



Denman Island Local Trust Committee Minutes of Regular Meeting

Date: September 8, 2020

Location: Electronic Meeting

Members Present: Sue Ellen Fast, Chair
David Critchley, Local Trustee
Laura Busheikin, Local Trustee

Staff Present: Heather Kauer, Regional Planning Manager
Marnie Eggen, Island Planner
Sonja Zupanec, Island Planner
Jaime Dubyna, Planner 2
William Shulba, Islands Trust Freshwater Specialist
Vicky Bockman, Recorder

Others Present: Approximately twenty (20) members of the public
Daniel Arbour, Director, Comox Valley Regional District Area A

1. CALL TO ORDER

"Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change."

Chair Fast called the meeting to order at 12:30 pm. She welcomed the public, introduced Trustees and staff, and acknowledged that the meeting was being held in territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

2.1 Electronic Meetings Resolution

DE-2020-045

It was MOVED and SECONDED,

that in accordance with *Ministerial Order M192 - Local Government Meetings & Bylaw Process* and *Province of BC Bill 19 - 2020*, Denman Island Local Trust Committee cannot conduct public in-person meetings at this time because the meeting venues traditionally used have limited access or do not meet the legislated requirements for the protection of the community, trustees and staff; and therefore in order to meet the principles of openness, transparency and accessibility, meetings of the Denman Island Local Trust Committee will be held electronically over the period September 8 to October 31, 2020, will be live streamed and the public invited to participate in meetings by connecting to the link or the phone number provided in the meeting notice, in order to observe proceedings and speak when invited by the Chair.

CARRIED

The following amendments to the agenda were presented for consideration:

- Add item 8.1.1 Letter from Island Health to Denman Housing Association dated September 3, 2020 Re: Rainwater Harvesting System for the Denman Green Affordable Housing project;
- Move item 8.3 DE-DP-2020.1 (Nielsen) Staff Report to before 8.1.

By general consent the agenda was approved as amended.

3. REPORTS

3.1 Trustee Reports

Trustee Critchley reported on his attendance at the following:

- Baynes Sound Forum working group where work on the Terms of Reference continues;
- Trust Programs Committee sub-committee meetings where affordable housing in the context of the Trust Policy Statement was considered;
- Community Information Meeting (CIM) regarding the Denman Housing Association (DHA) Denman Green Affordable Housing project;
- Advisory Planning Commission meeting addressing the DHA referral;
- Trust Programs Committee meeting;
- Local Trust Committee (LTC) special *In Camera* meeting.

Trustee Busheikin reported on the following:

- Local Planning Committee meetings working on a variety of regional initiatives;
- Financial Planning Committee meeting;
- Calls from constituents;
- Work continues with the Denman Island COVID Response Network.

3.2 Chair's Report

Chair Fast reported on her attendance at the following:

- CIM regarding DHA's Denman Green Affordable Housing project;
- An Islands Trust Conservancy Board meeting;
- Executive Committee meetings;

and noted that the following meetings are upcoming and will be held electronically:

- Trust Council on September 15-16, 2020;
- Union of British Columbia Municipalities.

3.3 Electoral Area Director's Report

Daniel Arbour, Director, Comox Valley Regional District (CVRD) Area A commented on issues of interest including the following:

- The regularly held meeting including CVRD and Hornby Island and Denman Island Trustees is scheduled for September 21, 2020;
- He has worked with Trustee Busheikin on the COVID response network group and with Trustee Critchley on the Baynes Sound Forum working group;
- The full staff report regarding septic regulation options for improving septic outcomes is now available and he will forward the reports to the LTC Chair to share;

- He will send a briefing on an initiative in partnership with K'ómoks First Nation to extend the sewage system from Courtenay/Comox to Union Bay, and as it relates to Baynes Sound water quality the LTC support may be sought;
- The Cross Island Trail work is proceeding to connect the Denman West ferry terminal via a stairway to a neighbourhood that will avoid the busy hill;
- The pilot cross island bus decision was postponed due to the COVID safety concerns.

4. TOWN HALL

Members of the public commented with the following noted:

- A personal experience of a renter needing to move multiple times was shared; a report has indicated 80 families/individuals in need of affordable housing on Denman Island; many affordable housing projects have been proposed that did not proceed; issues of water catchment as a potable water source or close neighbours will not be concerns for those in need; many who need affordable housing the most are not participating in the meetings on this topic.

