

4.1.iii. Policy

**MODEL LOCAL TRUST COMMITTEE
MEETINGS PROCEDURES BYLAW**

Trust Council: September 12, 1992

Amended: December 5, 2003

A: PURPOSE:

1. A bylaw to regulate the meetings of the Trust Committees.

B: POLICY:

1. See Attachment 1 and Policy 4.1.i – Local Trust Committee Chairperson Guidelines.

C: ATTACHMENTS:

1. Attachment 1.: **MODEL LOCAL TRUST COMMITTEE BYLAW**
2. Attachment 2: ***COMMUNITY CHARTER and LOCAL GOVERNMENT ACT PROVISIONS***

LOCAL TRUST COMMITTEE

BYLAW NO. ____, 2004

A bylaw to establish procedures for meetings of the Local Trust Committee

The ____ Local Trust Committee, being the local trust committee having jurisdiction in respect of the ____ local trust area under the *Islands Trust Act*, enacts as follows:

SHORT TITLE

1. This bylaw may be cited as “ ____ Local Trust Committee Meeting Procedure Bylaw No. ____, 2004.

MEETINGS AND NOTICE OF MEETINGS

2. The first regular meeting of the Local Trust Committee shall be held on the first ____ of December following a general local election.
3. At the first regular meeting, and the first meeting in December of each of the subsequent two years, the Local Trust Committee shall establish a schedule of the date, time and place of regular Local Trust Committee meetings for the following calendar year, of which there shall be at least two, and the schedule shall be posted at [insert place at which schedule will be posted].
4. Public notice of the availability of the regular meeting schedule at the place specified in Section 3 shall be given at least once a year by publication in a newspaper circulating in the local trust area.
5. Each local trustee shall provide to the Secretary of the Islands Trust a telephone number and mailing address for the purpose of receiving notices of Local Trust Committee meetings, and notice shall be deemed to have been sufficiently given to the local trustee if the notice is delivered to the trustee’s mailing address or given to the trustee in person.
6. Any two members of the Local Trust Committee may call a special meeting by giving notice of the day, time, place and purpose of the meeting to the third member of the Committee by telephone or written notice delivered to the trustee at least 48 hours before the time of the meeting, and by posting the notice at the place specified in Section 3, except that notice to Local Trust Committee members may be waived by unanimous vote.
7. If the Chairperson is not one of the members calling the special meeting, the members calling the special meeting shall, prior to doing so, advise the Chairperson of the calling of the meeting and consider the Chairperson’s representations, if any, regarding the calling of the meeting.
8. Regular and special meetings of the Local Trust Committee shall be open to the public, except where the Committee has stated by resolution in open meeting that the meeting or portion of the meeting is to be closed to the public, and has stated the statutory basis on which it is to be closed.
9. A quorum of the Local Trust Committee is two members.
10. In the event that the Chairperson is not present within one half hour of the scheduled time of a regular or special meeting, the Director of Local Planning Services or his or her designate shall call the meeting to order and the remaining trustees shall determine which of them shall act as Chairperson.

MINUTES

11. The Director of Local Planning Services or his or her designate shall legibly record the minutes of the meetings of the Local Trust Committee, and shall record any resolutions without meeting. After the minutes of a meeting have

POLICY ATTACHMENT 2
COMMUNITY CHARTER and LOCAL GOVERNMENT ACT PROVISIONS

Under the *Islands Trust Act* and the *Islands Trust Regulation* (B.C. Reg 119/90), the following Sections of the *Local Government Act* and the *Community Charter* apply to Local Trust Committee meeting procedures:

Local Government Act

- LGA 236 Minutes of Meetings
- LGA 794(1)(a) Procedure Bylaw
- LGA 794 (1)(b) Public Notice of Meetings
- LGA 794(2) Amendment of Procedure Bylaw

Community Charter

- CC Part 4, Div 3 Open meetings
- CC Part 4, Div 6 Conflict of interest
- CC 122 LTC bylaw or resolution required
- CC 123(1 – 5 & 7) Voting rules
- CC 127(2) Notice of special meetings
- CC 132 Authority of presiding member at meetings
- CC 133 Expulsion from meetings
- CC 135 Requirements for passing LTC bylaws

These sections provide as follows:

Local Government Act

Minutes of board meetings

236 Minutes of board meetings must be

- (a) legibly recorded,
- (b) certified as correct by the designated regional district officer, and
- (c) signed by the chair or other member presiding at the meeting or at the next meeting at which they are adopted.

