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April 25, 2021

Dear Chair Luckham and fellow Trustees;

We write to urge you to rescind the motion EC-2021-001 adopted by you at the regular meeting of your executive committee on January 13th 2021, as minuted:

6.1 Bowen Island Municipality Bylaw No. 528 (LUB amendment)

Acting Director of Local Planning Services Cermak spoke to the bylaw amendments which include technical updates and housekeeping items. Executive Committee discussed the referral of bylaws to First Nations.

EC-2021-001

It was Moved and Seconded,

THAT the Executive Committee advise Bowen Island Municipality that Bylaw No. 528 cited as "Bowen Island Municipality Land Use Bylaw No. 57, 2002, Amendment Bylaw No. 528, 2020" is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED.

With respect, Bylaw No. 528 was presented to you, and considered by you, as merely technical, a housekeeping tidy-up, and with the benefit of strengthening protection around watercourses, with no need for your planner or committee to consider in detail the "nitty-gritty".

We are writing to you today, Sunday April 25, with Bylaw no. 528 going before BIM Council tomorrow night for second reading, with Islands Trust approval attached. We have also written to the BIM Council urging them to suspend consideration of this Bylaw; that communication is attached with this for your consideration.

The claim that this Bylaw is "good" for watercourse protection, and the attaching of Islands Trust approval, both are ironic, because buried within this Bylaw, in the elimination of the "vineyard" definition – ie removing vineyards and wineries completely from view, subsumed under "agriculture" - and with a number of other elisions of terms related to agriculture, an important protection that we on Bowen Island had, thanks to the Islands Trust, has been erased. This has real, immediate and devastating consequences to watercourses, and to our safe supply of clean water, and creates a disturbing set of precedents. In effect, we feel that this Bylaw is akin to the omnibus/portmanteau bills used by Stephen Harper, with a poison pill embedded within, and that the Islands Trust has been manipulated into giving consent to something you did not, and would not, intend.

On February 22nd 2021, a Temporary Use Permit (TUP) went before Council for the first time, asking for a cidery to be established at 620 Laura Road, a property neighboring ours in a rural residential neighborhood. There are no cideries, wineries, or breweries on Bowen Island; there is a distillery, in Snug Cove, built in the period from 2017-2019. The issue of wastewater from the distillery has been considered and addressed by the Municipality, with technical reports commissioned by them on the issue from 2017, as that facility discharges its wastewater into the municipal system handled by the Cove Bay Water Treatment Plant. There was, very briefly (less than a year) a brewery on-island, but they left; waste management issues were among those driving their departure.

February 22 was the first we were aware of this proposed cidery, and we were immediately concerned about the water impact. We have lived on Bowen for 41 years, and remember the history that led to vineyards and wineries being prohibited here; in the 1990s, someone started a guesthouse with a vineyard, making wine, and the Islands Trust (Bowen not then being a municipality) intervened with attention to the issue of wastewater. Much of the language, definitions and ideas in our LUB as a result of that history are among those being eliminated in this Bylaw now presented to you.

The TUP was constructed and built around what appears to be a deliberate attempt to obscure facts, both by the applicants and by the BIM planner, i.e. that a cidery, functionally and legally is a winery, and that the fermentation process is a “light industrial” process. The applicants in fact used the very part of our zoning that specifically prohibits vineyards (and wineries) to obtain a manufacturing liquor license for a land-based winery; the actions of LRCB, and of our municipality in supporting that, are also being questioned, with an investigation requested.

We are aware that there are many cideries, wineries, breweries etc on other Gulf Islands, but the Islands are both similar and different, in water environments and growing climates; there are very Bowen Island specific constraints, around water and growing conditions, that make a cidery, particularly on the site proposed, a very, very bad idea. That this use has now been authorized, with absolutely no wastewater treatment in place, no consideration of the amount of water being used and that impact on other wells and the aquifer, no concern re the very real risk of sewage contamination, no protections or considerations re the stream running right through the middle of the cidery site (a tributary to fish-bearing streams, supporting endangered wildlife, a stream immediately flowing from that land onto ours and into a large wetland), no concern re the fact that this stream and water from this area are in the headwaters zone for the Grafton Lake watershed, etc, all of those things to us are very, very wrong.

Despite these concerns and many others being expressed to Council in the very time-restricted public comment process allowed, both our planner and then Council failed to address these issues except nominally and did not take any steps or actions to even check basic facts. There were multiple misleading statements and claims by both the applicants and the planner. The TUP was unanimously passed by Council on March 22nd.

That decision is now being legally challenged, and the conduct of our planner and BIM staff are also being addressed, in an open investigation file with the Ombudsperson concerning this and previous serious failures of fairness and disclosure. There are significant issues related to procedural fairness at all levels of the municipality. However, in relation specifically to the planner, Daniel Martin, who prepared both the Bylaw

considered by you and the TUP recommendation, there are grounds for an investigation as to whether his actions constitute a deliberate, sustained and extended manipulation of process to deliver a particular result benefiting the applicants for the TUP, extending back to the beginnings of this Bylaw if not before. These concerns are being addressed to the BIM CAO and to both the Ombudsperson and the professional body of which he (Daniel Martin) is a Candidate member, the Planning Institute of British Columbia (PIBC), as his conduct appears to fall far short of their code of ethics and professional behavior.

Despite the clear duty of care of multiple levels of government in relation to protecting our access to adequate and safe drinking water, and to protecting sensitive ecosystems and the natural environment, we now have been left unprotected and alone to face an immediate and real threat. We have clearly communicated the issues and the risks to our municipal government and to Vancouver Coastal Health, to no effect. We have now spent \$1000 (money we really don't have!) having both our well and pond water tested merely to establish a baseline for assessing the ongoing and very real and imminent threat of water pollution, and the potential failure of our well, etc. We are actively escalating this issue to the most senior levels of the Provincial Government and to the Federal Government. Attached is our submission to Council on water to provide some context.

The gravity of this situation and the very constricted timeframe in which we learnt about this proposal, and had to respond, while continuing to receive and realize new information, has been overwhelming for us. For example, we only discovered after having exhausted ourselves in order to make a submission to Council before their deadline of March 22, that the applicant had been, and was, manufacturing on site with no wastewater treatment in place. This is truly a nightmare - how blind and indifferent everyone appears to be to our need for safe water, as if this is some frivolous fancy we have. Water is so basic and elemental, and so visceral a need, something we put in our bodies every day, we cannot comprehend how this could happen and why no one is taking it seriously. This is profoundly traumatic.

Therefore, with respect, we ask you to rescind your approval of EC-2021-001 in order to consider more fully the issues we have identified. It is simply fact, scientific fact, that a cidery is the same as a winery, the same industrial process is used by both in fermentation, that process produces vast quantities of contaminated wastewater, and it cannot just be dumped into streams and aquifers without care or thought.

We believe that the use of this Bylaw to erase the protection that we did have is contrary to and at variance with significant parts of the Islands Trust Policy Statement, among them those found in sections 3.3, 4.4 and 5.4.

We would welcome your attention; sadly, we can no longer feel that any of our Council, including those who serve as Trustees, serve to protect or represent our interests,

Yours sincerely,

Christine and Heather Miller