



File No.: 6500-20 – Water Sustainability

DATE OF MEETING: February 18, 2020

TO: Salt Spring Island Local Trust Committee

FROM: David Marlor, Director, Local Planning Services
Julia Mobbs, Director, Administrative Services

SUBJECT: Special Property Tax Requisition – Salt Spring Island (SSI)

PURPOSE

The purpose of this memo is to provide the Salt Spring Island Local Trust Committee (LTC) with clarity on how special property tax requisition funds secured for the additional operations authorized under [Bylaw No. 154](#) (Appendix 1) may be used.

BACKGROUND

Issue Background

Since 2013/14 the SSI LTC has requested a special property tax requisition through Islands Trust Council to fund the coordination of initiatives related to the preservation and protection of freshwater resources on Salt Spring Island. To date, these funds have primarily been deployed to secure the contracted services of a coordinator to administer and facilitate meetings of the Salt Spring Island Watershed Protection Alliance (SSIWPA).

As at March 31, 2019, the LTC has approximately \$24,000 in SSIWPA surplus funds arising from unspent special property tax requisitions since the project’s inception. Staff anticipate that an additional \$54,000 (approximate) will carry over into this surplus balance at March 31, 2020 due to underspending in the current fiscal year. This will bring the total in SSIWPA surplus funds to approximately \$79,000. This reserve of unspent special property tax requisition funds has generated questions at the LTC table about how these funds may be used.

At its meeting of January 21, 2020, the LTC passed the following resolution concerning allocation of special property tax requisition funds:

SS-2020-03

It was MOVED and SECONDED,

that the Salt Spring Island Local Trust Committee request staff to provide a report regarding how the Salt Spring Island Watershed Protection Alliance (SSIWPA) unspent reserve funds can be allocated.

CARRIED

Legislative/Policy Background

The tax requisition used to fund freshwater protection initiatives on Salt Spring Island, including SSIWPA, is derived from [Trust Council Policy 6.3 ii](#) (Appendix 2) which authorizes the funding of an “additional operation(s)” of the LTC:

- a) “Additional operations” of a local trust committee are those activities and programs that are deemed by the Islands Trust Council to be:
 - i) Programs or services not offered in all local trust areas;
 - ii) Enhanced service levels that reflect unique demands or additional powers that Trust Council has delegated to a local trust committee by bylaw; and
 - iii) Beyond the capacity of the base budget.

Through [Bylaw No. 154](#), Trust Council has delegated to the LTC, as an “additional operation,” the following authorities:

Delegation

- 2. Subject to the provisions of the *Islands Trust Act*, Trust Council hereby delegates the following powers to the Salt Spring Island Local Trust Committee **for the purpose of preserving and protecting the quality and quantity of water resources within the Salt Spring Island Local Trust Area:**
 - a. the power to:
 - i. *coordinate* and *assist* in the *determination* of regional, improvement district and government of British Columbia policies, and
 - ii. *coordinate* the *implementation* of regional, improvement district and government of British Columbia policies,
 - iii. *coordinate* the *carrying out* of regional, improvement district and government of British Columbia policies,

The June 12, 2013 Request for Decision (RFD) that went to Trust Council with Bylaw 154 states that:

In accordance with Trust Council’s resolution of March 6, 2013, draft Bylaw 154 indicates that the SSILTC would not be able to actually assist in implementing or carrying out the work of other agencies, although it could work to ensure their policies are implemented and carried out in a coordinated way. The following table illustrates the distinction in the powers that draft Bylaw 154 would delegate in relation to s. 8.2(b) of the Islands Trust Act:

TABLE 1 Powers of Trust Council from s. 8.2(b) of the Islands Trust Act*		Would be delegated to the SSILTC by draft Bylaw 154
1. To <i>coordinate</i>	The <i>determination</i> of provincial, regional and improvement district policies	Yes
2. To <i>assist</i>	In the <i>determination</i> of provincial, regional and improvement district policies	Yes
3. To <i>coordinate</i>	The <i>implementation and carrying out</i> of provincial, regional and improvement district policies	Yes
4. To <i>assist</i>	In the <i>implementation and carrying out</i> of provincial, regional and improvement district policies	No
*subject to coordination agreements with other relevant agencies		

Based on the foregoing, it has been generally understood that special tax requisition funds in a given fiscal year must be directed to activities consistent with 1, 2, and 3 in the Table 1 above.

