



REGIONAL DISTRICT OF MOUNT WADDINGTON
REGIONAL PLANNING COMMITTEE MEETING MINUTES

May 15, 2018

RDMW Office – 2044 McNeill Road, Port McNeill, BC

PRESENT: Chair Heidi Soltau, Directors Jan Allen, Hank Bood, Dennis Buchanan, Cathy Denham, Andrew Hory, Dave Rushton, and John Tidbury, and Alternate Director Shelley Downey

STAFF: Greg Fletcher, Chief Administrative Officer; Jeff Long, Manager of Planning & Development Services; Nadine Weldon, Recording Secretary

REGRETS: Director Shirley Ackland

PUBLIC: None

A. CALL TO ORDER

Time: 12:05 p.m.

The meeting was called to order by Chair Heidi Soltau

B. APPROVAL OF AGENDA AS PRESENTED (or amended)

RPC-2018-15
MAY 15, 2018
RPC AGENDA
APPROVED

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

C. ADOPTION OF MINUTES

1. Minutes of the Regional Planning Committee meeting held January 16, 2018.

RPC-2018-16
MAR 20, 2018
RPC MINUTES
ADOPTED

*Moved/Seconded/Carried
THAT the minutes of the Regional Planning Committee meeting held on March, 2018 be adopted.*

D. REPORTS

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 / April 24, 2018)

Chair Heidi Soltau called upon Mr. Long to review the staff report regarding the proposed marine industry on West Cracroft island and associated Bylaw No. 895. Mr. Long explained that the purpose of the staff report is to provide the Planning Committee with an update on matters as they relate to proposed Bylaw No. 895 and the development application requesting rezoning of property on West Cracroft Island for marine industrial purposes. Mr. Long indicated that this application has been in process since early 2016 and that during the process, there have been three (3) new members of the Regional Planning Committee and Board of Directors. Mr. Long advised that each of these three members have been provided with all the background information related to this application and Bylaw No. 895.

Mr. Long indicated that on September 19, 2018, the Regional Planning Committee considered Bylaw No. 895 and made a recommendation to the Board of Directors that Bylaw No. 895 be given 2nd and 3rd readings, but consideration of adoption of Bylaw 895 not be undertaken until the applicant had addressed two (2) specific conditions:

- 1) The owners 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,
- 2) 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.

Mr. Long explained that since September 19, 2017, the applicant has undertaken to satisfy the two conditions imposed by the Board of Directors in relation to consideration of Bylaw No. 895 for adoption. In this regard, the covenant (development agreement) was filed in the Land Title Office on April 23, 2018. In addition, the 4.13 hectare portion of the property proposed to be utilized for marine industrial purposes has been removed from the private managed forest designation as confirmed by the Managed Forest Council in its letter dated March 12, 2018. As a result, staff has included Bylaw No. 895 on the Regional Planning Committee meeting agenda for consideration of processing and adoption. Mr. Long indicated that as per the staff report, staff has outlined three (3) primary options for dealing with Bylaw No. 895 at this point and these include:

- 1) That the Board of Directors refuses to adopt the Bylaw. Mr. Long advised that if that were to occur, then it is very likely that the property owners would want to have the covenant which includes the development agreement removed from their property title. The Regional District would facilitate this by signing the documentation necessary to remove it from title. The property owners would also likely wish to have the portion of the property included in the Private Managed Forest Land designation once again and would have to apply to the Managed Forest Council to do so.
- 2) Mr. Long explained that the second option is that that the Board of Directors postpones further consideration of Bylaw No. 895 pending additional information. Mr. Long advised that with respect to this option, there are a couple of items to note. Firstly, in August of last year the Regional Planning Committee adopted a resolution that it conducts a site visit and as the process moved forward, the site visit never occurred. If the Regional Planning Committee was of the opinion that a site visit would be helpful, it could still proceed to conduct one. Mr. Long noted that the if a site visit is conducted then there would be the matter of whether another public hearing would have to be conducted. Mr. Long advised that the RPC members may recall that legal advice was obtained regarding this very matter and it was determined that if a site visit was conducted, it could be done under stringent conditions, which would avoid the need to conduct a second public hearing. Alternatively, an open site visit could be conducted without the need to adhere to any stringent conditions and a second public hearing be undertaken. Mr. Long then reiterated the conditions under which a site visit could be undertaken in order to avoid a second public hearing.

