



ADOPTED



Pender Island Waste and Resource Management Commission Special Advisory Planning Commission Minutes of a Meeting

Date: Monday, December 14, 2015 (12:30 p.m.)

Location: Pender Island Community Hall
4418 Bedwell Harbour Road, North Pender Island, BC

Members Present: Elizabeth Montague, Chair
Richard Philpot, Deputy Chair
Dale Henning
Donn Korbin
Jim Petrie
Ursula Poepel
Gordie Duncan
Michael Sketch
Davy Rippner
Ron Underhill
John Pollard

Staff Present: Justin Starke, Island Planner
Shannon Brayford, Recorder

Regrets: None.

Others Present: North Pender Island Trustee Diane Barber
Twelve (12) members of the public were present

COPIED TO

- PLANNER
- LTC
- DEPUTY SECRETARY*

1. CALL TO ORDER

At 12:31 Chair Montague welcomed everyone and called the meeting to order.

2. ADOPT AGENDA

Member Korbin recommended the following additions:

- Following Item 5, new item titled "Role of the Chair".
- Following Item 7, new item titled "Relationship of the Special Advisory Planning Commission (SAPC) to the North Pender Island Local Trust Committee (LTC)".

By general consent the agenda was approved as amended.

3. APPROVAL OF MINUTES OF NOVEMBER 20, 2015

Recorder Shannon Brayford read the recommended amendments of Anke Bergner of the Capital Regional District (CRD).

Member Sketch read a recommended revision to Item 6.

It was noted that John Pollard was mistakenly listed as present.

NP-SAPC-2015-20

It was **MOVED** by Member Henning and **SECONDED** by Member Rippner **THAT** the Waste and Resource Management Commission adopt the minutes of November 20, 2015 as amended.

CARRIED
(unanimous)

4. COMMENTS FROM COMMUNITY MEMBERS

Chair Montague addressed the community with a statement that included the following points:

- This commission has been appointed by the North Pender Island LTC and all members are volunteers.
- Asked speakers to conduct themselves with civility.
- An overview of the Commission's goals and a note that public consultation is not included in those goals.
- A request that all comments on the applications now on hold be directed to the North Pender Island LTC in writing.
- A note that time will be limited to facilitate the remainder of the meeting's objectives.

Anne Burdett reported that during the Agricultural Land Commission (ALC) hearing Elizabeth Montague said that six sites were being considered by the Commission. Anne Burdett asked the Chair to make those sites public.

Chair Montague responded that the sites under consideration are publicly available and that they were provided to the Commission. She provided a list of the sites.

Isaac McPhee offered his property as a potential site, noting that he was willing to have one acre of the eight available acres rezoned and that his offer stood regardless of the operator selected. Mr. McPhee provided his address to the Commission.

Barbara Johnstone-Grimmer thanked the Commission for their work. She noted that difference of opinion is part of any commission and that the process serves to manage this.

Mike Burdett addressed Deputy Chair Philpot asking for clarification regarding the Pender Island Recycling Society's budget and whether the CRD was subsidizing

inadequate funding from Multi-Material British Columbia (MMBC). He also asked how much of this funding goes to wages.

Deputy Chair Philpot noted that the question may not be related to the business of the Commission and received the Chair's consent to answer. He then responded with the following points:

- Approximately 50% of the annual operating budget or \$86,000 is provided from the CRD in a funding model similar to the municipal blue box program.
- 65% of the total operating costs are wages, which is approximately \$65,000 annually. The director receives \$27.50 per hour.
- Funding is also received from six provincial stewardship programs.

Mike Burdett commented that the Commission includes three members of the Pender Island Recycling Society, as well as the spouse of a member. He noted that there is a conflict between their position and the work they are doing on this commission.

Member Sketch remarked that conflict of interest has been discussed at length by this Commission with the support of legal advice from the Islands Trust office. He noted by the Commission's Terms of Reference, conflicts are to be declared when a relevant agenda item is presented.

Member Korbin remarked that the LTC knew or should have known about the potential conflicts when they appointed this Commission. He noted that public perceptions of bias gone beyond the technical issues of bias and conflict of interest described by Member Sketch. Member Korbin commented that this is a serious concern.

