Good Morning Mudge Islanders,

Yesterday I sent a copy of the Islands Trusts Staff Report that has been prepared for the April 12, 2018 Gabriola Local Trust Committee (LTC) meeting. Since that point I have received numerous call, emails and texts from concerned Islanders. My hope with this document is to explain as best I can where we find ourselves with respect to the Land Use Bylaw (LUB) issue; how we arrived here; and what I think we need to do moving forward.

It is important to understand that although I am the Secretary of the Mudge Island Advisory Planning Commission (APC) I am writing on my own behalf, in my own words. Not that I am happy communicating with you this way, but am doing so to not violate Islands Trust protocols. Saying that, I expect that you will hear from the other APC members over the next few days.

**Where we are today on trying to amend our LUB with respect to Maximum Lot Coverage**

As things stand at the time of this note being written, the only piece of the work that the APC has performed on your behalf that you will see on the Mudge Island Targeted Review link on the Islands Trust website, <http://www.islandstrust.bc.ca/islands/local-trust-areas/gabriola/projects-initiatives/mudge-island-targeted-ocplub-review-project/> are the adopted minutes from our January 19, 2018 APC meeting. You will not find a copy of either our February 18th or March 15th meeting minutes, you will not find copies of the reports (draft and amended) that have been sent to the Islands Trust and our Local Trustees. The reasons provided by Islands Trust Staff are that only those reports or minutes adopted at an official APC meeting are received as acceptable, and posted.

Essentially, outside of the January 19th minutes, it is almost as if we didn’t exist; that we didn’t hold two other meetings, and that we did not make any recommendations to the LTC with respect to amending our LUB.

So where are we? I am not sure. Reading the Staff report that I sent earlier it appears as though the work and efforts that we as a community have done so far has been entirely disregarded, and that there is no further need for any involvement by the Mudge Island APC.

**How we arrived at this place.**

As I have sent out a number of previous bulletins on this issue, I will only touch briefly on the initial steps of this journey. The lot coverage issue has been simmering on Mudge for a few years now, being raised at successive LTC meetings held on Mudge. Last year it was a focal point of discussion with many Islanders pressing our LTC to not only do more, but do it faster with respect to amending our LUB to mirror that of Gabriola Island. At that meeting a motion was adopted to form an APC for Mudge. Appointments were made to the APC in August; and an orientation for the APC held in November; and Referral 6500-20 Mudge Island OCP/LUB Review Project for Lot Coverage received by the APC on December 22, 2017.

As stated we had our first APC meeting on January 19, 2018 on Gabriola Island, followed by meetings on Mudge Island on February 18th and March 15th 2018. The meetings on Mudge were very well attended with approximately 30 members of the public in attendance, in addition to the APC members.

I sent a note to you all prior to our March 15th meeting advising that we had “hit a bit of a rough patch” with respect to relations with the Islands Trust. The truth is that we hit a very rough patch on February 20th that we have never quite recovered from. Following our meeting on February 18th I submitted copies of the adopted minutes of the January 19th APC meeting; a draft copy of the Minutes of the February 18th APC meeting, and importantly, a final copy of our APC Report to the LTC, copied Islands Trust.

Almost immediately we were advised by the Planning Staff that they would not accept our report as sent. Their email stated “***Please note, as this report does not appear to have been considered in a public meeting, it cannot be received as a formal response from the APC. As such, the Islands Trust will consider it as correspondence from a member of the public. However, as the correspondence makes representations on behalf of third parties (other members of the public), it cannot be published in its current form”.***

We were flabbergasted at this position. Every single comment and recommendation contained in the report was derived from our minutes and comments made by the APC and the members of the public in attendance at our public meetings. Our Chair, Susanne Jakobsen contacted the author of the email to try and find solutions. Gratifyingly to us, our report was accepted as a “draft” report. This report was attached to the Agenda package prepared for the LTC meeting held on March 1st, 2018. While we weren’t pleased with the Islands Trust Staff, we felt we were still in a good position as we could simply have another meeting to review, revise if needed, then adopt our report for submission to the LTC.