Mr. Long advised that the second item to note with respect to the option to require additional information, relates to the various items that are included in the development agreement which is attached to the agenda. Any of the requirements included in the development agreement could be required to be provided upfront before consideration of Bylaw No. 895 is undertaken, should the Regional Planning

Committee be of the opinion that more of this information would be helpful to the decision-making process.

- 3) Mr. Long advised that the third option is to proceed to adopt Bylaw No. 895 which then comes into full force of effect. The property owners could then proceed with their development plans following the requirements of the development agreement which has been registered on title.

Chair Heidi Soltau asked that given we have already had the public hearing, if can we ask questions for clarification and that is okay?

Jeff Long responded that that is right as long as no new information is being introduced that was not introduced at or prior to the public hearing.

Chair Soltau then asked if any of the RPC members had any questions or comments.

Director Rushton asked many board members have actually been to the site and three members of the Regional Planning Committee put up their hands.

Mr. Long indicated that if the Regional Planning Committee felt it would be advantageous to proceed with the previous plan to conduct a site visit in order to give members the perspective they need in terms of moving forward with a decision on Bylaw No. 895, then a site visit could be arranged. This would have to be included as part of the resolution dealing with Bylaw No. 895 which should also indicate whether the site visit would be conducted in a manner to avoid the need to have a second public hearing or not.

Alternate Director Downey indicated that she was in attendance at the public hearing and that there was significant controversy over past use of that property, prior to that hearing date. One thing that came up at that time is that past practices on the property were not great, and in monitoring activities going forward, there may be merit in having the Board or key people attend a site visit in order to form a baseline frame of reference.

Mr. Long advised that the development agreement includes conditions related to the matter of appearance and keeping and storing materials in a tidy and orderly fashion and where possible from being openly visible and screened from view from the ocean and residences and that this would apply regardless of any baseline that has been established or not.

Director Allen indicated that the appearance issue has been going on for years and that after viewing the first pictures in 2016, that she appalled about what she saw given there was garbage all over the place. She advised that she was the one who made a push to go out to the site last year as she had not seen the site. Director Allen advised she is having a tough time making a decision unless she is able to see the site for herself and to see what progress has been made by the owners to clean things up.

Chair Soltau advised that the property does not look like it did back in 2016 as there have been efforts to clean it up.

Director Allen advised she would like to see new pictures that show that efforts have been made to clean it up.

Mr. Long indicated that what he is hearing is that there would be value in ensuring that efforts have been made by the property owners to clean up the property and that this would provide a good indication as to whether they actually listened to what the RPC

had to say in 2016 about the state of the property. This may also provide a better indication in moving forward with something as complicated as this marine industrial proposal, that the property owners are actually going to adhere to the requirements of the development agreement. Mr. Long advised that there have been efforts to clean things up as shown in photos that the Regional District received, but that he had not actually been to the site since Jun 30, 2016

Director Hory indicated that in the context of any kind of enforcement as we go forward, that he does not think that the Board has a direct role in that and that we have a very competent Bylaw Enforcement Officer in Mr. Long. He further advised that whether a site visit is conducted or not, that it shouldn't be with the purpose of the RPC or Board's involvement in ongoing enforcement. With respect to conducting a site visit, Director Hory advised that he doesn't think one should occur without engaging in another public process and that if it's considered to be of value by the Board, then he feels there is the need to further consult with the public. He advised that when considering 2nd and 3rd readings for Bylaw No. 895 that we chose to not to conduct a site visit and that he does not think by doing so now, that we are going to find anything new that is helpful to the process.

Director Tidbury advised that he concurs with Director Hory's comments and that he believes that in going forth, staff should be the enforcer and he has confidence in staff to do that.

Mr. Long advised that while he appreciates the confidence of members for him to enforce RDMW regulations and requirements, he is concerned about the lack of an enforcement budget. He advised that there is no specific budget related to bylaw enforcement and as an example, indicated that it is very different to deal with a complaint to in Hyde Creek that he can easily drive to, versus a complaint involving a remote location where chartering a boat or a plane is required. Mr. Long advised that this needs to be kept in mind and that we are all aware of the personalities in play here, and that if there's anything that looks even remotely afoul of the rules and regulations that he is going to get calls about it. While a certain amount of enforcement can be done by email and telephone communications, it is extremely difficult to confirm allegations of non-conformity and issue tickets without attending site. He indicated that there are going to be concerns and that the RDMW is really in a no win situation whether the Board adopts Bylaw No. 895 or not. Mr. Long advised that based on his observations, there are likely to be complaints if the Bylaw is adopted and the marine industry moves forward, or if the Bylaw is not adopted, but some form of marine industrial operations proceed anyway.