Trustee Busheikin declared a potential conflict of interest as she lives next to the site of the proposed Denman Green project and left the meeting at 1:07 pm.

- Regarding the Denman Green affordable housing project: Trustees were encouraged to maintain the preserve and protect mandate; the land should not be rezoned from Forestry for a project with this density; the density transfer for the remainder lot is opposed; adding a total of 25 densities to this area would be unfair to those who moved to Denman Island for the rural lifestyle.

Trustee Busheikin returned to the meeting at 1:10 pm.

- The Denman Community Land Trust Association (DCLTA) has raised funds to purchase the Seniors Affordable Housing project property, however neighbours who are going to be affected by the development have not been consulted; there should be opportunity for addressing their issues of concern prior to rezoning;
- It was unfortunate that the CIM for the Denman Green project concluded before some had a chance to speak; the LTC was encouraged to facilitate Zoom meetings to enable all attending to be identified by name;
- A three-metre setback is necessary for the DCLTA's Pepper Lane seniors' affordable housing project due to the small lot. The smaller setback could address the Firesmart measures with mitigating measures such as a smaller vegetative buffer, native plantings and building surfaces that are more fire resistant; and the LTC was encouraged to consult with the Denman Island Fire Department on this issue;
- The DCLTA Pepper Lane project was supported; however, further development of Agricultural Land Reserve land in the future was opposed.

Trustee Busheikin declared a potential conflict of interest as she lives next to the site of the proposed Denman Green project and left the meeting at 1:15 pm.

- Support was expressed for the DHA Denman Green project as there are many people being employed on Denman Island that are receiving low wages and are in need of affordable housing.

Trustee Busheikin returned to the meeting at 1:17 pm.

- It is crucial for the viability of the DCLTA Pepper Lane project that the LTC continue their support for a three-metre setback that has been indicated in the past.

5. DELEGATIONS - None

6. MINUTES

6.1 Local Trust Committee Minutes dated July 7, 2020 - for adoption

DE-2020-046

It was MOVED and SECONDED,

that Denman Island Local Trust Committee adopt the minutes dated July 7, 2020 as presented.

CARRIED

6.2 Local Trust Committee Community Information Meeting Minutes August 6, 2020 - for adoption

DE-2020-047

It was MOVED and SECONDED,

that Denman Island Local Trust Committee adopt the Community Information Meeting minutes dated August 6, 2020 as presented.

CARRIED

6.3 Section 26 Resolutions-Without-Meeting Report dated August 31, 2020

Received.

6.4 Advisory Planning Commission Minutes dated August 14, 2020 - for receipt

Received.

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List dated August 31, 2020

Received.

7.2 BC Farm Industry Review Board (BCFIRB) Presentation and Question & Answer

Presentation by BCFIRB staff about their independent administrative tribunal and its role in hearing complaints under the *Farm Practices Protection Act*, including those related to shellfish aquaculture.

Kirsten Pedersen, Executive Director and Gloria Chojnacki, Case Manager of BCFIRB conducted a presentation that included information on the following:

- BCFIRB's role and history;

- *Farm Practices Protection (Right to Farm) Act (FPPA)* purpose and criteria for protections to apply;
- Two types of aquaculture defined by the *Fish and Seafood Act* that fall within FPPA/BCFIRB jurisdiction;
- Complaint process, dispute resolution, decisions, appeals and enforcement;
- Their role in the complaint process is to determine whether the farm is following “normal farm practice” which is decided on a case-by-case basis;
- BCFIRB has received two aquaculture related complaints, both in January 2019 with respect to noise, odour, shoreline debris and waterfowl harassment from a single operation.