ISSUES

There is uncertainty about what could be considered “coordinating and assisting with activities as authorized by [Bylaw No. 154](#), as well as the limits of how unspent special tax requisition funds may be deployed.

To this issue of coordination staff has been requested to provide advice on whether special tax requisition funds could be used to support a variety of potential initiatives as follows:

1. Can the local trust committee (LTC) independently fund watershed or groundwater studies (identified in the SSIWPA work plan) through special property tax requisition funds? If not, what is the maximum contribution (percentage) the LTC could make towards a study being led by the CRD, an improvement district or the provincial government in order for it to be considered “coordination”?
2. Can the LTC use special property tax requisition funds to retain a technical consultant to coordinate the collection of data, collect data, and maintain data collection equipment?
3. Can the LTC use special property tax requisition funds to retain a consultant to evaluate current data collection programs (e.g., groundwater, lake levels, or stream flow meters) and recommend opportunities to improve consistency and quality?
4. Can the LTC use special property tax requisition funds to purchase and operate monitoring equipment?

These initiatives are identified in the SSIWPA proposed 2020/21 budget and work plan as projects that, while being led by SSIWPA member agencies, could benefit from coordination through SSIWPA. See Appendix 3 for SSIWPA fiscal 2020/21 budget and work plan.

On the second issue of how the LTC may allocate unspent funds from previous fiscal years, [Trust Council Policy 6.3 ii](#) suggests that the funds may be redirected by resolution of the LTC.

- c) Any funds, generated through the special requisition, which are unspent at the conclusion of the fiscal year, will be held in reserve for the Local Trust Committee’s use in the subsequent fiscal year to:
 - i) complete the previously approved initiative or program; or
 - ii) undertake a new program, subject to a further resolution of the Local Trust Committee to do so.

The LTC is looking for clarity on whether unspent special property tax requisition funds can be used for the types of activities identified in questions 1 through 4 above by way of an LTC resolution.

ANALYSIS

Trust Council Bylaw 154 delegates some of Trust Council’s authority to the Salt Spring Island Local Trust Committee for a very specific reason expressed in the Bylaw. Staff is of the opinion that the authority is limited to coordination and assisting as specifically identified in Bylaw 154 and outlined in Table 1 above, which does not include actually implementing and carrying out of provincial, regional or improvement district plans. The test is whether the coordinating and assisting is for the determination of future policies of the province, regional

district or improvement district. The Local Trust Committee has the authority to bring together the relevant agencies, help them share information and collaborate with each of them individually, or in partnership, to undertake studies and implement plans so long as the reason for doing so is determination of provincial, regional or improvement district policies. The actual work to generate or develop data sets, and implement policies or plans, is intended to be funded and undertaken by the relevant agency or agencies.

Staff provide the following comments on the questions raised:

1. *Can the LTC independently fund watershed or groundwater studies (identified in the SSIWPA work plan) through special property tax requisition funds? If not, what is the maximum contribution (percentage) the LTC could make towards a study being led by the CRD, an improvement district or the provincial government in order for it to be considered “coordination”?*

This appears to be assisting in the implementation of provincial, regional and improvement district policies, and is therefore not an activity that was delegated to the local trust committee; therefore the special tax levy could not be used for this purpose.

2. *Can the LTC use special property tax requisition funds to retain a technical consultant to coordinate the collection of data, collect data, and maintain data collection equipment?*

This example appears to meet the requirements of the delegated powers for which the special tax levy applies (coordinating the determination of provincial, regional and improvement district policies).

3. *Can the LTC use special property tax requisition funds to retain a consultant to evaluate current data collection programs (e.g., groundwater, lake levels, or stream flow meters) and recommend opportunities to improve consistency and quality?*

This example appears to meet the requirements of the delegated powers for which the special tax levy applies (assisting in determination of provincial, regional and improvement district policies).

4. *Can the LTC use special property tax requisition funds to purchase and operate monitoring equipment?*

This example appears to be assisting in the implementation and carrying out of provincial, regional and improvement district policies, which is not a delegated authority under Bylaw 154; therefore, the special tax levy could not be used for this purpose.

