

NOTES OF A MEETING
HELD TUESDAY, JANUARY 10, 2006
AT OTTER POINT FIRE HALL

PRESENT:

Dale Wall, Assistant Deputy Minister, Ministry of Community Services
Tanya Kaul, Local Government Structure, Ministry of Community Services
Ken Pungente, Otter Point & Shirley Residents & Ratepayers' Association
Arnie Campbell, Otter Point & Shirley Residents & Ratepayers' Association
Kenny Jones, Otter Point Fire Department
Joel Nelson, Sheringham Estates Water Users
Dominique Bernardet, Shirley Volunteer Fire Protection Society
Terri Alcock, Shirley Education & Action Society
Joan Hemphill, Kemp Lake Waterworks
Kevan Brehart, Kemp Lake Waterworks
John McCrea, Otter Point Fire Department
Chuck Minten, Shirley Community Association
John Horgan, MLA
Terry Harrison, Assistant to John Horgan
Erik Lund, CRD Director
Pat Zogar, recording secretary

The meeting was called to order at 12:30 p.m., Ken Pungente in the chair. Ken briefly reviewed the history leading up to this meeting and acknowledged John Horgan for his part in bringing it about.

Each member introduced his/herself and their community affiliation to the meeting.

Ken invited a round-table briefing by each group outlining how the boundary extensions affect their group.

Kevan stated that Kemp Lake Water District's main concern is the watershed. He stated that Kemp Lake is the only source of drinking water for many area homes and he is concerned about a split in jurisdictions surrounding the lake.

John McCrea said the Otter Point fire department has two concerns:

1. The tax base being eroded makes it difficult to plan for the future of the fire department, including the regional training centre on site. At a recent Emergency Preparedness meeting, the CRD predicted tax increases as a result of increased costs, and the CRD may reduce funding.
2. Access. Although the annexed properties appear to be continuous to Sooke, the Highways department will not permit access from Highway 14. Access will be from Carpenter Rd. and Otter Point Rd. and the Sooke Fire department would need to travel through Otter Point in order to provide service to new development. This would add to existing confusion over which fire department is responsible for various areas.

Chuck reminded us of the recent referendum re joining Sooke and stated that the 80% NO vote was a clear indication that the majority of residents enjoy a rural lifestyle. Annexation of the Montague property indicates that Sooke is not overly concerned with annexed property being

contiguous. This type of boundary extension amounts to a hostile takeover and is simply not appropriate.

Joen reviewed the history of the small, 35 year old water system which is at full capacity and has very little success over the years, with any level of government, in negotiating improvements; in fact, the provincial government is holding some of the Water Users' money in trust which they cannot access. There is confusion regarding jurisdiction of various levels of government. He said his research indicates that utilities far much better if included in a municipality, that the Shirley Fire Department has similar concerns to Otter Point's and this indicates a need for a change of governance.

Terri said that even though Sooke's boundary extensions are into Otter Point and East Sooke, Shirley residents voted 82% against amalgamation with Sooke and see these and the Silver Spray annexation of non-contiguous property as an erosion of the democratic process. The overwhelming feeling is that we want to be rural and there is a feeling of insecurity. People are asking, "When will it stop?"

Dom echoed the Otter Point Fire Department's concerns re tax base. Shirley Fire Department has just ordered a new truck with a 5 year financing commitment.

John Horgan remarked that it is important to say categorically that he believes the boundary extensions should be denied and a governance study undertaken. He pointed to the referendum with a 59% voter turnout which rejected amalgamation by over 80%. He stated that his predecessor should have taken the issues to the Ministry at that time; that timing has conspired against the residents of rural areas. He felt that the dividing of a lake is an untenable position

