

DISTRICT OF SAANICH  
MINUTES OF THE COUNCIL MEETING  
HELD AT THE SAANICH MUNICIPAL HALL, 770 VERNON AVENUE  
**MONDAY, MARCH 6, 2017**

Present: **Chair:** Mayor Atwell  
**Council:** Councillors Brice, Brownoff, Derman, Haynes, Murdock, Sanders and Wergeland  
**Staff:** Paul Thorkelsson, Chief Administrative Officer; Jarret Matanowitsch, Acting Director of Planning (7:02 p.m.); Adriane Pollard, Manager of Environmental Services (7:02 p.m.); Donna Dupas, Legislative Manager; and Lynn Merry, Senior Committee Clerk (7:02 p.m.)

Mayor Atwell called the regular Council meeting to order at 6:02 p.m. in Committee Room No. 2.

In Camera Motion **MOVED by Councillor Brice and Seconded by Councillor Haynes: “That pursuant to Section 90 (1) (a) of the *Community Charter*, the following meeting be closed to the public as the subject matter being considered relates to personal information about an identifiable individual who holds a position as an officer appointed by the municipality.”**

**CARRIED**

Adjournment On a motion from Councillor Sanders, the meeting adjourned to In Camera at 6:03 p.m.

**The regular Council meeting reconvened in Council Chambers at 7:02 p.m.**

#### **DELEGATIONS**

1410-02  
Delegation

#### **GLENLYON NORFOLK SCHOOL ENVIRONMENTAL CLUB/SURFRIDER VANCOUVER ISLAND – PLASTIC BAG REDUCTION**

Subject: Reduction of single use plastic bags

A. Castro and C. Brady, Glenlyon Norfolk School Environmental Club/Surfrider Vancouver Island presented to Council on the need for a reduction in single use plastic check out bags. The environmental, economic and health impacts and the plan of action to move forward to phase out the use of plastic bags was discussed. The club has presented to other municipalities and there is considerable interest in the subject.

Councillor Derman stated:

- The presenters are to be congratulated on this initiative.

Councillor Murdock stated:

- The club presented to the Environment and Natural Areas (ENA) Advisory Committee last spring and there was a considerable amount of interest in the initiative amongst the committee; now that discussions have taken place with other municipalities, it may be appropriate to refer the item back to ENA for further discussion on how municipalities can work together on this project.

Councillor Brice stated:

- It is practical to phase out the reduction of the use of plastic bags; it may be more effective to work in partnership with the other municipalities.

Councillor Haynes stated:

- The Canadian Federation of Independent Grocers has an educational program on how to shift society from the use of disposal plastics; most grocery stores are trying to give consumers a choice on using plastic bags.

Councillor Sanders stated:

- The students are to be commended on their initiative.

**MOVED by Councillor Murdock and Seconded by Councillor Haynes: "That the item be referred to the Environment and Natural Areas Advisory Committee for further discussion."**

Councillor Wergeland stated:

- The work of students has an impact on teachers and parents.

Mayor Atwell stated:

- The group is to be congratulated on bringing this item forward; it is an important issue that needs to be addressed.

**The Motion was then Put and CARRIED**

1410-02  
Delegation

**MINISTRY OF FORESTS, LANDS & NATURAL RESOURCE OPERATIONS**

Subject: Aerial Spray for Gypsy Moth Eradication

T. Ebata from the Ministry of Forests, Lands & Natural Resource Operations presented to Council and described the planned operation to eradicate the gypsy moth by aerial spray in the Elk Lake and Bear Hill areas. He advised that public notification has taken place and the public will continue to be updated. Mr. Ebata also discussed the public concerns including the minor health impacts, noise, the impact on non-targeted organisms and the organic certification.

Minutes

**ADOPTION OF MINUTES**

**MOVED by Councillor Brice and Seconded by Councillor Haynes: "That Council adopt the minutes of the February 21, 2017 Special Council meeting and the February 27, 2017 Council and Committee of the Whole meetings."**

**CARRIED**

Adjournment

On a motion from Councillor Haynes, the meeting adjourned at 7:48 p.m.

