



REGIONAL DISTRICT OF MOUNT WADDINGTON  
**REGIONAL PLANNING COMMITTEE MEETING MINUTES**

September 19, 2017

RDMW Office – 2044 McNeill Road, Port McNeill, BC

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**PRESENT:** Chair Heidi Soltau and Directors Jan Allen, Michael Berry, Pat Corbett-Labatt, Andrew Hory, Phil Wainwright, Dave Rushton, Hank Bood, Alternate Director Shelley Downey

**STAFF:** Greg Fletcher, Administrator; Jeff Long, Manager of Planning & Development Services; Nadine Weldon, Recording Secretary;

**PUBLIC:** Kathy O'Reilly, The North Island Eagle Newspaper; Peter Stockdill, BC Council of Yacht Clubs;

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**A. CALL TO ORDER**

Chair Soltau called the meeting to order at 12:02pm

**B. APPROVAL OF AGENDA**

*Moved/Seconded/Carried*  
*THAT the agenda be approved as presented.*

RPC-2017-27  
SEPT. 19, 2017  
RPC AGENDA  
APPROVED

**C. ADOPTION OF MINUTES**

1. Minutes of the Regional Planning Committee meeting held August 15, 2017.

*Moved/Seconded/Carried*  
*That the minutes of the Regional Planning Committee meeting held on August 15, 2017 be adopted.*

RPC-2017-28  
AUGUST 15, 2017  
RPC MINUTES  
ADOPTED

**D. DELEGATIONS** - None

**E. CORRESPONDENCE** - None

**F. REPORTS** - None

1. Staff Report: Development Application - Zoning Bylaw Amendment, Pacificus Biological Services Ltd. c/o Mike & Linda Buttle, West Cracroft Island / Port Harvey, Electoral Area 'A' (RDMW File: 2016-ZBA-01 / September 11, 2019)

Chair Soltau called upon Jeff Long, Manager of Planning & Development Services, to present his staff report and review the related information included on the agenda.

Mr. Long provided a recap on the process to date associated with Bylaw No. 895 and presented the Planning Committee with four options available to it in dealing with Bylaw No. 895, as follows:

- 1) That the Board denies Bylaw No. 895;
- 2) That the Board postpones further consideration of Bylaw No. 895 pending additional information to be provided by the proponent. This would require that a new public hearing be conducted. The resolution should specify the information requirements;

- 3) That the Board proceed with Bylaw No. 895 by giving 2<sup>nd</sup> and 3<sup>rd</sup> reading with the 3<sup>rd</sup> reading to include conditions that must be satisfied before the Board will consider adopting Bylaw No. 895. These conditions could include the requirements that:
  - a) The proponents enter into a development agreement in a form satisfactory to the RDMW, that requires the proponents to undertake various conditions or matters as part of the marine industrial development and its operation, and that the development agreement be registered on the title of the subject property in the form of a restrictive covenant; and / or,
  - b) The owners apply to the Private Managed Forest Council to withdraw that portion of the property to be rezoned and used as part of the marine industrial operation, from the private managed forest land designation and that such removal is finalized.
- 4) That the Board proceeds with Bylaw No. 895 by giving 2<sup>nd</sup> and 3<sup>rd</sup> readings and then adopts Bylaw No. 895, after which, the Bylaw comes into full force and effect.

Mr. Long then proceeded to review process considerations in the context of the aforementioned options and the previous direction provided by the RPC to conduct a site visit. This included information pertaining to legal advice regarding the conduct of such a site visit. Mr. Long also reviewed matters pertaining to additional information, should the RPC wish to require that the applicant provide additional information before continuing with additional steps associated with the processing of Bylaw No. 895.

