



Hornby Island Local Trust Committee Minutes of Regular Meeting

Date: March 26, 2021
Location: Electronic Meeting

Members Present: Sue Ellen Fast, Chair
 Alex Allen, Local Trustee
 Grant Scott, Local Trustee

Staff Present: Heather Kauer, Regional Planning Manager
 Teresa Mahikwa, Island Planner
 Jaime Dubyna, Planner 2
 Ian Cox, Planner 1
 Lisa Wilcox, Sr. Intergovernmental Policy Advisor
 Wil Cottingham, Administrative Assistant
 Vicky Bockman, Recorder

Others Present: Approximately nine (9) members of the public

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 10:00 am. She welcomed the public, introduced Trustees, staff and recorder; and acknowledged that the meeting was being held electronically in territory of the K'ómoks and Coast Salish First Nations.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

3. REPORTS

3.1 Trustee Reports

Trustee Scott reported on the following:

- The recent discovery of human remains associated with K'ómoks First Nation at the site of the Thatch development was of great concern to the Hornby Island community; and the Local Trust Committee (LTC) will be considering how to respectfully move forward with Hornby Island land use matters and regulations as they relate to First Nations;
- Conservancy Hornby Island (CHI) HerringFest 2021 was successful; CHI responded to an anonymous tip that a herring fishing boat dumped its catch into the Deep Bay harbour and this is being investigated by DFO.

Trustee Allen reported on the following:

- The disturbing news of the Thatch development situation, as reported by Trustee Scott, was reiterated and it is his hope that the issues will be addressed on many levels;
- He attended a community forum that included representatives from K'ómoks First Nation, the Village of Cumberland, and Comox Valley Regional District where the reconciliation process was a topic of discussion;
- At Trust Council, the Islands Trust Policy Statement survey submissions were discussed along with other issues including housing and tree cutting.

3.2 Chair's Report

Chair Fast reported on her participation in the following meetings:

- Trust Council – three days of conducting business electronically by Zoom is acknowledged to be difficult, and a review of possible mitigating measures is ongoing; the public was encouraged to participate electronically;
- Bowen Island Municipal Council;
- Denman Island LTC;
- Gambier Island LTC;
- Executive Committee;
- Islands Trust Conservancy.

3.3 Electoral Area Director's Report - none

4. TOWN HALL

Members of the public commented with the following noted:

- Trustees were thanked for bringing the reconciliation issue to the forefront. The Islands Trust discussion paper, Truth Precedes Reconciliation, and Reconciliation Report 2019-2021 reflect an opportunity for Hornby Island and the Trust to be more proactive in the current situation at the Thatch. Trustees were encouraged to suspend the Thatch's Development Permit (DP), if legally possible, until a more meaningful consultation can occur with K'ómoks First Nation.
- The updating of the Official Community Plan (OCP) to include First Nations cultural history and heritage is long overdue; a commitment to engage in direct communication with K'ómoks First Nation on issues that might impact them, rather than through an applicant and in addition to the referral process, is a step that is needed.
 - Trustees commented on the difficulty of having legal requirements that restrict alternative approaches to consultation with First Nations;
 - Staff advised that in response to an LTC resolution, a change in the planning process is being initiated to forward permit applications to K'ómoks First Nation for their review.
- Short Term Vacation Rentals (STVRs) are proliferating on Hornby Island and a public process to identify and regulate them does not exist. The LTC was asked to determine a way to know how many are operating, to license them in some way such as a business licence or other approach, and to consider capping the number of STVRs on Hornby Island.
 - A Trustee responded that bylaw enforcement of STVRs is a slow process, however is having some effect. The use of a Temporary Use Permit (TUP) as a STVR regulating tool was not considered to be effective, and commercial operations have voiced the opinion

in the past that STVRs and commercial operations should be taxed equally to be fair; having staff explore such issues might be helpful.

5. DELEGATIONS - none

6. MINUTES

6.1 Local Trust Committee Minutes dated January 29, 2021 - for adoption

HO-2021-018

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee meeting minutes of January 29, 2021 were adopted.

CARRIED

6.2 Local Trust Committee Public Hearing Record dated January 29, 2021 - for receipt

The Public Hearing Record dated January 29, 2021 was received.

6.3 Section 26 Resolutions-without-meeting - none

6.4 Advisory Planning Commission Minutes dated February 11, 2021 - for receipt

The Advisory Planning Commission (APC) minutes dated February 11, 2021 were received.

A correction was requested: Page 2, first paragraph, 3rd bullet: Change "Allan" to Allen".

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List Report dated March 17, 2021

Trustees reviewed the report and staff responded to questions that arose.