Special Levy Surplus Funds

[Trust Council Policy 6.3.ii s.6 c](#) specifies how unspent special levy funds may be used in years subsequent to their requisition if they remain unspent, as follows:

- c) Any funds, generated through the special requisition, which are unspent at the conclusion of the fiscal year, will be held in reserve for the Local Trust Committee’s use in the subsequent fiscal year to:*
 - i) complete the previously approved initiative or program; or*
 - ii) undertake a new program, subject to a further resolution of the Local Trust Committee to do so.*

While not particularly clear in its writing, staff understand the intent of this policy direction is to see that requisition funds are first and foremost spent on the activities for which they were requisitioned, as supported by s.6 b, which reads:

b) The Local Trust Committee must not authorize the expenditure of funds, generated through the special property tax requisition, for any purpose other than that for which the requisition was approved.

If, upon completion of the special project in its entirety, funds still remain unspent, these funds may at that time be used by the Local Trust Committee to undertake a new program.

Public sector budget and funding management often see that unspent funds related to projects of significance carry into a new fiscal year as surplus funds that remain allocated to the particular project(s) for which they were originally assigned. Islands Trust Council follows this principal for strategic plan and operational projects in their annual budget process. To do otherwise for special requisitioned funds would be a deviation from the standard historical practice of Islands Trust.

In addition, the SSIWPA body is not an agency with inherent perpetual continuance. Budgeting for SSIWPA is undertaken on a year-by-year basis with no contemplated longer-term financial plan. In the absence of a longer-term financial plan, requisitioning funds that would generate more than is needed for the immediately upcoming fiscal year is to plan for a surplus for which there may be no necessitated spending. Public consultation regarding requisitioning for a surplus has not been undertaken, which is also a requirement for special levy funding.

NEXT STEPS

None.

Submitted By:	David Marlor, Director, Local Planning Services Julia Mobbs, Director, Administrative Services	February 11, 2020
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ATTACHMENTS

1. Trust Council Bylaw No. 154
2. Trust Council Policy 6.3 ii
3. SSIWPA Budget and Work Plan 2020/21

**ISLANDS TRUST COUNCIL
BYLAW NO. 154**

**A BYLAW TO DELEGATE CERTAIN POWERS OF THE ISLANDS TRUST COUNCIL TO
THE SALT SPRING ISLAND LOCAL TRUST COMMITTEE
RELATED TO PRESERVATION AND PROTECTION OF WATER RESOURCES IN
THE SALT SPRING ISLAND LOCAL TRUST AREA**

WHEREAS under sections 8 and 9 of the *Islands Trust Act* the Trust Council has certain powers for the purpose of carrying out the object of the Islands Trust, and section 10 of the *Islands Trust Act* provides that Trust Council may, by bylaw, delegate its powers under sections 8 and 9,

NOW THEREFORE the Trust Council, in open meeting assembled, enacts as follows:

Definitions

1. In this bylaw:

“**Salt Spring Island Local Trust Committee**” means the local trust committee for the Salt Spring Island Local Trust Area, pursuant to the *Islands Trust Act*.

“**Trust Council**” means the Islands Trust Council referred to in section 5 of the *Islands Trust Act*.

Delegation

2. Subject to the provisions of the *Islands Trust Act*, Trust Council hereby delegates the following powers to the Salt Spring Island Local Trust Committee **for the purpose of preserving and protecting the quality and quantity of water resources within the Salt Spring Island Local Trust Area:**

a. the power to:

- i. *coordinate* and *assist* in the *determination* of regional, improvement district and government of British Columbia policies, and
- ii. *coordinate* the *implementation* of regional, improvement district and government of British Columbia policies,
- iii. *coordinate* the *carrying out* of regional, improvement district and government of British Columbia policies,

and for certainty, this power does not include

- i. *assisting* in the *implementation* of the policies of a regional district or improvement district or the government of British Columbia;
- ii. *assisting* in the *carrying out* of the policies of a regional district or improvement district or the government of British Columbia;