The meeting reconvened at 11:16 p.m.

**RECOMMENDATIONS**

*From the Committee of the Whole Meeting held March 6, 2017*

2860-25  
Tudor Avenue/Sea  
View Road

**2785, 2801, 2811, 2821, 2825, 2831 TUDOR AVENUE AND 2766, 2810 SEA VIEW ROAD (ENVIRONMENTAL DEVELOPMENT PERMIT AREA)**

**MOVED** by Councillor Plant and **Seconded** by Councillor Haynes: “That all single family zoned properties be temporarily exempted from the Environmental Development Permit Area (EDPA), until Council receives the report from Diamond Head Consulting and makes a decision on the future of the EDPA, and notwithstanding this exemption, if an application is received to rezone or subdivide a single family dwelling zoned property, the EDPA Guidelines would apply.”

**CARRIED**

**with Councillors Brownoff, Derman, Murdock and Sanders OPPOSED**

**NOTICE OF MOTION**

Councillor Plant advised that he would be bringing forward a Notice of Motion at a future Council meeting in relation to the consideration of requests for removal from the Environmental Development Permit Area.

Adjournment

On a motion from Councillor Derman, the meeting adjourned at 11:20 p.m.

.....  
MAYOR

I hereby certify these Minutes are accurate.

.....  
MUNICIPAL CLERK

DISTRICT OF SAANICH  
 MINUTES OF THE COMMITTEE OF THE WHOLE MEETING  
 HELD IN THE COUNCIL CHAMBERS  
 SAANICH MUNICIPAL HALL, 770 VERNON AVENUE  
**MONDAY, MARCH 6, 2017 AT 7:49 P.M.**

Present: **Chair:** Mayor Atwell  
**Council:** Councillors Brice, Brownoff, Derman, Haynes, Murdock, Plant (8:07 p.m.), Sanders and Wergeland  
**Staff:** Paul Thorkelsson, Chief Administrative Officer; Jarret Matanowitch, Acting Director of Planning; Adriane Pollard, Manager of Environmental Services; Donna Dupas, Legislative Manager; and Lynn Merry, Senior Committee Clerk

1410-04  
 Report -  
 Planning

xref: 2860-25  
 Tudor  
 Avenue/Sea  
 View Road

**2785, 2801, 2811, 2821, 2825, 2831 TUDOR AVENUE AND 2766, 2810 SEA VIEW ROAD**

Report of the Director of Planning dated February 15, 2017 recommending that Council endorse Option 1 to not support the request to remove the properties from the Environmental Development Permit Area (EDPA) for the reasons outlined in the report.

In response to questions from Council, the Manager of Environmental Services stated:

- Saanich has one registered professional biologist and two biologists who are not registered professionals on staff.
- An external biologist provided a report to staff in relation to this application.
- The EDPA guidelines and the draft guidelines for consulting biologists have been made available when requested.

**APPLICANT:**

K. Cuddihy, Tudor Avenue, presented to Council and highlighted:

- Protecting biodiversity is important; it is also important to work to improve the EDPA Bylaw through the review process and get it right.
- The application to remove the properties from the EDPA is not about challenging the EDPA; it is a request to update the mapping in the EDPA Atlas.
- The biologist that attended the properties advised that there are no longer terrestrial herbaceous on the properties because they are overrun by invasive species.
- Any restoration attempts would take many years and many plantings to cover the portions of exposed soil that would result from the removal of invasive species.
- Although there are some instances of native species on the properties, it is absurd to think that the properties could be restored; the financial impact would be insurmountable.
- The EDPA has a financial impact on property values and is dividing the community; protecting the environment should bring the community together.

T. Lea, on behalf of the applicant, stated:

- Almost all properties in Saanich have restoration potential; field verification and assessments confirm that terrestrial herbaceous sensitive ecosystems no longer exists on the properties although one property has a small amount of Twisted Oak Moss.
- There are very few individual native species remaining on the properties; invasive species dominate both the shrub and herb layers.

