



TLC The Land Conservancy

Meeting: ANNUAL GENERAL MEETING
Date: Saturday, November 21, 2015
Time: 1:00 pm
Location: Michele Pujol Room, Student Union Building, University of Victoria.
Voting members present: 44

Motions:

- i) **Motion:** Grant Thornton appointed as auditor. Moved by Vicky Husband. 2nd. Peta Alexander Carried.
- ii) **Motion:** That the Bylaws of TLC The Land Conservancy of British Columbia be amended by adding the words “**or by proxy at a convened meeting**” to 1.01(i) and removing “at the general meeting of which notice specifying the intention to propose the resolutions as a special resolution has been duly given”. Moved by Vicky Husband 2nd Peta Alexander Carried
- iii) **Motion:** That the Bylaws of TLC The Land Conservancy of British Columbia be amended by removing the words “a majority of not less than three-quarters (75%)” and inserting “**the majority as specified in the Society Act**”. Moved Vicky Husband 2nd Peta Alexander Carried

1. CALL TO ORDER:

Meeting Called to order 1:05 pm. 44 members present.

Board Present: Briony Penn, Frances Pugh, Bill Pearce, Fred Newhouse, Mel Lehan, Tom Watson, Fran Sloan Sainas, Jennifer Bagelman, Gerry Gaydos, Lori Roter

Director of Operations (retiring): John Shields

Acting Director of Operations: Cathy Armstrong

2. APPROVE/AMEND AGENDA: **Motion** to approve the agenda. Moved Vicky Husband 2nd Gordon Alexander. Carried

3. WELCOME AND INTRODUCTIONS (Briony Penn) – Observation that attendance by members at this AGM is not high, meaning perhaps that TLC is on the right track and there are no current issues of concern to members. Welcome to our core members that have supported TLC through the trying times. Acknowledgement that we are on Coast Salish unceded territory. The agenda will provide an overview of the past year, and also provide information on where TLC is heading next. We have new faces on our Board and staff and you will hear from some of them today.

4. MINUTES of Previous AGM (Frances Pugh) – **Motion** That the AGM minutes of November 29, 2014 be adopted. Moved Frances Pugh, 2nd Vicky Husband Carried. Thank you to Fran for keeping minutes for board meetings.

5. BUSINESS ARISING FROM THE MINUTES None

6. CHAIR’S REPORT (Briony Penn) This is a farewell address. Reflecting on this beautiful day I wandered down to the shore and there were the Harlequin Ducks that overwinter in the bay near where I live. They are the mascot or icon of TLC. When we were first setting up TLC we picked the Harlequin Duck because they inhabit fresh water during the breeding season and salt water during their overwintering season. Also they are distributed throughout BC. They are a species that people are watching because they are very vulnerable. On the East Coast they are an

AGM Minutes

Minutes: Cathy Armstrong

Agenda: Briony Penn, Cathy Armstrong, Frances Pugh

endangered species. On the West Coast they are not endangered. They nest in the banks of turbulent rivers as their strategy for survival. The chicks are swirled into the tumultuous rivers and I have observed the chicks in the Kettle River and they bob along in the amazing rushing torrents. They stay resilient and stay away from predators. I could just change the name and insert TLC and you can see the analogy.

I realize in retrospect that the Harlequin was a really great mascot to pick. Originally it was because they were hardy and resilient, and had a diverse area of habitats. When I saw the Harlequins arriving in the rocky outcrops I saw that they were all back, and there were more than last year, and it was such a heartening signal to me that we do survive these things despite all that goes on. We have had climate change, droughts, terrible forest fires. It is good news for the Ducks, and it is good news for TLC.

I look around this room and I want to acknowledge the incredible people who have stood by us through thick and thin. Our journey has been equivalent to going through Hell's Gate on the Fraser River. Thank you one and all. John Shields has made an amazing recovery in order to come here today and report. Applause for John. Thank you to the Board for wrestling with difficult and complex issues, and for envisioning a future that incorporates new strategies for conservation.

