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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, July 17, 2012 at the Juan de Fuca Electoral Area Office, #2-6868 West Coast
Road, Sooke, BC**

PRESENT: Heather Phillips (Vice Chair), Ted Dixon, Roy McIntyre, Kara Middleton,
Wally Vowles (Alternate Director), Art Wynans
Staff: June Klassen, Local Area Planning Manager, Wendy Miller, Recording
Secretary
ABSENT: Harold Shipton
PUBLIC: Approximately 13

The meeting was called to order at 7:00 p.m.

At this time, the members introduced themselves.

1. Approval of the Agenda

MOVED by Ted Dixon, **SECONDED** by Art Wynans that the agenda be approved.

CARRIED

2. Approval of the Supplementary Agenda

No supplementary submissions.

3. Adoption of Minutes from the Meeting of June 19, 2012

MOVED by Ted Dixon, **SECONDED** by Art Wynans that the minutes from the meeting of
June 19, 2012 be adopted as amended.

CARRIED

**4. Receipt of Adopted Otter Point Advisory Planning Commission Minutes of May 9 and
Continued on May 16, May 23, May 28, June 6, June 13 and June 18, 2012**

MOVED by Art Wynans, **SECONDED** by Kara Middleton that the adopted minutes from the
Otter Point Advisory Planning Commission meeting of May 9 and continued on May 16,
May 23, May 28, June 6, June 13 and June 18, 2012 be received.

CARRIED

5. Receipt of Draft Otter Point Advisory Planning Commission Minutes of June 20, 2012

MOVED by Wally Vowles, **SECONDED** by Kara Middleton that the draft minutes from the
Otter Point Advisory Planning Commission meeting of June 20, 2012 be received.

CARRIED

6. Receipt of Draft East Sooke Advisory Planning Commission Minutes of June 25, 2012

MOVED by Art Wynans, **SECONDED** by Ted Dixon that the draft minutes from the East
Sooke Advisory Planning Commission meeting of June 25, 2012 be received.

CARRIED

7. Chair's Report

The Vice Chair spoke to process advising that she will be chairing the meeting as Director Hicks is not present. The Vice Chair welcomed everyone to the meeting.

8. Planner's Report

June Klassen advised that two public hearings are scheduled on July 18 at 7:00 p.m. at the East Sooke fire hall for Bylaw No. 3831 and Bylaw No. 3718. The purpose of Bylaw No. 3831 is to amend the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 by increasing the accessory building height from 4 m to 6 m for a one-storey building and increasing maximum floor area for accessory buildings. The purpose of Bylaw No. 3718 is to amend the existing OCP by including:

- a Greenhouse Gas (GHG) Reduction statement,
- amending the Development Permit No. Area No. 1: Steep Slopes by changing the lands designated from areas having slopes exceeding 20 percent or 11 degrees in slope over a minimum 6 metre run to areas having slopes exceeding 30 percent or 16.7 degrees in slope over a minimum 10 metre run,
- providing additional exemptions for development permits,
- reflecting adoption of the Parks Plan, and
- incorporating revised mapping

9. Development Permit with Variance Application

a) DP-05-11 – Lot 41, Section 43, Highland District, Plan 8166 (Strandlund – 6966 Mark Lane)

June Klassen spoke to the staff report advising that the applicant is requesting a development permit with variance in order to address geotechnical concerns associated with siting of a single-family dwelling, walkways, stairs and decks within a Steep Slopes Development Permit Area and a Foreshore, Wetlands and Riparian Areas Development Permit Area; and to legalize the siting of a "landing" located within the rear setback. June Klassen further spoke to building permit record history on the property and geotechnical reports submitted to date to address the Steep Slopes and Foreshore, Wetlands and Riparian Areas development permit guidelines.

The Vice Chair opened the floor to the applicant's representative, Justin Beadle. Justin Beadle provided no new information at this time.

June Klassen responded to a LUC member advising that, should the application be approved, the development permit and restrictive covenants would be registered on the property's title. The 219 covenant secures the geotechnical reports to the property and saves the CRD harmless.

A LUC member stated that adjacent owners were contacted and no strong objections were relayed. The same member noted that the landing is not in view of neighbouring properties.

June Klassen responded to another LUC member advising that the rear yard setback is the water side of the property and that there is no floodplain set back in Willis Point.

Justin Beadle responded to a LUC member stating that gangway construction was channeled through the Department of Fisheries and Oceans approval process and all construction has been permitted.