- b. the power to make recommendations to the Lieutenant Governor in Council respecting the acquisition, use and disposition by the government of land located in the Salt Spring Island Local Trust Area;
 - c. the power to make recommendations to the Lieutenant Governor in Council respecting the determination, implementation and carrying out of policies affecting water resources in the Salt Spring Island Local Trust Area; and
 - d. the power to enter into, on its own behalf, and subject to approval of the minister pursuant to section 9(2) of the *Islands Trust Act*, agreements with one or more of the following respecting the coordination of activities related to the preservation and protection of water resources in the Salt Spring Island Local Trust Area:
 - i. the government of British Columbia;
 - ii. the government of Canada;
 - iii. an agent of the government of British Columbia or Canada;
 - iv. a regional district or board of school trustees; and
 - v. a first nation.
3. The Salt Spring Island Local Trust Committee must not enter into an agreement under section 2(d) with a term exceeding five years, without the approval of the Trust Council.
 4. The Salt Spring Island Local Trust Committee must exercise the powers delegated by this bylaw in accordance with the procedures that would apply to the Trust Council's exercise of the powers, and in particular the Local Trust Committee must follow the procedures out lined in the following policies:
 - a. Islands Trust Council Policy 2.1.iv – Coordination Agreement Process
 - b. Islands Trust Council Policy 6.10.iii – Advocacy Policy

Funding of Operations Related to Delegated Powers

5. For the purposes of the annual budget adopted by Trust Council and without fettering the discretion of the Trust Council with respect to the adoption of the annual budget for any such operations:
 - a. operations undertaken solely in relation to powers delegated by section 2 of this bylaw will be considered additional operations of the Salt Spring Island Local Trust Committee pursuant to section 14 (3)(iii) of the *Islands Trust Act*; and
 - b. if the annual budget sets out anticipated expenditures of the Salt Spring Island Local Trust Committee equal to or in excess of \$5000 that are solely related to powers delegated by section 2 of this bylaw, a special tax requisition under section 47 (2)(a)(ii) of the *Islands Trust Act* will be made in respect of the Salt Spring Island Local Trust Area.
 - c. Sections 5(a) and (b) will apply to each annual budget adopted by Trust Council after the 2013-2014 fiscal year.

Limitation on Delegation

- 6. Nothing in this bylaw prevents the Trust Council from itself exercising any of the powers delegated by section 2.

No Further Delegation

- 7. For certainty, the Salt Spring Island Local Trust Committee may not further delegate any power that has been delegated by this bylaw.

Citation

- 8. This bylaw may be cited as the “Islands Trust Council Delegation Bylaw, 2013”.

READ A FIRST TIME THIS	11 TH	DAY OF	JUNE	2013
READ A SECOND TIME THIS	11 TH	DAY OF	JUNE	2013
READ A THIRD TIME THIS	11 TH	DAY OF	JUNE	2013
ADOPTED THIS	26 TH	DAY OF	JUNE	2013

SECRETARY

CHAIR

6.3.ii Policy

SPECIAL PROPERTY TAX REQUISITION

Trust Council: December 10, 2004

Amended: June 16, 2005; September 11, 2013

A. PURPOSE:

1. To permit an individual Local Trust Committee to request a special property tax requisition for additional operations that are not included within the general operations of all local trust committees. Special property tax requisitions are approved by the Islands Trust Council.

B. REFERENCES:

1. *Islands Trust Act*, S. 10, 14(3)(c)(iii), and S. 47(5)
2. Islands Trust Council Delegation Bylaw 154, 2013
3. Islands Trust Council Policy 6.3.i – *Budget Process Policy*

