



Lake Simcoe Region
conservation authority

BOARD OF DIRECTORS
Meeting No. BOD-10-20

Friday, September 25, 2020
9:00 A.M.

AGENDA

Virtual Meeting (Access Details to be Provided)

Minutes and agendas are available on our website: <http://lsrca.on.ca/>

Upcoming Events
2020

Friday, October 23rd ***Board of Directors' Meeting***
(being rescheduled to Oct 30th) ***Virtual Meeting***
9:00 a.m.

Events are also listed on our Events Page on our website: <http://lsrca.on.ca/events/>

I. DECLARATIONS OF PECUNIARY INTEREST

II. APPROVAL OF AGENDA **Pages 1-4**

RECOMMENDED: **THAT the content of the Agenda for the September 25, 2020 meeting of the LSRCA Board of Directors be approved as presented.**

III. ADOPTION OF MINUTES

a) Board of Directors **Pages 5-14**

Included in the agenda are the draft minutes of the Board of Directors' Meeting No. BOD-08-20 held on Friday, July 24, 2020.

RECOMMENDED: **THAT the minutes of the Board of Directors' Meeting No. BOD-08-20, held on Friday, July 24, 2020 be approved as circulated.**

b) Board of Directors **Pages 15-16**

Included in the agenda are the draft minutes of the Special Meeting of the Board of Directors No. BOD-09-20 held on Friday, September 4, 2020.

RECOMMENDED: **THAT the minutes of the Special Meeting of the Board of Directors No. BOD-09-20 held on Friday, September 4, 2020 be approved as circulated.**

IV. ANNOUNCEMENTS

V. PRESENTATIONS

a) LSRCA Chemical Contaminants Report

Manager, Environmental Science and Monitoring, David Lembcke, will share the work his team has been doing on chemical contaminants and the report they have recently completed. This presentation will be provided at the meeting.

RECOMMENDED: **THAT the presentation by Manager, Environmental Science and Monitoring, David Lembcke, regarding chemical contaminants be received for information.**

b) LSRCA Restoration Services Department Updates

Manager, Restoration Services, Christa Sharp, will highlight some of the projects underway by the Restoration Services department. This presentation will be provided at the meeting.

RECOMMENDED: **THAT the presentation by Manager, Restoration Services, Christa Sharp, regarding Restoration Services department updates be received for information.**

VI. HEARINGS

There are no Hearings scheduled for this meeting.

VII. DEPUTATIONS

a) **Mr. Kent Elson, Elson Advocacy** **Pages 17-26**

Mr. Kent Elson of Elson Advocacy will make a deputation regarding the permit issued on June 18, 2020 regarding Maple Lake Estates property in the Town of Georgina. This permit was subsequently surrendered by the property owner. Mr. Elson's submissions on this matter are included in the agenda.

b) **Mr. Colin Dobell, ClearWater Farm** **Pages 27-36**

Mr. Colin Dobell of ClearWater Farm will make a deputation regarding a proposed pilot project. Mr. Dobell's submission on this matter is included in the agenda.

VIII. DETERMINATION OF ITEMS REQUIRING SEPARATE DISCUSSION
(Reference Page 4 of the agenda)

IX. ADOPTION OF ITEMS NOT REQUIRING SEPARATE DISCUSSION

X. CONSIDERATION OF ITEMS REQUIRING SEPARATE DISCUSSION

XI. CLOSED SESSION

There are no Closed Session items for this meeting.

XII. OTHER BUSINESS

Next Meeting

The next meeting is currently scheduled for Friday, October 23rd. Chair Emmerson has requested that this meeting be rescheduled to Friday, October 30th. This meeting will be held virtually, access details to be provided.

RECOMMENDED: **THAT the next regular meeting of the Board of Directors be rescheduled from 9:00 a.m. Friday, October 23rd to 9:00 a.m. Friday, October 30th.**

XIII. ADJOURNMENT

AGENDA ITEMS

1. Correspondence

Pages 37-48

The following correspondence items are included in the agenda:

- a) July 29, 2020 letter from the Ministry of Natural Resources and Forestry regarding the Pefferlaw Dam ownership;
- b) August 11, 2020 letter from the Ministry of Natural Resources and Forestry regarding Conservation Ontario's Client Service and Streamlining Initiative;
- c) September 10, 2020 letter from the Ministry of Environment, Conversation, and Parks regarding an amendment to the Minister's Direction for Conservation Authorities during the COVID-19 Outbreak