MOVED by Art Wynans, **SECONDED** by Roy McIntrye that the Juan de Fuca Land Use Committee support the staff report and recommendation and recommend to the CRD Board:

1. That Steep Slopes and Foreshore, Wetlands and Riparian Areas development permit DP-05-11 for Lot 41, Section 43, Highland District, Plan 8166 be approved subject to the following conditions:
 1. That the proposed development comply with the Steep Slopes, and Foreshore, Wetlands and Riparian Areas Development Permit Guidelines outlined in the Willis Point Comprehensive Community Plan, Bylaw No. 3027;
 2. That the proposed development comply with the recommendations outlined in the professional geoscientist's reports prepared by Thurber Engineering Ltd., dated September 27, 2011, (Appendix 4), and June 22, 2012, (Appendix 5);
 3. That the professional geoscientist's reports prepared by Thurber Engineering Ltd., dated September 27, 2011, and June 22, 2012, be secured via a restrictive covenant registered on title prior to the issuance of the Occupancy Permit; and
 4. That the conditions of this development permit with variance be verified as part of the building permit process; and
2. That the Willis Point Comprehensive Community Plan, 2002, Bylaw No. 3027, Schedule 'B', Part IV, Section 22.2(f) be varied to reduce the rear yard setback for accessory buildings from 1.5 m to 0.73 m as shown on the attached site survey prepared by J.E. Anderson & Associates, dated May 1, 2012 (Appendix 2) in order to permit the siting of a "landing" adjacent to the rear parcel line.

CARRIED

10. Development Variance Permit Application

a) VAR-02-12 – Lot 1, Section 75, Renfrew District, Plan 33475, Plan 33475 Lampe – 10925 West Coast Road)

June Klassen spoke to the staff report advising that the applicant is requesting a development variance permit to allow a detached accessory suite in an existing two storey accessory building. June Klassen explained that Bylaw No. 2040, section 4.20 (g) permits a detached accessory suite in a one storey building 4.20(g) of. As the suite is to be located in a two story building, a variance is required.

June Klassen advised that there is a covenant on the property that outlines that there is to be one single family dwelling and ancillary outbuildings on the property. It was advised that the covenant is between the previous property owner and previous property seller very much like a building scheme. The CRD is not bound by the covenant.

The Vice Chair opened the floor to the property contractor, Willy Lampe. Willy Lampe advised that he is available to answer any questions.

Judith Carder, Shirley, noted that her property is adjacent to the subject property and stated concern that this application is the fourth application requesting a variance after building completion. It was stated that approving variances after building completion sets bad precedence. Permitting a detached accessory suite is against the intent of the covenant.

June Klassen responded to questions from the public advising that all variances to date have been to vary the zone (Bylaw No. 2040). It was further advised that the covenant was implemented in 1965 and runs with the land.

Cleo Gardener, Shirley, questioned why the contractor has been allowed to continue receiving variances after building completion. It was further questioned why the contractor, Mr. Lampe, has been noted as the applicant.

A LUC member gave information that the most recent variance for the property was granted in September 2011 because, while the building was constructed in accordance with the plans provided, the building height had been calculated in error when the earlier variance was requested.

June Klassen confirmed that Mr. Lampe is the authorized agent for the property owner.

Fiona McDannold, Shirley, stated that, although the staff report notes that the community supported the ability for applicants to bring forward requests for variances to permit accessory suites in larger buildings, it was with the understanding that variances would be approved prior to building construction.

June Klassen responded stating that when the bylaw permitting detached accessory suites (Bylaw No. 3605) was approved it was anticipated that variance applications would come forward to convert existing accessory buildings to detached accessory suites.

A LUC member questioned owner residency and if there is a suite in the existing principal dwelling.

June Klassen responded advising that Bylaw No. 2040 specifies that the owner must occupy either the detached accessory suite or the principal dwelling. It was been relayed that the non-resident owner occupies the principal dwelling. A caretaker will occupy the detached accessory suite. It was advised that the property is only allowed one detached accessory suite or one secondary suite in the principal dwelling. Number of suites can be confirmed as part of the building permit approval process.

June Klassen responded to another LUC member stating that she cannot provide the history on the covenant but clarified that the covenant is between the previous property owner and previous property seller.

Zac Doeding, East Sooke, forwarded support for the application noting that the proposal is in line with the intent of bylaw that permitted detached accessory suites (Bylaw No. 3605).

June Klassen responded to a LUC member stating that the CRD is not bound by the covenant. The covenant can only be varied by the covenant holders or by the court.

A LUC member forwarded support for the application as the proposal is a change in building use and will have no negative impact on neighbours.

Sandy Sinclair, Otter Point, stated support for the application as the detached accessory suite will provide property security and greater overall security for the neighbourhood.