Arnie

1. Kemp Lake is the only source of water for 2/3 of Otter Point homes (approximately 425). It is also the only source of emergency potable water for the broader Sooke district and has a strategic purpose in any emergency plan.
2. In 1999, the Sooke Incorporation review looked at a boundary to include the Butler lands and crown lands behind Broom Hill, and decided against this. At that time, the Otter Point Residents & Ratepayers Association, Otter Point Fire Department, Kemp Lake Water District and the Planning Commission took positions in opposition to splitting Kemp Lake and the Ministry instructed Sooke against this. In 2001 a second request from the Butler family was turned down by the ministry. Arnie asked, "What is different now?"
3. Green space and rural lifestyle. Many businesses depend upon this remaining a rural area. At some point, the city has to stop and the country has to begin.
4. Every time a little more land is taken, pressure is put on the Regional Growth Strategy. If we have no say in that, it is grossly unfair to the citizens who are affected.
5. It is reported that the Ministry supported the Butler application because they have no fire protection. Arnie stated that they have *chosen* to be excluded.
6. Arnie drew attention to the map showing the Butler, Montague and Wilson annexation and stated that the Butler annexation is contrary to all land use planning. It is simply incorrect, he said, to create fingers of land (that intrude into another community).
7. Individuals' desires to develop large parcels of land should not drive land use planning. The community good must come first.

8. Arnie asked, “Where does it stop?” Not only are pieces of land being sliced off but we are now seeing “leap-frogging.” He asked, “what if the 557 acres behind the Otter Point Fire Hall, which has recently been sold by TimberWest to a developer, wants to join Sooke?”
9. Boundary extensions should not impede the resolution of governance decisions. If the annexations are approved now, it would impede the governance study.

Ken sees the annexations as the beginning of a split in the community and does not want to see a repeat of the Silver Spray debacle in East Sooke. He said the communities need to work together to plan the infrastructure to accommodate the communities’ vision. He stated that Sooke is currently installing sewers to clean up the Harbour - blaming contamination on too much density: they don’t even have storm sewers in place so it is not appropriate to be expanding that density.

Dale Wall’s Response

The province is responsible for dealing with boundary extension issues and incorporations in the Provinces. In places where issues are challenging, there are recurring issues that apply throughout the province and many of these have been voiced by the participants at this meeting.

Typically, there are three parties with three perspectives:

1. The municipality, which may or may not want to annex a property
2. The Individual property owners which most often do want to be annexed
3. Other interested parties

The process issue for the ministry is how to balance these three perspectives. The ministry does not make municipal boundary decisions; these are made by the people. The ministry tries to find the will of the people.

The ministry is constantly dealing with small boundary extensions to municipalities and improvement districts.

The criteria established in 2001 directs that where a municipality and an owner agree to annexation, the Ministry tries to find ways to mitigate the effects for the 3rd parties by way of provisions written into Letters Patent.

He stated there are *always* objections to every decision. There are always 3 legitimate positions and the ministry’s challenge is how to weight the balance and manage the interests of the third parties.

In this case, he stated the ministry did not reject the Butler application in 2001, but put it on hold pending the referenda planned for Sooke.

He said the ministry distinguishes between governance issues and land use issues.

He said that in B. C., there are lots of urban municipalities that contain area of rural character and it is possible to have urban development within unincorporated areas.

Dale acknowledged that some very valid points had been raised and said that the key piece that needs addressing is Kemp Lake and protection of the water quality. He reported that the Letters Patent would include enhanced language to require Sooke to consult with the CRD for any development and suggested that he would add the provision that if the Board of Trustees of the Kemp Lake Water District is not happy with the level of consultation, they could apply to the Ministry and the Inspector of Municipalities would require completion of a study before the development bylaw could be approved.

Questions to Dale Wall

John Mc asked how we can stop expansion of Sooke from eroding Otter Point’s tax base.

Dale replied that he does not disagree with John. He agreed that it is very hard on communities where this happens a lot and said that the way to address it is to find some agreement between

the municipality and the regional district for criteria for extensions. This requires good faith between the municipality and the regional district and believes that the relationships here are still civil enough to do that and said that he would be happy to try to assist that process.

Kevan stated that, in terms of process, the referendum a year ago should have resulted in a moratorium for a period of time. He felt that language of the proposed letters patent regarding the Kemp Lake watershed was not strong enough, using “should” language instead of mandatory language.

Dale replied that on the issue of a moratorium following a referendum, there is a difference of perspective. He stated that often there is “unfinished business” following a major incorporation (such as Sooke’s) and that smaller matters get put on hold and are dealt with later.

Dale read from the proposed revised Letters Patent which use very strong “must” language and Kevan agreed that this answers his concerns in this regard.