RECOMMENDED: **THAT correspondence listed in the agenda as Item 1a) to 1c) be received for information.**

2. Proposal Call for External Audit Services

Pages 49-51

RECOMMENDED: **THAT Staff Report No. 40-20-BOD regarding Proposal Call for External Audit Services be received; and**

FURTHER THAT staff's recommendation to appoint BDO Canada LLP to provide external audit services for the period 2020 to 2024 inclusive, subject to annual review, at an annual fee of \$18,500 for 2020, \$19,000 for 2021, \$19,500 for 2022, \$20,000 for 2023 and \$20,500 for 2024 be approved.



BOARD OF DIRECTORS' MEETING
No. BOD-08-20 – Friday, July 24, 2020
Virtual Meeting

MINUTES

LSRCA Board Members Present:

Regional Chairman W. Emmerson, Chair
Councillor P. Ferragine, Vice Chair
Councillor K. Aylwin
Mayor D. Barton
Mayor B. Drew
Councillor A. Eek
Councillor K. Ferdinands
Councillor W. Gaertner
Councillor R. Greenlaw
Mayor V. Hackson
Councillor S. Harrison-McIntyre
Mayor M. Quirk
Councillor C. Riepma
Regional Councillor T. Vegh
Councillor E. Yeo

Regrets:

Mayor D. Bath-Hadden
Councillor A. Waters
Township of Ramara

Guests:

H. Ampagoumian, Georgina resident
M. Anderson, Georgina Post
C. Bennett, Georgina resident
D. Harding, Town of Georgina
S. Jamie, Georgina resident
A. Lensen, Georgina resident
I. Petrushevshy, Georgina resident
G. Slark, Georgina resident
R. Volpe, Georgina resident
K. Wolfe, Georgina resident

LSRCA Staff Present:

M. Walters, Chief Administrative Officer
R. Baldwin, GM Planning & Development
M. Critch, GM, Corporate and Financial Services
B. Kemp, GM, Conservation Lands
B. Longstaff, GM, Integrated Watershed Management
K. Christensen, Director Human Resources
C. Taylor, Executive Director, LSCF
K. Yemm, Director, Corporate Communications & Engagement
T. Barnett, Coordinator, BOD/CAO
M. Bessey, Director, Planning
K. Biddie, Outdoor Educator
A. Brown, Director Regulations
C. Connell, Outdoor Educator
P. Davies, Manager, Forestry and Greenspace Services
N. Hamley, Manager, Education
C. Hawson, Hydrogeologist
S. Jagminas, Senior Communications Advisor
N. Knight, Communications Specialist, Web and Content Marketing
K. Nesbitt, Administrative Assistant, Engineering
N. O'Dell, Communications Specialist
G. Peat, Manager, Director, Information Services & Technology
M. Rosato, Communications Specialist
D. Ruggle, Planner II
R. Sadowska, Conservation Engineer
C. Sharp, Restoration Program Coordinator
T. Stanford, Senior Outdoor Educator

I. DECLARATION OF PECUNIARY INTEREST

None noted for this meeting.

II. APPROVAL OF THE AGENDA

Moved by: C. Riepma

Seconded by: V. Hackson

CAO Mike Walters noted that he is unaware of why the property was not conveyed back to the Town of Georgina, but funds were available at that time for the dam maintenance. It is important to note the dam is not a flood control structure and as a result does not qualify for funding from the Province.

He went on to note that the dam is in fact a flood control hazard and the Authority's policy is to remove dams and online ponds. They are harmful to the environment as they block fish passage, back up sediment and pollutants, make water warmer, and reduce oxygen in downstream water for other species. There are a number of reports by Environment Canada and the Ministry of Natural Resources and Forestry detailing their harmful effects. For these reasons, the Authority recommends discontinuing the operation of the dam. If there was a use other than recreation, it would make a stronger argument for the Authority to continue operating the dam.

While the Authority has been following an operational plan laid out by the Province, CAO Walters explained that we are under no obligation to continue to operate the dam. The Ministry of Natural Resources and Forestry does not dictate if the dam should be operated, but rather how it should be managed if it is operational. There is no requirement for the Authority to put back the stop logs.

