



# Staff Report

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Date July 16, 2015 File Number 6500-20 Waste Management  
To North Pender Island Local Trust Committee  
For the meeting of July 30, 2015  
From Justine Starke, Local Planning Services  
Re **Waste Management Task Force – Composition and Terms of Reference**

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This purpose of this staff report is to update the Local Trust Committee and make further recommendations regarding the establishment of a Pender Island Waste Management Task Force. This report includes a draft amending bylaw to the North Pender Island Advisory Planning Commission bylaw as well as an amended Waste Management Task Force Terms of Reference for consideration of the LTC.

## Background

At the June 18 Local Trust Committee meeting, the LTC amended the Terms of Reference for the Waste Management Task Force to ensure:

- The ToR referenced Pender Island in general and not just North Pender Island in order to be inclusive of South Pender Island.
- To specify that members with a pecuniary conflict of interest should have non-voting status and be considered “ex-officio.”
- To establish the Task Force as an ad-hoc advisory body and not an Advisory Planning Commission under the APC bylaw. The main reason for this was to enable South Pender residents seats on the task force. This is discussed in more detail below.
- To limit membership to nine voting members in addition to ex-officio members (with not limit set on the number of ex-officio members).

In the June 18 2015 In Camera session, the Local Trust Committee considered “expressions of interests” by community members and appointed six voting members and three ex-officio non-voting members to the Task Force by resolution.

Those appointed to the Task Force have been contacted by Islands Trust staff. A secretary has been contracted to take the minutes and schedule the meetings. An inaugural meeting is being scheduled for August 2015.

## Staff Comments

Since this time, staff have sought legal advice and based on discussions with counsel we are recommending further refinements to the Terms of Reference should be considered:

- Ex-Officio Members: Separating the task force into classes of membership (voting/non-voting) causes a false distinction for how people can influence the outcome of a meeting; under the

current ToR ex-officio members would still be able to participate and put forward motions. Also, the way the ToR are currently worded, there is no limit on the total number of ex-officio members. Lastly, the appointees (both ex-officio and voting) on the task force represent what is known about individual's conflict of interest at a given point of time. This status has the potential to change, and indeed directly after the last meeting it was realized that other members appointed as regular voting members might also have conflicts of interest. This is difficult to avoid in a small community like Pender's where people are involved in the community in a variety of different ways.

- The usual conflict of interest rules require persons with a conflict of interest to leave the meeting before discussion begins. This would seem to defeat the NPI LTC's intent in appointing these persons to the Task Force, whether as voting or non-voting members. If it is the intent of the LTC to have all members participate in resolving the issues at hand and in developing a direction for policy development, it would be best to bring all the knowledgeable voices to the table and set very specific conflict of interest guidelines in the Terms of Reference.
- Such specific conflict of interest guidelines would be simplified to require any member who is an occupant or owner of land that is specifically being evaluated or considered for a solid waste management use, or being the occupant or owner of land that shares a boundary with such land, or is across a highway from such land, should recuse themselves from the meeting. Apart from that, members who have a personal interest in the local waste management issue would be able to participate fully, including voting on recommendations. This approach assumes that the NIPLTC, in considering the recommendations of the Task Force, will be able to take into account any particular bias that might result from the participation of members who may have personal interests in the issues.
- Technically, an ex officio member of a task force would usually be a member who is appointed to the task force as a result of holding some other office. Examples include the Chair of the North Pender Island APC (who the Terms of Reference give voting rights on the task force), the CRD Director (who is given no voting rights), the representative of the South Pender Island LTC (who is also given no voting rights), and the members of the North Pender Island LTC (who also are given no voting rights). According to Robert's Rules of Order (11th Edition, page 483), an ex officio member of a body has full voting rights. Technically, then, the only member who should be referred to as an ex officio member is the Chair of the APC. Other non-members identified in the Terms of Reference should be dealt with in the same way as Islands Trust staff, being available in a resource capacity at the invitation of the Task Force.
- Lastly, as the Islands Trust Act does not formally empower the LTC to appoint an advisory body other than an advisory planning commission, staff are recommending that in the interests of certainty and particularly when it comes to making formal recommendations, the LTC appoint the Task Force as a special APC, pursuant to s. 898 of the Local Government Act and the North Pender Island Advisory Planning Commission Bylaw 166. This would require the NPI LTC to consider amending the APC bylaw to enable South Pender residents to be members of the task force.

## **NPI LTC Advisory Planning Commission Bylaw 166**

Following the previous LTC direction, in order to have South Pender residents participate as members of the Task Force, the LTC could consider amending the *APC Bylaw 166*. Under this option, the Task

Force can still be called a task force, but it is authorized under the APC Bylaw 166 and Section 898 of the Local Government Act.

The process to amend the APC bylaw can occur concurrently with the establishment and initial meetings of the Task Force. As an administrative bylaw, an Advisory Planning Commission Bylaw can receive three readings in one sitting and does not require a public hearing. There is a requirement for approval by the Executive Committee of the Islands Trust. If the LTC were to consider an amending bylaw on July 30, 2015 it could consider three readings and refer the bylaw to EC. The Executive Committee's next meeting after that would be at September Trust Council. The NPI LTC could then consider adoption at its meeting on October 29, 2015.