Terri said that the referendum said No to Sooke, but did not say no to some other form of municipal government and that the residents have not been given a chance to come up with other alternatives. She stated she is getting the impression that the decision has already been made and asked if there is a possibility that Dale would hear and respond to concerns.

Dale replied that the decision has not been made but a lot of work has been done. He has however, not advanced the issue beyond his office.

Terri asked if our communities could be given a chance to find another resolution so we’re not back with these same kinds of problems a year from now. She stated that the annexation decision waited for the Sooke study, could it not wait for another study.

Ken stated that he didn’t know if that was a fair question to ask Dale and requested that the participants stick to the topic of annexations.

Chuck commented that he doesn’t really trust the assurance of increased requirements to protect the water supply. He gave an example in Shirley where no one complied with the stated requirements and the fire department had no recourse.

John H. said that he was pleased the file is still in Dale’s office.

He said his notion of “unfinished business” is more “What do we do with remaining areas?” and not “How do we bring in more lands?”

He said he appreciated that the ministry is trying to be “Solomonesque” but “you can’t divide a baby, and you can’t divide a lake.”

He said he thinks we can find a way to accommodate the landowners within a new structure.

Kenny asked Dale to look out the window and pointed out that he could see trees on the land which is proposed to be annexed to Sooke. And yet, they are 8 Kilometers from Sooke. Geographically, annexation does not make sense.

Arnie talked about precedence

1. He said that the Sooke Incorporation study of 1999, to which the province agreed, wanted both sides of the Sooke River included in the municipality because it was important to have control of the river. If the province agreed to that request, then why are they moving to split control over the Kemp Lake watershed?
2. He said that if development of Sun River continues up the path of DeMamiel creek, the next likely parcel of land would be about a 1000 acres of crown land which is presently in Otter Point

3. He asked for clarification of the letter from Derek Trimmer regarding Regional Growth Strategy and Urban Containment Boundary and asked, "Is the Regional Growth Strategy being changed? Currently it defines the Urban Containment boundary as the current Sooke Municipal boundary.

Dale replied. All we would say is that an amendment to the Urban Containment boundary requires a decision by the CRD board." (i.e. not the ministry and not the municipality)

Arnie asked, "What is the implication of the fact that Sooke did not submit its Urban Containment Boundary by the deadline?"

Dale reported that the Regional Growth Strategy is adopted by the CRD board and accepted by each municipality; therefore it is very hard to amend. The Regional Context Statement is adopted by the municipality and signed off by the Board.

Sooke has not yet adopted a Regional Context Statement. There is nothing the Ministry can do; it does mean that Sooke takes on certain legal risks re zoning bylaws and it has more flexibility. Dale acknowledged that this situation is worth giving serious thought to.

Ken stated that we've watched Sooke's incorporation and history and that almost every development application in Sooke is "rubber-stamped." How can we assure the people that the Butler lands won't be rubber-stamped for development?

Ken pointed out that OPSRRA and the other represented groups have so far remained low-key and have never "gone public" but pointed out that "if people are deprived of the democratic process, you invite public anarchy. This could divide this community that badly." Ken asked how often in other areas, municipalities take lands from municipalities.

Dale responded that it is extremely rare for one municipality to take land from another municipality but it is very common (25-30 per year) for a municipality to take land from an unincorporated area. He said that most are not controversial and that "it's designed that way." He said that municipalities existed long before Regional Districts and that for the most part, Municipalities are created by the people and Regional Districts are created by the province to allow municipalities to work together and provide some lesser level of self-governance to unincorporated areas, and that regional districts are much more diffuse.

A short break was announced.

The meeting resumed at 2:12 p.m. and again Ken asked for round-table presentations, this time on the question of governance.

Dom stated that the Shirley Fire Society is looking for some form of governance that offers independence and does not alienate or compromise the safety of citizens.