7.2 Advisory Planning Commission - Response to Referral - Bylaw No. 159 Schedule A & B

This item will be discussed later in the agenda at item 11.1.

Trustees requested a letter be sent to APC members thanking them for their work on this referral. Chair Fast offered to draft the letter.

8. APPLICATIONS AND REFERRALS

8.1 HO-TUP-2020.3 (Co-op) - Staff Report

Trustee Allen declared a conflict of interest due to his employment at the Hornby Island Co-op and Gas Bar and left the meeting at 10:52 am.

Planner Cox presented the Staff Report that asks the LTC to consider a TUP application for the ongoing sale of bulk water from the subject property, in response to a referral received from the Ministry of Forests, Lands, Natural Resources Operations and Rural Development for an Existing Use Groundwater Application. He reported that additional information has been provided by the applicant addressing conditions of the TUP permit and staff will work with the applicant to ensure conditions are met.

HO-2021-019

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee approve HO-TUP-2020.3 for a period of three (3) years from the date of issuance, subject to the conditions imposed by the permit.

The Chair acknowledged the short-term nature of Temporary Use Permits and inquired about the long-term plan. Staff reported that the option is available to apply for a rezoning to allow for the use in the zone.

CARRIED

By general consent the meeting recessed at 11:00 am and reconvened at 11:03 am.

Trustee Allen returned to the meeting at 11:03 am.

8.2 HO-DP-2021.1 (Walmsley) - Staff Report

Planner Cox presented the Staff Report for LTC consideration of a DP to authorize works that will be conducted within Development Permit Area 6 – Riparian Areas (DPA). He reported that the DPA requirements have been met and in order to mitigate the potential for any material entering the watercourse, staff are requesting additional erosion and sediment control measures be considered as conditions of the draft DP. The applicant was in attendance to answer any questions that might arise regarding this application.

HO-2021-020

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee approve issuance of HO-DP-2021.1 subject to the conditions imposed by the permit.

CARRIED

8.3 HO-ALR-2021.1 (Stead) - Staff Report

Planner Cox reported that this application has been forwarded to the LTC for evaluation of compliance with Hornby Island OCP and Land Use Bylaw (LUB) before sending it to the Agricultural Land Commission (ALC) for consideration of approval.

He advised that the LTC is being asked to consider a request for a Non-Adhering Residential Use (second dwelling for immediate family) within the Agricultural Land Reserve (ALR) that is not a manufactured home as currently required by the ALR regulations. He reported that due to site constraints and other considerations, the applicant seeks ALC permission to construct a conventional building on site. The applicant was in attendance to answer any questions that might arise regarding this application.

HO-2021-021

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request staff to forward HO-ALR-2021.1 to the Agricultural Land Commission with the following comments:

“The Hornby Island Local Trust Committee finds HO-ALR-2021.1 to be consistent with the objectives and policies of the Hornby Island Official Community Plan and Hornby Island Land Use Bylaw regulations, and so deems the application to meet the criteria necessary to warrant consideration by the Commission for a Non-Adhering Residential Use.”

In discussing the motion, a Trustee acknowledged that the applicant has provided extensive information in support of this application and has done their due diligence.

CARRIED

Trustees discussed their willingness to provide further supportive comments to the ALC regarding this application if further advocacy is warranted in the future.

8.4 HO-RZ-2020.1 (Kramer) - Staff Report

Planner Dubyna presented the Staff Report that addresses a rezoning application for an existing campground that was deemed to be legally non-conforming with the adoption of the LUB in 1983; however is now in violation of the LUB as the campground operation is occurring beyond the scale of what existed at that time.

Planner Dubyna commented that:

- the correct Aquifer Vulnerability is Moderately high/high;
- the applicant has submitted a copy of a provincial water license and a survey plan of the subject property;
- staff are recommending that the applicant provide information on the onsite wastewater system;
- options for protecting the hazardous area on the site are recommended to be explored by staff for LTC consideration;
- the applicant was advised of the LTC meeting, however was not in attendance.

Trustees discussed the application with the following noted:

- concerns have been expressed by neighbours regarding the growth of the operation, referencing a court ruling that recognized the 26 sites at the time it was designated as legal non-conforming, and observing that now it has evolved to approximately 50 sites;
- more information to inform their decision was suggested, such as the current number of campsites and accessory buildings;
- concern was expressed regarding the hazardous slope, erosion and tree removal at the site;
- a site visit was suggested as a valuable option to gather information.

HO-2021-022

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request the applicant for HO-RZ-2020.1 provide the following information:

Details of the onsite wastewater system for the campground operation in the form of an Island Health filing for the onsite wastewater treatment system, or a copy of a report by a qualified professional engineer, with expertise in wastewater treatment for non-domestic services.