Cathy Armstrong and I, along with five members of the First Nations communities sat down with Minister Polak to discuss the tools we can work with in partnership with the provincial government to advance First Nations concerns and treaty rights within private land ownership. How can we work proactively and in a positive manner to avoid conflict such as was seen on Grace Islet.

Torrey Archer and Andrew MacKinnon have been looking at what our role will be within the conservation community and meeting with our partner organizations.

We are ever mindful of our financial responsibilities and are building in checks and balances to ensure we do not repeat past mistakes. Hence we have created a preliminary draft of a new set of bylaws that we are seeking your feedback on. TLC continues to be a pioneer in conservation, forging new ways and our history shows that we have achieved an enormous amount, we have learned and come to understand the gaps and opportunities. How can we diversify the number of stewards, and how can we protect the greatest amount of ecosystems possible. Please engage in this next stage as we develop new bylaws, we need to hear from our members.

My last role as Chair is to thank John Shields. John is a respected leader who instills trust, is a skillful negotiator that can make hard decisions, and can handle the pressure. John is retiring and we want to acknowledge his quiet manner which assisted us in steering a clear way through this process. He has performed a great legacy for British Columbia. One of his contributions was to create a partnership with the Tla-o-qui-aht First Nation in Tofino, and bring their master carver Joe Martin on site to utilize a building on our Monks Point property. Ray Zimmerman brought the issue of the Truth and Reconciliation Committees recommendations to the attention of the Board and this initiative embodies those findings.

- 7. REPORT FROM RETIRING DIRECTOR OF OPERATIONS (John Shields)** John provided a review of the past two years since he was hired: August of 2013 found the Board trying to meet the challenges of insolvency. TLC was not meeting its daily obligations. Some were advising the Board to walk away and declare bankruptcy. To their credit the Board said no, we will honour our obligations to our creditors, while at the same time ensuring that all properties are protected. The decision was made to enter CCAA which is a corporate based model that had only had one other charity go through the process, namely the Red Cross. In order to undertake this, TLC had to find debtor-in-possession funders who would provide money to allow TLC to continue operating while it was restructuring. Three strong supporters stepped up. One of the shameful things I discovered, was that TLC had not been paying its staff wages or severance. October 7, 2013 we went to court and protection was granted from our creditors in order to allow us to work on repaying our debts. Alastair Craighead was our Chair and he was providing a strong mandate to ensure we repaid our creditors. Soon thereafter, an offer arrived for Binning House in Vancouver. The offer ensured renovation of the property and preservation of the heritage aspects, money to repay the mortgage, and further proceeds for distribution to creditors. The application to court was challenged and TLC learned very quickly that this process was fraught with difficulty. Much of the criticism was that TLC had to protect the property to ensure the public nature of a trust property was retained. The Justice spent a lot of time examining the trust obligations and whether it was a general or specific purpose trust. Her 58 page decision helped us clarify our obligations and that we had to pay attention to this while we balanced the need to repay our

debts.

The Board had a vigorous debate as a result, and asked me to prepare a paper on TLC's trust obligations. As a result, the Board affirmed its direction, that being that TLC had an obligation to protect the properties and honour the trust that it took on when it acquired these properties. Our legal counsel, and our court appointed Monitor, argued that we had an obligation to satisfy our creditors, and hence must look to attain maximum value from the properties. In addition, the professional property consultants we had hired also advised that TLC had to sell the properties for maximum value. All of the professionals were opposed to TLC placing covenants on the properties to ensure protection in perpetuity because it would reduce the values. After lengthy discussions, there was a recognition that perhaps TLC did have an obligation to ensure the properties were protected. This caused a reaction, and the professional property advisor went to the Chair and sought a motion to place himself in charge of operations and the Chair refused. This was a pivotal decision.

Going forward there was a couple of quick sales, one was Keating Farm and the other Sechelt neither of which had significant trust implications. The property team resigned, which resulted in the Monitor threatening an adverse charge, meaning that TLC was not in control of the process and we risked the Monitor stepping in and taking over. Bill Pearce assisted with countering this by setting in place a process of evaluating the properties and the Monitor took a wait and see approach.