C. POLICY:

1. General
 - a) The *Islands Trust Act* provides the Islands Trust Council with the necessary authority to implement a special property tax requisition in respect of a local trust area;
 - b) Section 10 of the *Islands Trust Act* enables the Islands Trust Council to delegate additional powers to a local trust committee and to require that related operations be funded by a special property tax requisition in respect of the relevant local trust area;
 - c) A proposed special requisition related to a local trust area must be incorporated into the annual Islands Trust budget bylaw and approved by the Islands Trust Council.
2. Budget Submission
 - a) “Additional operations” of a local trust committee are those activities and programs that are deemed by the Islands Trust Council to be:
 - i) Programs or services not offered in all local trust areas;
 - ii) Enhanced service levels that reflect unique demands or additional powers that Trust Council has delegated to a local trust committee by bylaw; and
 - iii) Beyond the capacity of the base budget.
 - b) Local Trust Committees wishing to propose a specific “additional operation” must ascertain and develop a budget program request, to be presented for preliminary consideration by Trust Council in December of each year.
 - c) The proposed program or activity must be within the Local Trust Committee’s jurisdiction pursuant to the *Islands Trust Act* or be within powers delegated to it by Trust Council. Legal advice on that matter may be obtained in accordance with the Islands Trust Legal Advice Policy.
3. Evaluation Criteria
 - a) The Islands Trust Council will evaluate and include a Local Trust Committee’s local initiative or program in the preliminary Islands Trust’s general budget if any of the following criteria apply:
 - i) the program is considered to be a base service of the Local Trust Committee;

- ii) the program is a scheduled official community plan review or land use bylaw update; and
 - iii) the program has Trust-wide implications and benefits.
 - b) If none of the above criteria apply or if Trust Council does not approve a LTC funding request, then the Local Trust Committee can propose a special requisition for its local trust area as a means of funding the proposed program.
 - c) Despite section C.3(a) and (b) of this policy, where a delegation bylaw adopted by Trust Council pursuant to s. 10 of the *Islands Trust Act* specifies that all or part of a Local Trust Committee's operations related to delegated powers are to be funded by a special tax requisition within a local trust area, related requests from a Local Trust Committee that are included in the preliminary Islands Trust budget must be in accordance with the requirements of the delegation bylaw.
 - d) A special property tax requisition will not be considered by Trust Council for an amount totaling less than \$5,000 per Local Trust Committee.
 - e) The process for development and approval of special property tax requisitions is subject to the provisions of Trust Council Policy 6.3.i – *Budget Process Policy*.
4. Public Consultation
- a) The Local Trust Committee must solicit feedback from the public in the local trust area, minimally through a mechanism of advertising and otherwise advising the public of the purpose and cost of the proposed special requisition.
 - b) The feedback received, if any, must be considered by the Islands Trust Council prior to the final adoption of any bylaw that incorporates the special property tax requisition.
5. Approval
- a) The proposed special property tax requisition must be formally requested by resolution of the Local Trust Committee before being considered by the Islands Trust Council.
 - b) The proposed special requisition will be presented for approval to Trust Council in March of each year.
 - c) When presented to Trust Council, the special requisition proposal must be accompanied by a completed Special Property Tax Requisition Checklist in section 7 below.
 - d) The special requisition(s) will be included in the Islands Trust budget bylaw and forwarded by the Islands Trust Council to the minister responsible for the *Islands Trust Act* for approval. If the minister approves, the minister will subsequently forward the requisitions to the Minister of Finance, for collection within the relevant jurisdictions.
 - e) The Minister of Finance adds a collection fee to the requisition in calculating the amount of the levy to be assessed to property owners.
6. Funds Allocation
- a) Once approved by Islands Trust Council within the annual budget bylaw, the Local Trust Committee is authorized to undertake the approved initiative at its discretion.
 - b) The Local Trust Committee must not authorize the expenditure of funds, generated through the special property tax requisition, for any purpose other than that for which the requisition was approved.

- c) Any funds, generated through the special requisition, which are unspent at the conclusion of the fiscal year, will be held in reserve for the Local Trust Committee’s use in the subsequent fiscal year to:
- i) complete the previously approved initiative or program; or
 - ii) undertake a new program, subject to a further resolution of the Local Trust Committee to do so.
- d) Unspent funds can not be used to offset a general property tax requisition.