- Native species occur as scattered individuals or in small amounts, and some spots have a dense cover of native moss that are still in good condition; the majority of these areas have a fairly dense invasive grass cover intermixed with the moss cover.
- The vegetation on the properties is similar to the Coastal Bluff except there are less native wildflowers.
- Historically, the property was used for sheep; sheep are one of the biggest destroyers of ecosystems.

\*\*\*\*\*

Councillor Plant entered the meeting at 8:07 p.m.

\*\*\*\*\*

- Based on the EDPA guidelines, the Provincial standards for Ecosystems at Risk and Federal Sensitive Ecosystems Inventory standards, it is his opinion that there are no sensitive or at risk ecosystems on the properties.
- Saanich should consider providing incentives to property owners for restoration and to preserve these valuable sites.
- Saanich should consider using natural restoration practices on municipal properties; this may promote the involvement of neighbouring property owners.

In response to questions from Council, Mr. Lea stated:

- Ms. Grau's report states that there may be a terrestrial herbaceous that has restoration potential but a considerable amount of work would be needed for restoration; the properties are covered with invasive species and are in poor ecological condition.
- In order to see the progression of species, three or four site visits should take place starting in the early part of the year.
- It is his choice not to charge for his assessments as he feels strongly that the EDPA is not being applied correctly.
- There was a small patch of native grasses on one property on Sea View Road.
- The mapping was done through aerial photos; field verification was not done.

**PUBLIC INPUT:**

J. Evans, Tudor Avenue, stated:

- Restoration could be very costly and could take many years of work to return it to its natural state; the removal of invasive species would result in exposed soil which would require plantings.
- There is no intention to subdivide these properties; it is important to have a responsible and fair EDPA.

I. Iazard, Sea View Road, stated:

- The buffer zone on their property goes through their flower bed and swimming pool; this needs to be corrected.
- There are invasive species on the public pathway adjacent to their property; Saanich needs to maintain its own properties in terms of removal of invasive species.

E. Dahli, on behalf of the Cadboro Bay Residents Association, stated:

- The Association supports the intent of the EDPA but have the following concerns: insufficient public consultation, loss of property owners' rights, reduced property values, the bylaw does not address the damage being done to sensitive ecosystems by deer, lawns and gardens adjacent to Garry oak trees

should not be classified as sensitive ecosystems, there is a need for field verification, the responsibility for preserving sensitive ecosystems should not be borne by property owners, and the EDPA Atlas and mapping are incomplete, inaccurate and out of date; more Planning staff are needed to address these issues.

- A registered professional biologist did a field verification of the properties; no sensitive ecosystems were observed.
- Removing the properties from the EDPA is supportable.

G. Tripp, Cordova Bay Road, stated:

- The EDPA financially impacts property owners; there is a need to protect the truly sensitive areas.
- It is important not to utilize the limited resources available on marginal properties.

J. Barrand, Treetop Heights, stated:

- The property owners went through the proper steps to apply to remove their properties from the EDPA; there are no sensitive ecosystems on the properties.

Y. Zanatta, High Street, stated:

- She questioned the name of the biologist that Saanich hired and if that person was a registered professional biologist; it is concerning that Saanich would challenge the expertise of the registered professional biologist who provided the report on behalf of the property owners.
- It is also concerning that Saanich is accepting recommendations from a non-registered biologist and who has not done field verification.

M. Mitchell, Kentwood Terrace, stated:

- There is concern with the EDPA process; it has been advertised that if a property does not have a sensitive ecosystem on it, property owners can apply to have it removed from the EDPA.
- Now, staff are advising that if there is a potential for restoration, the property would not be eligible for removal.
- There is potential that any property in Saanich could be restored.
- Selected home owners appear to be paying to protect the environment; Saanich could look at ways to provide relief to home owners.

T. Bijold, Rainbow Road, stated:

- Staff's recommendations are based on information from non-professional biologists who have never set foot on the properties; the property owners have submitted a report from a registered professional biologist as required by the EDPA Bylaw.
- The properties were included in the Bylaw in error and without field verification; without field verification, there may be areas that have sensitive ecosystems that are not being protected.
- The property owners have followed the proper application process.