5. COMMISSIONER CONFIDENCE

Member Sketch made a statement which included the following points:

- He opposed the ALC decision to allow conditional non-farm use on a particular Agricultural Land Reserve (ALR) property on Pender because it was falsely claimed that there was a need for siting a waste transfer site on this land and because the decision dismissed the agricultural value of the land.
- He and Mike Burdett had an informal and civil discussion on his position and if they could have such a discussion then this Commission should be able to do so as well.
- He does believe that the waste transfer site should not be on ALR land if an alternative exists and this position is consistent with North Pender Island's Official Community Plan (OCP).
- Member Henning had provided a written request asking for Member Sketch's removal and Member Petrie made comments of a similar spirit.
- The Commission does not have the power to remove commissioners, but the LTC does.
- During the last LTC in-camera meeting the LTC advised Member Henning to make a motion of non-confidence with the comment that if such a motion was

successful, Member Sketch might choose to step down and if the motion was unsuccessful Member Henning might choose to step down.

- He would be making a motion at this time and reminded the Commission that abstention is recorded as a vote in favour.

NP-SAPC-2015-21

It was **MOVED** by Member Sketch and **SECONDED** by Member Rippner **THAT** the Waste and Resource Management Commission has confidence in Michael Sketch in his continued role as commissioner, with knowledge of his action prior to establishment of the Waste and Resource Management Commission to ask the Agricultural Land Commission to reconsider their own decision 413/2013 given February 14, 2014 to allow conditional non-farm use of land in the Agricultural Land Reserve for operation of a waste transfer facility.

Member Petrie remarked that the comments Member Sketch referred to were made during a closed meeting and therefore Member Sketch was breaching confidentiality.

Member Korbin raised a point of order, noting that those who attended the meeting were not advised to hold the contents of the meeting in confidence and that they were not provided with a confidentiality agreement. He further noted that the LTC failed to meet the requirements of Section 92 of the Community Charter as they did not state the reason why the meeting had been closed to the public.

Member Petrie commented that she had spoken at the meeting with the understanding that it was in confidence.

At Chair Montague's request, Planner Starke made the following comments:

- Although the LTC did not specifically advise the Commissioners of the meeting's confidentiality, it was assumed that the Commissioners would understand this, given that it was a closed meeting.
- The comments made today have all been made publicly as well and therefore do not appear to be in breach of any confidentiality.

NP-SAPC-2015-22

It was **MOVED** by Member Korbin and **SECONDED** by Chair Montague **THAT** motion NP-SAPC-2015-21 be postponed indefinitely.

Member Korbin spoke to his motion commenting that it was premature to vote on a motion of confidence of any member.

Member Sketch remarked that several meetings had included discussion of this topic and that it could be settled at this time.

Member Petrie commented that he appreciated that Member Sketch had publicly disclosed his role in the recent ALC application. He further noted that while he agrees that differences of opinion will arise, he believes that the actions of Member Sketch and Chair Montague reflect a deeper bias.

The Chair called for a vote

CARRIED
(Members Sketch, Pollard, and Rippner opposed)

Chair Montague made a statement which included the following points:

- Member Henning has called for her and Member Sketch's resignation because of conflict of interest related to an ALC request.
- She did not conceal her involvement in this application and sent a copy of her letter to the ALC dated January 2015 to the North Pender Island LTC the next month.
- She opposed the ALC's decision because it was inconsistent with the island's OCP and since her role on the Commission is to uphold the OCP, there is no conflict.
- The Commission has a conflict of interest rule to deal with the biases of the members.
- The Commission has several members with possible biases because the people who applied are those who have expertise and interest in this area.
- Anne Burdett was originally appointed to the Commission, but subsequently withdrew.
- If the commission deems it necessary, she will accept a vote of no confidence and step down from her elected position as Chair of the Commission.
- She will accept the LTC's decision should they chose to remove her from the Commission.

NP-SAPC-2015-23

It was **MOVED** by Chair Montague and **SECONDED** by Member Rippner **THAT** the Waste and Resource Management Commission has confidence in Elizabeth Montague in her role as Chair of the Commission, with the knowledge of her action, initiated prior to the establishment of the Commission, to request a reconsideration of Agricultural Land Commission decision #413/2013 to conditionally approve non-farm use of land in the Agricultural Land Reserve for the operation of a waste transfer facility.

Member Korbin commented that the LTC has placed the Commissioners in a difficult position for the following reasons:

- They approved amendments to the Terms of Reference after the appointments were accepted and this is inconsistent with Trust Council Guidelines for APCs.
- They appointed two members from the same household.
- They appointed five people who are involved in public discussions of the rezoning applications for Waste Transfer Sites.
- They did not consider the implications of appointing residents from South Pender Island to a commission that will be making recommendations regarding the OCP of North Pender Island.

