

NIAGARA PENINSULA CONSERVATION AUTHORITY

WELLAND

NOVEMBER 16, 2011

7:00 p.m.

FULL AUTHORITY MEETING

MEMBERS PRESENT:

B. Maves (Chairman)
B. Baty
D. Barrick
S. Beattie
T. Dalimonte
C. D'Angelo
D. DiFruscio
T. Easton
D. Eke
A. Jeffs
D. Joyner
D. Ransom
B. Sharpe
B. Steckley
B. Timms (Vice-Chairman)

STAFF PRESENT:

T. D'Amario, CAO/Secretary-Treasurer
L. Sawatzky, Recording Secretary
D. Baker, Director, Land Management
J. Kukalis, Director, Water Management
M. Stack, Director Communications

OTHERS PRESENT:

Robert Henderson
Doug Frame
Nick Bodo
Roselyn Hatch
Erika Froese
Greg Stevens
Gary Stemerding
Rick Froese
Liz Dann
Chester Dann
Elizabeth R. Dann
Joanna Hill
Dean Rockwell

BUSINESS:

The Chairman called the meeting to order at 7:03 p.m., welcomed all in attendance and requested anyone who had a conflict of interest to declare it.

(1) **MINUTES**

(a) **FULL AUTHORITY MEETING – OCTOBER 19, 2011**

There was a correction to item no. 6 technical memo 3rd paragraph stated 175 truckloads of fill would be required to comply with our regulation, however should have read to

comply with flood proofing requirements. The Director, Water Management provided an explanation. The following resolution was presented.

FA-136-11

MOVED BY: T. Easton

SECONDED BY: B. Timms

THAT: the Minutes of the Full Authority meeting held October 19, 2011, be received and approved as amended.

"CARRIED"

**(b) MINUTES NIAGARA REGION TREE AND FOREST CONSERVATION BY-LAW
ADVISORY COMMITTEE MEETING – October 20, 2011**

A question was raised on the number of members absent from meetings of this committee. Darcy Baker explained that due to the diversity of the members and their employment situations, there are times when more members are available than others. There being no errors or omissions, the following resolution was presented.

FA-137-11

MOVED BY: D. Ransom

SECONDED BY: T. Dalimonte

THAT: the Minutes of the Niagara Region Tree and Forest Conservation By-law Committee meeting held October 20, 2011, be received and approved as printed.

"CARRIED"

(2) BUSINESS ARISING FROM THE MINUTES

There was no business arising from the minutes.

(3) CHAIRMAN'S REMARKS

The Chairman noted that the Foundation had a meeting yesterday with a small turnout which included Brian Baty, Bruce Timms, Bart Maves, Tony D'Amario and Gail Meyer. They had a discussion about the future of the foundation since three board members had recently resigned. The Chairman advised that they will be contacting them to resign by letter. He also noted that there was a discussion on how to move forward and is going to meet with the other members of the board who were not present at the meeting before any decisions are made.

(4) CAO'S REPORT

The CAO advised that the achievement awards reception is next Wednesday at 7:00 p.m. at Ball's Falls. He indicated that he hoped the members can make it out to assist in handing out the awards. He requested that anyone who was planning to attend should advise Loretta so you are scheduled to hand out the awards.

The CAO noted that a letter has been sent to the Minister of the Environment regarding the Hamilton airport pfos issue, requesting that the Minister arrange to speed up the process, and encouraged further assistance.

(5) DELEGATION – ERCIA FROESE

The Chairman invited Mrs. Froese, who advised that Mr. Froese would be making the presentation regarding the Lorraine Bay Water Quality Group. The area they were concerned about is on the north shore of Lake Erie east of Nickel Beach in Port Colborne. He noted the presentation will cover 3 areas, being the background of the group, the Lorraine Bay drains (Michener, Wignell and Beaverdams) and the Lake Erie North Shore Watershed plan and how it impacts their plans. He provided an overview of the group and their concerns regarding water quality, through a power point presentation.

Mr. Froese noted that the main part of the presentation was to encourage the board to approve the Lake Erie North Shore Watershed Plan. The group has a landowner prepared to offer land along the Beaverdams drain to establish a settling pond, marsh or wetland.

Mr. Eke questioned the offer of land, and how will that function assist in this matter, after which there was a question and answer period. It was noted that the City of Port Colborne is supporting the group and are investigating the cost to incorporate water quality improvement features into the drain design and sources of available funding. Duggan and Associates out of Guelph have been contracted to walk the drains to better identify the point source of the contaminants. The group is encouraging approval of the Lake Erie North Shore Watershed Plan so the recommendations contained in the document can assist with getting the work done. Liz Dann responded to concerns regarding posting of swimming and whether this is related to the posting. It was noted that both drains have been rated poor. Doug Frame noted that a water test done 8 years ago funded by bay residents was done by Niagara Analytical and found ecoli and nutrients over the limits.

The Chairman suggested that he and John Kukalis liaise with Rick Froese and City of Port Colborne staff and have a site visit and will proceed from there.

The Chairman thanked the group for their presentation.