J. Kushner, Tudor Avenue, stated:

- The application process for removal from the EDPA is unclear and unreliable; it needs to be improved.
- This application could provide the means for clarification of the process in a manner that could be applied fairly to all property owners in Saanich.

## K. Harper, Bonair Place, stated:

- There have been no changes to the subject properties over the last 50 years.
- The EDPA states that properties can be removed if there are no sensitive ecosystems on them; mapping can be amended if corrections are needed.

## C. Thomson, Prospect Lake Road, stated:

- Development of the EDPA is similar to what occurred with riparian zones; riparian lands are protected even if they are on private land in order to maintain stream ecosystems and the species that live in them.
- Council should wait to receive the research and reports currently underway before they consider removing properties from the EDPA except in cases where there is hardship or where there are mapping errors.
- This has been a challenging and divisive process; the EDPA has not negatively affected property values.
- It would be ideal to remove invasive species from parks but it would be costly to do so.
- Incentives for property owners should be considered; it is the hope that the consultant's report will guide Saanich in making decisions for the greater good for future generations.

## B. Morrison, Woodhall Drive, stated:

- Professionals should not be criticized for providing free services; codes of ethics require that professionals be responsible for their work.

## L. Husted, Cyril Owen Place, stated:

- Restoration is a lengthy process; removing properties from the EDPA while the review process is being undertaken is not supportable.
- Exemption 14 is not applicable unless development is being considered; staff must do their due diligence when reviewing biologists' reports.

## A. Bull, Wilkinson Road, stated:

- The EDPA does not state that restoration is required; the *Local Government Act* states that there is only a requirement if there is an existing natural environment that is damaged during development.
- It is troubling that staff are not supporting reports from registered professional biologists; the property owners have followed Saanich's application process for removal of the properties from the EDPA.
- There is a need to treat all property owners fairly and consistently; the EDPA has created conflict within the community.

## P. Haddon, James Heights, stated:

- It is hoped that the consultant's recommendations will guide Saanich in terms of best practices for an effective and fair EDPA.
- The properties may have adequate ecological value to remain in the EDPA; it is appropriate to keep the properties in the EDPA until after the consultant's report is received.
- Reasonable efforts in removing invasive species results in native plants growing back.

## B. Kerr, Ireland Court, stated:

- The EDPA has divided the community; there has been no information provided that shows the presence of any native species on the properties.
- The report from the applicant does provide sufficient information to evaluate.

P. Foreman, Parker Avenue, stated:

- Removing the properties from the EDPA is supportable; the current EDPA is arbitrary, discriminatory and unfair.

### **COUNCIL DELIBERATIONS:**

In response to questions, the Manager of Environmental Services, stated:

- The biologist that prepared the report on the subject properties for the municipality is Moraia Grau; she was a registered professional biologist but let her professional standing lapse because she was anticipating retirement.
- Standard practice would be that biologists would provide field notes and species lists; Mr. Lea did not provide maps, notes or species lists because he believes they are not necessary if the biologist determines there is no sensitive ecosystems on the properties.

In response to questions, the Chief Administrative Officer stated:

- The EDPA is a schedule within the Official Community Plan (OCP) Bylaw in relation to a development permit area.
- Removal from the EDPA is not a professional reliance process.
- The application for removal of the properties on Tudor and Sea View do not meet the requirements of Exemption 14 of the EDPA Bylaw, therefore the request to remove the properties is considered an amendment to the OCP Bylaw.
- There is a legislative statutory process that must be adhered to when considering amendments to bylaws; that process requires staff to do their due diligence and provide information to Council to make a decision.
- There was a statement in the staff report that property owners did not allow staff to attend the property; in actual fact, there was no opportunity for staff to attend the property.
- The applications are requests to remove the properties from the EDPA Atlas, not about correcting mapping errors; mapping errors have been corrected on a regular basis by staff through field verification.
- Previously, Council directed staff to produce an application form for residents who wished to have their properties removed from the EDPA Bylaw; it is available on the website.
- Professionals may not provide field notes and species lists because they may feel that their reports address their conclusion clearly.
- There may be some confusion between the processes for exemptions under the EDPA and applications for removal of properties which require an amendment to the OCP Bylaw.
- Staff are no longer comfortable providing recommendations in relation to the EDPA therefore external consultants have been engaged.
- Staff are trying to provide Council with the best possible analysis and information to make decisions.