A question and answer session followed:

- Concerns are continually heard on Denman Island arising from shellfish farming operations such as equipment that has drifted free and rebar spikes endangering public. Would the BCFIRB be an appropriate avenue to address these issues?
 - BCFIRB’s role is limited to hearing specific complaints by specific aggrieved parties against specific activities. Addressing the industry overall would need to be brought to government’s attention.
- Shellfish operations on Denman Island can be intrusive to upland properties. BCFIRB can conduct studies on farm practices; if a number of letters from residents were received regarding ongoing concerns of this nature, could a study be produced to amend practices and create codes of conduct?
 - BCFIRB would consider letters and perhaps consult with the Ministry of Agriculture. It might be questioned if complaints have been filed.
- An annual volunteer beach cleanup occurs on Denman Island that collects about four tonnes of aquaculture industry debris and waste. How could members of the community file a specific complaint if they cannot identify which operator is responsible for the debris?
 - Filing a complaint against each of the operators in an area if they are close together was suggested.
- Would a person filing a complaint due to injury or entanglement with aquaculture debris while swimming, even if not an adjacent land owner, be considered an “aggrieved person” by definition?
 - The complainant would have to be directly impacted; they could file a complaint and an answer to this type of question could be addressed as a preliminary issue.
- Would it be possible to provide a copy of this informative presentation with links for our community’s information?
 - Yes, a copy will be provided to Islands Trust staff.

By general consent the meeting was recessed at 2:15 pm and reconvened at 2:23 pm.

7.3 Aquaculture Complaint Regarding DFO Licence Number 119203

7.3.1 Email response dated August 6, 2020 from Fisheries and Oceans Canada

Trustees discussed possible further action that might be taken to address this response to the LTC’s letter of complaint regarding DFO Aquaculture License Number 119203.

LTC members requested that staff add Shellfish Aquaculture Advisory Committee (SAMAC) and aquaculture issues to the agenda for upcoming joint meeting with CVRD.

8. APPLICATIONS AND REFERRALS

8.3 DE-DP-2020.1 (Nielsen) - Staff Report - for decision

Planner Dubyna presented the Staff Report that asks the LTC to consider a Development Permit (DP) application within Development Permit Area No. 4 – Streams, Lakes and Wetlands (DPA 4), arising from a subdivision referral received from the Ministry of Transportation and Infrastructure (MoTI). It was reported that relevant DPA 4 guidelines have been met.

Henning Nielsen, the applicant, was available to answer questions that arose.

Trustees observed that a stream indicated in the more recently completed RAPR Assessment Map is not reflected in the Islands Trust mapping of Danes Road Lot Layout and proposed that this be brought to the attention of the Islands Trust Mapping Department.

DE-2020-048

It was MOVED and SECONDED,

that Denman Island Local Trust Committee approve issuance of Development Permit DE-DP-2020.1 (Nielsen).

CARRIED

DE-2020-049

It was MOVED and SECONDED,

that Denman Island Local Trust Committee forward a copy of the Qualified Environmental Professional report for Development Permit application DE-DP-2020.1 to the Islands Trust Mapping Department with a request to provide clarity on discrepancies between Figure 1 Danes Road Riparian Areas Protection Regulation Assessment Map and Figure 2 Danes Road Lot Layout, specific to streams.

CARRIED

8.1 DE-RZ-2018.1 (Denman Housing Association) - Staff Report - for decision

Trustee Busheikin declared a potential conflict of interest as she lives next to the site of the proposed Denman Green project and left the meeting at 2:46 pm.

Planner Zupanec presented the Staff Report that recommends the LTC defer consideration of second reading, further amendments to the proposed bylaws, or drafting of a Housing Agreement until the applicant has secured source water approval from Island Health to satisfy requirements for subdivision and future development for 20 units of affordable rental housing.

Simon Palmer, on behalf of the Denman Housing Association, spoke with the following noted:

- The need for affordable rental housing on Denman Island and the length of time this application has been in process was emphasized;

- Reports and assessments, including a water plan, are completed or in process;
- An update on the status of work toward water requirements was given;
- The scale of the project is warranted given that the Islands Trust Housing Needs Assessment determined that 80 units of affordable housing are needed on Denman Island;
- The Islands Trust has recognized that rainwater harvesting should be explored; Island Health is requiring pilot data not because collecting rainwater is unusual or new, but because this would be a first for its use in a multi-family dwelling;
- The LTC was requested to move forward with a Public Hearing to enable DHA to meet funding deadlines; awaiting approval from Island Health could delay the process by 12 months.

A Trustee acknowledged the need and the concerns that have been voiced by the community; and recognized that the water supply is a crucial element of this application with a number of steps needing to be taken before this water source can be approved. The Island Health correspondence notes that approval may not be granted if there are concerns and the Trustee indicated that a consultation with the community will be an important step in the decision making process.