CAO Walters advised that the Authority is willing to consult with the community. The best approach is to work with the Town of Georgina and undertake consultation and come up with scenarios and opportunities moving forward. He reiterated that the Authority is not looking to operate the dam in 2021, as the engineers report provides for one to five years in which to complete the structural fixes, with an estimated price tag of \$550,000. A solution and resources will need to be found should the work be undertaken, as LSRCA does not have these resources.

Mayor Quirk noted there is lots of concern within the Pefferlaw community and asked that recommendation No. 7 in the staff report be deferred until ownership has been confirmed and public consultation has been completed, noting that the pandemic will present some challenges for public consultation at this time.

CAO Walters noted that the stop logs are going in once the necessary repairs and welding is done, which addresses the immediate concerns. He then proposed a meeting between LSRCA staff and the Town of Georgina staff to develop a workplan, to ensure all options are presented.

Councillor Harrison-McIntyre questioned why the Authority would continue to operate the dam if it is contrary to its mandate. With the scientific information available, she would not support continuing to operate it. She suggested perhaps ownership could be transferred back to the Town of Georgina, and they can continue to operate if they so choose. CAO Walters noted this option is one of the scenarios to be considered.

Mayor Barton shared his personal attachment to the Pefferlaw dam and noted he feels more time is needed to complete the consultation and explore funding options.

Chair Emmerson put forth an amended recommendation to approve recommendations 1 through 6 and to defer 7 until public consultation has occurred and all options have been considered.

Moved by: M. Quirk

Seconded by: D. Barton

BOD-090-20 RESOLVED THAT Staff Report No. 36-20-BOD regarding Pefferlaw Dam Ownership Review, Structural Assessment, and Recommendations be received; and

FURTHER THAT the following recommendations be approved:

- 1. That the Board direct Authority staff to complete remedial welding on the truss supports of the Pefferlaw Dam as soon as possible.**
- 2. That the Board approve a request to the Town of Georgina to share the cost to complete the remedial welding works.**
- 3. That upon completion of the welding repairs, Authority staff install the stoplogs, and following the Dam Operational Plan remove them again in the Fall to comply with provincially approved operating protocols.**
- 4. That the Authority maintain the closure to pedestrian access over the bridge on the dam structure.**
- 5. That the Authority continue to seek confirmation of ownership of the dam structure from the Province.**
- 6. That the Authority, with the Town of Georgina, undertake community consultation regarding the current and future status of the Pefferlaw Dam; and**

FURTHER THAT the decision regarding the recommendation that the Authority permanently discontinue operation and stoplog management of the Pefferlaw Dam beyond the fall of 2020 be deferred until public consultation has been completed.
CARRIED

V. PRESENTATIONS

a) LSRCA Education Program 2020 Accomplishments

Manager, Education, Nicole Hamley, provided an overview of LSRCA's Education Program 2020 accomplishments, noting that challenges began early in 2020 with the escalation of teacher job action, which saw the cancellation of nearly all Scanlon Creek field trips and planned teacher workshops. COVID-19 then resulted in the cancellation of all planned education programs and services, and within two weeks and tremendous support from Corporate Communications, programming was moved entirely online. Online learning webpages were launched that served three varied audiences, which brought over 3,300 external viewers in the second quarter. Resource packages were put together and a series of videos were created.

An LSRCA Facebook page dedicated to Outdoor Learning has allowed for two-way engagement and sharing of resources as members are able to ask questions. Some great feedback has been received and teachers have been pleased to be able to share our posts in their own online platforms. By the end of June, this Facebook group had 1,000 followers, with a total worldwide reach now at just under 18,000.

This online learning experience has served many purposes – it has assured our watershed residents and community partners that we are still here to support nature connection; it has broaden our reach to new audiences, strengthened our reputation as leaders in outdoor education, developed our skill sets and expertise as we adapt and innovate, provided opportunities for collaboration both internally and externally, and set us up for success for Q3/Q4 and beyond.

Next steps include Summer Programming, a new online course “Introduction to Outdoor Learning”, and a new Do it Yourself Hike Series at Scanlon Creek.

Plans for the 2020/21 school year include a one-year contract extension with Simcoe County District School Board, a new hybrid model of Grade 7 program delivery with York Region District School Board with a focus on climate change, and a modified Forest School.