June Klassen responded to a LUC member advising that notice of the application was sent to property owners and tenants within 500 m of the subject property and that no submissions were received.

Cleo Gardener stated that in a rural community 500 m may result in only one adjacent property being notified.

MOVED by Wally Vowles, **SECONDED** by Ted Dixon that the Juan de Fuca Land Use Committee support the staff report and recommendation and recommend to the CRD Board:

1. That Development Variance Permit VAR-02-12 for Lot 1, Section 75, Renfrew District, Plan 33475 to vary Juan de Fuca Land Use Bylaw 1992, Bylaw No. 2040, Part 1, Section 4.20 (g) to permit a detached accessory suite in an existing two storey accessory building, be approved.

A LUC member stated issue with the covenant that it appears to contradict the use being proposed by the application.

The question was called and it was two in favour, Roy McIntyre, Kara Middleton, Heather Phillips, Art Wynans opposed. **DEFEATED**

11. Temporary Industrial Permit Application - Renewal

- a) **TIP-01-10 - Lot 1 of Lot 123, Block 1299, Malahat District, Plan 20837, PID 003-521-958 (TimberWest Forest Corp. Inc.)**
TIP-02-10 – Lot 1, Block 1263 and of Lot 124, Malahat District, Plan 24436, PID 003-034-372 (TimberWest Forest Corp. Inc.)
TIP-03-10 – Block 1234, Malahat and Cowichan Lake Districts, PID 009-377-298 (TimberWest Forest Corp. Inc.)

June Klassen spoke to the staff report advising that the applicant is requesting a two year renewal of temporary industrial permits TIP-01-10, TIP-02-10 and TIP-03-10 for the purpose of permitting three meteorological towers to collect wind speed data on three separate parcels in the Rural Resource Lands. It was advised that the temporary industrial permits were issued in October 2010 and building permits issued in 2010. The towers were constructed but collapsed during the winter and were removed from the site and the building permits were cancelled before they were finalized. Should the temporary industrial permits be renewed, the applicant will need to obtain new building permits.

June Klassen drew attention to the staff recommendation noting that item f) should read, "That an Irrevocable Letter of Credit in the amount of \$10,000 be held for a period of two years;".

The Vice Chair opened the floor to the applicant representative, Jason Carvalho. Jason Carvalho spoke to tower construction, location and wind volume. It was confirmed that the towers are being used to record wind data to explore feasibility of wind power generation. Jason Carvalho indicated that only one of the towers had collapsed.

June Klassen confirmed that the information is not being collected for BC Hydro. BC Hydro submitted comment at the time the initial permits were being considered. June Klassen further confirmed that there are no residents within 5 km of the tower locations.

The Vice Chair noted that there was some concern regarding bird strike when the initial permits were being considered. As well, residents have expressed continued interest in private forest companies allowing recreational access along private logging roads.

June Klassen responded to a member of the public advising that there is no road construction connected to proposal. The logging roads already exist.

MOVED by Art Wynans, **SECONDED** by Ted Dixon that the Juan de Fuca Land Use Committee support the staff report and recommendation as amended and recommend to the CRD Board:

- 1) That a renewal of Temporary Industrial Permits TIP-01-10, TIP-02-10 and TIP-03-10 for PID: 003-521-958, PID: 003-034-372 and PID: 009-377-298 for the purpose of constructing three 60 m meteorological towers be issued with the following conditions:
 - a. For the purposes of this permit "Temporary Industrial Use" shall mean: "a use providing for the construction of one meteorological tower for the purpose of collecting wind speed data that is 60 m in height, occupies 4 m² of ground area, with 60 m guy-lines, to be painted red and white and meet Transport Canada standards for navigational safety";
 - b. That the applicant notify BC Hydro of any changes to the location of the towers;
 - c. That the applicant refrain from using the access road near a sensitive wetland area as described by BC Hydro in the Attachment 2;
 - d. That the applicant engage a qualified consulting archaeologist to determine whether an archaeological impact assessment is warranted on PID: 003-034-372 for TIP-02-10;
 - e. That a covenant be registered pursuant to Section 219 of the *Land Title Act* to permit the temporary industrial use for a two year period from the date of issuance of the permit. The covenant shall also include an agreement by the owner to indemnify and save harmless the Capital Regional District (CRD) against all costs and expenses incurred by the CRD, in default by the owner, in the conversion, demolition or removal of the temporary industrial use, and/or legal costs incurred in pursuing such legal remedies as the CRD sees fit. The covenant shall be registered within 30 days of the date of issuance of the permit;
 - f. That an Irrevocable Letter of Credit in the amount of \$10,000 be held for a period of two years;
 - g. In default of compliance with any of the provisions of this permit, the permit shall lapse;
 - h. The permit shall expire within two years of the date of issuance of the permit; and
 - i. Nothing shall be done which is or will become an annoyance or nuisance to the surrounding areas by reason of unsightliness, the emission of odours, liquid

effluence, dust, fumes, smoke, vibration, noise or glare; nor shall anything be done which creates or causes a health, fire, or explosion hazard, electrical or navigation interference.