Member Korbin raised a point of order stating that the election of the Current Chair and Deputy Chair violated by-law 166(2i) and are therefore null and void. He remarked that after Barbara Johnstone-Grimmer resigned from the Commission, the Commission should have only elected a new Chair and not a Deputy Chair.

Member Henning made the following points::

- The Burdett land in question is identified as unusable for agriculture.
- He was not aware that the Commission was on record as considering any other non-industrial sites.
- He was not aware of Chair Montague nor Member Sketch's actions with the ALC when he joined the Commission and these actions demonstrate bias.
- When he joined he assumed that the process would be fair and unbiased and result in an accurate assessment.
- If the Commission cannot find any existing industrial options then they should look at other options including ALR lands.
- Community member John Aftias has raised concerns regarding the safety of his property's water should the site adjacent to his property be chosen.
- Member Sketch's solution for Mr. Aftias's concerns was unacceptable.
- Every member of the Commission should visit each of the proposed sites.
- Recommended that the Commission have an open discussion without Roberts Rules to fix the issue.
- The Commission has not done much toward achieving its goals.

Member Sketch responded with the following points:

- He had told Member Henning about his involvement with the ALC application during a private conversation in the Spring of 2015.
- He addressed his involvement in the application during an LTC meeting that Member Henning attended.
- Mr. Aftias' concerns relate to a surface well and surface run-off. Excavation can potentially be used to address the concern and Allen Industrial Land adjacent to recycling rented by Buchmaier should not be excluded as a viable choice on these grounds.

Member Korbin remarked that his Point of Order had not yet been addressed and noted that it would eliminate the need for Commissioners to choose sides in the Chair's motion and therefore facilitate the long term relationship of the Commission.

Chair Montague commented that the point of order was not productive and could be dealt with in a mediated session.

At the Chair's request, Planner Starke made the following points:

- A review of the minutes and a legal opinion may be required.
- By her recollection Liz Montague was nominated for the position of Chair and then passed the officiating of the election to Planner Starke. After becoming elected, Chair Montague's previous position of Deputy Chair became vacant.

Chair Montague deferred a decision on the point of order. .

Deputy Chair Philpot asked if Member Henning was asking for a vote of confidence.

Member Henning replied that he was not.

Deputy Chair Philpot made the following points:

- The Commission should not ask any members to step down nor pressure them to do so.
- The Commission is a community group comprised of the only eleven people who put their names forward. The LTC did not reject any applications.
- The Commission has been asked to deal with a complex and contentious issue. In the process, the members have had to become educated on both the topic and the process.
- The Commission needs a third party from off-island who is trained in mediation to help the group work together. Alternatively, this Commission should be dissolved and a new one formed.

Deputy Chair Philpot remarked that he would like to make a motion and it was noted that motion NP-SAPC-2015-23 was still on the table.

Member Pollard made the following points:

- The members are all adults and volunteers. All the members have his trust that they will behave as responsible adults.
- The job before the Commission is simple and requires that they look at seven sites and make a recommendation.
- The public will not be able to trust the Commission if they cannot trust each other.
- He is in favour of the motion of the Chair.

NP-SAPC-2015-24

It was MOVED by Member Korbin and SECONDED by Member Henning THAT motion NP-SAPC-2015-23 be postponed indefinitely.

CARRIED
(Members Rippner and Pollard Opposed)

Member Henning remarked that while Member Sketch may have spoken to him regarding the ALC application he does not have a recollection of this conversation. He further noted that he has not found any public comments in the minutes.

6. ROLE OF THE CHAIR

Member Korbin commented that the Chair had exceeded her role by conducting the following actions without the direction of the Commission:

- Directing Member Henning to speak with Pender Waste Management.
- Creating a separate operator survey in addition to the one created by the formed sub-committee.
- Inviting outside parties to speak with the Commission.
- Asking the LTC to create a mail out.

Chair Montague acknowledged these comments and it was generally agreed that the Chair will consult with the Commission prior to initiating actions on behalf of the Commission.

7. CODE OF CONDUCT

A document, which included a proposed Code of Conduct for the Commission was read for the benefit of the attending public.

Deputy Chair Philpot also asked that Commissioners refrain from exhibiting negative body language in response to the comments of other Members or the public.

NP-SAPC-2015-25

It was **MOVED** by Deputy Chair Philpot and **SECONDED** by Member Rippner **THAT** the Pender Island Waste and Resource Management Commission adopt the Commissioner Code of Conduct as presented.

Member Henning requested that the Code of Conduct be amended to include Section 45 of Roberts Rules which states that no member should vote on a question in which he or she has a direct pecuniary interest not common to the other members.

