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## Minutes of a Meeting of the Juan de Fuca Land Use Committee

Held Tuesday, September 18, 2012 at the Juan de Fuca Electoral Area Office, #2-6868 West Coast Road, Sooke, BC

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**PRESENT:** Director Mike Hicks (Chair), Roy McIntyre, Kara Middleton, Heather Phillips, Harold Shipton, Art Wynans  
**Staff:** Marg Misek-Evans, Senior Manager, Regional & Strategic Planning, Planning and Protective Services; June Klassen, Local Area Planning Manager; Wendy Miller, Recording Secretary

**ABSENT:** Ted Dixon

**PUBLIC:** Approximately 22

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

At this time, the Chair thanked Heather Phillips for chairing the July meeting.

### 1. Approval of the Agenda

**MOVED** by Art Wynans, **SECONDED** by Harold Shipton that the agenda be approved.

**CARRIED**

### 2. Approval of the Supplementary Agenda

**MOVED** by Harold Shipton, **SECONDED** by Kara Middleton that the supplementary agenda be approved.

**CARRIED**

### 3. Adoption of Minutes from the Meeting of July 17, 2012

**MOVED** by Ted Dixon, **SECONDED** by Art Wynans that the minutes from the meeting of July 17, 2012 be adopted as amended.

**CARRIED**

### 4. Chair's Report

The Chair welcomed everyone to the meeting.

### 5. Planner's Report

No report.

### 6. Development Variance Permit Application

#### a) VAR-05-10 – Lot 3, Section 130 and 131, Sooke District, Plan VIP73608 Except that Part in Plan VIP76869 (Gilbert – 706 Cains Way)

June Klassen spoke to the staff report advising that the applicant is requesting a development variance permit application to vary Part 1, Section 3.10(4)(a) of the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 to relax the requirement that the minimum frontage of a lot shall be one-tenth of the perimeter of the lot that fronts on the highway. June Klassen further spoke to previous subdivision and development permit application history advising that the current development variance permit application is required in support of subdivision application S-07-10.

The current subdivision application was revised and proposes a boundary adjustment with the adjacent parcel Lot C, Section 130, Sooke District, Plan VIP76869.

Lot C was granted a waiver of the 10% minimum road frontage requirement on a highway as part of the subdivision process (S-23-03). Although there are no changes proposed to the road frontage of existing Lot 3, the proposed boundary adjustment will result in a minor increase to the perimeter of Lot 3 thereby increasing the frontage deficiency. Therefore, as part of the applicant's subdivision approval, a development variance permit is required to relax the 10% minimum frontage required by Bylaw 2040.

As noted in the staff report, the subject property is located in the Wilderness Mountain water service area and includes the Wilfred reservoir. A LUC member spoke to the number of households serviced by the reservoir and reservoir water information. The member stated that the Ministry of Transportation and Infrastructure (MoTI) has not approved the subdivision and that the covenant holders have not been contacted. The member noted concern regarding using covenants to protect a watershed on private land, relaying resident comments regarding reports of agricultural activities occurring with the water catchment area. The member further noted that the William reservoir in the Wilderness Mountain Water system is not being utilized as a public water supply and that nearby Seedtree Road residents have to truck in drinking water.

The Chair advised that he is a member of the Wilderness Mountain Water Service Commission and that substantial treatment upgrades have been made to the system. Potential supply of water to Seedtree Road will be reviewed in two years.

June Klassen spoke to the subdivision application process noting that staff advise MoTI when an application is referred whether a development variance permit or development permit is required as part of the subdivision process. MoTI cannot approve a subdivision until the development variance permit or development permit is approved.

The Chair advised that the property has two building sites. The previous subdivision plan proposed a road through covenanted land to access a building site. The subdivision plan was revised, creating no new lots and eliminating the need for a road. The property receiving the additional lands under the current subdivision plan (Lot C) will continue to be subject to the conservation covenants, protecting the watershed.

A LUC member stated support for tabling the application until more information is received. The member stated that there was quick turnaround between the initial subdivision plan and the revised subdivision plan for application S-07-10. More time will allow comment to be received from the covenant holders and allow residents to understand which subdivision plan is before the LUC. The LUC member stated that it appears that a variance is also required for Lot C as it is also being subdivided.