DE-2020-050

It was MOVED and SECONDED,

that Denman Island Local Trust Committee defer further consideration of Proposed Bylaw Nos. 235 and 237 (Official Community Plan) and 236 and 238 (Land Use Bylaw) until the applicant has secured source water approval from Island Health for a primary and back up water supply, to support the application for subdivision and development of 20 units of proposed housing.

Trustees further discussed the motion, noting that this is an ambitious and much needed project; they look forward to the source water approval and awaiting its receipt will ensure the wise use of staff resource; other data such as actual rainfall at that site and Island Health's determination of a minimum quantity of water per person might be valuable information to help inform the decision.

CARRIED

8.1.1 Letter from Island Health to Denman Housing Association

Received.

Trustee Busheikin returned to the meeting at 3:14 pm.

8.2 DE-RZ-2017.1 (Denman Community Land Trust Association) - Staff Report - for decision

Planner Eggen presented the Staff Report that provides analysis of items requested by the LTC and in response to bylaw referrals received; provides an update on the Housing Agreement and Covenant; requests direction on the bylaw referral to the Advisory Planning Commission (APC); and recommends amendments to proposed Bylaw No. 234 in response to bylaw referrals.

She reported that staff recommends no change to the 100 square metre maximum combined gross floor area of all accessory buildings and structures in the R4(2) zone as this is the maximum that Denman Community Land Trust Association (DCLTA) indicated would be sufficient for their project.

Trustees discussed the proposed regulation changes and the following was noted:

- Requiring a Development Permit Area or adding to the Covenant to regulate dark sky measures, rainwater catchment, or to limit impermeable surfaces would delay the project and increase cost; the applicant has indicated their intention to address these issues reasonably and a discussion with the applicant regarding rainwater catchment would be helpful;
- A three-metre setback is supported; although it is not ideal, this is in a high density area with a road nearby and not a location residents would choose for rural character; the Ministry of Agriculture edge planting response might be aimed at a more urban environment so may not be necessary in this situation; and the Fire Chief has commented that the large buffer may not be necessary to implement Firesmart measures given other circumstances in the area;
- The suggested well monitoring continues to be supported as it is not an onerous requirement for the applicant and would have many benefits.

A Trustee suggested that limiting impermeable surfaces might be addressed through amending the proposed lot coverage provision, providing rationale for this approach.

DE-2020-051

It was MOVED and SECONDED,

that Denman Island Local Trust Committee amend proposed Bylaw Nos. 233 and 234 such that ground-level paving for driveways and vehicle parking, ground-level sidewalks, detached ground-level patios and decks, detached access stairways and boardwalks be counted as structures in the provision specific to proposed R4(2) zoning.

A Trustee proposed that this would not be an onerous requirement, would have significant environmental benefit, and would not present a difficulty for the project's current site plan; other Trustees were reluctant to add more restrictions, considered this as being unnecessary, too restrictive and a small benefit in exchange for the staff time that would be required to implement the amendment.

DEFEATED

Trustee Critchley Opposed
Chair Fast Opposed

DE-2020-052

It was MOVED and SECONDED,

that Denman Island Local Trust Committee request staff to prepare a draft version of the proposed Bylaw Nos. 233 and 234 that incorporate the Local Trust Committee's requested changes to date to be considered by the Local Trust Committee prior to a Community Information Meeting.

CARRIED

DE-2020-053

It was MOVED and SECONDED,

that Denman Island Local Trust Committee request staff to prepare a plain language guide/Frequently Asked Questions for proposed Bylaw Nos. 233 and 234 and rezoning application DE-RZ-2017.1 to be considered by the Local Trust Committee before a Community Information Meeting and distributed as an insert in the Islands Grapevine ahead and in support of a Community Information Meeting.

CARRIED

Planner Eggen requested direction as to the LTC's consideration of a referral of DE-RZ-2017.1 to the APC. LTC members did not express support for a referral at this time.