Chair Montague asked Planner Starke whether such an inclusion would be another rule on conflict of interest.

Planner Starke noted that the Islands Trust follows Roberts Rules when an issue is not otherwise addressed. She also noted that the Terms of Reference already define the conflict of interest procedures for this Commission, therefore this proposed inclusion would require the LTC to amend the Terms of Reference.

Member Petrie remarked that the Commission needs to work as a team and that the continuous focus on rules is eroding the public's confidence. He recommended that the motion be postponed indefinitely.

Member Underhill commented that the Code of Conduct itself is common sense and he has no issues with it. He also noted that the first paragraph includes vague statements and without a more clear understanding of what those statements mean he would not agree to adopt the document. Member Underhill also noted his hope that the commission would discuss whether the island needs a waste transfer site at all.

Member Korbín agreed with Member Underhill and noted that he would not vote in favour of adopting the document. He further noted that it was not appropriate to ask Commissioners to uphold the integrity and authority of our local government.

Member Sketch noted that some members of the Commission are not as versed with Robert's Rules as others are. He recommended that the document be amended to delete the first paragraph and the phrase "obey the rules of the organization".

Chair Montague agreed that the document could be amended and noted that the document was meant to serve as a reminder of the rules that all Commissioners should follow.

Deputy Chair Philpot withdrew his motion.

8. CRITERIA FOR SITING

Planner Starke provided an overview of the background material and noted that the Commission was not obligated to recommend a site, but could recommend that no property is zoned.

Ann Hewlett, a member of the public, was acknowledged by the Chair. She asked whether the ALC reconsideration decision removed the Burdetts from consideration.

Mike Burdett noted that a portion of their property is already zoned industrial.

Planner Starke commented that being part of the ALR does not preclude a property from consideration.

Chair Montague noted that in order to be consistent with the OCP, ALR property's are precluded.

Member Underhill commented that he hoped the Commission would be able to work successfully, but noted that if the Commission was going to be weighed down with motions and other process issues then the LTC should restart the process and form a new commission. .

A discussion was held regarding whether or not Member Underhill's comment was a motion. During the discussion Member Korbin commented that Member Underhill's remarks were out of order and not a motion.

Chair Montague acknowledged the comments of the Commissioners which had been circulated prior to the meeting. She recommended tabling the remaining agenda items until the next meeting.

Member Henning asked whether the next meeting would be a mediated one.

Deputy Chair Philpot suggested that Member Underhill facilitate the development of the siting criteria based on his expertise.

Member Underhill provided an overview of how such facilitation would work.

Member Henning recommended a round table discussion and asked whether such a discussion could be held, as a quorum, without following Robert's Rules.

Planner Starke advised that all meetings of the Commission must be advertised and open to the public if there is a quorum present. She further noted that the Commission can agree to hold a meeting in which they do not follow Robert's Rules.

Note: Planner Starke left the meeting at 2:49 pm.

Member Pollard commented that the type of session proposed by Member Underhill would be team-building and show the Commission how well they can work together.

A discussion was held regarding the scheduling of an additional meeting. It was generally agreed to hold the meeting on January 4, 2016 at 12:30 pm.

Chair Montague requested that all members circulate an advance list of their siting criteria.

Member Petrie noted that he had made a motion at the last meeting to limit Commissioner presentations to fifteen minutes and, as the motion had been postponed indefinitely, had intended to reintroduce it at this meeting. He commented that he would not make such a motion if the Commission would generally agree to follow the guideline.

Member Underhill remarked that he was reluctant to put a cap on any topic and that the Chair could stop speakers who were consuming an excessive amount of the Commission's time.

Anne Burdett asked what would lead the Commission to believe that an operator whose site was not chosen would use the waste transfer facility. She also asked whether the Commission would allow public comment at the end of meetings as the LTC does.

Member Sketch noted that the Terms of Reference was amended to allow the public to speak at the beginning of meetings so that the Commission could hear their comments before discussing the topics. He recognized that the current LTC chair is generous with the time for public input and also noted that Chair Montague generally recognizes the public and allows them to speak during the meetings.

Ben McConchle thanked the Commission for their work and commented that they appeared to be too caught up with Robert's Rules of Order. He expressed his hope that he would hear exciting discussion of how the problem can be solved and noted the expertise of the Members.

NP-SAPC-2015-26

It was **MOVED** by Chair Montague and **SECONDED** by Member Henning
THAT the Commission adjourn at 3:03 pm.

CARRIED
(unanimous)

Elizabeth Montague, Chair

Certified Correct:

Shannon Brayford, Recorder