Thinking all was good, we scheduled a meeting on Mudge for March 15th, 2018. I sent out an agenda package in my capacity as APC Secretary, copied to our LTC and Islands Trust as required. Again and almost immediately we received another email from the Islands Trust Planning Staff. This time we were advised ***“Doug, the APC has already provided comments in response to the LTC referral from December. We are now well beyond the 40 days during which the APC is required to meet following a resolution of the LTC. This meeting, in the absence of an LTC resolution, would not be considered an official APC meeting.”*** This was followed with: ***Please note, I anticipate that the LTC would want to refer any proposed Bylaw amendments to the Mudge APC for consideration and there is yet ample opportunity for public dialogue.”***

To be clear, we had read the provision about a 40 day time period, but interpreted it to mean that the APC had to meet within 40 days so as to ensure a timely response to referrals. At no point did we contemplate that this meant we were prohibited from meeting after 40 days had elapsed. This argument was given strength given the fact that the meeting we had on February 18th was well past the 40 day period (which expired on January 31st if held to be true). We scheduled the February 18th meeting with the assistance of the Islands Trust staff with no hint that we were acting in a manner contrary to the Trust procedures, or any suggestion that there even was 40 day maximum consultation period. Additionally, our referral request stipulated that we were to make our recommendations to the LTC in advance of their March 1st regular business meeting. We honestly thought that we were doing exactly what was required of us.

I am not even sure I can find the words to describe how utterly devastated we were with this missive from the Islands Trust Planning Staff. Directly, this meant that the minutes of our February 18th meeting could only be adopted IF the APC received another referral, and that the draft report we had prepared to the LTC on your behalf would never be adopted as the time frame for consideration had elapsed. Accordingly, this report would never be posted on the public site.

We of course responded to the Islands Trust stating our strongest objections to what we felt to be an unfair and arbitrary decision. Emails went back and forth ending with one that was sent under the hand of Chair Jakobsen on March 12th. (Attached with permission) We asked for consideration regarding relief of the 40 day provision for a number reasons that you will read in the attached letter. We sent notice to our community that we still planned to hold a meeting on March 15th thinking that what we had asked and the reasons why would be compelling enough to have the Islands Trust permit one more APC meeting to review our report for adoption. Sadly, we were wrong, as you all have read in the Staff Report we sent earlier this morning.

Under normal circumstances protocol requires some sort of response to public communications. To this date, we have not received any response to Chair Jakobsen’s letter of March 12th, nor even acknowledgement of receipt from either the Planner or our LTC. Additionally, after our meeting on Mudge on March 15th I sent copies of adopted minutes, draft minutes and our amended report to the LTC copied Islands Trust. Other than an automatic reply that one of the recipients was out of the office we have had neither reply, nor acknowledgement of receipt. The people at the Islands Trust, and our own Trustees may disagree with us, but is bad form entirely to simply ignore us.

**So, where do we go from here?**

The answer seems pretty clear to me. We need to rally our community together to send a clear and unequivocal message to our Trustees that we disagree with the concept of stalling forward progress with respect to LUB amendments. There is no need whatsoever for questionnaires about what the citizens of Mudge would like to see with respect to amending our maximum lot coverage. Our people have been absolutely clear with one message. Increase out Maximum Lot coverage from the unattainable 10%. The Trustees should be in no doubt about what we want to see. Again and to be clear, the APC recommendations with respect to Maximum Lot coverage are:

*The APC unanimously recommends that the definition of “Structure” contained in the Mudge Island LUB (2007) Part 1, be amended to read:* ***STRUCTURE means anything constructed or erected that is fixed to, supported by or sunk into land or water, whether underwater or otherwise, excluding gravel driveways for vehicle parking, sewage absorption fields, below ground septic tanks and cisterns. For clarity, concrete and/or asphalt paving are considered structures.***

*The APC unanimously recommends**that Mudge Island LUB Part 5, Section 5.1-4 be amended to read* ***The maximum lot coverage for lots less than 1 (one) hectare is 20%. The maximum lot coverage for lots 1 (one) hectare or larger is 10%.***

These recommendations arrived at with the generous support of our community via meetings and letters sent to the Islands Trust. They are reasonable, doable and sustainable. They are the same or less than pretty much every other Islands Trust Area LUB’s.

If you want to see a change you need to be seen and heard. We urge you to send emails to our LTC copied the Islands Trust urging that the Trustees adopt three resolutions at their April 12th LTC meeting. The first two would move the LUB amendment to the front without need for any more unnecessary delays. I would suggest something like this.

**Be it Resolved that the Gabriola Island Local Trust Committee request Staff to draft the following amendments to the Mudge Island Land Use Bylaw: *That the definition of “Structure” contained in the Mudge Island LUB (2007) Part 1, be amended to read: STRUCTURE means anything constructed or erected that is fixed to, supported by or sunk into land or water, whether underwater or otherwise, excluding gravel driveways for vehicle parking, sewage absorption fields, below ground septic tanks and cisterns. For clarity, concrete and/or asphalt paving are considered structures.***

**Be it Resolved that the Gabriola Island Local Trust Committee request Staff to draft the following amendments to the Mudge Island Land Use Bylaw: *That Mudge Island LUB Part 5, Section 5.1-4 be amended to read The maximum lot coverage for lots less than 1 (one) hectare is 20%. The maximum lot coverage for lots 1 (one) hectare or larger is 10%.***

It is important to remember that you will still have ample opportunity for more input if the Trustees decide to move to actual drafting of Bylaw amendments.

