

4.1.vi. Guidelines

LOCAL TRUST COMMITTEE GUIDELINES FOR AUTHORIZING DECISIONS

Trust Council: December 11, 1993

(Amended: September 27, 1996)

(Amended: December 7, 1996)

(Amended: March 8, 1997)

(Amended: March 6, 1998)

A: PURPOSE:

1. To provide resolution guidelines for local trust committees' compliance with Section 202 of the *Municipal Act* which states that an act or proceeding of a Council is not valid unless it is authorized or adopted by bylaw or approved by resolution.

B: REFERENCES:

1. *Municipal Act*: Section 202
2. *Islands Trust Act*: Section 26
3. Policy Manual: Local Trust Committee Resolutions Without Meeting Policy and Procedure (4.1.v.)

C: GUIDELINE:

BYLAWS and RESOLUTIONS are required to authorize a decision of a Local Trust Committee.

1. BYLAWS

Attachment 1. to this Policy lists the instances where a **bylaw** is required to authorize a decision of a local trust committee.

2. RESOLUTIONS

Attachment 2. to this Policy lists the instances where a **resolution** is required to authorize a decision of a local trust committee.

There are two ways that a local trust committee resolution may be conducted:

2.1 At a properly called and constituted meeting

Local trust committee members conduct business by passing resolutions at properly called and constituted local trust committee meetings. Generally, a resolution is Carried when a motion is Moved, Seconded, and voted in the affirmative (ie. "In Favour") by a majority (2 members) of a local trust committee.

2.2 By Section 26 Resolution Without Meeting

Local trust committee resolutions are usually made at local trust committee meetings, however, Section 26 of the *Islands Trust Act* establishes provision for local trust committees to conduct resolutions in the absence of holding a meeting. A resolution approved under Section 26 is as valid as if it had been voted on and passed at a properly called and duly constituted meeting of a local trust committee.

It is desirable for all local trust committee resolutions to be voted on at properly called and constituted meetings, however, where an issue is deemed to be urgent (i.e. when the issue in question is requiring immediate action as a result of unforeseen circumstances), or when an issue must be dealt with before the next regular meeting of the local trust committee, a Section 26 resolution without meeting may be conducted.

The *Islands Trust Act* regulates that a resolution giving 2nd or 3rd Readings to a bylaw MUST be passed at a properly called and constituted meeting. A Section 26 resolution without meeting vote must never be conducted to give 2nd or 3rd Readings to bylaws.

Please consult the Local Trust Committee Resolution Without Meeting Policy and Procedure for more details.

3. **REPLACEMENT RESOLUTIONS**

A replacement resolution must identify by substance and by date and must rescind the previous resolution as part of the replacement resolution.

example: Resolution giving first reading to Bylaw No. 2 passed on June 2, 1994 is rescinded and replaced with the following:.....

D: ATTACHMENTS:

1. Attachment 1.: **BYLAWS REQUIRED**
2. Attachment 2.: **RESOLUTIONS REQUIRED**

Attachment 1.: BYLAWS REQUIRED

Attachment 1 outlines the instances where a decision must be made by local trust committee bylaw (i.e. the local trust committee must establish a separate bylaw or include a provision in an existing bylaw - for example, a Land Use Bylaw - in order to carry out a particular action).

1. Procedure Bylaw (ITA 26(1), MA 257)
2. Establishing Fines, Penalties (ITA 28, MA 266)
3. Authorizing Inspection of Property (ITA 28)
4. Ticket Information System (ITA 28, MA 272)
5. Trailers and Campgrounds (ITA 30, MA 694(1)(j))
6. Soil Removal and Deposit (ITA 30, MA 723)
7. Requiring Siting and Use Permits (ITA 31)
8. Community Plan (MA 883)
9. Rural Land Use Bylaw (MA 886)
10. Establishing Bylaw Application Procedures (MA 895)
11. Advisory Planning Commission (MA 898)
12. Specifying Area for Public Hearing Notices (MA 892(4))
13. Requiring Posting of Public Hearing Notices (MA 892(8) and (9))
14. Establish Board of Variance (MA 899)
15. Zoning Bylaw (MA 903)
16. Parking and Loading Bylaw (MA 906)
17. Subdivision Servicing Bylaw (MA 938)
18. Sign Bylaw (MA 908)
19. Screening Bylaw (MA 909)
20. Designation of Flood Plain (MA 910)
21. Issuing Temporary Commercial or Industrial Permit (MA 921 (2))
22. Tree Cutting Bylaw (MA 923)
23. Permit Procedure Bylaw (MA 928)
24. Amendment of Land Use Contracts (ITA 55, MA 930)
25. Fee Bylaw (MA 931)
26. Subdivision Servicing Bylaw (MA 938)
27. Minimum Parcel Size for Family Subdivisions (MA 907(4))
28. Any amendment or repeal of a bylaw must be by bylaw

NOTE: ITA = ISLANDS TRUST ACT, MA = MUNICIPAL ACT, number is section number)

Attachment 2.: **RESOLUTIONS**

Attachment 2 outlines the instances when a decision must be made by local trust committee resolution:

RESOLUTIONS REQUIRED

1. Enforcing Bylaws (ITA 24,28)
2. Decision to Refer Bylaw to Trust Council (ITA 27(3))
3. Decision to Proceed with Injunction (ITA 28 MA 281)
4. Strata Conversions (ITA 33(2), Condominium Act 9)
5. Advising Regional District of Proposed Bylaw (ITA 39)
6. Decision to Hold a Public Hearing (MA 890 (1))
7. Delegating a Public Hearing (MA 891)
8. Waiving Public Hearing (MA 890(4))
9. Issuing a Development Variance Permit (MA 922)
10. Issuing a Development Permit (MA 920)
11. Approval of Covenants and Designating Signatory for Covenant (Land Title Act 218, 219)
12. Responses to referrals from
 - Agricultural Land Commission referrals to exclude land from the reserve if in conflict with local trust committee bylaws (ALC 15(4)(b) or for use other than farm use if in conflict with local trust committee bylaws (ALC 22(2); and
 - Forest Land Commission referrals to include land (FLR 11(5)) or exclude land (FLR 20(1)(a)) from the reserve.
13. Issuing or amending a Temporary Commercial and Industrial Use Permit (MA 921(1))
14. Amendment of Land Use Contract (MA 930(2)(c))
15. 10% Highway Frontage Exemption (MA 944)
16. Giving First Reading and Final Adoption to Bylaws (MA 257)
17. Give Second Reading and Third Reading to Bylaws (MA 257)
18. Submitting Bylaws for Approval (ITA 24, 27)
19. Referring OCP Bylaws for comment to (1) regional district and/or municipality if the OCP affects an area of the adjoining regional district and/or municipality, (2) Agricultural Land Commission if the OCP applies to land in the reserve. (MA 882, 883)
20. When referring Bylaws/Applications to APC for Comment (MA 898 and APC Bylaws)
21. Publishing, Delivering, Posting Notices, Advertising for Public Hearings (MA 892)
22. Releasing Legal Opinions (Use of Legal Advice Policy)
23. Notice of a Special Local Trust Committee Meeting (MA 193)
24. APC Appointments (MA 898 and APC Bylaws)

Note: ITA = Islands Trust Act, MA = Municipal Act, ALC = Agricultural Land Commission Act, FLR = Forest Land Reserve Act