Mr. Long indicated that at the August 17, 2017 RPC meeting, the idea of requiring a compatibility assessment was raised. Mr. Long advised that land use assessments are generally undertaken in accordance with guidelines that outline the parameters under which such an assessment is to be carried out. With respect to the subject proposal, Mr. Long advised that there are largely three key parameters that would influence compatibility, namely:

- a) Appearance: While largely subjective in nature, appearance is a parameter that cannot easily be measured or quantified. A development agreement and zoning regulations can be used to regulate matters that affect appearance, but achieving appearance objectives is largely dependent on the level of cooperation provided by the proponent and the ability for enforcement measures to be undertaken.
- b) Noise: Noise is something that can be measured, quantified and put into context insofar as potential impacts are concerned. This type of work is typically undertaken by an acoustical engineer. Staff has contacted a consulting acoustical engineer who advises that a noise impact assessment can be conducted for this marine industrial proposal. A noise assessment would consider a variety of noise sources from an operation of this nature and the potential impacts on other uses in the general Port Harvey area. It would also provide recommendations including potential mitigation measures that could be used to alleviate noise concerns.

Noise can be controlled vis-à-vis a development agreement and regulations, but may be difficult to enforce given the unusual nature of the proposed marine industrial activity which may require that under certain conditions, operations be permitted to be undertaken outside of otherwise desirable designated operating times (movement of vessels in relation to tides, weather and emergency situations). Also, the remoteness of the operation makes enforcement extremely

difficult as responses to noise complaints cannot be undertaken in a timely manner in order to confirm a breach in the regulations by enforcement personnel. One again, cooperation on behalf of the proponent / operator is needed to ensure more effective noise control is maintained.

- c) Use of Port Harvey / Navigation: Port Harvey is utilized by recreational boaters, primarily during the May through September period. Establishment of a marine industrial operation of this nature requires that a variety of vessels and floating structures be brought to and from the operation site. In addition, it is possible that there may not be adequate room to accommodate all vessels and floating structures at all times on the proposed upland industrial area and in the tenured marine area associated with the marine industrial operation. This may result in storage of the vessels and floating structures elsewhere in Port Harvey. These factors present the opportunity for navigational conflicts in Port Harvey between competing users and would rely on a cooperative approach between them. Navigation and use of the marine environment (Crown land) by vessels and similar structures is largely regulated by the federal and provincial governments.

Director Berry asked for clarification on an acoustical assessment and what it would involve. Mr. Long advised that the acoustical assessment would involve an assessment of existing background noise based on the types of uses that are currently in the area, which would provide baseline data. It would also assess the proposed uses and more specifically, the use of equipment as part of the proposed marine industrial operations in order to estimate worst case noise scenarios. Recommendations on potential mitigation measures would be based on the findings of the potential noise impacts on other sensitive land uses in the area and what options are available to mitigate noise as part of such an industrial operation. Director Berry expressed concern over lack of acceptable base decibel levels and that noise is subjective for each individual. Director Hory agreed with Director Berry that this is an open area, and there is very little ability to mitigate noise in many cases.

Chair Soltau commented that the shipyard use is located in an area where there are existing residences, and would only work with the cooperation of both the owner and the residents. She noted that unfortunately, it is anticipated that this will not be the case in this situation and that the Regional District is going to receive complaints.

Director Rushton concurred with Chair Soltau and raised the issue of enforcement, and how will be effectively handled.

Mr. Long advised that there currently isn't any budget available for bylaw enforcement, particularly in relation to more remote areas where transportation costs are significant.

Director Bood commented that the RPC is aware that Mount Waddington is the largest regional district with the smallest number of people and this means more options, more area and less people. He advised he would like to see Bylaw 895 simplified, and allow for industrial business in that area, in light of all that goes on there. The Regional District needs to recognize that enforcement is not possible due to geographic area and number of staff. Once the decision to allow industrial use in this area is confirmed, the Bylaw should be simplified, and upper tier government should be allowed handle it on that basis. It comes down to economics, if we proceed with option number 4 (proceed with Bylaw 895), and not create a set of rules that look like we are deliberately targeting the proponent, especially when requirements for both the federal and provincial government have already been met.

Director Wainwright asked for Director Bood to clarify which option he was in favor of. Director Bood advised that he was not in favor of either of the two versions of Bylaw 895 and that it needed to be as simplified as possible for ease of enforcement.

Mr. Long then reviewed the differences in the two versions of Bylaw No. 895, being the original version that was given first reading, and the second version that was presented at the public hearing that more succinctly itemizes permitted uses and includes additional conditions related to operations.