To view this presentation, please click this link: [LSRCA Education Program Accomplishments 2020 Q1 and Q2](#)

Moved by: A. Eek

Seconded by: E. Yeo

BOD-091-20 **RESOLVED THAT the presentation by Manager, Education, Nicole Hamley regarding LSRCA’s Education Program 2020 Accomplishments be received for information. CARRIED**

b) LSRCA 2nd Quarter 2020 Financial Report and Forecast

General Manager, Corporate and Financial Services, Mark Critch, provided the Board with LSRCA’s 2nd Quarter 2020 Financial Report and Forecast, noting that LSRCA business operations have been significantly impacted by COVID-19; however, management took immediate and measured action to address the changes and minimize the financial impact. While there is a projected deficit being forecast for 2020, additional municipal funding is not anticipated. Uncertainty, however, does remain for Q3 & Q4, but there are also funding opportunities. Overall, the financial condition of LSRCA remains strong, and staff continue to keep a close eye on reserves and deferred revenue.

GM Critch shared some highlights for Q2, including that 2020 revenue has been delayed, deferred or lost in various programs, due to COVID 19 restrictions, some project work has been deferred into Q3 and Q4. The Scanlon Operation Centre redevelopment is substantially complete, and some operational savings have been identified due to staff working from work. An operational deficit of \$50,00 is expected for the end of Q2.

Looking forward at opportunities and risks, GM Critch noted that details on the impacts of Bill 108 are not all available at this time, and some fine tuning will be done once this information is available. New opportunities are available through Federal and Provincial infrastructure and stimulus programs. There continues to be uncertainty of timing with regards to full return to the offices and the related building/supplies cost. In summary, GM Critch noted that operations have been significantly impacted by COVID-19, but we are still doing all the work, have minimized the financial impact and made significant changes to process. It is anticipated there will be a deficit at year-end, but we continue to seek ways to eliminate or minimize it. Our financial condition remains strong, and staff continue to look for ways to minimize expenditures.

To view this presentation, please click this link: [2nd Quarter 2020 Financial Update](#)

Moved by: P. Ferragine

Seconded by: B. Drew

BOD-092-20 **RESOLVED THAT the presentation by General Manager, Corporate and Financial Services, Mark Critch, regarding LSRCA’s 2nd Quarter 2020 Financial Report and Forecast be received for information. CARRIED**

Staff Report No. 33-20-BOD regarding LSRCA's 2nd Quarter 2020 Financial Report and Forecast was included in the agenda.

Moved by: P. Ferragine

Seconded by: B. Drew

BOD-093-20 RESOLVED THAT Staff Report No. 33-20-BOD regarding LSRCA's Second Quarter Financial Report and Year-End Forecast for the period ending June 30, 2020 be received; and

FURTHER THAT Staff be directed to use deferred revenues from prior years to fund 2020 AOP items where needed; and

FURTHER THAT Staff be directed to use the Rate Stabilization reserve to fund COVID-19 related expenditures from March through December 31, 2020. CARRIED

c) Climate Change Mitigation Strategy for the Lake Simcoe Watershed

General Manager, Integrated Watershed Management, Ben Longstaff, provided the Board with a presentation on the Climate Change Mitigation Strategy for the Lake Simcoe Watershed, which is ready to be released. He provided a brief overview of the strategies and most importantly some of the goals and recommendations that provide direction to LSRCA to help mitigate the effects of climate change at a local level. This strategy is the third in a series to be completed, the first being the carbon reduction strategy that completed in 2019, followed by the adaptation strategy earlier in 2020, with the aim of this last strategic document to identify what role LSRCA can play at a watershed level to reduce Greenhouse Gas Emissions, while also respecting our mandate.

GM Longstaff explained how staff first quantified the situation by estimating emissions and carbon sequestration to develop an overall carbon budget that brings both the emissions and sequestration estimates together for the baseline year.

He reviewed the five goals: i) to provide leadership in the field of climate change and carbon sequestration by continuing to support our municipal partners; ii) to effectively communicate the necessary information in order to educate and empower people within the Lake Simcoe watershed to take action to combat climate change within their communities; iii) to provide the tools and resources that will allow our LSRCA and our municipal partners to apply best practices to carbon reduction or sequestration efforts; iv) to use the tools and resources to expand and build upon our collective knowledge and understanding of climate change mitigation and carbon sequestration; and v) to support municipalities in incorporating carbon sequestration into community design and energy plans.