Procedure, bylaws and enforcement

794 (1) A board must, by bylaw, do the following:

- (a) establish the general procedures to be followed by the board and by board committees in conducting their business, including the manner by which resolutions may be passed and bylaws adopted;
- (b) provide for advance public notice respecting the time, place and date of board and board committee meetings and establish the procedures for giving that notice;

(2) A procedure bylaw must not be amended unless notice of the proposed amendment is mailed to each director, at the address given by the director to the corporate officer for that purpose, at least 5 days before the meeting at which the amendment is to be introduced.

Community Charter

Part 4 Division 3 -- Open Meetings

General rule that meetings must be open to the public

- 89** (1) A meeting of a council must be open to the public, except as provided in this Division.
- (2) A council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

Meetings that may or must be closed to the public

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
- (c) labour relations or other employee relations;
- (d) the security of the property of the municipality;
- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (f) 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;
- (g) litigation or potential litigation affecting the municipality;
- (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*];

- (m) a matter that, under another enactment, is such that the public may be excluded from the meeting;
 - (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
 - (o) the consideration of whether the authority under section 91 [*other persons attending closed meetings*] should be exercised in relation to a council meeting.
- (2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:
- (a) a request under the *Freedom of Information and Protection of Privacy Act*, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;
 - (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;
 - (c) a matter that is being investigated under the *Ombudsman Act* of which the municipality has been notified under section 14 [*ombudsman to notify authority*] of that Act;
 - (d) a matter that, under another enactment, is such that the public must be excluded from the meeting.
- (3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.

Other persons attending closed meetings

- 91** (1) If all or part of a meeting is closed to the public, the council may allow one or more municipal officers and employees to attend or exclude them from attending, as it considers appropriate.
- (2) If all or part of a meeting is closed to the public, the council may allow a person other than municipal officers and employees to attend,
- (a) in the case of a meeting that must be closed under section 90 (2), if the council considers this necessary and the person
 - (i) already has knowledge of the confidential information, or
 - (ii) is a lawyer attending to provide legal advice in relation to the matter, and
 - (b) in other cases, if the council considers this necessary.
- (3) The minutes of a meeting or part of a meeting that is closed to the public must record the names of all person in attendance.

Requirements before meeting is closed

- 92** Before holding a meeting or part of a meeting that is to be closed to the public, a council must state, by resolution passed in a public meeting,
- (a) the fact that the meeting or part is to be closed, and

(b) the basis under the applicable subsection of section 90 on which the meeting or part is to be closed.

Application of rules to other bodies

93 In addition to its application to council meetings, this Division and section 133 [*expulsion from meetings*] also applies to meetings of the following:

- (a) council committees;
- (b) a municipal commission established under section 143;
- (c) a parcel tax roll review panel established under section 204;
- (d) a board of variance established under section 899 of the *Local Government Act*;
- (e) an advisory body established by a council;
- (f) a body that under this or another Act may exercise the powers of a municipality or council;
- (g) a body prescribed by regulation.

Division 6 -- Conflict of Interest

Disclosure of conflict

100 (1) This section applies to council members in relation to

- (a) council meetings,
- (b) council committee meetings, and
- (c) meetings of any other body referred to in section 93 [*application of open meeting rules to other bodies*].

(2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has

- (a) a direct or indirect pecuniary interest in the matter, or
- (b) another interest in the matter that constitutes a conflict of interest,

the member must declare this and state in general terms the reason why the member considers this to be the case.

(3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [*restrictions on participation*].

(4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may

- (a) return to the meeting or attend another meeting of the same body,

(b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and

(c) after this, participate and vote in relation to the matter.

(5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 *[restrictions on participation if in conflict]*.