Terri said that residents voted NO to amalgamation with Sooke, not to being part of a municipality. She said we need breathing space to have a study with an open community process. She said that as a member of the JDF Land Use Committee she recently attended a meeting of Metchosin council to discuss its proposal of a Regional Alliance. She said Metchosin is feeling threatened by development on two boundaries. She said the current CRD model of joining urban and rural areas is not working for the rural areas as there is pressure to adopt urban lifestyles. The challenge will be to structure the Alliance so member communities retain the right to make local land use decisions. The goals are: 1) establish

borders, 2) share services such as policing, planning, building inspection, bylaws, emergency planning etc. and 3) decision making on such issues as land use, parks, economic development etc. Mayor Ranns will be making a presentation to Minister Chong, and the Metchosin Council and the JDF Land Use Committee will meet again to discuss her response. They are currently soliciting input from community members and response has been very positive.

Joen said that in an unincorporated area, all issues are interrelated and one elected regional director must deal with the CRD board from other municipalities. He said that, even though we have elected commissions etc., the people feel ineffective and that there is no real democratic process. He said we need more representation or we'll be "whittled away" by repeated boundary extensions. The only way to be given choices is a governance study. He said, "We need change and it needs to start now."

Chuck said that in 1862, Victoria became a municipality and established guidelines. Those guidelines have been added to by the Province and now there are extensive guidelines for incorporation. Chuck has studied these and is convinced that the area qualifies and we need a study to see if it is financially viable. He said that, as the province is not encouraging new small municipalities, he endorses the Rural Alliance proposal which is new, but reminded us that Regional Districts were new, too, a few years ago. He feels we need a study.

Kenny said that the fire department needs the security of our tax base. He said the community is beautifully run by volunteers and would be "the best of times" except for the Municipality of Sooke on our doorstep. He said Otter Point has stuck with the Sooke Development Plan but Sooke has not. Otter Point hasn't left Sooke; Sooke has left Otter Point.

Kevan agreed that the issues had been "pretty much covered." He said it is the same issues for all of us; we need stability and we need a study."

John H stated that the decision is not his to make, but his message to Dale is that self-determination is overdue. He said the participants are mature individuals from a mature community, with a plan and a vision.

He said the Rural Alliance proposal is deserving of study.

He is impressed with the "quiet contemplative manner" in which OPSRRA has operated and said that needs to be recognized and rewarded. He said he has no doubts that this group could, alternatively, "could make lots of noise."

Arnie said that "it is a given" that OPSRRA requests a governance study. We need to know the Ministry's Vision for the area west of Sooke.

He said we are often left out of the loop particularly relating to the Regional Growth Strategy. He said we need to have control over things like growth and development. We don't have our own Approving Officer for subdivisions for example, but are in the territory of the subdivision Approving Officer from Nanaimo. There is no requirement under legislation, for us to be consulted in decisions that affect us. He pointed out that there are 1047 voters, (31% of the Juan de Fuca electoral area) who live in View Royal and yet are lumped in with Otter Point, Shirley etc. under the governance of the Regional Director. He pointed out that there is considerable (17% of the land base in Otter Point) Crown lands in the district and it is important that the community have some control if that land and logging lands are disposed of. He asked, "Will Blueberry Flats be the next gravel pit?"

Ken agreed that the Regional Director must manage a fractured community which includes Willis Point, parts of the Malahat etc.

He agreed that there seems to be unanimous interest in the Rural Alliance concept but he said that we need a study and we need options.

He said that although the Ministry has said it does not want any more small municipalities, the proposed population (approx. 2,000) is more than in the Highlands (approx. 1500) so we need a study to see if we can do it.

Dale responded to Arnie's request for the Ministry's Vision for the area by saying that the ministry's mandate is not to design or to impose. Municipal Affairs and Community services is about self-determination and they want to work with municipalities.

He stressed that it is relatively unusual for a community this size to feel very strongly about incorporation and pointed out that the spread-out nature of the area does not fit the picture of a prime prospect for incorporation.

He said his interest is to exercise appropriate due-diligence at the front end. He gave examples of Salt Spring and Gabriola Islands where incorporation studies were recently completed and the vote failed. In the process, the communities split and he feels some responsibility for starting the processes that didn't succeed.

He felt that a study in this case would be very straight-forward as much of the work has already been done. He said the really challenge is the depth of community engagement.

Areas where he would like further details:

1. Gauging the depth of community support
2. The low population and spread-out nature indicates relatively expense costs on a per capita basis
3. He needs further time to study and think about the implications of the Rural Alliance option

He said that he can see options within the Regional District structure that might help address some of the particular problems of this area.

