

Reprint **Island Tides**

Visit www.islandtides.com to read the current edition and more find more interesting articles on other BC, national & international topics in our extensive archive of newspapers and articles.

Reprint from Volume 20 Number 13

July 10, 2008

Islands Trust Executive refuses Galiano Forest bylaws

At its meeting on June 24, the Islands Trust Executive refused two controversial new Bylaws put forward by the Galiano Island Trust Committee to change the Island's Official Community Plan and the Land Use Bylaw to permit residences to be built in the Forest 1 zone. The Local Trust now has several options, one of which is appealing the decision to Trust Council, a decision about this will be made at press time on July 7 at Galiano Local Trust Committee Meeting.

The Executive Committee: Kim Benson (Gambier/Keats), Chair, with Vice-Chairs Gary Steeves (North Pender), Gisele Rudischer (Gabriola), and Rose Willow (Lasqueti) ruled that the proposed OCP revisions are not consistent with directives in the Trust Policy Statement, (for the ruling, see Readers Letters, page 13 and for the directives, see box this page.)

Private Managed Forest Lands

In the letter, the Trust Executive has expressed its apprehension about what it terms 'uncertainties between the Object of the *Islands Trust Act* and the provisions of the *Private Managed Forest Land Act*.' The object of the *Islands Trust Act* is, of course, 'preserve and protect' for the long term,

Island Trust Directive Policies Named In Galiano Decision

3.2.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development and land-use.

4.2.6 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.

4.2.7 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address:

- the retention of large land holdings and parcel sizes for sustainable forestry use, and
- the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.

4.4.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure:

- neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater,
- water quality is maintained, and
- existing, anticipated and seasonal demands for water are considered and allowed for.

5.3.4 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.

5.3.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.

while the *PMFL Act* provides a means whereby forest land owners log and/or hold land for eventual development, with very favourable taxation treatment.

On Galiano, some Forest 1 lot owners have registered their properties as PMFL. However, since the current OCP and LUB Bylaws predate the proclamation of the *PMFL Act*, Galiano's Bylaws prevail. The *PMFL Act*, however, provides that a local government cannot adopt a bylaw that would 'have the effect of restricting, directly or indirectly, a forest management activity' on PMFL lands. It goes on to say that this applies 'for certainty, even though the bylaw or permit does not directly apply' to PMFL lands.

This is clearly a provision capable of broad interpretation. Its effect is that, should Galiano make any changes to its OCP or LUB which might be interpreted as affecting PMFL lands, then the PMFL regulations take precedence over the Galiano bylaws.

PMFL Permit Dwellings, Camps

The wide industrial-scale land uses permitted by the *PMFL Act* are shown in Box 3. It is important to note that it permits, besides a wide range of

© Island Tides Publishing Ltd. This article may be reproduced with this attribution, in its entirety, with notification to Island Tides Publishing Ltd.

'This article was published (July 10, 2008) in 'Island Tides'. 'Island Tides' is an independent, regional newspaper distributing 17,500 print copies in throughout the Gulf Islands and the Canadian Strait of Georgia from Tsawwassen to Campbell River, BC.'

Island Tides, Box 55, Pender Island, BC, Canada. Phone: 250-629-3660. Fax: 250-629-3838.
Email: islandtides@islandtides.com. Website: <http://www.islandtides.com>

industrial activities which do not preserve and protect, 'one dwelling per registered parcel unless additional dwellings are permitted under applicable local bylaws,' and 'forest management administration, including accommodation of personnel.'

So, in summary, if any changes are made in the OCP or LUB that might be interpreted as affecting forest lands in any way, each PMFL landowner could build a dwelling without any permission from the Islands Trust.

Wider Questions About PMFL

Recently, forestry workers, represented by the United Steelworkers local 1-80, and the Western Canada Wilderness Committee have agreed that too many forest lands are being 'stripped' for development. They have called for a designation that would protect private forest lands, much like the Agricultural Land Reserve. They have criticized the provincial government for releasing private forest lands from Tree Farm Licenses on request. Some major forest companies are reported to have extensive plans for land sale and development.

The two organizations also agree that raw logs should not be exported. They expect to raise both issues in the coming provincial election campaign.

Background

Forest 1 lots on Galiano, comprising some 55% of the Island, were made available to private purchasers nearly twenty years ago, when tree-farm owner MacMillan Bloedel decided to 'urbanize its second growth.' In other words, to sell tree-farm lands, much of which had been logged, for private use: logging or development. Most of the tree-farm lots were at that time subdivided only to District Lot boundaries, and averaged over 100 acres.