Chair Soltau asked for clarification on the proposed condition related to the private managed forest. Mr. Long advised that the property is currently registered as a private managed forest. The owner would have to apply to the Private Managed Forest Council to have that portion of the property to be rezoned and used for marine industrial purposes, to be removed from the private managed forest land designation. Confirmation of removal would be required prior to proceeding with consideration of adoption of Bylaw No.895. Once removed, rezoned and utilized for marine industrial purposes, it can be assessed and taxed for industrial purposes.

Alternate Director Downey asked how the Regional District would reconcile with people who purchased property in this area based on current rural zoning and it is converted to marine industrial zoning and does this leave the Regional District open to lawsuits from people?

Mr. Long replied that the Regional District has the authority to change zoning after it has undertaken the necessary process in accordance with the Local Government Act and that there is no guarantee that changes to zoning will not occur. Uses that are currently permitted by the applicable Rural Zone (A-1) include forestry and mining which are industrial uses.

Alternate Director Downey then inquired what steps will be available for homeowners to access their properties in the event that Port Harvey gets plugged with industrial boat traffic, making residential properties inaccessible? Mr. Long advised that there is no easy answer for this.

Alternate Director Downey commented that since there is no money for enforcement, we would be obligated to rely on the provincial government, which would just create a wild west scenario in the Port Harvey area. Mr. Long confirmed that he would need to get approval from the board to create a budget for bylaw enforcement purposes.

Director Hory indicated that this is a difficult decision and that he feels that in fairness to the proponent, a decision must be made one way or another. An attempt must be made to mitigate the friction. Director Hory indicated he was in favor of Option 3 which is to proceed with second and third readings of Bylaw No. 895 and make consideration of adoption of the Bylaw subject to the suggested conditions.

Director Allen confirmed that she would still like to conduct a site visit as she has concerns over the garbage. Pictures show that it was moved from the foreshore, but not actually cleaned up and that area needs to be seen firsthand. Director Bood expressed concern that it may look like the RPC is putting up roadblocks and Director Allen advised she still favours this approach.

Mr. Long confirmed that a motion to conduct the site visit had been made by the RPC at its meeting on August 15, 2017, but as explained in his email to the Directors, that it made sense to postpone a site visit if the proponent was going to be required to

provide additional information. If not, then the site visit must only be done under strict conditions in order to avoid a second public hearing.

Director Wainwright advised that he felt that there was room for both recreation and industry and that this has been going on for a number of years in the Port Harvey area. He advised that the proponent has made efforts to address issues of concern and that he would like to see industrial development in this area. He advised he is in favor of Option 4 to proceed with second and third readings and then adopt Bylaw No. 895.

Chair Soltau confirmed that Option 4 is without the development agreement and the requirements therein.

Director Rushton advised that this not a win-win situation. He would like to know that the property has been removed from the private managed forest land designation, as well as reviewing some of the studies first.

Chair Soltau requested clarification of which option Director Rushton was in favor of and Director Rushton indicated that he would is in favor of Option 3 with respect to the revised version of Bylaw No. 895.

Director Berry indicated that he was uncomfortable moving forward without a development or operational plan.

Chair Soltau asked Director Berry if he was in favor of Option 2 or Option 3 and Director Berry replied that he was in favour of Option 2, as information needs to come forward to satisfy the RPC to confirmatio that things will be done. With the proponent's track record, we need to start at square one.

Director Wainwright indicated that with respect to the conditions of use that are included in the revised version of Bylaw No. 895 that these matters should be left in the hands of the Ministry of Environment.

Director Bood indicated that he agrees with Director Wainwright that this has become overcomplicated.

Director Wainwright asked if the foreshore tenure has already been granted by the Province and if so, does that mean that the proponent has industrial foreshore that allows him to use it is as he does now?

Mr. Long confirmed that the proponent has a tenure with the Province, but the marine area which includes the area below the natural boundary was rezoned earlier this year and the new Marine Zone (MAR-1) does not permit industrial uses. The proponent would likely argue that he should be grandfathered, as there was no zoning in place when he received the tenure.

*Moved/Seconded*

*THAT the Regional District of Mount Waddington Zoning Bylaw No. 21, Amendment Bylaw No. 895, 2016, as amended, be given 2<sup>nd</sup> and 3<sup>rd</sup> readings that the RDMW Zoning Bylaw No. 895, 2016 be adopted.*

The motion failed with two in favour and seven opposed.