2014 saw the Nature Conservancy of Canada and the Nature Trust of BC step forward with an offer to assist. TLC had identified a group of 28 high ecological value properties that could not be marketed and needed protection. Out of that 28, 26 eventually were transferred in return for a contribution to our restructuring of \$1.5 Million. This allowed us to repay most of our secured creditors and a significant amount of our legal fees. In addition, the transfer of Monks Point to the District of Tofino enabled us to repay our debtor-in-possession loans. Monks Point sits on a prominent piece of land important to the local First Nations as a sort of customs station as they watched the canoes entering the harbor. We asked master carver Joe Martin to utilize a building as his carving studio, and this arrangement continues through the transfer process.

Another accomplishment was to transfer the Sooke Potholes campground to the CRD, and negotiating the operating lease of the campground to the Sooke First Nation. Ray Zimmerman brought the significance of the area as a spring salmon spawning site to our attention and TLC worked closely with the Chief to establish this partnership.

We have reached agreement with the Ecoforestry Institute for the purchase of Wildwood which will involve an adjudication process with a respected forester who will oversee the development of a covenant and management plan.

TLC reached agreement with the Thomson's, one of the family members who own an undivided interest in Maltby Lake to purchase the majority of our share, and we continue to work with the Friends of Maltby Lake Society to see the final portion transferred to them.

Ross Bay Villa has been transferred to the Ross Bay Villa Society who performed all of the restoration work on the property in exchange for the payment of the outstanding mortgage.

TLC continues to hold Madrona Farm and Lohbrunner Farm as well as Abkhazi Garden. Abkhazi Garden represents the best of what TLC has done, rescuing a valuable property from the threat of development. We are working with the City of Victoria to transfer the densities from the lots from when it was zoned for townhouse development to a developer who is seeking extra density on another project, and in return the City would designate the property as heritage. The Lohbrunner property consisted of a wooded lot which has been transferred to the Nature Conservancy of Canada, and a farm that TLC is hoping to transfer to a society or farm lands trust. TLC staff have spent time reflecting on why we ended up with \$8 Million of debt, and the reason is not that complicated. To begin with, Grant Thornton was brought back in to go through our books, and was instructed to keep a keen eye for indications that any individual profited from past transactions. They reported back that they could see no evidence of any person profiting personally. When TLC acquired properties with the intention of holding them in perpetuity, we said that we would place a covenant immediately and this did not occur on a number of properties. Why? Because placing a covenant impairs the value of the property which reduces the ability to place a mortgage. These mortgages were placed in order to use those funds to acquire further properties. When 2008 came around, and the financial markets collapsed, and the donation levels dropped, and TLC was unable to meet its obligations to pay staff or make mortgage payments. Another aspect of the flawed business

plan was the reliance on the Enterprises division to provide revenue. In reality, this division has been subsidized to the extent that the overhead costs of TLC staff responsible for Enterprises was not factored in. Another factor that contributed was that senior management, perhaps from embarrassment, hid these losses from the Board. The Board, to their credit, kept pursuing full disclosure until the Treasurer sat down with the Executive Director and demanded a full review of the accounts. \$250,000 per month was going to staff wages and the Board ordered the layoff of staff and the closure of the expensive office space. It was at this juncture that I was brought in to bring in new reporting structures. Our current staff are dedicated and committed to ensuring TLC operates in a sustainable manner with full oversight by the Board. Our membership have remained loyal and are much wiser as they witnessed our progress, and they remain vigilant. Grant Thornton has performed a full audit this year. We are back to full transparency and strength. We have a knowledgeable Board that are fully engaged in the rebuilding, and we think you can be proud of the work being done as we enter our “sunny days”.

8. REPORT FROM ACTING DIRECTOR OF OPERATIONS (Cathy Armstrong)

Introductions of staff: Connie Pedersen and Sherry Beauvier from our Accounting Department, Dianna Pedersen from our Communications and IT Department, Andrew MacKinnon TLC Property Manager, Torrey Archer from our Covenant Monitoring Department.

