

NIAGARA PENINSULA CONSERVATION AUTHORITY

WELLAND

DECEMBER 19, 2012

7:00 p.m.

- MEMBERS PRESENT:** B. Maves (Chairman)
D. Barrick (delayed)
B. Baty
S. Beattie
C. D'Angelo
D. DiFruscio
D. Eke
D. Ransom
B. Sharpe
B. Steckley
- MEMBERS ABSENT:** T. Dalimonte (with regrets)
T. Easton (with regrets)
A. Jeffs (with regrets)
D. Joyner (with regrets)
B. Timms (Vice-Chairman) (with regrets)
- STAFF PRESENT:** T. D'Amario, CAO/Secretary-Treasurer
D. Gullett, Recording Secretary
D. Baker, Director, Land Management
J. Kukalis, Director, Water Management
M. Stack, Director, Communications
- OTHERS PRESENT:** W. Wakulich
T. A. Richardson
C. Smith
T. Nixon
L. Aarts
J. Sonneveld
M. Cruickshank
R. Momot

BUSINESS:

The Chairman called the meeting to order at 7:08 p.m., and mentioned a couple members may be late arriving. He then welcomed everyone in attendance and requested anyone who had a conflict of interest to declare it.

(1) MINUTES – NOVEMBER 21, 2012 FULL AUTHORITY MEETING

There were no errors or omissions in the minutes. The following resolution was presented.

FA-132-12

MOVED BY: B. Steckley
SECONDED BY: D. Ransom

THAT: the Minutes of the Full Authority meeting held November 21, 2012, be received and approved as printed.

"CARRIED"

(2) **BUSINESS ARISING FROM THE MINUTES**

There is no business arising from the minutes.

(3) **CHAIRMAN'S REMARKS**

The Chairman stated the Conservation Achievement Awards at Ball's Falls was extremely well attended. There was a good turnout of board members, and The Chairman thanked them for their assistance in presenting awards. He also congratulated Mickey DiFruscio for twenty years of service as a board member.

The Chairman said the Strategic Plan is going full bore now with committees meeting on a regular basis, and stakeholders are also contributing.

The CAO and Chairman attended an Audit Committee meeting at the Region on December 17 to answer any questions regarding the NPCA 2011 Financial Statements. There was a lengthy discussion prior to their agenda item, someone had a previous engagement, so quorum was lost prior to discussion on the financial statements.

Regional Chair Burroughs met with the MNR to discuss clarity on green energy, provided guidelines for the Minister to work with Region. A quick response is not expected, but it was well received.

(4) **CAO'S REMARKS**

The CAO and senior staff met with Todd MacDonald with regards to the Strategic Plan and hopefully a report will be submitted to chairs of the committees in early January, 2013.

The Chairman requested the board's indulgence to move items 7 & 8 prior to items 5 and 6 if this was okay with everyone.

(7) **DEBENTURE MOU – NIAGARA REGION - REPORT NO. 64-12**

The CAO introduced Randy Momot to assist with any questions that may arise. A proposed MOU is attached and was forwarded to the Region for comments. Their input was not received in time for the agenda. Carmen D'Angelo stated there is no reference to other municipalities with a debt. The CAO explained it shows coming off our capital assets, but will decrease as the debt lowers. This will not incur costs to Hamilton or Halton. The following resolution was then presented.

FA-133-12

MOVED BY: B. Sharpe

SECONDED BY: S. Beattie

THAT: Report No. 64-12 be received and that the NPCA approve the Proposed Debenture MOU with the Niagara Region.

"CARRIED"

(8) **BOARDER PASS PROPOSAL – BINBROOK CONSERVATION AREA – REPORT NO. 65-12**

The Director, Land Management introduced Chris Smith and Tim Nixon from Boarder Pass, and they presented a short slide show. They explained this was their third season in Port Colborne and it has been a success in this area. There was an aerial photo showing the location of the wakeboard system. Dave Eke questioned if helmets were required. For their program helmets and a certified life preserver are mandatory. All staff must have obtained their bronze cross swimming level and CPR.