DE-2020-054

It was MOVED and SECONDED,

that Denman Island Local Trust Committee amend its previous motion DE-2020-008, "that proposed Bylaw Nos. 233 and 234 as amended be referred to the following First Nations, Local Governments and agencies for comment:

a. First Nations:

K'ómoks First Nation, Qualicum First Nation, Tla'amin Nation, Snaw'Naw'As Nation, Te'Mexw Treaty Association, We Wai Kai Nation, Stz'uminus First Nation, Lake Cowichan First Nation, Halalt First Nation, Lyackson First Nation, Penelakut Tribe, Cowichan Tribes, Laich-kwil-tach Treaty Society, Nanwakolas Council, We Wai Kum Nation, Xwemanlhkwu (Homalco) First Nation.

b. Local Governments and Agencies:

Hornby Island Local Trust Committee, Island Health, Denman Advisory Planning Commission, Agricultural Land Commission, Comox Valley Regional District, School District 71, Ministry of Agriculture, and the appropriate fire service."

by removing Denman Advisory Planning Commission.

CARRIED

By general consent agenda items 10.3, 10.4 and 11.1 were moved to follow 8.2

10.3 Letter dated March 26, 2020 from John Davis Law Corporation (on behalf of T. Forrest) regarding request to modify registered floodplain covenant (CA7485177)

Planner Eggen summarized the background for this request to modify the registered floodplain covenant, reporting that staff have reviewed the circumstances and have received written confirmation that MoTI signed off on the modification.

DE-2020-055

It was MOVED and SECONDED,

that Denman Island Local Trust Committee approve the request from John A. Davis, dated March 26, 2020 to modify paragraph 2(b) of the Terms of Instrument – Part 2 of Covenant CA7481577 registered on Lot A, Section 5, Denman Island, Nanaimo District, Plan EPP82349 PID 030-773-890, to allow a change to the minimum elevation of a building/structure/modular home from three metres to two metres, and authorizes the Chair and one other member of the Local Trust Committee as signatories to the covenant modification.

CARRIED

10.4 Letter dated August 26, 2020 from T. Forrest regarding request to build within Archaeological Covenanted area (CA7485176)

Trustees requested additional information be provided to inform a decision on this issue.

DE-2020-056

It was MOVED and SECONDED,

that Denman Island Local Trust Committee request that the applicant (DE-SUP-2020.3) provide supporting documentation in support of their request to build in the covenanted area identified in Archaeological Covenant CA7485176 and request staff to bring back a staff report for Local Trust Committee consideration.

CARRIED

11. NEW BUSINESS

11.1 Denman Island Groundwater Sustainability Strategy - verbal update

Islands Trust Freshwater Specialist Shulba presented information on a potential Groundwater Sustainability Strategy project for Denman Island. He noted that this project has been proceeding in the Southern Gulf Islands and may be advanced to the Northern Region. He outlined the four phases that would be involved:

- Data and information inventory;
- Groundwater recharge mapping;
- Groundwater availability assessments; and
- Groundwater sustainability planning.

By general consent all remaining topics on the agenda were deferred to the next LTC meeting.

Trustees requested that Regional Planning Manager Kauer make available the PowerPoint presentation for 9.1 for their review prior to the next meeting to allow for consideration of the issues to be discussed at that time.

9. LOCAL TRUST COMMITTEE PROJECTS

9.1 Project Management Presentation - for Information

10. CORRESPONDENCE

(Correspondence received concerning current applications or projects is posted to the LTC webpage)

- 10.1 Letter dated August 10, 2020 from Association for Denman Island Marine Stewards (ADMIS)
- 10.2 Notification for Information from the Comox Valley Regional District Electoral Area Services Committee, dated August 6, 2020 of Development Permits for Shoreline Protection at Coal Hills, Vancouver Island

12. REPORTS

- 12.1 Trust Conservancy Report dated July 14, 2020
- 12.2 Applications Report dated August 31, 2020
- 12.3 Trustee and Local Expense Report dated July, 2020
- 12.4 Adopted Policies and Standing Resolutions
- 12.5 Local Trust Committee Webpage

13. WORK PROGRAM

- 13.1 Top Priorities Report dated August 31, 2020
- 13.2 Projects List Report dated August 31, 2020

14. CLOSED MEETING - None

15. UPCOMING MEETINGS

- 15.1 Next Regular Meeting Scheduled for Tuesday, November 3, 2020 at 12:30 pm at - Location to be determined

16. ADJOURNMENT

By general consent the meeting was adjourned at 5:09 pm.

Sue Ellen Fast, Chair

Certified Correct:

Vicky Bockman, Recorder