

## REPORT TO ELECTORAL AREAS COMMITTEE MEETING OF WEDNESDAY, FEBRUARY 09, 2022

**SUBJECT** Request for Governance Study by the Magic Lake Property Owners' Society, North Pender Island

### **ISSUE SUMMARY**

To consider a request by the Magic Lake Property Owners' Society to the Province for a formal governance study that considers the incorporation of Magic Lake Estates as an island municipality.

### **BACKGROUND**

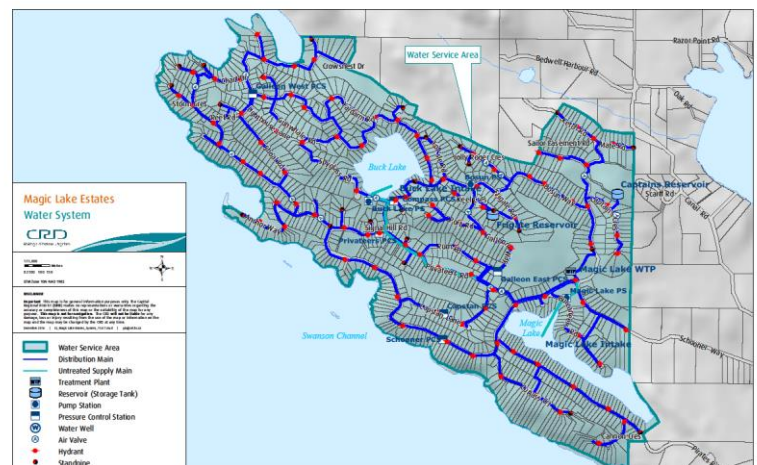
The Magic Lake Property Owners' Society (MLPOS) has identified issues of taxation, service delivery, and local governance and seeks the support of the CRD Board in requesting the BC Ministry of Municipal Affairs issue a Restructure Planning Grant to fund a Local Governance Study. The study's purpose would be to investigate the feasibility of incorporating Magic Lake Estates as an Island Municipality, as defined by the Local Government Act, Section 6. At the October 2, 2021 meeting of the MLPOS, the following resolution was passed:

"... that the membership of the Magic Lake Property Owners' Society (MLPOS), agrees with the MLPOS Board of Directors that the Society, along with other interested parties, will formerly request, through the Capital Regional District, as well as other avenues if necessary, that the Minister of Municipal Affairs "Restructure Planning Grants" as outlined in the government's publications and on its website, fund a formal governance study for our community. And that, the MLPOS will facilitate the formation of a committee to guide the undertaking of the study, along with communications with various agencies."

### **Governance of the Southern Gulf Islands Electoral Area**

Magic Lake Estates (MLE) is a residential neighbourhood on North Pender Island within the Southern Gulf Islands Electoral Area (SGIEA) of the CRD. For the EA, the Capital Regional District (CRD) is the local government along with the Islands Trust, a special purpose agency responsible for land use and conservation within the Islands Trust Area.

Magic Lake Estates is comprised of around 1200 small lots (+/- .5 acre), predominantly occupied by single family dwellings, with a population of approximately 2000 people. (The MLPOS uses a population estimate of 1930 in its proposal).



Developed in the 1960s, the subdivision that created MLE is well known for inspiring the creation of the Islands Trust and the establishment of the Island Trust Act. MLE is still highest density residential development in the Islands Trust Area.

Within the Magic Lake neighborhood there is not a commercial centre, but there is a fire hall, a baseball field, parks, and a marina. Originally serviced by a private water utility, MLE now receives water and wastewater service by CRD through the CRD Magic Lake Estates local area water and sewerage system.

Other services provided by the CRD in Magic Lake Estates (and on all of North and South Pender Islands) include parks and recreation, library services, economic development, emergency preparedness, building inspection, SGI Harbours, and by-law enforcement (animal and noise control). The CRD administers Community Works Fund (Gas Tax) grants on behalf of the Union of BC Municipalities and the Federal Government and issues CRD grants-in-aid for community groups.

SGI political representation on the twenty-four member CRD Board is through the election of one Director for the Southern Gulf Islands Electoral Area (SGIEA). Many CRD services are guided by volunteer commissions such as the Magic Lake Water and Sewer Committee, the Pender Island Parks and Recreation Commission, and EA wide services such as the SGI Harbours Commission and the Economic Sustainability Commission. These Commissions are comprised of local residents to advise the CRD Board on delivery of the service.