Mayor Atwell stated:

- The process is subjective; it may be helpful to have a format that would assist Council with making a decision.

Councillor Plant stated:

- Although the intent of the EDPA is supportable, it is confusing.
- Temporarily removing all single family zoned properties from the EDPA until the consultant's report is received may be appropriate.



In response to questions from Council, the Chief Administrative Officer stated:

- The correct terminology would be to suspend the application of the EDPA; there would be no change to the mapping or the bylaw until such time as the recommendations from the consultant are received and Council would have to direct staff how they wished to move forward at that time.
- The EDPA is a development permit area; there is no impact on single family zoned properties within the EDPA where development is not being proposed.
- Suspending application of the EDPA may relieve the concerns of residents in relation to the impact of the EDPA on their properties.

Councillor Haynes stated:

- The process has been divisive and time consuming and the intent of the EDPA is confusing.

Councillor Derman stated:

- There is concern that the public were not notified that Council would be considering suspending the EDPA or not be considering future applications for removal from the EDPA; the public should be given an opportunity to provide feedback.
- It is unclear what a temporary suspension would do for home owners; if a property owner comes forward with a development proposal, there would be no protection for sensitive ecosystems.

Councillor Wergeland stated:

- The process has been divisive and confusing; the EDPA should clearly state what needs to be preserved and why and outline the responsibilities of property owners to maintain and restore their properties.

Councillor Brice stated:

- Suspending the EDPA temporarily may give some measure of relief to property owners.

Councillor Sanders stated:

- Suspending the EDPA would mean that there would be no environmental protection; development has always been looked at through an environmental lens.

Councillor Murdock stated:

- It is concerning that the public has not been given the opportunity to provide input regarding the temporary suspension of the EDPA; there is also concern about how the EDPA would be reinstated.

In response to questions from Council, the Chief Administrative Officer stated:

- A suspension of the application of the EDPA would include all aspects of the development permit area including exemptions and mapping changes.

Councillor Brownoff stated:

- The consultant's report may include incentives and should bring comfort to property owners; she understands the concern about the amount of time spent reviewing EDPA applications where development is not being considered.
- Council has directed staff to review development applications through an environmental lens.

**Motion:** **MOVED by Councillor Plant and Seconded by Councillor Haynes: “That all single family zoned properties be exempted from the Environmental Development Permit Area (EDPA), and notwithstanding this exemption, if an application is received to rezone or subdivide a single family dwelling zoned property, the EDPA Guidelines would still apply.”**

In response to questions from Council, the Chief Administrative Officer stated:

- The motion does not address the application for removal for the properties on Tudor and Sea View or the applications that are in process.

Councillor Plant stated:

- Adequate public notification has taken place; removal of the properties on Tudor and Sea View must be addressed.

Mayor Atwell stated:

- Property owners have made application to have their properties removed from the EDPA; the motion protects Environmentally Sensitive Areas.
- Further discussion in relation to the EDPA will take place once the consultant’s report is received.

**Motion:** **MOVED by Councillor Derman and Seconded by Councillor Haynes: “That the motion be amended to add “temporarily” and further add “until Council receives the report from Diamond Head Consulting and makes a decision on the future of the Environmental Development Permit Area (EDPA)”.”**

In response to questions from Council, the Chief Administrative Officer stated:

- The motion may provide relief to property owners as to the application of the EDPA; applications for removal from the EDPA may still come forward.
- If a property owner came forward with an application to rezone or subdivide within the EDPA on the basis of the motion, the EDPA would still apply; if the application was not based on rezoning or subdivision, the EDPA would temporarily not apply.

**The Amendment to the Motion was then Put and CARRIED**

Amended Motion:

“That all single family zoned properties be temporarily exempted from the Environmental Development Permit Area (EDPA), until Council receives the report from Diamond Head Consulting and makes a decision on the future of the EDPA, and notwithstanding this exemption, if an application is received to rezone or subdivide a single family dwelling zoned property, the EDPA Guidelines would apply.”