Director Corbett-Labatt asked if the proponent would still be required to withdraw from the private managed forest and Director Hory advised that no, they would not.

Mr. Long elaborated that as the act relates to a private managed forest, if you're not using the land located within the boundaries specified as a private managed forest, you would be required to have it removed. The RDMW could advise the Private Managed Forest Council of this and ask that it be removed.

Alternate Director Downey asked for clarity regarding site plans, building codes, etc. and whether they would they be required. Mr. Long advised that under the current system, the proponent not have to come back to the RDMW for permits of any kind. Zoning regulations would apply for things like setbacks, but there is no process in place to require building permits / inspections.

Alternate Director Downey asked if the proponent can build as it wishes and that the Regional District would not attend until someone complained? Chair Soltau confirmed the process would be complaint driven. Mr. Long confirmed that the Regional District would have to be contacted and provided with a written complaint and that the Regional District will not be actively policing the property.

Chair Soltau advised that she was willing to entertain another motion.

Director Berry put forth a motion to pursue Option 3 with the amended version of Bylaw No. 895. Director Hory seconded this motion.

Chair Soltau verified that the proponent would be required to enter into a development agreement with the RDMW. Mr. Long advised that the development agreement was in the package provided and was prepared with input from legal counsel as well as the proponent.

Chair Soltau advised that she did not see any requirements for Department of Fisheries and Oceans reports or engineering reports and would these be required?

Mr. Long confirmed that engineering requirements are outlined in the draft the development agreement, but that the agreement does not specifically require any reports from DFO or other government agencies.

Director Berry wanted to clarify that by making adoption of Bylaw No. 895 subject to conditions, that this does not automatically mean that the Bylaw will be adopted and that he was not in favor of automatic adoption.

Mr. Long advised that there he believes there is no obligation to adopt the Bylaw, but that this should not be taken lightly as it is sending a strong message to the proponent who is now required to satisfy conditions that the RPC and ultimately the Board of Directors has sanctioned. Mr. Long advised that he check into this before the meeting of the Board of Directors to consider the RPC recommendation in relation to Bylaw No. 895.

Director Corbett-Labatt asked if the proponent will need to consult with all the necessary government ministries. Mr. Long advised that the applicant has assured the RDMW that the proponent will meet all the requirements of external agencies. In this regard, there are requirements that must be adhered to in accordance with legislation and regulations that are administered by other government agencies at the federal and provincial levels.

Chair Soltau called for vote on the motion on the floor.

PC-2017-30  
RECOMMEND RE:  
BYLAW NO. 895

*Moved/Seconded/Carried*

*THAT Regional District of Mount Waddington Zoning Bylaw No. 21, Amendment Bylaw No. 895, 2016, as amended, be given second and third readings;*

*AND FURTHER THAT Regional District of Mount Waddington Zoning Bylaw No. 21, Amendment Bylaw No. 895, 2016, as amended, not be adopted until the following conditions have been undertaken to the satisfaction of the Regional District of Mount Waddington:*

- a) The owners / proponents enter into a development agreement in a form satisfactory to the RDMW, that requires the proponents to undertake various conditions or matters as part of the marine industrial development and its operation, and that the development agreement be registered on the title of the subject property in the form of a restrictive covenant; and,*
- b) The owners / proponents apply to the Private Managed Forest Council to withdraw that portion of the property to be rezoned and used as part of the marine industrial operation, from the private managed forest land designation and that such removal is finalized.*

In favour: Director Bood, Director Wainwright, Director Hory, Alternate Director Downey, Director Corbett-Labatt

Opposed: Chair Soltau, Director Allen, Director Berry, Director Rushton.

**I. NEXT MEETING DATE:** As required.

**J. ADJOURNMENT**

*Moved*  
THAT the meeting be adjourned.

Time: 1:22 p.m.

CORRECT

APPROVED

  
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SECRETARY: J. LONG

*For:*   
\_\_\_\_\_  
CHAIR: DIRECTOR SOLTAU

RPC-2017-31  
ADJOURNMENT