GM Longstaff reviewed the next steps, including releasing and promoting the strategy, preparing and an implementation plan, implementing the recommendations (which is underway), and tracking and reporting progress.

To view this presentation, please click this link: [Climate Change Mitigation Strategy](#)

Moved by: K. Ferdinands

Seconded by: R. Greenlaw

Moved by: D. Barton

Seconded by: A. Eek

BOD-106-20 **RESOLVED THAT the verbal update regarding a Human Resources matter be received for information.** CARRIED

XII. OTHER BUSINESS

XIII. ADJOURNMENT

Moved by: R. Greenlaw

Seconded by: K. Ferdinands

BOD-107-20 **RESOLVED THAT the meeting be adjourned @ 11:35 a.m.** CARRIED

Original to be signed by:

Regional Chairman W. Emmerson
Chair

Original to be signed by:

Michael Walters
Chief Administrative Officer

SPECIAL MEETING OF BOARD OF DIRECTORS

No. BOD-09-20 – Friday, September 4, 2020

Virtual Meeting

LSRCA Board Members Present:

Regional Chairman W. Emmerson, Chair
 Councillor P. Ferragine, Vice Chair
 Councillor K. Aylwin
 Mayor D. Barton
 Mayor D. Bath-Hadden
 Mayor B. Drew
 Councillor A. Eek
 Councillor K. Ferdinands
 Councillor W. Gaertner
 Councillor R. Greenlaw
 Mayor V. Hackson
 Councillor S. Harrison-McIntyre
 Mayor M. Quirk
 Councillor C. Riepma
 Regional Councillor T. Vegh
 Councillor E. Yeo

LSRCA Staff Present:

M. Walters, Chief Administrative Officer
 K. Christensen, Director Human Resources
 T. Barnett, Coordinator, BOD/CAO

Guests:

M. Love, ML Consulting

Regrets:

Councillor A. Waters
 Township of Ramara

I. DECLARATION OF PECUNIARY INTEREST

None noted for this meeting.

II. APPROVAL OF THE AGENDA

Moved by: S. Harrison-McIntyre Seconded by: W. Gaertner

BOD-108-20 **RESOLVED THAT the content of the Agenda for the Special Meeting of the LSRCA Board of Directors held September 4, 2020 be approved as presented. CARRIED**

III. CLOSED SESSION

The Board moved to Closed Session to deal with a confidential Human Resources matter.

Moved by: M. Quirk Seconded by: V. Hackson

Elson Advocacy

August 11, 2020

Board of Directors

Lake Simcoe Region Conservation Authority (“LSRCA”)
120 Bayview Parkway
Newmarket, Ontario
L3Y 3W3
c/o t.barnett@lsrca.on.ca

Dear Board Members,

Re: Maple Lake Estates Inc. - Unlawful LSRCA Permit to Destroy North Gwillimbury Forest Wetlands

I am writing on behalf of the North Gwillimbury Forest Alliance (NGFA) regarding the permit issued on June 18, 2020 by LSRCA staff authorizing the destruction of the provincially significant wetlands on the Maple Lake Estates Inc. property at the heart of the North Gwillimbury Forest. As outlined in the below legal opinion, this permit was issued by LSRCA without lawful authority and based on a number of fundamental legal errors. The North Gwillimbury Forest Alliance therefore asks that the Board annul the permit and help to save these cherished forests and wetlands.

Background

As you know, this matter concerns important wetlands located in the North Gwillimbury Forest. In the mid 1980s, a number of development approvals were granted to build a particular residential retirement community on these lands. However, neither the original developer, nor the subsequent acquirer Maple Lake Estates, acted on these approvals. In the intervening period, most of the lands were formally identified as provincially significant wetlands, and important changes were made to provincial and regional planning legislation and instruments to protect lands so identified.

Despite these important changes, the current developer is now apparently seeking to develop the land, which would destroy provincially significant wetlands. For the developer to do so, it requires a permit from the LSRCA under s. 28 of the *Conservation Authorities Act* and Ontario Regulation 179/06. On July 4, 2018, the LSRCA issued such a permit for the period of July 4, 2018 to July 3, 2020.

On June 18, 2020, the LSRCA issued a further permit for the same work for the period of June 18, 2020 to June 18, 2022. This permit is the subject of this legal opinion and letter.