CARRIED

The Vice Chair recessed the meeting from 8:02 – 8:04 p.m.

12. Proposed Bylaw

a) Bylaw No. 3839 – Proposed Amendment to the East Sooke, Otter Point and Shirley Area Board of Variance Bylaw No. 3377 and the Port Renfrew Board of Variance Bylaw No. 3380

June Klassen spoke to the staff report advising that proposed Bylaw No. 3839 combines the East Sooke, Otter Point and Shirley Area Board of Variance (BOV) with the Port Renfrew BOV. The proposed combined BOV will also encompass the Rural Resource Lands area. The proposed bylaw establishes the area covered by the BOV and sets membership to three and specifies that at least two of the members must be residents of East Sooke, or Otter Point, or Shirley or Jordan River area. The proposed, combined bylaw will establish a BOV for the Rural Resource Lands area and reduce challenges associated with meeting membership requirements.

Cleo Gardener questioned if the proposed bylaw excludes the Jordan River area as the proposed bylaw does not specify that this area is covered. It was also questioned why Malahat and Willis Point have been left out of the proposed bylaw.

The Vice Chair confirmed that Malahat and Willis Point have a separate, combined BOV. It was noted that these two communities are remnants of the old Langford Electoral Area and do not share the same land use bylaw as East Sooke, Otter Point, and Shirley (Bylaw No. 2040).

June Klassen confirmed that no changes to the Malahat and Willis Point BOV are anticipated. June Klassen spoke to the role of a BOV advising that the BOV can approve structural alteration or addition to structures deemed legal non-conforming. Applications channeled through the LUC are for properties that meet or can meet zoning requirements. It was advised that there are some properties that will never be able to meet zoning requirements.

June Klassen explained that proposed Bylaw No. 3839 does not specify Jordan River as portions of Jordan River fall under Bylaw No. 189 (Juan de Fuca Subdivision Bylaw). Public process continues to bring these properties under Bylaw No. 2040. Once these properties are zoned, proposed Bylaw No. 3839 will apply to these lands as well. It was confirmed that multiple zoning bylaws can fall under one BOV.

June Klassen responded to questions from public attendees and members advising that applicants are directed to the LUC when a variance would enable to a property to meet zoning requirements (setbacks/coverage/height). There are some properties that cannot meet zoning requirements and variances cannot be granted for these properties. For these properties, alteration/addition to existing structures can be approved by the BOV to allow continued use of these structures.

A LUC member forwarded support for revising the bylaw to specify when “Board” is referring to the Board of Variance.

The Vice Chair asked that the membership consider the staff recommendation. The members, hearing a question from a public attendee, asked that the floor be opened.

The Vice Chair opened the floor.

June Klassen responded to Cleo Gardener confirming that BOV members are appointed by the CRD. June Klassen responded to Fiona McDannold advising that the BOV for East Sooke, Otter Point and Shirley area has always been combined.

Dane Bugoy, Otter Point, forwarded support for a separate BOV for each area.

A LUC member questioned whether seven day notice of a BOV hearing is adequate public notice. Another member supported maintaining seven day notice to be consistent with the Malahat and Willis Point BOV bylaw.

A LUC member questioned written notice of 50 metres suggesting notice of 500 metres to bring the BOV notice in line with LUC notice requirements. June Klassen advised that staff will be requesting a change to the 500 metre LUC notice, noting the amount of staff work associated with LUC notice.

June Klassen responded to a LUC member clarifying that a BOV cannot approve a change in use or density.

MOVED by Art Wynans, **SECONDED** by Roy McIntre that the Juan de Fuca Land Use Committee support the staff report and proposed Bylaw No. 3839 as amended and recommend to the CRD Board:

1. That Bylaw No. 3839 "Juan de Fuca Board of Variance Bylaw No. 1, 2012", be introduced and read a first time, read a second time, read a third time and be adopted.

CARRIED

13. New Business

14. Adjournment

MOVED by Roy McIntyre, **SECONDED** by Ted Dixon that the meeting adjourn.

The meeting adjourned at 7:28 p.m.

Chair