The third resolution would permit the APC and by extension our community at large to have their voices and comments published on the public site in the form of the APC Report on Lot Coverage. It would read something like:

***Be it Resolved that the Gabriola Island Local Trust Committee request Staff to draft a resolution referring APC Referral Request 6500-20-Mudge Island OCP/LUB Review Project for Lot Coverage back to the Mudge Island APC for further review and that a report of this review be sent to the LTC in advance of their May 3, 2018 Regular Business Meeting.***

You can certainly copy and paste any part of this letter if it helps, or write whatever you wish to send in. It is critically important that you be heard by our Trustees. The above are options that I hope would assist our Trustees in hearing with absolute clarity, our communities desire to reject the Staff suggestions of the need for questionnaires and move forward with concrete LUB amendments.

Does sending in a letter really help? Yes. Look at the results we earned through our efforts to make changes to the proposed Speculation Tax. Every single letter counts, every opinion matters. I spoke earlier about being seen and heard, It is also critically important that we show up at the April 12th LTC meeting to not only be seen, but have the opportunity to be heard.

In closing I say clearly, that the the process of dealing with the Islands Trusts Planners, from my perspective, has been a series of frustrations and setbacks. The positive light in this process has been the support of our community.

Thank you all.

Doug MacDonald

A Proud Mudge Islander.

You can send emails to;

Laura Busheikin at [lbusheikin@islandstrust.bc.ca](mailto:lbusheikin@islandstrust.bc.ca)

Melanie Mamoser at [mmamoser@islandstrust.bc.ca](mailto:mmamoser@islandstrust.bc.ca)

Heather O’Sullivan at [hosullivan@islandstrust.bc.ca](mailto:hosullivan@islandstrust.bc.ca)

Date: March 12, 2018

To: Ms Ann Kjerulf Regional Planning Manager, Northern Team Islands Trust

Re: Response to email sent to the Mudge Island APC March 8, 2018

Dear Ms. Kjerulf,

We acknowledge receipt of your response to the email we sent to you on March 7, 2018. While our initial intention was to not respond to your email of March 8, 2018, it was felt that we were compelled to do so to address some of the conclusions contained therein.

Our intent is to focus on three specific areas.

1. **The Referral and APC Bylaw 296, Section 4.b).**

The Gabriola LTC adopted a resolution to request that Staff schedule a meeting with the Mudge Island APC at their December 14th, 2017 LTC meeting to discuss the Lot Coverage issue. The referral was sent to us on Thursday December 21st, 2017. For real purposes though, it wasn’t until Friday December 22nd that we all received copies of the referral owing to transmittal difficulties. In this respect, only two of five APC members were able to open the document as sent from the Trust office on the 21st.

We are now told that our meeting scheduled for March 15, 2018 will be in breach of the following Section of Bylaw 296

**4. Referrals  
b) A meeting on any particular referral must be held not more than (40) days after the date of receipt of that referral unless the Local Trust Committee has requested a response by an earlier specified date.**

The effective start date for the referral process began on December 22, 2018 which was the Friday immediately preceding the Christmas Holidays. The statutory 40 day period takes us to January 30, 2018.

The following is a chronological list of actions with dates:

The Mudge Island APC receives the Referral Request 6500-20-Mudge Island OCP/LUB Review Project for Lot Coverage on Friday December 22, 2017.

The Islands Trust office was closed from Friday December 22nd 2017 to January 2nd 2018, at which point a request was sent from the APC to the Trust Office to start setting up a meeting. This closure resulting in the loss of 12 of the 40 days.

An email was sent to the Islands Trust at 9:20 am on January 3rd, attempting to set a date for our first meeting. We were advised on that same day that our liaison, Teresa Rittemann was away and unavailable until January 8th, 2018. This represents an additional 6 day delay from the 40 days.

On Friday January 5th an email was sent to the Islands Trust providing tentative dates that would work for the APC. Those dates were January 16, 18 or 19. We received an email that same day at 3:46 pm, from Islands Trust that advised that Friday January 19th was a date that could work for the Islands Trust Staff.

Notices for public meetings must be given at least 5 days prior to the meeting. In this case, had the notice gone out on Monday January 8th, the earliest a meeting could have been convened would have been Saturday January 13th. Although we indicated that January 16th worked for us, it was mutually agreed that our first meeting would be held on January 19th. This delay representing a loss of an additional 11 days from the 40 days.