Director Rushton agreed and asked if there was some form of provincial protection where the Province would step in at some point? He felt that it wouldn't be a bad idea to have photographs for the baseline information and advised that it really is a no win situation where the RDMW is between a rock and hard place and he doesn't see how its going to improve anything.

Mr. Long advised that for the Province to be involved would have to include something that falls under Provincial jurisdiction and certainly staff would direct a complaint in that direction if that was the case. Mr. Long further advised that trying to get Provincial staff to travel to the site could be quite difficult for the same reasons the RDMW faces and that if it the enforcement issue relates to the development agreement or zoning bylaw, then the RDMW could deal with it.

Director Denham advised that she would like to have a site visit and that if it can be done under the stipulation that we don't discuss it, that would be fine.

Director Bood indicated that the RPC talked about this last time and that a site visit adds certain complications as far as another public hearing and that he believes at some point, when we have an entrepreneur come to this Board, that the Regional District needs to make a decision. He advised that this has been going on since 2016 and we need to send a message as a Board that in the Regional District there's room to do more than one thing and that this particular operation, while it's industrial, has very extensive covenants that have been applied to ensure good practices. Director Bood further advised that if the Regional District is like the District of Port Hardy, it doesn't matter what the staff situation is like, we're complaint driven and you need to do something if there's a complaint. In this case, we know there's probably going to be some complaints, but we need to make a decision. Director Bood indicated that this particular proposal adds value to a number of different industries on the North Island and that that there is room on the North Island to do more than one activity. He advised that the Regional District does not need to restrict activities to just tourism or to one thing or another and that he believes that the Regional District needs to adopt Bylaw No. 895 and let the proponent get on with his work, which is good for the general well being of the North Island.

Director Dennis Buchanan indicated that he is a relatively new Board member and that Mayor Berry was his predecessor and that he had some concerns with the proposed marine industry. He advised that a site visit might be beneficial to ease some of these concerns.

Director Tidbury advised that he does not believe a site visit at this point is going to bring any changes.

Director Allen asked when the last time Mr. Long had been to the site?

Mr. Long advised he last visited the site on June 30, 2016.

Director Allen advised she understands the need to proceed with making a decision, but that she thinks that we need to make sure we've done the best for the whole Regional District, and that's why she believes a site visit is in order.

Director Rushton advised he would like to see the site, but having said that, he has seen the pictures and the drawings and that he agrees with Director Bood that we need to move forward. He further advised that looking at it the site and area is going to change his decision one way or another. He advised that he thinks a benchmark is important and as long as we have that benchmark, we can trust staff to deal with enforcement matters thereafter. He advised he does not think a site visit is going to help with the process.

Director Allen advised a benchmark is needed as a means of comparing or judging future matters pertaining to the site and that she sees no problem sending our employee out. She then asked if staff would you feel comfortable going out and reporting back?

Chair Soltau indicated that just for clarification, that she does not think we are talking about the same thing and that having a benchmark is different than the RPC going out to the site. She clarified that the RPC would not going to establish a benchmark, but rather, to look at the situation to assist in the decision-making process. She further elaborated by advising that making a decision on whether the proposal is suitable versus establishment of a benchmark, are two different things.

Mr. Long indicated that at its meeting in February of 2016, the RPC told the property owner and applicant that it did not like the shape it was in given it was cluttered with the storage of various materials which were readily visible from the ocean and surrounding lands. Mr. Long advised that as part of its information requirements at that time, the RPC advised that the property owners needed to clean it up, which would be a sign of good will that the property owners are going to be good neighbors, and that the property owners have made significant overtures to do that. Mr. Long advised that the key is the long term cooperation by the property owners to ensure that things are kept tidy and materials and whatnot are properly stored out of sight as the proposed zoning regulations and the development agreement require. At this point, Mr. Long read from section 9 of the development agreement that is included in the agenda package which deals with “Good Neighbour” matters and the storage and keeping of materials.

Mr. Long advised that a site visit, if it were to be conducted, would primarily focus on two things:

- 1) To give RPC members a sense as to whether or not the property owners have done what you’ve asked them to do which is to clean up the property; and,
- 2) To give RPC members a better perspective of the site, the Port Harvey area, and whether the proposed marine industry is a compatible use for this area.