In addition to the ongoing work to honour our commitments under the Plan of Arrangement, the staff have been meeting to reflect on past practices and develop a sustainable future. At our final retreat day we convened at Abkhazi Garden, and we ended the day with a presentation by John Shields from his current book that outlines his personal journey, and this proved to be a memorable afternoon for all staff.

Overview of our work implementing the Plan of Arrangement:

April 2, 2015 was the day our Plan was finally approved by the Court. Acknowledgement to Briony Penn for drafting the Plan of Arrangement which was a massive undertaking. Briony acknowledges Andrew MacKinnon who rewrote it! The first property to transfer was Maltby Lake in May, and 26 properties to the Nature Conservancy of Canada in September as well as Monks Point to the District of Tofino. Hardy Mountain Doukhobor Village transferred to the Heritage Society who has been managing the property for us in return for the payout of the mortgage, and in a similar fashion Ross Bay Villa Society received the Ross Bay Villa in return for the payout of the mortgage. Sooke Potholes Campground was transferred to the Capital Regional District and we are pleased that the Sooke First Nation were able to open the campground this summer. Wildwood Ecoforest is scheduled to complete in December. Binning House is on our horizon again, as we were awarded court costs when we attempted to sell the property and it has now been sold, closing February 1, 2016. Other events that have transpired include forgiveness of debt, and significant donations to assist us in implementing the Plan.

Of note, is the fact that during this time, our membership and donor base have supported us, and we are currently operating within the revenues we receive. We have just performed a six month analysis, and we are \$20,000 in the black, meaning that our operation is stable and working within budget.

From the proceeds of sales, we have repaid our Debtor in Possession loans in full, we have repaid a substantial amount of our secured debt as properties have transferred. We have also paid a substantial portion of our Administration Charges, which are the fees associated with legal counsels and our Monitor.

With those properties that remain in our portfolio we are working with Farm Folk City Folk for a potential sale of Lohbrunner Farm, with the Friends of Maltby Lake Stewardship Society to purchase our remaining 6% interest, and two large projects which are the density transfer of Abkhazi Garden and the Heritage Revitalization process for Joy Kogawa House in Vancouver. These two projects require a developer partner that we are still actively seeking. We are working hard on Tranche 2 of the Plan of Arrangement at this time, and are hoping to exit CCAA as quickly as possible.

9. COVENANT MONITORING REPORT (Torrey Archer)

Thank you to members for supporting the program, and to those who cared for these lands for so long, I hope that we can continue this work in the spirit of TLC, protecting land and maintaining its good health. From May until August we visited 88 covenants in the Southern Vancouver Island region, approximately 4000 acres. These included forested areas, Garry Oak meadows, wetlands, streams, rocky areas, beachfront and even Islands. TLC

holds or co-holds over 200 covenants across BC. With the help of other land trusts like Saltspring Island Conservancy, Habitat Acquisition Trust, Galiano Conservancy, Comox Valley Land Trust and others, we were able to monitor 96% of our covenants this year! Our partnerships with these land trusts is incredibly important to us because collaboration brings energy, and brings more people together, and the more effective we can be. We depend on volunteers to monitor and do restoration work on our covenants, and they have typically been recruited from UVic (Geography and Biology Departments) but they also come from the general public. There is no time commitment required, as long as we have one volunteer with us we can safely and effectively monitor a covenant. Over the summer our volunteer numbers ranged from 1 to a maximum of 15 people. Our volunteers come from a wide and varied background which allows us to teach and learn from each other. We train our volunteers and we have utilized Cunningham Woods here at UVic for training purposes. An added bonus was that this year we were able to stop a development plan in the Woods from going forward by demonstrating that the area has potential for education. 15 – 20 UVic Environmental Restoration students participated in each of our training sessions. We also partnered with the Greater Victoria Green team on restoration projects removing Scotch Broom from the Highlands. This year we have been actively engaged in the restoration of our covenants. TLC contacted the residents, and the District of Highlands (our covenant co-holders), and sought advice from Broombusters on the most effective strategy to tackle Broom. We have developed a multi-year restoration program for these covenants. Perhaps counter-intuitive, we tackled those properties that had higher concentrations of native species because nature has a better chance of establishing in these areas. We have cleared approximately 80 cubic meters of Broom from 25 acres. This Spring we will evaluate the success and continue the program. In another location we contacted the neighbours to our covenanted property to remove invasive species, which has proved successful. Some of the interesting discoveries this summer included a deer skeleton, a turtle crossing the road, a bank of wild mint, and all the mushrooms a fungophile could ever dream of! The most important thing we found was connection to place. Bringing volunteers to these sites reminds us why we protect these places in the first place. Michael Soule, Population Biologist, speaks about the importance of bringing people, especially children to the woods. People won't fight to save what they don't care about. They won't care about things that they don't know. It is our job to get people reacquainted with the wild. At the end of the season we held a volunteer appreciation event at Welland Orchard in View Royal.