(6) PUBLIC COMMENT – HOUSEKEEPING AMENDMENTS – REGULATION OF DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES REGULATION (ONTARIO REGULATION 155/06, AS AMENDED) – REPORT NO. 60-11

The Director, Water Management advised that the Regulation is largely a technical legal document and that in staff's opinion, most of the comments received are already addressed or can be addressed in NPCA's Policies and Procedures documents. Aside from "cleaning up" technical anomalies in NPCA's current regulation, the amendments would allow the NPCA to improve service by enabling the NPCA to issue permits with a much longer time frame as well as, legitimize the current practice of issue permits at a staff level, as opposed to requiring applicants to wait for a monthly Board meeting.

Member Timms expressed concerns with endorsing the amendments at this time because of ongoing concerns from the development community around the Ministry of Natural Resources determinations to designate certain lands as wetlands.

The CAO noted that most of the development problems in relation to wetland restrictions arise from Planning Act matters and processes and not processing of permits, which is what the Regulation amendments primarily address.

The CAO also clarified that staff cannot refuse a permit approval under the regulation, but rather only issue an approval in conformance with Board policy. If a proponents works are clearly contrary to Board policy, while staff cannot issue a permit, staff also cannot refuse a permit. Only the Board can refuse a permit and that remains unchanged with the proposed amendments.

The Chairman indicated that there appears to be widespread misunderstanding in the planning and building communities around the distinctions of NPCA's permit and planning roles and a communications effort needs to be made to address this.

After a brief discussion, the following resolution was then presented.

RECOMMENDATION #1

FA-138-11

MOVED BY: T. Dalimonte

SECONDED BY: B. Timms

THAT: Report No. 60-11 be received for information.
Further that the feedback obtained from public comments be used as input when developing the future amendments to the NPCA's Policies, Procedures and Guidelines for Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document, dated December 12, 2007.

"CARRIED"

RECOMMENDATION #3

FA-139-11

MOVED BY: T. Easton

SECONDED BY: S. Beattie

THAT: Staff be directed to prepare a future report which recommends revisions to NPCA Policies, Procedures and Guidelines for Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document, dated December 12, 2007, that addresses to the extent possible, concerns outlined by the Board and to the Board through the public input from both this public circulation and the strategic plan.

"CARRIED"

The Director, Water Management provided further clarification on the changes. The Chairman commented on responses and asked the Director for clarification of some of the comments. A lengthy discussion took place. David Barrick noted that Port Colborne was concerned with the deadline being so short. The Chairman advised that it was the Board's decision to give 30 days and that is what staff did. The Chairman commented that the board just wants to be sure before approving. The following resolution was presented.

RECOMMENDATION #2

FA-140-11

MOVED BY: M. DiFruscio

SECONDED BY: A. Jeffs

THAT: Whereas a local Conservation Authorities Act Section 28 'Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation' has been prepared in conformity with the provisions outlined in Section 28 of the Conservation Authorities Act and the amended Ontario Regulation 97/04, and as per the eligible amendments identified by the Ministry of Natural Resources

THEREFORE BE IT RESOLVED THAT the Niagara Peninsula Conservation Authority adopts the proposed amendments to the subject regulation.

AND THAT the said regulation proposal with eligible amendments be submitted to the Ministry of Natural Resources for review, posting on the Regulatory Registry, and depending on the results of the registry posting, for subsequent consideration for approval by the Minister of Natural Resources.

"CARRIED"

(7) **CENTRAL WELLAND RIVER, UPDATED 100 YEAR FLOODPLAIN MODELLING/MAPPING - REPORT NO. 61-11**

The Director, Water Management outlined the reasons for the report and the reasons for this updated mapping. They will finalize the policy in December and hold public meetings in January. A comment was made that perhaps 3 open houses should be held rather than 2. He then responded to questions and a lengthy discussion took place.

A friendly amendment to the original resolution was presented.

FA-141-11

MOVED BY: D. Joyner

SECONDED BY: B. Baty

THAT: staff be directed to hold three open houses.

"CARRIED"

The original resolution was then presented as amended.

FA-142-11

MOVED BY: T. Dalimonte
SECONDED BY: D. Ransom
THAT: Report No. 61-11 be received for information.

Further that; the Board authorize staff to finalize the proposed draft interim Welland River Floodplain Policy for adoption at the December meeting;

Further that staff be directed to hold three open houses to present the updated Welland River Floodplain Mapping to the public in early 2012.

"CARRIED"

(8) GREEN ENERGY ACT, CONSERVATION AUTHORITIES ACT AND OTHER PROVINCIAL STATUTES; REPORT NO. 62-11

Director, Water Management outlined the report and referred to the attachments for more clarification. There were no questions on this report, however, a suggestion was made that a friendly amendment be made to add to the resolution a “copy be forwarded to local municipal Clerks and Chief Building Officials.”

A friendly amendment to the original resolution was presented.

FA-143-11

MOVED BY: B. Timms
SECONDED BY: D. Ransom
THAT: a copy be forwarded to local municipal Clerks and Municipal Chief Building Officials.

"CARRIED"

The original resolution was then presented as amended.