CARRIED**HO-2021-023**

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request staff explore options for protecting the hazardous area identified on the subject property in Schedule F-Hazard Areas of the Hornby Island Official Community Plan Bylaw No. 149.

CARRIED**HO-2021-024**

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request the applicant submit to the Islands Trust the following:

- A description of the state of the property including location of utility sheds, dwelling units, cabins, number of campsites, storage sheds, and their locations in terms of setbacks;
- Information on tree removal, clearing and erosion of the cliff and clearing, and refuse going over the bank that has taken place on the cliff.

CARRIED**HO-2021-025**

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request the applicant provide a site visit for staff.

CARRIED

Trustee Allen offered to follow-up on a request to provide a copy of the 1983 court ruling to staff.

By general consent the meeting recessed at 12:04 pm and reconvened at 12:35 pm.

9. LOCAL TRUST COMMITTEE PROJECTS

9.1 Minimum Average Lot Area Amendments Project (MALA) - Staff Report

Planner Mahikwa summarized the Staff Report that outlines the draft bylaw amendments to address Minimum Average Lot Area (MALA) inconsistencies between the OCP and LUB for LTC consideration. She explained the rationale for keeping specific measurements in the LUB instead of the OCP, advised that staff have concluded that the intent of the R2 zone when it was originally drafted was to limit subdivisions to lots with at least a minimum of 4.0 hectares in that zone, and outlined proposed text changes, with all suggested changes identified in the Staff Report Attachment 4.

HO-2021-026**It was MOVED and SECONDED,**

that the Hornby Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 166 cited as “Hornby Island Official Community Plan, 2014, Amendment No. 1, 2021” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED**HO-2021-027****It was MOVED and SECONDED,**

that the Hornby Island Local Trust Committee Bylaw No. 166 cited as “Hornby Island Official Community Plan, 2014, Amendment No. 1, 2021” be read a first time.

CARRIED**HO-2021-028****It was MOVED and SECONDED,**

that the Hornby Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 167 cited as “Hornby Island Land Use Bylaw, 2014, Amendment No. 1, 2021” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED**HO-2021-029****It was MOVED and SECONDED,**

that the Hornby Island Local Trust Committee Bylaw No. 167 cited as “Hornby Island Land Use Bylaw, 2014, Amendment No. 1, 2021” be read a first time.

CARRIED**HO-2021-030****It was MOVED and SECONDED,**

that the Hornby Island Local Trust Committee waive the requirement for a public hearing on Bylaw No. 167 cited as “Hornby Island Land Use Bylaw, 2014, Amendment No. 1, 2021” as the Bylaw is consistent with the Hornby Island Official Community Plan No. 149, 2014, and request staff to proceed with public notification as per Section 467 of the *Local Government Act*.

CARRIED**Discussion with Lisa Wilcox, Islands Trust Senior Intergovernmental Policy Advisor****Referral of these amendments to First Nations**

- Why refer these amendments to 13 First Nations?
 - OCP amendments follow a process that the province outlines, and is a larger engagement process than those of LUB amendments; the provincial Consultative Area Database (CAD) is consulted to determine the scale of the duty of care to ensure First Nations have the ability to review what is being considered.
- What is the timeframe for responses from First Nations?
 - The formal referral process timeframe is followed. Follow-up may occur with a particular First Nation if more time is required to respond.

HO-2021-031**It was MOVED and SECONDED,**

that proposed Bylaw Nos. 166 and 167 be referred to the following First Nations, Local Governments and agencies for comment:

- a) First Nations: Cowichan Tribes, Halalt First Nation, Homalco (Xwemalhkwa) First Nation, K'ómoks First Nation, Lake Cowichan First Nation, Lyackson First Nation, Nanwakolas Council, Penelakut Tribe, Qualicum First Nation, Stz'uminus First Nation, Tla'amin Nation, We Wai Kai Nation, and Wei Wai Kum Nation.
- b) Local Governments and Agencies: Comox Valley Regional District, Denman Island Local Trust Committee, Island Health, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Ministry of Transportation and Infrastructure, and School District 71.

CARRIED**Discussion with Lisa Wilcox, Islands Trust Senior Intergovernmental Policy Advisor (continued)****How Can Hornby Island Move Forward with Reconciliation Matters in the Long and Short Term?**

- Many areas on Hornby Island might be considered as significant First Nations cultural heritage areas; until the OCP, LUB and mapping documents are updated, how to address applications to ensure that K'ómoks First Nation is satisfied and the public will understand?
 - We are in the process of beginning implementation of the Declaration on the Rights of Indigenous People; there is a gap as process and policies change. Beginning this week, all applications on Hornby and Denman Islands will be forwarded to K'ómoks First Nation to allow them to be fully informed and to work directly with staff and the applicant.
- This is a difficult time with K'ómoks First Nation after the situation at the Thatch development; is there anything we can do?
 - Regional Planning Manager Kauer has contacted K'ómoks First Nation staff about how to better interact on applications and referrals. We hope to reach out to Chief Rempel and K'ómoks Council members about what happened and to be able to listen to what they have to say.
 - Senior Intergovernmental Policy Advisor Wilcox thanked the Hornby Island community for coming forward and sharing information with us; for reaching out to other agencies, and expressing their deep care and concern.