Brian Baty inquired about different speeds. The system has an auto stop, so there is no quick jerky motion and absolutely no way of running into anything. Doug Ransom asked how many operators are present on a busy day. There are two staff present, one operator and one individual to help out.

Micky DiFruscio asked about liability, and the insurance policy carried by the owner / operator will serve to protect the NPCA. Bob Steckley questioned what is involved with setting up the towers. The anchors at each side can be installed anytime, than a crane is used to set the towers in place.

The cost of hydro was mentioned, and it is anticipated costs are approximately ten dollars a month. This should be covered by increased revenues from gate admissions and retail sales at the park store.

The owner / operators will return the property to original state if lease is not renewed. e Boarder Pass employees will be at Boat Show in Toronto on January 12 to 20, 2013 and are willing to promote and advertise their new site. David Barrick recommended a staff representative also be present at the show and thanked them both for their input. The following resolution was then presented.

FA-134-12

MOVED BY: C. D'Angelo

SECONDED BY: B. Steckley

THAT: Report No. 65-12 regarding Boarder Pass Binbrook Reservoir be received; as amended and,

That staff be authorized to enter into a 1-year, trial agreement with Border Pass to operate a cable wakeboard system at Binbrook Conservation Area.

"CARRIED"

(5) **DELEGATION – PERMIT RECONSIDERATION**

The Chairman introduced Mr. Tom Richardson from the law firm Sullivan Mahoney to address the Board regarding the refusal of a permit to Mr. Wakulich and requesting a Geological Study to be addressed the first week of January.

Mr. Richardson thanked the Board and provided documents stating he would go through it quickly with the reason for the request. He highlighted where the decision in section one says this is an incorrect interpretation of the regulation. What evidence do you have to prohibit development unless you consider section 3? Mr. Richardson stated this was a respectful request, and the Chair asked if there were any questions or comments.

David Barrick agreed the Board should allow the study and adjourn the matter until the study is complete. Brian Baty asked if potential ice and snow affect the slope stability. The CAO commented you can look at the current stability, but you also have to look at the future. There are quite a few scenarios including erosion etc. that make it difficult with an engineering report. There are too many variables on a slope, and what is the guarantee the slope will be the same for as long as the structure is there.

Carmen D'Angelo had a couple of questions for Mr. Richardson: Why did his client want panels, and how much is invested to date? He responded (1) to create green energy in Port Dalhousie and (2) cost rising to 85,000.00 - the reason green energy project, but disclosed did not know permit was required.

If the slope did collapse, who is responsible and the CAO responded the landowner, as the policies of the province is prevention. The slope is already damaged due to construction, and the regulation states they need a permit.

(6) REQUEST FOR RECONSIDERATION – WAKULICH - REPORT NO. 63-12

The CAO introduced Mr. Mickey Cruickshank the NPCA's solicitor. He stated basically the Court did not require the NPCA to grant a permit, but, in fact, set aside the decision of the Mining and Lands Commission and referred the matter back for another hearing before a different Commissioner to consider the individual application.

Mr. Cruickshank also mentioned the Board should not preclude that a permit will be permitted, and recommended the process continue as a prosecution and an appeal to the Mining and Lands Commission.

David Barrick mentioned this report should be deferred due to the same reasons as discussed in the previous delegation. For example how policies aren't up to date with provincial information and allow the applicant due process.

The CAO commented the Mining and Lands Commission appeal has been in limbo for months. The prosecution pending date of June may be impacted, waiting for a geological study which may not have sufficient evidence to change staff opinion.

Doug Ransom said this matter has already been before the Board and their decision was a permit should not be granted.

David Barrick made a motion to defer the matter until a Geological Study is completed and submitted to NPCA staff.

FA-135-12

MOVED BY: D. Barrick

SECONDED BY: D. Eke

THAT: This matter be deferred until a Geological Study is completed and submitted to NPCA staff.