The Permit is Unlawful

For the reasons outlined below, the permit is unlawful, null, and void.

1. *No authority to issue permit extension*

LSRCA staff have indicated to the NGFA that the June 18, 2020 permit was for all practical purposes an extension of the permit issued in 2018. However, the LSRCA does not have the authority to issue these kinds of permit extensions. The 2018 permit was issued for 24 months under s. 9(a) of the regulation, and these permits cannot be extended.¹ Furthermore, the 2020 permit was issued by staff (i.e. a “designate”) without informing the Board. Even if this was the kind of permit that could be extended, only the LSRCA Board itself could issue said extension because designates are expressly prohibited from approving extensions that would result in the permission having a period of validity greater than 24 months.²

LSRCA staff advised the NGFA that the extension was provided through a “replacement permit.” In essence, the developer made another permit application identical in substance to the 2018 application, which resulted in the second permit with terms that were identical to the 2018 permit. This unlawfully circumvents the clear restrictions in Ontario Regulation 179/06 discussed above. LSRCA staff had no authority in law to issue the permit as they purported to do. The permit is therefore null and void.

2. *Failure to consider relevant factors and criteria*

The LSRCA could have considered whether to issue a second permit to the developer, but only if the proper process was followed and the relevant factors were examined. However, it is clear that there was no consideration of the relevant factors in relation to the 2020 permit application. Again, LSRCA staff have acknowledged that the 2020 permit was issued as a replacement permit without considering the merits of the application or applying current law or policies. This is also clear from the timing. The new permit application was received on June 11, 2020 and the permit was issued a mere seven days later.

For example, LSRCA staff did not consider the recent decision of the Local Planning Appeal Tribunal (“LPAT”), which makes it abundantly clear that further development approvals for these lands “need to be consistent with the PPS [Provincial Policy Statement].”³ Nor did they consider the LPAT’s refusal to review that decision.⁴ As in 2018, LSRCA staff also did not consider the current LSRCA Watershed Development Guidelines, which do not allow for development in provincially significant wetlands in these circumstances.⁵

¹ *O. Reg. 179/06*, s. 9; note: the 2018 permit was issued by a designate and designates can only issue these permits for up to 24 months pursuant to s. 6(4).

² *O. Reg. 179/06*, s. 9(11) (“A designate under subsection (10) shall not grant an extension of a permission for any period that would result in the permission having a period of validity greater than 24 months.”).

³ *NGFA v. Town of Georgina*, Case No. PL161206, para. 39.

⁴ Decision of Associate Chair Marie Hubbard, May 14, 2020.

⁵ LSRCA, *Guidelines for the Implementation of Ontario Regulation 179/06, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation*, June 1, 2020, s. 8.3; In contrast, the 2012 guidelines used by LSRCA staff for the purposes of the 2018 permit approval, state that “the LSRCA will grant

Because the LSRCA did not consider the relevant factors and criteria, the decision to issue the June 18, 2020 permit was unreasonable and would be quashed if challenged through a judicial review.

3. *Contrary to law and the Provincial Policy Statement*

The issuance of the permit was also contrary to law. The permit would allow the destruction of provincially significant wetlands. However, the *Provincial Policy Statement* states that development and site alteration “shall not be permitted” in provincially significant wetlands such as this.⁶ Decisions by the LSRCA to grant these kinds of permits are required by law to be consistent with the *Provincial Policy Statement*.⁷ This is unequivocal, and has been confirmed by the Divisional Court and the Court of Appeal, with leave to appeal denied by the Supreme Court of Canada.⁸

Therefore, the granting of the permit was contrary to law and would be quashed if challenged through a judicial review.

4. *Procedural fairness*

The North Gwillimbury Forest Alliance was completely excluded from the decision to grant this permit. It was not even notified, let alone allowed to submit comments or make a deputation. This was contrary to the common law duty of fairness in light of the tremendous importance of the decision to the NGFA, the previous requests that the NGFA made to be involved, and the nature of this decision as one of great public importance.⁹ Furthermore, this lack of fairness had real impacts. For example, it appears that LSRCA staff was not aware of a number of important factors discussed in this letter, including the outcome of the developer’s request to review the LPAT decision. Had they known, the outcome may have been different.