The first meeting of the APC held on January 19th, 2018, was 28 days after receipt of the referral. For real purposes, the closure of the Trusts office, combined with the unavailability of Planner Rittemann, added to the required minimum 5 days notice, 28 days lapsed before a meeting could be held. This was 100% attributable to circumstances outside the control of the APC. This of course leaving the APC 12 days to complete the Referral process from start to finish. This to us seems both unrealistic and unfair.

The APC isn’t complaining in any manner about this delay. We had no reason to as our Referral notice stipulated “***that Staff received the APC’s recommendations to the LTC in a timely manner, so as to be considered by the LTC before their Thursday, March 1, 2018 regular business meeting”.*** We were given to understand that a “timely manner” constituted one week before the March 1st LTC meeting. To our thinking, we had ample time to research, discuss and make recommendations as required within that time frame.

Once our meeting of January 19th was adjourned we waited until February 2, 2018, 14 days, until we were provided with draft minutes of the meeting. Please note that at that point the process has now past the statutory 40 day requirement.

It was not until February 7, 2018 that an acceptable revision of the minutes from the January 19th meeting was received by the APC. This is 48 days past receipt of the Referral Request. In that time period the APC was able to convene only one meeting. We were ready willing and able to meet as many times as needed in that time period, but were unable to do so owing to circumstance beyond our control.

While we appreciate and understand the need to meet in a timely manner we disagree with the strict interpretation of Section 4.b) of Bylaw 296 with respect to this referral. We can not believe that there aren’t exceptions granted for special circumstances, such as those we have highlighted.

Given the above facts, the APC is asking for consideration to have one more sanctioned meeting in order that we can adopt the Minutes of our February 18th meeting, as well as review, discuss and adopt our initial report to the LTC.

We think this a very reasonable request given the lengthy delay in scheduling our first APC meeting. Moreover, given the time and effort the the APC and the Mudge Island Community has vested in this process to date, we sincerely believe that the APC should be given the opportunity to provide the LTC with an adopted report, not one stamped as being “draft”.

1. **Procedural Error with respect to calling additional meetings.**

We submit that there was no procedural error made at the January 19th APC meeting. While the minutes are silent in this respect, tapes of the meeting will show that the APC stated clearly that we were not prepared to make any recommendations at that first meeting. In the presence of 2 Staff, 2 Trustees, 3 members of the public and 4 APC members, we stated in very clear terms that there would not be any recommendations made at that meeting. We advised again in clear terms that additional meetings and public consultation would be engaged in prior to us reaching a level of comfort where we could make recommendations. At that January 19th meeting we specifically asked if it was appropriate to engage the public and were advised that it was not only appropriate but that it was an important part of the process. It was suggested that we use the “Town Hall” format used by the LTC to get public comment. At no point was there any suggestion that we needed to stipulate a date at our next meeting.

We can’t read anywhere in the APC Guidelines or policies that it is a requirement that meetings be adjourned to a specific date and that that date recorded in the minutes. In fact Bylaw 296 Section 3.b)-I stipulates that the Chairperson will…**”… *determine when and where meetings will be held”***

Regardless of our disagreement with the assertion of a “procedural error” to our thinking, if there had been a procedural error made why weren’t we given the opportunity at that meeting to make a correction? From the onset of our appointment to the APC, and notwithstanding the considerable professional experience that members of the APC have in meeting protocol and governance, we have sought guidance in working through the specificities of the Islands Trust process. If we had of been advised at that meeting we were violating process, we could have corrected it then and there. We were looking to Staff for guidance. In this case, as it wasn’t provided, the APC can not be held responsible.

In this vein, and not directly attached to the above three paragraphs, we are compelled to ask about the comments made in your March 8, 2018 email with respect to scheduling a third meeting. While it is pretty hard to specifically agree to exactly what was said during the phone conversation with Chair Susanne Jakobsen on February 20th, it is very easy to say what wasn’t said. Your email to us states ***“to be very clear staff did not concur with this suggestion (as it would be contrary to the APC Bylaw)”.*** We have never indicated that you did concur with this. Our assertion was, and is, that neither did you say that the APC was prohibited from having another meeting owing to Bylaw 296. This again speaks to lack of guidance until after the fact.

1. **Respect, and focusing on an open and collaborative process.**

It is unfortunate, but understandable that you have taken offence to some of the comments we made in our March 7, 2018 email. Without belabouring the point, we have likewise taken offence to the tone of your emails as received by the APC. We too would relish an opportunity to work in such a positive manner. However respect is a two-way street, and is freely given, never demanded.

In summary, it is our hope that we can move forward with respect, openness and collaboration. We believe that a good way to begin this process anew is to recognize our plan to hold one more Mudge Island APC meeting. This allowing us, as representatives of the greater Mudge Island Community, to complete the process of the Lot Coverage referral.

Respectfully submitted on behalf of the Mudge Island APC,

Susanne Jakobsen

Chair.