Under the Islands Trust Act and the Local Government Act, the Island Trust Council has 26 trustees from 13 Trust Areas (extends as far south as Saturna Island in the SGI to as far north as Denman/Hornby Islands in the Comox Valley Regional District). A Local Trust Committee, consisting of the two locally elected Trustees and Chaired by one member of the Islands Trust Executive Committee of Trust Council, makes land-use and planning decisions for each island.

The North Pender Local Trust Committee is responsible for community planning and land use (Official Community Plans and zoning) on North Pender Island. There is also a Local Trust Committee for South Pender Island (connected to North Pender by a canal/bridge), and as such representation on the governing body of the Islands Trust Council is provided through the election of four Trustees for North/South Pender Island.

In MLE, like in all unincorporated areas of the Province, the Ministry of Transportation and Infrastructure has authority over the roads.

MLE and North Pender are also served by many services provided by volunteer community groups and the private sector. Examples include waste management, social services, medical societies, and community hall societies.

## **ALTERNATIVES**

### *Alternative 1:*

The Electoral Areas Committee recommends to the Capital Regional District Board:

1. That the Board advance the request of the Magic Lake Property Owners' Society to the Ministry of Municipal Affairs to evaluate the local context of the Magic Lake Estates

neighborhood on North Pender Island and request the Ministry consider funding a Governance and Services Study to examine governance concerns within the community and provide options and alternatives to address those concerns.

*Alternative 2:*

1. That the CRD Board not advance the request from the Magic Lake Property Owners' Society for a restructure planning grant to the Ministry of Municipal Affairs.

## **IMPLICATIONS**

### *Restructure Grants*

The Provincial government has some funding for municipalities and regional districts that wish to examine their governance structure with an independent and credible examination of the impacts of governance restructuring. Restructure planning grants may be available to support the following initiatives:

- *Assess existing services and community issues*
- *Study governance options, such as the implications of municipal incorporation or restructure*
- *Undertake the public consultation process associated with incorporation or restructure*

### *Principles of the Restructure Process:*

Restructure processes can be lengthy and complex, and cause division and have other impacts both inside and outside the community. The Province has established the following principles of restructure:

- *The process is initiated and supported by the elected local government representatives*
- *Understanding the problem precedes developing a solution*
- *All sectors of the community, including First Nations and other local governments, need to be involved in the discussion*
- *Changes emerging from the process should be supported by the elected local government representatives*
- *For municipal restructure, the electorate should be well-informed on the implications of change before making a decision*

Based on the restructure principles, the nature of the proposed restructure and on community circumstances, the restructure process generally follows six phases:

1. *Preliminary exploration - responding to signals from the community, local governments make their first contact with the Ministry. The Ministry evaluates the local context and provides general information on the restructuring process.*
2. *Process design - if the Minister sanctions the study process, the Ministry assists the local government with developing terms of reference and restructure planning grants to assist with hiring a consultant with expertise in local governance, services and finance to undertake a study.*

3. *Process initiation - the local government creates an oversight body and hires a consultant. The study is then conducted with the goal of obtaining information on the impact of restructuring on fiscal, political representation, and service delivery issues.*
4. *Community engagement - the study findings are shared with the community and, based on the results and public input, a recommendation is made on proceeding to restructure decision.*
5. *Decision and implementation - local (elector and/or local government) and Provincial decisions are made on whether to restructure, and the necessary documents developed to give the restructure legal effect (bylaw, Cabinet Order, Letters Patent) and implemented.*
6. *The local government(s) adapt to the new structure, which may involve transition or hiring of new staff, reconfiguring service delivery, and revision of local bylaws and community plans. The Ministry may provide some financial assistance with this transition.*

Staff have engaged in preliminary discussions with Ministry staff and received feedback that MLE does not have many of the characteristics that the Ministry would look for in a community seeking incorporation, however, the Ministry advised that the restructure process does not begin with an incorporation study, rather the Province first needs to understand the broader context of the area in question. This is done via a Governance and Services Study. This type of study is designed to educate the community on the nature of its current situation (e.g., who provides services and governance) and to encourage a local conversation about motives for change. This is an opportunity for the community to begin an important and complex discussion about local governance without immediate pressure to decide on a potential outcome. The study would also explore what the community issues are and the possible pathways for solving issues. A study does not necessarily lead to municipal incorporation, as it may identify alternative ways to address community concerns. One of the important elements of restructure work is to educate residents about their current system, its variations and provide local context for alternative local government forms. This process, from drawing up the study terms of reference to completing it, typically takes around 12-18 months.