Mr. Long continued by advising that the development agreement was prepared and ultimately implemented to deal with these types of issues. For example, it includes stipulations in relation to keeping the property tidy and orderly and storing materials such that they are screened from view. It addresses things like hours of construction and operation in order to regulate noise generating activities. Mr. Long pointed out that should there be complaints alleging that there is a contravention, that the limitations previously mentioned may come into play, but that the development agreement does require the property owners to pay a \$25,000 deposit to the RDMW which may be used at the discretion at the RDMW’s to cover any costs incurred arising out of or in any way connected with any breach or enforcement of the development agreement. This having been said, it is difficult to conduct enforce in real time as it is difficult to confirm breaches given the distance factor. Mr. Long also advised that there are penalties in the development agreement that would require the RDMW to prove that there’s been an infraction or series of infractions over time which will make enforcement difficult.

Director Hory advised that he does not believe there is a way to reconcile the competing interests in the area and that inevitably, friction is going to happen. He advised that a decision has to be made either way and that he encourages and supports the tourism and the industrial sectors equally. He advised that in this particular case, while there is no way to harmonize everything and make everybody happy, a decision has to be made and the fact a development agreement has been implemented that the applicant has agreed to will be important in guiding the proposal and ensuring operations are undertaken in a suitable manner. Director Hory concluded by advising that it’s not an easy decision and that he is in agreement with Director Bood in that we need to move forward with a decision and accept the responsibility that got us to this table.

Director Bood made the following motion:

THAT the Regional Planning Committee recommends that the Board of Directors adopts Regional District of Mount Waddington Zoning Bylaw No. 21, Amendment Bylaw No. 895, 2016.

Director Hory seconded the motion. He advised that significant work has been done including the review of all the information and input, the discussions and debates, the creation of the detailed development agreement to deal with matters of concern in relation the development, and that ultimately there is a way to move forward that at least mitigates whatever friction there may be and provides reporting mechanisms to the Regional District and that he does not think a local government can do more.

Chair Soltau asked if there was any further discussion about the motion and if everyone understood the motion? There was no further discussion and at that point, Chair Soltau called for a vote in relation to the motion:

All those in favor of the motion? (Directors Hank Bood, Shelley Downey, Andrew Hory, Dave Rushton and John Tidbury)

All those opposed to the motion? (Directors Jan Allen, Dennis Buchanan and Cathy Denham)

Moved, Seconded and Carried

THAT the Regional Planning Committee recommends that the Board of Directors adopts Regional District of Mount Waddington Zoning Bylaw No. 21, Amendment Bylaw No. 895, 2016.

RPC-2018-17
RECOMMEND
BYLAW NO 895
BE ADOPTED

Mr. Long advised that is a recommendation of the Regional Planning Committee, a standing committee, and that Bylaw No. 895 is scheduled for consideration of adoption at the Board of Director's meeting today.

E. NEW BUSINESS

1. Regional District of Mount Waddington Planning and Development Procedures and Fees Bylaw No. 916, Amendment Bylaw No. 947, 2018

Chair Soltau referred to Mr. Long to explain the purpose of Bylaw No. 947.

Mr. Long advised that staff have prepared Bylaw No. 947 in anticipation of the upcoming legislation dealing with cannabis. He explained that it is likely that in situations where applications for cannabis retail sales licences are submitted to the Province, that local governments will be asked by the Province to confirm if the zoning allows it, and to garner public input. In situations where the RDMW is asked to conduct a public meeting to garner public input on a particular application, whether it be related to a retail cannabis or liquor licence, a new \$700 fee is proposed to be introduced into the Planning and Development Procedures and Fees Bylaw. Mr. Long further advised that he wants to ensure that RDMW taxpayers do not have to bear the cost associated with these site specific applications and that costs associated with advertising and conducting the public meeting is recovered. Mr. Long also explained that right now the RDMW has a similar policy related to liquor licenses that is better suited to being included in a bylaw. He advised that if the legislation that is approved is different than anticipated, that we can come back and revisit this issue, but that in the meantime, we will ensure that the RDMW is prepared.

Moved, Seconded and Carried:

THAT the Regional Planning Committee recommends that the Board of Directors gives 1st, 2nd and 3rd readings to and adopts Regional District of Mount Waddington Planning and Development Procedures and Fees Bylaw No. 916, Amendment Bylaw No. 947, 2018.

RPC-2018-18
RECOMMEND
1st, 2nd & 3rd
Reading to
Bylaws 916 &
Amendment
Bylaw 947

F. NEXT MEETING DATE - To be determined.

G. ADJOURNMENT

RPC-2018-19
ADJOURN

Moved
THAT the meeting be adjourned.

Time: 12:46 p.m.



SECRETARY: J. LONG



CHAIR: HEIDI SOLTAU