June Klassen spoke to mapping advising that the lake frontage remains protected as the covenant boundary is not being changed. The applicant requires a variance as the boundary adjustment results in a minor increase to the perimeter of Lot 3. June Klassen confirmed that she has been in dialogue with the covenant holders (CRD Integrated Water Services, Habitat Acquisition Trust and The Land Conservancy). Should the variance be approved, dialogue will continue with the covenant holders regarding conditions of subdivision.

The applicant, Chris Glibert, responded to a member advising that 740 Cains Way is the address for the pump house held by the CRD under a statutory right-of-way on his property. The applicant's address is 706 Cains Way.

June Klassen responded to a LUC member advising that no new lots are being created by the lot line adjustment. June Klassen confirmed that the perimeter of Lot C is increasing but that Lot C was granted a blanket waiver of the 10% minimum road frontage requirement when it was subdivided (S-23-03). The member forwarded support for re-examining the frontage waiver.

**MOVED** by Heather Phillips, **SECONDED** by Kara Middleton that the Juan de Fuca Land Use Committee table the application for Development Variance Permit VAR-05-10 and request more information.

The question was called and it was two in favour, Director Hicks, Roy McIntyre, Harold Shipton, Art Wynans opposed. **DEFEATED**

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

1. That the Development Variance Permit VAR-05-10 for Lot 3, Sections 130 and 131, Sooke District, Plan VIP73608 except that part in Plan VIP76869, to relax the requirement for one tenth perimeter frontage, be approved.

The question was called and it was four in favour, Kara Middleton and Heather Phillips opposed. **CARRIED**

## **7. Rezoning Applications**

### **a) Z-02-11 – Lot 1, Section 36, Township 13, Renfrew District, Plan VIP50819 (Port Renfrew Recreation Centre)**

June Klassen spoke to the staff report advising that the Port Renfrew Recreation Centre Operating Committee is proposing to permit office and retail uses in the centre as an option to generate revenue to assist in covering the operating expenses of the centre

As directed by the LUC on June 19, 2012, revised proposed Bylaw No. 3716, amending the Community Use One (CU-1) zone to permit retail use and to increase the maximum area for office and retail uses to 60%, was referred to CRD departments and agencies for comment. The revised proposed bylaw was also circulated to residents by way of a mail drop.

As noted in the staff report, no objections were raised. In response to the submission from the Ministry of Transportation and Infrastructure requesting adequate off street parking for any new business uses, staff believes current and anticipated parking needs can be accommodated in the current parking area. No responses were received from Port Renfrew residents.

As no objections were received from referral agencies or from residents and since this is a minor broadening of uses in an existing facility, staff recommends that the proposed bylaw proceed for approval and that the public hearing requirement be waived pursuant to the *Local Government Act*, Section 890(4).

A LUC member stated no support for setting a practice of waiving a public hearing on the basis that a proposed bylaw is considered consistent with a community plan. The Chair supported this statement.

Another LUC member stated support for waiving the public hearing, noting that no residents have submitted comment on the proposed bylaw.

**MOVED** by Heather Phillips, **SECONDED** by Roy McIntyre that the Juan de Fuca Land Use Committee support the staff report and recommendation as amended and recommend to the CRD Board:

1. That proposed Bylaw 3716, "Comprehensive Community Development Plan for Port Renfrew Bylaw No. 1, 2003, Amendment Bylaw No. 3, 2012" for Lot 1, Section 36, Township 13, Renfrew District, Plan VIP50819, be read a first and second time.
2. That in accordance with the provisions of Section 890 and 891 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 3716, "Comprehensive Community Development Plan for Port Renfrew Bylaw No. 1, 2003, Amendment Bylaw No. 3, 2012".

**CARRIED**

**b) Z-01-12 – Lot 7, Section 129, Sooke District, Plan VIP67208 (Stokes – 470 Seedtree Road)**

June Klassen spoke to the staff report advising that the applicants are proposing to rezone the 4 ha property to permit the subdivision of three fee simple parcels in order that each dwelling unit currently located on the property may be individually titled.

It was advised that a geotechnical report, certified by Richard Brimmell, P.Eng. identified two future building sites located to the north and northwest of the primary single family dwelling. As well, a DP with variance application (DP-05-12) has been submitted by the applicant in order to address the DP Guidelines of the East Sooke OCP with respect to the geotechnical, riparian and sensitive ecosystem concerns associated with the property. A variance has been requested as part of the DP application in order to reduce the minimum frontage requirement of 10% lot perimeter for two of the proposed lots. Approval of the DP with variance would be required in fulfillment of the subdivision application requirements (S-02-12).