7. Special Property Tax Requisition Checklist

Budget Submission

Description of Task	Deadline	Date Completed
Local Planning Services Staff assigned to LTCs develop “additional operations” budget proposal on behalf of LTCs prior to December Trust Council meeting and submit them to FPC for review.	November FPC meeting	
Director of Local Planning Services presents “additional operations” budget proposals to Financial Planning Committee, with input from LTCs, indicating whether any of the proposed ‘additional operations’ are related to delegated powers and must be funded through a special property tax requisition.	December Trust Council meeting	
Financial Planning Committee makes recommendations to Trust Council regarding budget proposals made by LTCs, identifying <ul style="list-style-type: none"> • Any that must be funded through a special property tax requisition pursuant to a Trust Council delegation bylaw (e.g. Bylaw 154). • Any other LTC proposals that it recommends be funded through a special property tax requisition, rather than through inclusion in the general Islands Trust budget. Director of Local Planning Services provides additional information to Trust Council about LTC proposals, as needed.	December Trust Council meeting	
If December Trust Council does not approve the LTC “additional operations” budget proposal for inclusion in the general Islands Trust budget, or if the LTC additional operations are related to delegated powers that must be funded through a special property tax requisition:		
<ul style="list-style-type: none"> • LTC passes resolution to pursue special property tax requisition to fund the “additional operations” budget proposal: <ul style="list-style-type: none"> - copy of resolution attached 	January	
<ul style="list-style-type: none"> • LTC requests staff to conduct public consultation on the special tax requisition proposal: <ul style="list-style-type: none"> - copy of advertisement attached - if public meeting held, minutes of the discussion attached <ul style="list-style-type: none"> o written summary of public feedback attached 	Mid-February	
<ul style="list-style-type: none"> • Staff prepare Request for Decision (RFD) proposed by LTC for March Trust Council binder, requesting a bylaw to authorize a special property tax requisition. The RFD will include an assessment of organizational and other implications, a completed copy of this checklist along with any attached documentation. 	February FPC meeting	

		Year:			2020				2021				
		Lead Agency		Quarter:		1	2	3	4	1	2	Status	
Area or Watershed												Partner Agencies	
Water Availability Analysis													
Groundwater Availability	Cedar Lane	CRD										FLNR, IT, Cedar Lane Commission	Not started
Water Availability and Climate Change Assessment	Weston	CRD										FLNR, Fulford Commission	Not started
Monitoring													
Groundwater Well Level Monitoring - Pilot	Island	IT + FLNR											31-Mar
Groundwater Well Monitoring Network	Island	IT+FLNR											In process
Lake Level Monitoring	Bullock	IT											In process
	Cusheon	IT											In process
	Weston	IT											In process
	Stowell	IT											In process
	Ford	IT											Not started
Water System Data Management Assistance													Not started
Policy and Planning													
Policy Review - Rainwater Guides	Island	SSI/WPA										CRD, FLNR	Not started
Definition of Proof of Sufficient Water	Island	SSI/WPA										CRD, FLNR	Not started
Events and Communications - Rainwater Best Practices													
Brochure	Island	SSI/WPA										CRD, FLNR	In process
Non-Potable Rainwater Harvesting Best Practices Guide	Island	SSI/WPA										CRD, FLNR	In process
Rebate Program	Island	pending										IT, FLNR	Not started
Professional Design Guide for Potable Rainwater Systems	Regional	Pending if regional										CRD, FLNR	Not started
Communications: Events, Online, Community	Island	SSI/WPA										CRD, FLNR	In process
First Quarter April - Jun = Q1 Second Quarter July - Sept = Q2 Third Quarter Oct - Dec = Q3 Fourth Quarter Jan-Mar = Q4													

Islands Trust
SSIWPA Coordination Budget 2020-2021

INCOME	CASH	IN KIND
Tax Requisition (Proposed)	98,500.00	
Province of BC Grant	7,800.00	
Administrative Services		250.00
TOTAL INCOME	106,300.00	250.00
EXPENSES		
Coordination		
Coordinator Contract	60,000.00	
Coordination Subtotal	60,000.00	
Events and Communications		
Communications Materials	6,500.00	
Events	2,700.00	
Website	3,600.00	
Events and Communications Subtotal	12,800.00	
Meetings		
Steering Committee	550.00	
Technical Working Group	260.00	
Rainwater Subcommittee	160.00	
Minute-taker	1,320.00	
Administrative Services		250.00
Meetings Subtotal	2,290.00	250.00
SSIWPA Projects	31,210.00	
TOTAL EXPENSES	106,300.00	250.00

Budget Surplus/Deficit (Income - Expenses)	-
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