(6) When a declaration under subsection (2) or a statement under subsection (4) is made,

(a) the person recording the minutes of the meeting must record

(i) the member's declaration or statement,

(ii) the reasons given for it, and

(iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and

(b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

Restrictions on participation if in conflict

101 (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.

(2) The council member must not

(a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,

(b) participate in any discussion of the matter at such a meeting,

(c) vote on a question in respect of the matter at such a meeting, or

(d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.

(3) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on inside influence

102 (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken

(a) at a meeting referred to in section 100 (1) *[disclosure of conflict]*,

(b) by an officer or an employee of the municipality, or

(c) by a delegate under section 154 [*delegation of council authority*],

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on outside influence

103 (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Exceptions from conflict restrictions

104 (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:

- (a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
- (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
- (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
- (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
- (e) the pecuniary interest is of a nature prescribed by regulation.

(2) Despite sections 100 to 103, if a council member

- (a) has a legal right to be heard in respect of a matter or to make representations to council, and
- (b) is restricted by one or more of those sections from exercising that right in relation to the matter,

the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

Exercise of powers by bylaw or resolution

122 (1) A council may only exercise its authority by resolution or bylaw.

(2) If an enactment provides that a council is required or empowered to exercise a power by bylaw, that power may only be exercised by bylaw.

(3) If a council may exercise a power by resolution, that power may also be exercised by bylaw.

(4) An act or proceeding of a council is not valid unless it is authorized or adopted by bylaw or resolution at a council meeting.

General voting rules

123 (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.

(2) Each council member has one vote on any question.

(3) Each council member present at the time of a vote must vote on the matter.

(4) If a council member does not indicate how he or she votes, the member is deemed to have voted in the affirmative.

(5) If the votes of the members present at a council meeting at the time of the vote are equal for and against a motion, the motion is defeated.

(7) The voting rules established by this section also apply to council committees.

Notice of council meetings

127 (2) Subject to subsection (4), notice of a special council meeting must be given at least 24 hours before the time of meeting by

(a) posting a copy of the notice at the regular council meeting place,

(b) posting a copy of the notice at the public notice posting places, and

(c) leaving one copy for each council member at the place to which the member has directed notices be sent.

(3) The notice under subsection (2) must include the date, time and place of the meeting, describe in general terms the purpose of meeting and be signed by the mayor or the corporate officer.

(4) Notice of a special council meeting may be waived by unanimous vote of all council members.

Authority of presiding member

132 (1) The mayor or the member presiding at a council meeting must preserve order and decide points of order that may arise, subject to an appeal under this section.

(2) On an appeal by a council member from a decision of the presiding member under subsection (1), the question as to whether the chair is to be sustained must be immediately put by the presiding member and decided without debate.

(3) As exceptions to section 123 *[general voting rules]*,

- (a) the mayor or other presiding may not vote on a motion under subsection (2),
 - (b) the motion passes in the affirmative if the votes are equal, and
 - (c) the mayor or other presiding member must be governed by the result.
- (4) If the mayor or presiding member refuses to put the question under subsection (2),
- (a) the council must immediately appoint another member to preside temporarily,
 - (b) that other member must proceed in accordance with subsection (2), and
 - (c) a motion passed under this subsection is as binding as if passed under subsection (2).

Expulsion from meetings

- 133** (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.
- (2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

Requirements for passing bylaws

- 135** (1) Before a bylaw is adopted by a council, it must be given 3 readings by the council.
- (2) Subject to this section and the applicable procedure bylaw, a bylaw may be given up to 3 readings at one meeting of council.
- (3) There must be at least one day between the third reading and the adoption of a bylaw.
- (4) If this or another Act requires that a bylaw receive
- (a) approval of the Lieutenant Governor in Council, a minister or the inspector, or
 - (b) approval of the electors or assent of the electors,
- the approval or assent must be obtained after the bylaw has been given third reading and before it is adopted.
- (5) If a bylaw is subject to both requirements referred to in subsection (4), the approval referred to in subsection (4) (a) must be obtained before the bylaw is submitted for the approval or assent referred to in subsection (4) (b).
- (6) Once a bylaw is adopted,
- (a) the council member presiding at the meeting at which it was adopted, and
 - (b) the corporate officer
- must sign the bylaw.