"CARRIED"

(9) **CITY OF HAMILTON PLANNING MEMORANDUM OF AGREEMENT – REPORT NO. 66-12**

The Director, Water Management mentioned this report is pretty straight forward. We have a good relationship with the City of Hamilton, and this updated MOA will have little impact on the existing NPCA workload. The following resolution was then presented.

FA-136-12

MOVED BY: S. Beattie

SECONDED BY: D. Eke

THAT: Report No. 66-12, regarding the Memorandum of Agreement with the City of Hamilton, Hamilton Conservation Authority, Conservation Halton, Grand River Conservation Authority and Niagara Peninsula Conservation Authority be received; and

That the CAO / Secretary Treasurer of the NPCA be directed to formally enter into this MOA.

"CARRIED"

(10) **NPCA REGULATION AMENDMENTS – REPORT NO. 67-12**

The Chair and CAO had a discussion and would like to defer this report until the next meeting. Committees are right in the middle of the strategic plan and they could offer feedback.

Mayor Eke inquired about the NPCA's policy for public meetings. The Director, Water Management responded we actually first encountered this in 2011 when the Board wanted a public consultation and then it was presented to the province. This has already gone through a consultation period and posted on the EBR. A requirement asking for additional plans was removed, and other than that, this template is virtually the same. Development wanted this approval for five years and in this draft, staff can do this for two years. A longer period of time has to be approved by the board.

John Kukalis commented we have already done this process, and there are no significant differences. It was suggested to call a special meeting and send the updated report prior so the committees can provide their input. The following resolution was presented.

FA-137-12

MOVED BY: C. D'Angelo

SECONDED BY: S. Beattie

THAT: Report No. 67-12 be deferred until the next meeting.

"CARRIED"

(11) **PFOS COMPOUNDS AT THE BINBROOK RESERVOIR (update) – REPORT NO. 68-12**

The Director, Land Management stated there is not much to report on, as we are waiting for feedback from the MOE. Staff is continuing follow-up to receive the most recent

information on fish consumption for visitors that are ice fishing. The following resolution was presented.

FA-138-12

MOVED BY: D. Ransom
SECONDED BY: B. Steckley

THAT: Report No. 68-12 regarding PFOS Compounds at the Binbrook Reservoir be received.

"CARRIED"

(12) PROJECT / PROGRAM STATUS REPORT – REPORT NO. 69-12

Brian Baty mentioned that more children are attending the St. John's Centre and that the activities at the St. John's Centre be included in future Project / Program Status Reports. The following resolution was presented.

FA-139-12

MOVED BY: C. D'Angelo
SECONDED BY: B. Steckley

THAT: Report No. 69-12 outlining the status of Authority projects / programs be received for information.

"CARRIED"

(13) IN-CAMERA

The following resolutions were presented.

FA-140-12

MOVED BY: C. D'Angelo
SECONDED BY: B. Steckley

THAT: this meeting do now move in-camera.

Received at 9:29 p.m. **"CARRIED"**

FA-141-12

MOVED BY: C. D'Angelo
SECONDED BY: D. DiFrusio

THAT: this meeting do now move back into open session.

Received at 11:15 p.m. **"CARRIED"**

As a result of the in-camera session, the following resolutions were presented.

FA-142-12

MOVED BY: D. Ransom
SECONDED BY: B. Sharpe

THAT: the recommendations brought forth in the In-Camera session be approved.

"CARRIED"

(14) OTHER BUSINESS

Mickey DiFruscio commented the debates go on for ever and recommend the Chair put a stop to them. Trevor Easton suggested the debates should be limited, and the Chair responded the question period is unlimited, so it is hard to have a time limit.

It was mentioned the Code of Conduct should be public, with legal advice.

The motions being pre-signed was brought up and Mayor Sharpe said in many situations, they're an order of business. Perhaps there could be a consent agenda, and review order of motions.

ADJOURNMENT

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

FA-144-12

MOVED BY: D. Eke

SECONDED BY: B. Baty

THAT: this meeting do now adjourn.

Received at 11:22 p.m.

"CARRIED"

"D. Gullett, Acting Recording Secretary

Bart Maves, Chairman"