

August 28, 2023

Trustees,

This letter is further to the trustees' minor work project "to conduct further community engagement on the 2021 LUB Amendments Project" and in response to the staff reports to identify options for the LTC to consider at the Sept. 1 meeting.

Before offering our views and suggestions on the work project we would like to question the accuracy of planner Stockdill's assertion:

An overwhelming number of community members supported the decision to revisit South Pender Bylaw No. 122 that was adopted in September 2022.

As we pointed out to trustees in our June 7 letter, the first inkling that Bylaw 122 was even possibly "on the table" was 5 letters from community members included in the May 25th agenda package calling for Bylaw 122 to be rescinded. This was the first notice that there was a move afoot to somehow undo the changes to our Land Use Bylaw (LUB) enacted through Bylaw 122 at the June 3 meeting. The June 3 meeting was advertised as a community information meeting, not an LTC business meeting. Following the posting of the agenda package another 40 letters were received before the June 3rd meeting.

Of the 40 letters received after the agenda package was posted, 17 of the additional letters were in favour of rescinding or repealing Bylaw 122 and 23 letters supported Bylaw 122. At the time of the June 3 meeting a number of the letters supporting bylaw 122 had not been posted because of staff time commitments. At the meeting I specifically requested assurance that the trustees would review all correspondence before making a final decision. However, trustees decided to "repeal" bylaw 122 before the "community information meeting" was complete and the supportive letters were posted.

We were surprised at planner Stockdill's characterization of the Trustees' intent in moving to "repeal Bylaw 122":

Members of the South Pender LTC expressed that the intent of the resolution was to indicate the LTC's willingness to revisit Bylaw No. 122, and had no intention to repeal the bylaw at that time.

Those who attended the meeting or viewed the video of the meeting would be forgiven if they came to the opposite conclusion.

As planning manager Kojima pointed out in his June 27 memo to the LTC chair:

Legally, Bylaw 122 cannot be 'rescinded': once Bylaw 122 was adopted the amendments legally 'merged' into the LUB (Bylaw 114), becoming part of the LUB.

So any changes would require a new bylaw to amend Bylaw 114, with all the legislative steps associated with that process.

It would have been helpful to those present in the June 3 meeting if this essential fact had been clarified at the outset of the meeting. Unfortunately, the meeting was allowed to proceed as if we were considering a referendum on the changes to the LUB duly and legally enacted through Bylaw 122. This misunderstanding in our view tainted the June 3 meeting. There was no notice that a decision to repeal the changes enacted through bylaw 122 was on the agenda.

Because of Covid and other issues some members of the community are hesitant to attend meetings in a crowded room. The meeting minutes provide a summary overview of comments made by those community members who were able to attend the June 3 meeting. From our reading of the minutes, it appears that 9 of the comments supported "rescinding Bylaw 122", 6 of the comments supported retaining the changes enacted through Bylaw 122 and another 9 comments were open to reviewing, but not rescinding Bylaw 122 changes. Given the lack of notice that a decision on repealing bylaw 122 was being entertained by the trustees in a community information meeting it is unfair to only rely on the comments made at the June 3 meeting.

To be sure, trustees have every right to review provisions in the LUB through a fair, open and transparent process in accordance with the Islands Trust Act and the Trust Policy Statement. And trustees have an obligation to hear the views of community members before creating an amending bylaw. Trustees also have an obligation under the Act to make their decision in accordance with the preserve and protect mandate of the Trust and the provisions of our OCP.

In our view it would be a very divisive move for the trustees to set in motion the steps to repeal the changes to the LUB enacted through Bylaw 122. As we (hopefully) emerge from the shadow of Covid, what we need from our trustees is carefully crafted decisions that bring the community together.

The first step in this process is to provide the community with factual information on issues that are in dispute such as the actual impact of "legally non-conforming" under the current bylaws, and the protections provided by variances to adapt to unusual or exceptional circumstances where flexibility in the bylaw is indicated. Staff are in the best position to address these important factual issues in a format that is available to all community members and fact based.

We support the review of any bylaw where there is a demonstrated problem that needs to be addressed and there is strong support in the community to apply the limited resources of the Trust to resolve that issue. Prioritizing potential bylaw changes will provide some order to the process and allow community members to focus on what is in the best interests of the South Pender community as a whole and in accordance with the Trust Policy and mandate and our OCP.

In our view there is merit in an objective survey, prepared by staff to get a reliable and valid reflection of the priority issues for review from the community as a whole. A written survey that is accessible to all community members, similar to the survey carried out last term to assess the community's views and priorities on short-term vacation rentals would be a valuable step for prioritizing bylaw review issues. A written survey available to all community members and managed by staff would provide helpful guidance to trustees in the days ahead, especially given the early signs of a possible new Covid variant this fall that may affect in person meetings.

A survey could identify key issues from Bylaw 122 that merit further consideration and also identify new issues that require attention in our bylaws. We are particularly interested in protection against the impacts of blasting on neighbouring properties and the environment. We encourage trustees to consider a bylaw on blasting and rock removal on a priority basis. We note that Salt Spring Bylaw No. 418 provides a permitting process that specifies protection for dust control, water and erosion control, damage prevention and slope stability that may offer guidance for our LTC to address this important issue.

We oppose any initiative to repeal all of the changes to our LUB enacted through Bylaw 122. Such a move would be seen to be vindictive by many and be very divisive to our community as a whole. We will support carefully considered initiatives by our trustees designed to address demonstrated problems with fair and cost effective solutions that meet the preserve and protect mandate of the Trust, comply with our OCP and support our following OCP Vision Statement:

Our South Pender community is committed to preserve the rural nature and natural diversity of our island environment for future generations.

Thank you for considering our views.

Paul Petrie, [REDACTED]
Monica Petrie, [REDACTED].