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## ***What a New Trustee Needs to Know - Jim Campbell***

**W**e are now in election mode for regional, school board and Islands Trust representatives. This is about the Islands Trust and what the legislation requires of an islands trustee and thus what we are entitled to expect. The first part is my version of a history in which I played a part. I hope readers will find it helpful.

In any event what is most important to all of us is that we understand that the so-called mandate is actually an exclusive instruction to carry out the 'Object', as defined. It does not expect 'objects' as defined in the *Local Government Act* to trump the exclusive Islands Trust Object.

When the legislature created regional districts and gave planning powers and duties to electoral areas the new CRD assigned local electoral districts staff and committees to prepare land use bylaws. The incentive to get on with the job was the imposition of a ten-acre freeze on subdivision.

The first zoning bylaw developed for the Outer Gulf Islands was very controversial. I opposed its passage and was elected as CRD director on the promise to redraft it and then develop Official Community Plans for each of the Outer Gulf Islands.

When the OCPs for Galiano and Salt Spring were adopted by local trust committees, as chair of the CRD, I signed them and sent them to the Minister of Municipal Affairs for his approval. He referred them to a Select Standing Committee of the legislature with instructions to report on the kind of planning that should apply to the islands in the general perimeters of the Gulf of Georgia. The members, mostly strangers to the islands, were blown away by what they saw and wanted to create a land trust to strongly control development and, as much as possible, to retain the status quo!

The Legislature did not go that far but it created the Islands Trust with a statutory Object: with power and duty to respond to the vision of the committee and expectations of the legislature of the day. In fact, far more than it has responded. The powers and duties of the Islands Trust were restated and reconfirmed by the subsequent legislation.

I have watched the activities of the Trust closely over the years and I think it has lost its way. It is clear that unique amenities identified in an OCP as suited for park land have been lost by lack of due diligence.

I look around at other Islands and see obvious failures. The lack of due diligence in training Islands Trust planners to set aside their mantra to plan for the highest and best use of land is one. They must set aside the economic benefit to community or the entrepreneur in favour of the stated object that is pledged by their oath of office.

It does not take a lawyer to tell us what the purposes and object are when they are clearly stated in good English in legislation. The clear words of the *Islands Trust Act* speak for themselves. They were reviewed and updated in February 2004.

S.3 The object of the trust is to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally, in cooperation with municipalities, regional districts, other persons and organizations and the government of British Columbia.

S.4(1) The trust council, executive committee, local trust committees and trust fund board are continued for the purpose of carrying out the object of the trust.

(It should be noted that there is no source of funding for functions except those in the *Islands Trust Act*.)

The Trust Policy Statement defines preserve and protect.

- Preserve: to maintain in a given condition. Preservation often requires maintaining the processes that generate the desired condition.

- Protect: to maintain over the long term by managing, or if necessary limiting, the type and intensity of development or activity to ensure the valued attributes are not compromised or destroyed

This is all clear English. No legal opinions are needed to understand it.

The tools for local trust committees to regulate land use are the regulations and process used by local government as cited in the subsequent *Local Government Act*. That *Act* defines the distinctly different purposes of local government agencies other than the Islands Trust.

Part 1 s.2 of the *Local Government Act*

The purposes of a local government include,

(a) Providing good government for its community,

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Island Tides, Box 55, Pender Island, BC, Canada.  
Email: [islandtides@islandtides.com](mailto:islandtides@islandtides.com).

Phone: 250-629-3660. Fax: 250-629-3838.  
Website: <http://www.islandtides.com>

(b) Providing the services and other things that the local government considers are necessary and desirable for all or part of its community

(c) Providing stewardship of the public assets of its community

(d) Fostering the current and future economic, social and environmental well being of its community.

The legislation clearly intended the purposes of the *Islands Trust Act* would *replace* the purposes of the *Local Government Act* for land use issues in the trust area. Care for the environment is the only purpose in common. Land use regulations in the trust area are for an exclusively different purpose than for local governments. None of those above four purposes can permit a use in conflict with the object of the trust.

The Object of the trust used to appear on stationary and publications of the trust as a constant reminder of its singular nature. It has been replaced with a slogan which reaches into the stated purpose of the local government which the Trust Object was intended to replace: *'Preserving island communities, culture and environment.'*

It is well known that if a slogan is repeated often enough people will accept it as a truth especially if it replaces a more complex and burdensome reality contrary to their values. This

substitute slogan is on all stationary and is prominent as the conclusion of each trust report in the *Saturna Scribbler*. How can the trustees and the public not come to believe it and be guided by it?

The first test for every application for change of land use should require an examination to determine its compatibility with the mandate. We must elect trustees who understand that if is not clearly compatible it should proceed no further. In such cases a bylaw need not be drafted or given first reading. The application can be simply rejected.

BC Court of Appeal decision in the Galiano Local Trust Committee's Bylaw to limit residential use of forest land clearly conferred the right, and duty, of an LTC to take whatever actions necessary to protect their mandate regardless of precedents in municipal circumstances.

Trustees should expect a report by the planner on an application to clearly indicate any possibility that the application may be in conflict with their mandate. Planning staff have a duty to remind. LTCs have the duty to test the eligibility of the application in the context of the exclusive terms of their Object as defined in the *Islands Trust Act*.

Policy statements in OCPs or bylaws or other subsidiary policy documents do not trump the Object. ✍