10. QUESTIONS AND ANSWERS

- Vicky Husband congratulates the Board and John Shields for the hard work over the past year
- Vicky asks for an update on Talking Mountain Ranch and is advised the property was transferred to the Nature Conservancy of Canada. 28 properties were scheduled to be transferred however two were not included, those being Fort Shepherd and Second Lake.
- Marion Cumming advised that it might be timely for TLC to consider urban covenants as places for wildlife and rewilding in general. Briony advised that the Board is looking at ways to improve access for children to natural areas, and urban covenants is one of the mechanisms. The Province is looking at ways to extend the natural areas protection program that exists with the Islands Trust to the entire province to allow tax benefits, and this is an area TLC could play a role in facilitating this.
- Marion also observed that Canada's National Trust is fundraising for heritage property preservation, Briony observed that TLC has learned that we cannot be all things to all people, and that heritage is a specialized business and that TLC would be well advised to work with our partners in the future.
- Ken Farquharson thanks the Board, John and the staff for taking TLC through this difficult time. Ken asks about what happens when a covenant is set up, is there an endowment put in place? Briony advises that TLC has set a new policy that covenants must be accompanied by endowment funds to offset monitoring costs or an annual fee is collected. In addition, TLC has to build a contingency fund for any legal challenges that can arise as covenant restrictions are enforced. TLC monitored 96% of our covenants this year with existing staff, volunteers, and within budget. TLC has over \$500,000 in endowment funds held by the Victoria Foundation, and the proceeds are used to ensure monitoring activities continue. Ken asked whether expenditures are currently within available revenues and Briony advised that yes, they are. Ken asked whether the covenant money is pooled, or allocated individually to specific covenants. TLC has one staff member whose sole responsibility is covenant monitoring and her salary is covered by revenues received.

-Alison Spriggs thanks the Board and John for bringing the organization through difficult times. Alison was a fundraiser on staff with TLC and encourages the Board to continue to find ways to repay all creditors. What are the prospects for Abkhazi, and where is TLC with repayment to unsecured creditors. Briony acknowledges the work undertaken by former staff members as TLC was involved in over 300 properties over the years, and 250 covenants. Briony advises that TLC has always held the goal of repaying everyone completely. There are still revenues TLC is working to secure and TLC is working to keep all creditors advised on progress, we are aware that it is vitally important to TLC to keep these relationships strong.

11. TREASURER'S REPORT (Lori Roter)

Lori joined the Board last December and was appointed Treasurer. TLC has honoured its commitment to present fully audited financial statements at this AGM. Keep in mind that these financial statements represent the period May 1 2014 – April 30 2015 and the Plan of Arrangement was approved on April 2, 2015. This year we have established a monthly budget monitoring process to watch revenues and expenditures. There are some challenges as we separate the CCAA costs from the regular operating expenditures. We are working towards the time, post CCAA when we can share a budget with our members that truly reflects our revenues and expenses. We are also working on establishing financial policies and procedures.