As directed by the LUC on May 15, 2012, the proposal was referred to CRD departments and agencies for comment. June Klassen spoke to the agency comments included in the staff report. It was noted that the East Sooke Advisory Planning Commission considered the proposal on June 25, 2012 and that the APC supports the application based upon input from the community and from the applicant and recommends to the LUC that the application move forward through the review process.

As included in the staff report, the East Sooke OCP designates the property as settlement containment area which supports a residential parcel size within the 1 ha range. A LUC member stated that the application was not supported by the APC on the basis that the property is designated as settlement containment area. Rather, the application was supported by the community because the dwellings exist. The member stated that it is incorrect to consider rezoning applications for greater density on the basis that a property is designated settlement containment area and can be serviced by

a public water system in future when there is no water service and no plan for future water service.

June Klassen responded to the member advising that proof of potable water must be provided prior to subdivision registration. It was further advised that a development permit is required as part of the subdivision application process. Should the qualified professional reports required as part of the development permit application process address all building envelopes and all building applications stay within the identified building envelopes, no further development permits are required.

The applicant, Matt Stokes, responded to the member advising that 470 Seedtree Road is the civic address for the primary residence, 474 is the civic address for the mobile home and 476 is the civic address for the cottage.

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

1. That Bylaw No. 3829, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 110, 2012" for Lot 7, Section 129, Sooke District, Plan VIP67208 be introduced and read a first time, read a second time; and
2. That in accordance with the provisions of Section 890 and 891 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 3829, "Juan de Fuca Land Use Bylaw, 1992, Amendment No. 110, 2012".

**CARRIED**

## **8. Information Item**

### **a) Amendment to Bylaw No. 3166 and Bylaw No. 3110, CRD Board Policy – RGS Consistency**

Director Hicks introduced Marg Misek-Evans, Senior Manager, Regional & Strategic Planning, Planning and Protective Services. It was advised that Marg Misek-Evans will speak to regional planning items outlined in the report scheduled to be presented to the Planning, Transportation and Protective Services Committee (PTPSC).

June Klassen spoke to the report advising that the report was prepared in response to a series of CRD Board motions regarding the referral of applications to the whole Board for a determination of consistency with the RGS. The motions were made during the Marine Trail Holdings Ltd. rezoning application process.

It was advised that a supplementary report to the report presented this evening (PPS/JP 2012-04) will be forwarded to the PTPSC to provide feedback received from the LUC meeting and to outline alternatives not included in the initial report including the alternative of only referring rezoning applications for the Rural Resource Lands (RRL) and all Official Community Plan (OCP) amendments to the full CRD Board for determination of consistency with the RGS.

As included in the staff report, June Klassen spoke to the changes proposed including changing the Juan de Fuca Land Use Committee Bylaw, Bylaw No. 3166 to eliminate the referral delegation from the LUC to the Board as well as changing the Juan de Fuca Procedural Bylaw, Bylaw No. 3110, to revise the application process to support the amendments to Bylaw 3166. Under the revised procedure, electoral area planning staff

in consultation with regional planning staff would prepare a report to the LUC which outlines whether the application is considered to be not inconsistent with the RGS and the LUC would then make a referral recommendation to Committee A or B as appropriate.

Marg Misek-Evans spoke to municipal and electoral area requirements under Part 25 of the *Local Government Act (LGA)*. It was advised that Part 25 requires that all bylaws adopted by a regional district board after adoption of a regional growth strategy (RGS) be consistent with the regional growth strategy.

June Klassen confirmed that, prior to the procedural changes proposed, the full Board has always had the ability to question bylaw consistency with the RGS. There is support for determining consistency with the RGS early in the bylaw approval process. If a proposed bylaw is deemed inconsistent, no further consideration can be given to the application proposing the bylaw change.