He felt that the community leaders in this room have to have more discussion with the Ministry and the CRD on the nature of the options and the best way to structure this electoral area and needs to compare incorporation against making the electoral area work as efficiently as it can. He said people will expect at least that level of choice.

Further Questions to Dale

Kevan expressed the opinion that it was wrong to look at incorporation as a success and not incorporation a failure. The study will be a success even if things stay the way they are. He said the 50% turnout to vote 80% NO indicates the level of community engagement. He said we should not be having an "incorporation study," we should be having a "governance study." He suggested that voters should not have to vote "yes" or "no" but should have the opportunity to rank each of the options for a weighted vote.

John H remarked that there was ½ hour remaining in the meeting and the group wants an outcome. He asked, “What do we need to tell you to receive approval and funding.” He said the group is no closer to an outcome almost a year after a resounding referendum. He asked, “how do we satisfy your requirement, and where’s the money?”

Dale responded that money is not the issue here; that the up-front work is in getting some sense of the level of commitment. He said that the key thing is “What is the nature of the options to be looked at? Was the 80% to say, “We want to do more work” or “we want to be left alone”? He said that most communities don’t want to proceed so soon after a vote.

He said he needs to know

What kind of support is there?

What are the options to be studied?

How do we design a study that will end in a satisfactory resolution?

Kenny said that the 80% was a result of a very astute political campaign by the people in this room. He said it happened because Sooke wasn’t willing to look at the fine details, that all studies have been looked at from Sooke’s point of view only.

Terri said that the Sooke study “did not study our issues in spite of our attempt to insert ourselves. Around this table are people from every major organization in our communities and we are telling you that the people want a study. If border extensions were not an issue, many people wouldn’t care, but that process is happening.” She said the Regional Director has attempted to be effective through elected committees etc. but there are concerns, and a governance study is necessary. She stated that the NO vote was not “now leave us alone” it was “we don’t like that option; we want others.”

Arnie said that the Ben Mar study 5 years ago was the attempt to answer Dale’s concerns. It outlined options but the CRD board said that amalgamation with Sooke and the Status Quo was the only options. He asked if there is any guarantee that the CRD won’t again veto options.

Dale responded that the CRD is a partner and will have a role in the decisions.

Arnie asked whether the letter of December 13 from minister Chong is still effective.

Dale replied that he will have to report to the minister on today’s meeting. He said that, based on his experience in other parts of the province, this is going to be a very tough community to incorporate because of size, disbursement, etc. He said that communities can overcome that if they really want to, but it will take a deeper level of commitment.

He admitted he is a little skeptical and wants to avoid moving too deeply, too quickly. He said he wants to consult with other parties who will be affected and wants to take small steps, being careful with the nature of the options etc.

Ken said that he sees huge community support right here, and doesn’t know what more Dale requires. He said OPSRRA represents 300 people and SEAS represents 100 people. He said that a lot of people were interviewed during the Ben Mar study which was an independent study and that only incorporation or the Rural Alliance would be supported by the people represented here today.

John H commented that the objective of the meeting was for Dale to get the depth of commitment. It's been 11 months since the Sooke decision referendum, and large chunks of land have been carved off, the drinking water has been compromised. He said that these reasonable people represent, in fact *are* the community and urged Dale to formulate a plan.

Terri said that the problem with small steps is that they might be too small and too slow to stop the boundary extensions. She asked if there is some way to ensure that the boundary extension decision be delayed until we have a study.

Dale replied that the boundary extension decision is not solely his and he does not believe it will be possible to delay the decision.

John M asked if decisions on future boundary extensions could be held off.

Dale answered positively, saying that he is willing to delay decisions on future boundary extensions. He also said it may be possible to do some work to lay down future guidelines.

Erik suggested that if the ministry delayed signing Sooke's Official Community plans it would be some comfort to this group. He says that zoning goes with annexation. If Sooke has not made its context statement, the zoning of the annexed property would automatically change. In order to change the context statement requires unanimous approval of the CRD Board.

Arnie asked for clarification of how we know when the annexation decision is made and the outcome. He said that if we don't know these decisions, we aren't able to effectively plan alternate action.

Ken adjourned the meeting at 3:25 p.m. with thanks to Dale and Tanya