In order to prevent uncontrolled residential development,

the Galiano community quickly revised its bylaws to disallow residences. As a condition of purchase, MacMillan Bloedel made buyers aware that they might well not be able to build residences on the parcels they bought.

The revised Bylaws were challenged in court by MacMillan Bloedel who won only to lose in the subsequent Appeal Court case. Madame Justice Mary Southin remarked that the Trust's 'preserve and protect' mandate was 'no mere piety.' The judgement stated that the Bylaws have been law and in effect during all the years it had took the process to get through the courts.

Notwithstanding, some subdivisions applications had been made to, and processed and approved by the Ministry of Highways during this period (Ministry of Highways was the approving agency at the time). More developments were awaiting signing when the Appeal Court judgment put them in limbo. Development had also taken place, including major private road building.

Ministry of Highways' lack of a moratorium on development during the court process, made a travesty of orderly development and led to a morass of misconceptions, hard feelings, real hardships, and unrealistic expectations with which Galiano has been struggling ever since.

A set of opportunities for creating residences through rezoning was created in the 2000 OCP and LUB revisions.

Some Forest 1 landowners have since completed a rezoning process. Some built in contravention of the Bylaw. Some complained that the process was too slow (hardly surprising as the area in question is more than a third of the Island). Incidentally, although the F1 landbase is large, F1 owners are less than 10% of Galiano's property owners; 66 of the 96 forest lot are owned by corporations, with one corporate owner holding as many as 24 lots.

Excerpt from Private Managed Forest Land Regulation

1 (2) Forest management activity means an activity, process or use, including structures and facilities that support the activity, process or use, that is described in Schedule A and that is related to or carried out for the production or harvesting of forest resources on or from the owner's private managed forest lands, for as long as the land is classified under the *Assessment Act* as managed forest land.

Schedule A

Forest management activities include the following:

- a) silviculture and timber harvesting activities
- b) transportation, delivery handling and sale
- c) dryland sorting and scaling
- d) road, bridge and trail construction maintenance
- e) drilling and blasting
- f) aggregate production and processing
- g) storage and repair of equipment and vehicles
- h) slash and prescribed burning
- i) treatment of noxious weeds, introduced plants, competing vegetation, other pests and damaging agents
- j) protection of forest crops including but not limited to fire protection and suppression and wildlife management
- k) safety and security measures
- l) water storage, including reservoirs for providing water for fire protection purposes or other use
- m) agroforestry and silvopasture systems
- n) soil production, improvement or processing
- o) site rehabilitation and improvement
- p) disposal of wood waste
- q) harvesting and sale of botanical forest products
- r) portable processing of forest resources
- s) one dwelling per registered parcel unless additional dwellings are permitted under applicable local bylaws
- t) forest management administration, including accommodation of personnel.

© Island Tides Publishing Ltd. This article may be reproduced with this attribution, in its entirety, with notification to Island Tides Publishing Ltd.

'This article was published (July 10, 2008) in 'Island Tides'. 'Island Tides' is an independent, regional newspaper distributing 17,500 print copies in throughout the Gulf Islands and the Canadian Strait of Georgia from Tsawwassen to Campbell River, BC.'

Island Tides, Box 55, Pender Island, BC, Canada. Phone: 250-629-3660. Fax: 250-629-3838.
Email: islandtides@islandtides.com. Website: <http://www.islandtides.com>

Other F1 owners wanted residential rights without rezoning. Local Trustees Roy Smith and Michael Sharp, elected in 2005, proposed new bylaws revising the OCP and LUB to permit one dwelling per lot on Forest 1 land, terming them 'buildings accessory to forestry use.'

Bylaw N^o199, changing the OCP, and bylaw N^o200, changing the LUB, were written to accomplish this, as well as to adopt some provisions of the incomplete Galiano Road Plan in order to ensure access, through easement instead of public road, to the dwellings.

On May 5, the Local Trust Committee gave a majority Third Reading to these bylaws (LTC chair, Gisele Rudischer, voted against) and they were passed to the Trust Executive for approval. The Trust Executive Committee's refusal of the bylaws was a very unusual occurrence. ✍

© Island Tides Publishing Ltd. This article may be reproduced with this attribution, in its entirety, with notification to Island Tides Publishing Ltd.

'This article was published (July 10, 2008) in 'Island Tides'. 'Island Tides' is an independent, regional newspaper distributing 17,500 print copies in throughout the Gulf Islands and the Canadian Strait of Georgia from Tsawwassen to Campbell River, BC.'

Island Tides, Box 55, Pender Island, BC, Canada. Phone: 250-629-3660. Fax: 250-629-3838.
Email: islandtides@islandtides.com. Website: <http://www.islandtides.com>