10. CORRESPONDENCE

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

10.1 Letter dated March 6, 2021 from Hornby & Denman Community Health Care Society regarding Transportation Issues

A Trustee noted that the Hornby Island bus was locally initiated and suggested that Denman Island might consider local funding strategies in addition to a transportation interface with the Comox Valley Regional District.

11. NEW BUSINESS

11.1 Advisory Planning Commission - Next Steps - for discussion

Regional Planning Manager Kauer noted that agenda item 7.2 contains the response of the APC to the Referral on Bylaw No. 159 Schedule A and B, Bylaw Enforcement Notification (BEN) Bylaw. She advised that their recommendations include the increase of some fines and the rationale for this approach; and reported that a bylaw amendment process would be necessary to implement changes.

Chair Fast invited the APC Chair to speak.

Wendy Burton explained that the fines associated with bylaw infractions reflect the extent to which the infraction is a violation of three foundational or core principals of Hornby Island and noted that fines are recommended to be increased where the infraction has a negative or potentially negative impact with regard to these principals. She responded to a common community misunderstanding of the fines by explaining that these are very specific fines relating to specific zones on the Island.

HO-2021-032

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee accept the report of the Hornby Island Advisory Planning Commission.

CARRIED

Trustees discussed next steps and the matter was considered for further discussion at agenda item 13.1 Top Priorities Report.

12. REPORTS**12.1 Trust Conservancy Report dated January 26, 2021**

Received.

12.2 Applications Report dated March 17, 2021

Trustees reviewed the report with the following noted:

- HO-SUP-2021.9 – A siting and Use Permit is being requested, however the effectiveness of the measures required to mitigate the impacts of the seasonal food with the issuance of the one-year Temporary Use Permit are unknown.

12.3 Trustee and Local Expense Report dated January, 2021

Received.

12.4 Adopted Policies and Standing Resolutions

A Trustee requested that staff ensure the expiration date of Standing Resolution No. HO-2017-011 is correct.

12.5 Local Trust Committee Webpage

There were no changes or additions requested.

13. WORK PROGRAM

13.1 Top Priorities Report dated March 17, 2021

Discussion on the Top Priorities included the following:

- An update on the status of the current Top Priorities;
- Options to address the APC's BEN Bylaw recommendations;
- Strategies for a targeted OCP and/or LUB review including a possible referral to the APC with budget considered;
- APC Chair, Wendy Burton, encouraged a referral to the APC to provide recommendations on OCP/LUB amendments to address identified areas of concern.

HO-2021-033

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request that the Advisory Planning Commission provide recommendations for Official Community Plan and Land Use Bylaw amendments with topic areas of focus: First Nations, Short Term Vacation Rentals, Housing, and the Riparian Areas Development Permit Area.

CARRIED

HO-2021-034

It was MOVED and SECONDED,

that the Hornby Island Local Trust Committee request staff to add the following text to Top Priority No. 1 after Riparian Areas Development Area:

“and a Land Use Bylaw amendment including the recommendations of the Advisory Planning Commission received March 26, 2021.”

CARRIED

13.2 Projects List Report dated March 17, 2021

Received.

14. INFORMATION ITEMS**14.1 Truth Precedes Reconciliation**

Received. Trustee Scott requested a hard copy of The Truth Precedes Reconciliation Discussion Paper; Chair Fast offered to provide the material to him.

14.2 Reconciliation Report 2019-2021

Received. Trustee Scott requested a hard copy of The Reconciliation Report 2019-2021; Chair Fast offered to provide the material to him.

14.3 News Release dated January 21, 2021 - Islands Trust Actively Promotes Regional Collaboration

Received.

15. UPCOMING MEETINGS

15.1 Next Regular Meeting Scheduled for Friday, May 21, 2021 at 10:00 am via Zoom Electronic Meeting

Trustees confirmed the next regular meeting date and time to be conducted electronically via Zoom.

16. CLOSED MEETING - none

17. ADJOURNMENT

By general consent the meeting was adjourned at 2:25 pm.

Sue Ellen Fast, Chair

Certified Correct:

Vicky Bockman, Recorder