FA-144-11

MOVED BY: M. DiFruscio
SECONDED BY: D. Ransom
THAT: Report No. 62-11 be received for information.
Further that; a copy of the report be forwarded to local municipal Clerks and Municipal Chief Building Officials.

"CARRIED"

(9) PFOS COMPOUNDS AT THE BINBROOK RESERVOIR (UPDATE) – REPORT NO. 63-11

The Director, Land Management outlined the report and noted the article published in the Spectator and the current status of this. He stated that it was his understanding that MOE was to reconvene all partners to deal with this. The Authority has sent a letter to the Minister, stating our concern about the public perspective and noted that he will continue to keep the board apprised. Trevor Easton commented that we need a precise definition on how harmful these compounds are. The Director, Land Management

advised that there seems to be nothing formal in Canada. Carmen D'Angelo was thankful for the update and noted the management group that is developing a plan has not taken responsibility for problems other than at the airport. Mr. D'Angelo suggested that perhaps we should have a communication plan for this, noting we are a public agency and we need to be a voice. A suggestion was made that perhaps we should wait for a response from the Minister before we do a communication plan. We need to have a better understanding of what we are dealing with. The following resolution was presented.

FA-145-11

MOVED BY: S. Beattie

SECONDED BY: T. Dalimonte

THAT: No. 63-11 regarding PFOS Compounds at the Binbrook Reservoir be received.

"CARRIED"

(10) BUDGET STATUS REPORT – REPORT NO. 64-11

The CAO briefly outlined the report, noting expenditures and revenues are in line with the year end estimates provided at the last meeting. He stated that staff are monitoring expenses and will make adjustments if necessary. He advised that the amount will be close to those estimated. After responding to questions, the following resolution was then presented.

FA-146-11

MOVED BY: B. Steckley

SECONDED BY: D. Ransom

THAT: the Budget Status report for the period ending October 31, 2011, be received.

"CARRIED"

(11) PROJECT/PROGRAM STATUS REPORT – REPORT NO. 65-11

There were no questions with respect to this report. The following resolution was presented.

FA-147-11

MOVED BY: S. Beattie

SECONDED BY: B. Steckley

THAT: Report No. 65-11 outlining the status of Authority projects and programs be received for information.

"CARRIED"

(12) OTHER BUSINESS

Dave Eke referred to an article provided by Mickey DiFruscio with respect to hydraulic fracking and was seeking the Board's support for a motion to support a moratorium on fracking and dumping of such liquids in the Niagara River.

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A lengthy discussion took place and comments were made on the quality of the water being replaced, whether MOE has been involved, who to date has supported the moratorium and who has not.

With all the questions being raised, it was suggested that staff research this matter and prepare a report for the next meeting.

FA-148-11

MOVED BY: D. Eke

SECONDED BY: B. Sharpe

THAT: staff research the matter of fracking and prepare a report for the December meeting.

"CARRIED"

Construction Easement Request – Long Beach C.A. – Report No. 66-11

The Director, Land Management outlined the report and referred to the Authority's Policy in this matter, noting that under normal circumstances the guarantee for such a request would be \$2,500. He requested that because this is such a small project that it be lowered to \$1000. The following resolution was presented.

FA-149-11

MOVED BY: D. Barrick

SECONDED BY: B. Sharpe

THAT: Report No. 66-11 regarding a Construction Easement Request at Long Beach Conservation Area be received; and,

That staff be authorized to issue an easement to Mr. William Jamieson for his proposed construction project at 12890 Old Lakeshore Road, in the Township of Wainfleet.

"CARRIED"

A question was raised on what the status of the Lake Erie North Shore Watershed Plan. The Director, Water Management advised that it is complete and was brought to the board previously and was deferred. The Chairman suggested it be brought back to the board for approval in December.

Brian Baty indicated he was impressed by the group for the Lake Erie North Shore who were very positive and we can pass on best practices to other communities.

April Jeffs advised that she wished to attend the Lorraine Bay site visit.

(13) IN-CAMERA

In accordance with Authority policy, the following resolutions were presented.

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FA-150-11

MOVED BY: D. Ransom
SECONDED BY: B. Timms
THAT: this meeting do now move in-camera.

Received at p.m. 9:12 p.m. **“CARRIED”**

FA-151-11

MOVED BY: D. Ransom
SECONDED BY: M. DiFruscio
THAT: this meeting do now move back into open session.

Received at 9:55 p.m. **“CARRIED”**

The following items were approved in camera.

Report No. CR-21-11	<u>FA-152-11</u>		
	MOVED BY:	T. Easton	
	SECONDED BY:	B. Sharpe	“CARRIED”

Report No. CR-22-11	<u>FA-153-11</u>		
	MOVED BY:	D. Eke	
	SECONDED BY:	S. Beattie	“CARRIED”

ADJOURNMENT

There being no further business, the following resolution was presented.

FA-154-11

MOVED BY:
SECONDED BY:
THAT: this meeting do now adjourn.

Received at 9:57 p.m. **“CARRIED”**

"L. Sawatzky Recording Secretary

Bart Maves, Chairman”