Councillor Murdock stated:

- Removing the development permit from consideration would leave a gap in the intent of the application of the EDPA; the EDPA would only apply to rezoning or subdivision.

In response to questions from Council, the Acting Director of Planning stated:

- Development permits for form and character do not apply to single family dwellings; if a rezoning application comes forward, only the rezoning aspect of the application is considered; subdivision applications are the responsibility of the Approving Officer.

In response to questions from Council, the Chief Administrative Officer stated:

- The EDPA would not apply for other applications for development on a property such as deck permits, renovation permits, or building permits; the EDPA would still apply for significant development applications.

Councillor Derman stated:

- The EDPA protects properties during the smaller type of permit applications such as for decks and sheds; approval of the motion would mean there would be no protections in these cases and the possibility of sensitive ecosystems being damaged.

Councillor Wergeland stated:

- It is not likely that property owners would destroy sensitive ecosystems on their properties should this motion be approved.

Councillor Murdock stated:

- There are possible implications to sensitive ecosystems; it may be appropriate for staff to prepare a report looking at the pros and cons of temporary removal and have a meeting where the public can provide input on the item.

Councillor Derman stated:

- Prior to the creation of the Tree Bylaw, properties were clear cut; there is the potential that sensitive ecosystems would be destroyed.

Councillor Brownoff stated:

- The staff report from March 2016 in relation to removing properties from the EDPA states that there is the potential risk of properties being legally cleared of natural features before development permit applications are received making the EDPA ineffectual.

Mayor Atwell stated:

- It would be appropriate to rescind the bylaw.
- The municipality is still in the learning phase in terms of what is in our environment and how to address it during development.
- The municipality relies on the public to maintain its own properties.
- The motion addresses the need to rebuild the public trust.

**The Main Motion, as Amended, was then Put and CARRIED with Councillors Brownoff, Derman, Murdock and Sanders OPPOSED**

**MOVED by Councillor Haynes and Seconded by Councillor Brice: "That staff be requested to prepare an amendment to Plate of Schedule 3 to Appendix "N" of the Official Community Plan Bylaw, 2008, No. 8940 for the removal of the Terrestrial Herbaceous Environmentally Sensitive Areas and associated buffer at 2785, 2801, 2811, 2821, 2825, 2831 Tudor Avenue and 2766, 2810 Sea View Road from the Environmental Development Permit Area Atlas, and that a Public Hearing be called to consider the amendment."**

Councillor Derman stated:

- A case has not been made that the properties should be removed from the EDPA.

**MOVED by Councillor Plant and Seconded by Councillor Murdock: “That the meeting continue past 11:00 p.m.”**

**CARRIED**

Councillor Brice stated:

- The applicants have made the case to remove the properties from the EDPA; efforts should be made to protect the properties that are the highest priority; there may be the potential to lose the public confidence if the EDPA is not addressed.

Councillor Haynes stated:

- There is the possibility that there are mapping errors in the EDPA Atlas; it is important that field verification takes place to correct mapping errors.

In response to questions from Council, the Chief Administrative Officer stated:

- The motion to temporarily exempt single family zoned properties does not affect the motion to amend the Official Community Plan Bylaw.

Councillor Sanders stated:

- It may be premature to make decisions before the consultant’s report has been received; it is unclear whether there are ESAs on the properties.

Mayor Atwell stated:

- There is a difference of opinion on whether or not ESAs are on properties; it is difficult to make a decision when field verification has not taken place.
- The process is flawed; it may have been helpful to see the report that outlined the reason why these properties were put into the EDPA Atlas originally.

**The Motion was then Put and CARRIED with Councillors Brownoff, Derman, Murdock and Sanders OPPOSED**

Adjournment      On a motion from Councillor Derman, the meeting adjourned at 11:15 p.m.

.....  
CHAIR

I hereby certify these Minutes are accurate

.....  
MUNICIPAL CLERK