A draft bylaw is attached as Appendix 2 for consideration of the Local Trust Committee. It includes the following provision:

“(b) Despite 2(a), where a second or additional Advisory Planning Commission (APC) is appointed, the APC shall consist of not more than 11 members. At least 2/3 of the members must be residents of the Local Trust Area”, and renumbering the following subsections accordingly.

### **Waste Management Task Force: Membership**

At the time of writing, the Task Force is composed of nine community members as well as ex-officio representatives from other elected bodies:

1. Jim Petrie
2. Michael Sketch
3. Ursula Poeppel
4. Don Korbin
5. Elizabeth Montague (South Pender)
6. Dale Henning
7. Dave Ripner (South Pender) (Ex-officio, non-voting)
8. Richard Philpot (Ex-officio, non-voting)
9. Chair of APC (Ex-officio, voting)
10. CRD Director (Ex-officio, non-voting)
11. SPI LTC representative (Ex-officio, non-voting)
12. NPI LTC representative (Ex-officio, non-voting)

(Note: Anne Burdett was also appointed but since withdrawn her expression of interest and is not a member of the Task Force).

As discussed above, technically ex-officio membership should have voting rights, LTC members should not be members on a task force that is advisory to the LTC, and the status of people with conflict of interests is dynamic and subject to change over time. The recommendation is to simplify the task force members and not divide the group between voting and non-voting members. It is also recommended that the total membership not exceed 11, in accordance with the proposed amendment to the APC bylaw. Lastly, the Local Government Act permits 1/3 of members to be from outside of the Local Trust Area. With a membership of 11, that would enable up to three seats to be held by South Pender residents. It is recommended that the Chair of the South Pender APC have an ex-officio place, to mirror the approach with the North Pender APC. Therefore, under this scenario, the composition of the Task Force would be as follows:

1. Jim Petrie (North Pender)
2. Michael Sketch (North Pender)
3. Ursula Poeppel (North Pender)
4. Don Korbin (North Pender)

5. Richard Philpot (North Pender)
6. Dale Henning (North Pender)
7. Vacant (North Pender)
8. Dave Ripner (South Pender)
9. Elizabeth Montague (South Pender)
10. Chair of NPI APC (Ex-officio, voting)
11. Chair of SPI APC (South Pender, Ex-officio, voting)

May attend in resource capacity:

1. CRD Director
2. SPI LTC representative
3. NPI LTC representative
4. CRD/Islands Trust staff

### **Terms of Reference – July 30, 2015**

In light of the other information above, staff recommend the NPI LTC consider the following draft amendments to the Terms of Reference:

1. Broaden the language throughout to be inclusive of South Pender Island.
2. Increase membership to 11
3. Remove role of secretary because it is addressed in the APC bylaw.
4. Remove distinction between voting/non-voting members
5. Remove reference to CRD/LTC elected representatives as ex-officio members
6. Add reference to CRD/LTC elected representatives being invited in a resource capacity
7. Add reference to CRD staff in the provision that Islands Trust staff may be invited in a resource capacity
8. Add reference to South Pender APC chair as ex-officio
9. Clarify the circumstances under which someone with a conflict of interest must recuse themselves from the meeting. The draft language states: “At the beginning of each meeting, each member must disclose any conflict of interest that they may have. Any member who is an occupant or owner of land that is specifically being evaluated or considered for a solid waste management use, or being the occupant or owner of land that shares a boundary with such land, or is across a highway from such land must recuse themselves from the meeting during discussion of the subject land.”
10. Amend the dates in the work plan to be consistent with current timeline.

Draft amendments to the Terms of Reference are attached as Appendix 1 for consideration of the Local Trust Committee. This iteration of the ToR is dated July 30 as the date of LTC consideration.

### **Recommendations:**

1. THAT the North Pender Island Local Trust Committee adopt the amended Terms of Reference for a Waste Management Task Force, dated July 30, 2015.
2. THAT the North Pender Island Local Trust Committee give first reading to Bylaw 200, cited as “North Pender Island Local Trust Committee Advisory Planning Commission Bylaw No. 166, 2005, Amendment Bylaw No. 1, 2015”.

3. THAT the North Pender Island Local Trust Committee give second reading to Bylaw 200, cited as "North Pender Island Local Trust Committee Advisory Planning Commission Bylaw No. 166, 2005, Amendment Bylaw No. 1, 2015"
4. THAT the North Pender Island Local Trust Committee give third reading to Bylaw 200, cited as "North Pender Island Local Trust Committee Advisory Planning Commission Bylaw No. 166, 2005, Amendment Bylaw No. 1, 2015".
5. THAT the North Pender Island Local Trust Committee refer Bylaw 200, cited as "North Pender Island Local Trust Committee Advisory Planning Commission Bylaw No. 166, 2005, Amendment Bylaw No. 1, 2015" to the Executive Committee of the Islands Trust for consideration.

Prepared and Submitted by:

Justine Starke, Island Planner  
Local Planning Services

July 16, 2015

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Name, Title

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Date

Concurred in by:




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Robert Kojima  
Regional Planning Manager

July 20, 2015

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Date

Attachments:

Appendix 1: Draft Terms of Reference dated July 30, 2015

Appendix 2: Draft Bylaw 200 – NPI LTC APC Bylaw