12. PRESENTATION OF FINANCIAL STATEMENTS (Grant Thornton)

Kent Fullarton advised that this was the first full audit since 2011. The Independent Auditors Report outlines the process that was undertaken. Their opinion is qualified as is common for many non-profit organizations as the Society receives donations and revenues (in particular cash amounts) from fundraising activities where it is not possible to verify the transactions. Apart from this qualification, Grant Thornton attests that the financial statements accurately represent in all material aspects the financial position of TLC. In the Consolidated Statement of Operations on page 3 there is a recorded deficiency of revenue over expenses comprised mainly of loss related to the transfer of conservation lands, hence not a cash loss, but a capital loss as we remove properties from the books. **Question:** Is that the difference between what we had it as book value and what we actually received? **Answer:** Exactly, yes. The Statement of Financial Position page 5 notes that the majority of TLC assets are the conservation covenants and properties. In the Liabilities section all of the current debt is reflected as well as the long term debt in mortgages and loans. The Consolidated Statement of Cash Flows outlines the cash and cash equivalents which increased by just over \$200,000 over the previous year. The notes to the Financial Statements provide detail on all of the significant financial aspects of the fiscal year including a listing of long term debts. Note 12 outlines subsequent events as there is significant activity past the end of the fiscal year being reported on. **Question:** The endowment fund was mentioned as being half a million and only \$10,000 is shown on page 4. **Answer:** Note 2 (i) in the financial statements shows that as at March 31, 2015 the Victoria Foundation held \$615,857 in total endowment funds for TLC.

13. APPOINTMENT OF AUDITOR (Lori Roter) Motion to appoint Grant Thornton as auditor. Moved by Vicky Husband. 2nd. Peta Alexander Carried.

14. BYLAW COMMITTEE REPORT (Lori Roter and Bill Pearce)

This amendment was circulated to members in advance of this meeting and seeks to clarify the proxy voting procedures for special resolutions. The amendment adds the words present in person “or by proxy” and also specifies that the majority will be as specified in the Society Act, which currently requires 75% but which will change to two-thirds when the new Societies Act comes into effect.

a. Vote to approve Bylaw amendments to 1.01 (i)

Motion: That the Bylaws of TLC The Land Conservancy of British Columbia be amended by adding the words “**or by proxy at a convened meeting**” to 1.01(i) and removing “at the general meeting of which notice specifying the intention to propose the resolutions as a special resolution has been duly given”. **Moved by Vicky Husband 2nd Peta Alexander** **Questions:** A member asked if it was possible to allow online voting which would reduce the need for proxy voting, **Answer:** it was pointed out that not all members use computers. A question was raised as to the meaning of convened meeting **Answer:** it was clarified that this meant any meeting convened by the Board

of Directors, and so to include the AGM or a Special Extraordinary Meeting. Carried

Motion: That the Bylaws of TLC The Land Conservancy of British Columbia be amended by removing the words “a majority of not less than three-quarters (75%)” and inserting “**the majority as specified in the Society Act**”. **Moved** Vicky Husband 2nd Peta Alexander **Question:** What is the effect of removing the 75% provision?

Answer: The current Society Act requires 75%, the new Societies Act allows two-thirds. Carried

b. Overview of draft amendments (Lori Roter and Bill Pearce)

An overview was provided of the draft bylaw amendments that were circulated to members in advance of the meeting. Changes were made to conform to the new Societies Act, to clean up language, and to incorporate new financial operating practices. Feedback will be accepted until mid-January at which time the Bylaw Committee will incorporate any changes and send the revised package out to members.

9. NEW/OTHER BUSINESS: Board Members announced for 2015/16: Briony Penn, Tom Watson, Bill Pearce, Fred Newhouse, Mel Lehan, Frances Pugh, Lori Roter, Fran Sainas Sloan, Gerry Gaydos and Jennifer Bagelman.

10. ADJOURNMENT: Moved to adjourn. Meeting adjourned at 4: 20 pm.