moved to follow the continuation of 7.2.1

17. CLOSED MEETING

17.1 Motion to Close the Meeting

DE-2015-080

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)(d) for the purpose of Adoption of In-Camera Meeting Minutes dated July 21, 2015 and s.90(1)(f) for the purpose of law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment, and that staff attend the meeting.

CARRIED

The meeting closed to the public at 12:53 pm.

17.2 Recall to Order

The meeting was reopened to the public at 1:09 pm.

17.3 Rise and Report

Chair Morrison reported that in the closed meeting the LTC adopted In-Camera minutes of July 21, 2015 and received a staff report regarding marihuana growing on Denman Island that included the following information:

In the A, F, R1, R2, R3 and RE zones one of the permitted accessory uses is "horticulture and agriculture, other than intensive agriculture, accessory to a principal residential use". The bylaw defines agriculture, accessory and horticulture as below:

Agriculture means the use of land, buildings or structures for any of the following activities:

- Growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
- Clearing, draining, irrigating or cultivating land;
- Using farm machinery, equipment, devices, materials and structures;
- Applying fertilisers, compost, manure and other growing agents; storage, processing or direct marketing by a farmer of farm products.

Accessory in relation to a use, building or structure means ancillary, secondary and exclusively devoted to a principal use, building or structure expressly permitted by this bylaw on the same lot or, where the accessory use, building or structure is located on common property in a bare land strata plan, on a strata lot in the same strata plan.

Horticulture means the growing of flowers, fruits, vegetables and other plants and includes the sale of such products when grown by the landowners on their lot.

The LUB does not differentiate marihuana plants from any other type of plant. Notwithstanding the Health Canada or even the Criminal Code of Canada regulations concerning marihuana growing given the above, it is not a violation of the Denman Island LUB to grow and sell marihuana. Therefore, the LTC has no ability to prevent marihuana cultivation and selling it in the zones which permit agriculture or horticulture. Enforcement of Health Canada and Criminal Code rules is in the hands of the federal government or the police.

7.2.1 Staff Report dated September 28, 2015 - Continued

Trustees continued their discussion of the possible approaches to address the regulation of intensive marihuana growing operations on Denman Island. They indicated their preference to initiate the process with a public meeting to assess the direction that the community might favour. They noted that in light of uncertainty and change in other government levels and the possibility of intentional misuse of bylaws in the interim, a strategy was suggested that might initially prohibit intensive growing in all zones except the ALR and then hold public consultation to consider a Light or Semi-Industrial zone or other strategies. LTC members expressed their support for the creation of a Project Charter for this initiative to create the opportunity for a thoughtful community process.

DE-2015-081

It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee direct staff to prepare a bylaw that contains the following elements:

1. a prohibition on the intensive growth and production of marihuana in all zones except the Agricultural and Light Industrial zones;
2. a definition of "Intensive Marihuana Production" that defines it to be production of an amount in excess of ten plants; and
3. to include a Project Charter.

CARRIED

16. TOWN HALL

Orla Haagerup asked for an update on the marihuana growing operation on Baikie Road and if they had a permit to operate.

Trustees and Bylaw Enforcement Manager Drew responded that the permit for this operation was granted under older regulations and the operator is in the process of transferring that permit, however, went on to explain that the enforcement of the regulations is outside of the LTC's jurisdiction. They clarified that the Denman Island regulations currently permit the growing of plants without differentiating what type of plants, and they recommended that the neighbours work with the RCMP and other agencies to address their concerns.

Mary Reid asked for clarification of the status of Denman bylaws regarding the regulation of marihuana production.

Chair Morrison and Bylaw Enforcement Manager Drew responded that the process to address this through a change in the bylaw has been initiated and will include public consultation. A potential timeline was offered for the process, however, it was clarified that the operation in the Fillongley subdivision would be considered “grandfathered” under current regulations as the intent has been established.

Bill Warren expressed his appreciation for the LTC taking steps to address this issue, however voiced his concern that this will take time and the local grow-op will continue to increase its operation. He asked if there is an interim measure that could be undertaken to manage this situation, given the concern of the neighbours.

Bylaw Enforcement Manager Drew responded that the activity cannot be prohibited retroactively and that the federal government has the ability to manage this. Trustees suggested various agencies that might be contacted to address their concerns.

18. ADJOURNMENT

By general consent the meeting was adjourned at 2:02 pm.

Susan Morrison, Chair

Certified Correct:

Vicky Bockman, Recorder