If the Governance and Services Study indicates however that incorporation may address some of the local issues, and the Electoral Area Director, Regional District Board, and community are in support, the next step would be undertaking a more detailed and focused restructure study. This may take the form of a boundary study (if it is necessary to focus in more closely on a specific area) or an incorporation study. An incorporation study would examine the taxation, revenue, infrastructure and service implications for the CRD and Magic Lake residents. In addition to local government support, there must be a broad base of resident support that is demonstrated through surveys, open houses and community forums before the Province commits funding to undertake such a restructure study, which is likely to take 1 to 2 years to complete. The study would provide residents with a clear understanding of the implications in order to have an informed understanding. An incorporation study would then culminate in an assent vote.

#### *Alignment with Board Priorities*

Advancing the request of the MLEOS supports the CRD Board priority of Accountability and the Corporate Plan Priority 15a: Develop a comprehensive strategy & operational review to reflect the unique needs of electoral areas.

The MLPOS has provided its analysis of the costs and benefits to the residents of incorporating as an Island Municipality. The assumptions and data used for these conclusions need to be evaluated by an independent and credible third party. A clear understanding of the problem needs to be advanced in the context of a detailed review of the current governance system and its challenges. This is the purpose of a restructure study. All sectors of the community, including First Nations and other local governments, need to be involved in the discussion.

### **CONCLUSION**

The MLPOS has asked the CRD Board to advance its request to the Provincial Government for funding a governance restructure study for the community. The Provincial process provides that only local governments are eligible to apply to governance grants, and that Board support is necessary for Provincial staff to reach out and begin preliminary discussions to understand the rationale for the request and undertake an assessment of viability to receive funding for a study.

### **RECOMMENDATIONS**

The Electoral Areas Committee recommend to the Capital Regional District Board:

1. That the Board advance the request of the Magic Lake Property Owners' Society to the Ministry of Municipal Affairs to evaluate the local context of the Magic Lake Estates neighborhood on North Pender Island and request the Ministry consider funding a Governance and Services Study to examine governance concerns within the community and provide options and alternatives to address those concerns.

Submitted by:	Justine Starke, MCIP, RPP, Manager, SGI Service Delivery, Corporate Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

### **ATTACHMENT(S)**

Appendix A: Letter from Magic Lake Property Owners Association



P.O. Box 65,  
Pender Island, BC  
V0N 2M0

Mr. David Howe  
Southern Gulf Islands Electoral Area Director  
Capital Regional District  
625 Fisgard Street  
Victoria, British Columbia  
Canada V8W 1R7

Mr Paul Brent  
Southern Gulf Islands Electoral Area Alternate Director  
Capital Regional District  
625 Fisgard Street  
Victoria, British Columbia  
Canada V8W 1R7

Dear David Howe and Paul Brent:

Re: Magic Lake Property Owners' Society Governance Motion

This is to advise that, at the duly constituted meeting of the Magic Lake Property Owners' Society (MLPOS) Annual General Meeting on October 2, 2021, the membership of the MLPOS passed the following motion:

Moved: Bob Coulson, Seconded: Jean Deschenes

... that the membership of the Magic Lake Property Owners' Society (MLPOS), agrees with the MLPOS Board of Directors that the Society, along with other interested parties, will formally request, through the Capital Regional District, as well as other avenues if necessary, that the Minister of Municipal Affairs authorize "Restructure Planning Grants" as outlined in the government's publications and on its website, fund a formal governance study for our community.

And that, the MLPOS will facilitate the formation of a committee to guide the undertaking of the study, along with communications with various agencies.

The MLPOS has identified what it believes to be benefits to the residents of Magic Lake Estates in the areas of taxation, service delivery, and local governance.

We are requesting your assistance with having the Capital Regional District advocate on our behalf for a Restructure Planning Grant to fund a Local Governance Study of the feasibility of incorporating Magic Lake Estates as an Island Municipality as defined by the Province of British Columbia's Local Government Act, Section 6.

Thank you for your kind assistance so far and for the continuing support you can provide as we go forward with our endeavour.

We are in the process of forming a steering committee to guide this project along. If you haven't received an invitation to take part, you will shortly.

Sincerely

A handwritten signature in black ink, appearing to read 'Bob Coulson', with a stylized, cursive script.

Robert (Bob) Coulson  
President  
Magic Lake Property Owners' Society  
PO Box 65  
Pender Island, BC, Canada, V0N 2M0