A LUC member stated support for a process to determine OCP and zoning bylaw consistency with the RGS. Should an OCP be determined consistent with the RGS and a zoning bylaw is determined consistent with an OCP, it can be expected that a zoning amendment will be consistent with the intent of the RGS. The member noted that the process set out in Schedule B does not appear to follow the proposed process change of referring bylaw amendments to the PTPSC at the start of the bylaw amendment process to address consistency with the RGS. The member questioned the rationale for changing the referral process outlined in the Juan de Fuca Development Procedures Bylaw. The member stated that the Director should be present when determination of consistency with the RGS is being considered by the PTPSC. It was further stated that there needs to be improved communication with applicants and residents when an item is being considered by the PTPSC.

A LUC member acknowledged that the Board is the approving authority for all bylaws. The member questioned bylaw considerations being presented to the Board prior to LUC review, stating that the change appears to shift even more decision making authority to the Board. The member stated support for the LUC being given first review of applications in the RRL as the LUC represents the communities closest to the RRL. The member stated that the Local Area Planning Manager can advise the LUC if a local community rezoning application is considered consistent or inconsistent with the RGS.

A LUC member stated that the RRL does not encompass a community and some residents consider the area to have local and regional significance.

A LUC member stated concern with the proposed change in processes and potential negative impact to the small communities of the electoral area.

The Chair opened the floor.

George Miller, Shirley, spoke to the order in council that granted voting rights to Board Committee A. Any issues with the RGS should be dealt with by Committee A. Juan de Fuca Electoral Area taxpayers resent politicians from other jurisdictions making decisions that impact electoral area resident rights. George Miller spoke in support of a referendum prior to any proposed change to voting rights.

Sandy Sinclair, Otter Point, noted the amount of time and work residents dedicate to OCP reviews. Sandy Sinclair stated concern that should an OCP be determined inconsistent with the RGS, there is no appeal process.

The Chair stated that the electoral area does not have the right to appeal noting that this right is granted to municipalities. The Chair advised that the CRD cannot grant the right to appeal to the electoral area. The right to appeal falls under the Province.

Rosemary Jorna, Otter Point, spoke to the order in council referenced noting that the order in council also granted voting rights to Board Committee B. Rosemary Jorna stated that the biggest landowner in the RRL is the CRD. The RRL does not encompass the six Juan de Fuca Electoral Area settlement areas. To leave the CRD out of a RRL application review would be a denial of landowner rights.

Sid Jorna, Otter Point, supports determination of OCP consistency with the RGS resting with the full Board. Once an OCP is adopted, the jurisdiction of approving community rezoning applications should rest with Board Committee A and B.

Zac Doeding, East Sooke, stated no issue with referring RRL rezoning applications to the full Board for consideration. Zac Doeding took issue with the ability of any Board member being able to question RGS consistency of any bylaw. Zac Doeding stated that more process changes are required to allow the electoral area to achieve the same rights as municipalities noting that the electoral area OCPs cannot include a regional context statement and that electoral areas are not granted the right to appeal. Zac Doeding stated no support for any process changes at this time, further stating that the changes proposed in the report should be considered as part of the RGS review process. Zac Doeding stated concern that the RGS is being utilized to undermine the authority outlined in Part 26 of the LGA.

Marg Misek-Evans clarified that issues such as the ability to appeal cannot be addressed as part of the development of the Regional Sustainability Strategy. This would require a change in legislation and is beyond Board authority.

Wally Vowles, Alternate Director, stated that as part of the Marine Trail Holdings Ltd. application process both staff and legal counsel deemed that the application was not inconsistent with the RGS. Wally Vowles noted that this application was then deemed inconsistent by the full Board.

Fiona McDannold, Shirley, spoke to the OPSRRA supplementary agenda submission that notes that the Governance Structure Branch is reviewing governance in the Juan de Fuca Electoral Area. Fiona McDannold suggested that reference to this review be included in the supplementary report to PTPSC.

Sandy Sinclair stated concern with some of the processes used to collect public input on the RGS.

George Miller stated that it is understood that Part 25 requires that all bylaws adopted by the Board must be consistent with the RGS. George Miller then referenced the order in council that granted Part 26 voting rights to Board Committee A and B. As the order in council stands, the full Board must work with Board Committee A and B.

A LUC member spoke to other electoral area voting processes noting that any consideration to changing the right to appeal will impact other electoral areas.

**9. New Business**

**10. Adjournment**

**MOVED** by Harold Shipton, **SECONDED** by Roy McIntyre that the meeting adjourn.

The meeting adjourned at 8:55 p.m.

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Chair