5. *Misapprehension of the law and appropriate legal test*

As the issuance of the 2020 permit was for all practical purposes an extension of the 2018 permit, if falls prey to the same fundamental legal errors made in granting the earlier 2018 permit.

approval for development on lots within registered Plans of Subdivision.” This section was removed in the current version.

⁶ *Provincial Policy Statement, 2020*, Order in Council No. 229/2020, Effective May 1, 2020, s. 2.1.4.

⁷ Planning Act, s. 3(5).

⁸ *Gilmor v. Nottawasaga Valley Conservation Authority*, 2017 ONCA 414, at para. 51 (leave to appeal to SCC denied, SCC No. 37705); *435454 Ontario Inc. v. Halton Regional Conservation Authority*, 2018 ONSC 1633 (Div. Ct.), paras. 5-6.

⁹ *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

(a) Error in believing the LSRCA had no choice but to issue the permit

For example, the LSRCA incorrectly believed it had no choice but to issue the permit because the developer had been granted prior development approvals.¹⁰ This is an error of law. There is no doubt that the LSRCA is exercising its own jurisdiction and is required to consider the relevant factors and considerations regardless of previous development approvals.¹¹ Development approvals do not mean that permission under section 28 must follow as a foregone conclusion.¹² The LSRCA made a legal error in believing that its own discretion was fettered such that it was required to grant approval. Indeed, an analogous argument was made by the developer in the recent LPAT case in relation to amendments to the Town of Georgina's Official Plan, and was soundly rejected by the Tribunal.¹³

(b) Error in treating guidelines as a mandatory rule and in applying the wrong guidelines

The LSRCA also treated its 2012 development guidelines as binding on its decision. This is another legal error. The LSRCA is required to apply the legal test set out in Ontario Regulation 179/06. To the extent that it treats its guidelines as a mandatory rule fettering its consideration of the relevant factors, it has made a legal error.¹⁴

This error is particularly problematic in this case because the *wrong* guidelines were considered. In relation to the 2018 permit, LSRCA staff advised the Board as follows:

*The planning status established the legal right for the Maple Lake Estates development. LSRCA's policies clearly state that the Authority will issue a permit for previously registered plans of subdivision.*¹⁵

Those statements were based on the outdated 2012 guidelines. The guidelines in force at the time the applications were made for both the 2018 and 2020 permits *do not* state that the Authority will issue a permit for previously registered plans of subdivision. This provision was intentionally removed by the LSRCA Board, effective June 1, 2015. Instead, the current guidelines prohibit development approvals in wetlands subject to exceptions that do not apply

¹⁰ See e.g. LSRCA Staff Report No. 10-18-BOD, March 16, 2018, p. 5.

¹¹ *Rinaldi v. Lake Simcoe Region Conservation Authority*, File No. CA 008-01, H. Dianne Sutter, Deputy Mining and Lands Commissioner, February 3, 2003 ("Just because the plan was registered did not guarantee him any development rights."); *611428 Ontario Limited v. Toronto and Region Conservation Authority*, Appeal No. CA 007-92, L. Kamerman, Mining and Lands Commissioner, February 11, 1994; ("In fact, it must be recognized that, notwithstanding a designation on an Official Plan which would be favourable to development, a proposal must still obtain the permission of the conservation authority for lands within its jurisdiction."); Linda M. Kamerman, Mining and Lands Commissioner, *Edited Speaking Notes for Speech to Urban Development Institute*, June 11, 2002 ("By the provisions of the Conservation Authorities Act, a CA has, over those lands within its jurisdiction, the power to outright prohibit, regulate or grant permission to a private property owner the right to develop his or her land as he or she sees fit. For purposes of an application under section 28, Official Plan designations or zoning are not relevant. Just to be clear, lands having a certain designation for municipal planning purposes such as residential, industrial or commercial, does not mean that permission under section 28 must follow as a foregone conclusion.").

¹² *Ibid.*

¹³ *NGFA v. Town of Georgina*, Case No. PL161206.

¹⁴ *3437400 Canada Inc. v. Niagara Peninsula Conservation Authority*, 2012 ONSC 1503 (Div. Ct.), at paras. 32-36.

¹⁵ LSRCA Staff Report No. 10-18-BOD, March 16, 2018, p. 5.

here.¹⁶ The legal error of treating guidelines as a mandatory rule is amplified by the fact that the wrong guidelines were relied on for both permit approvals.

(c) Misapprehension and misapplication of the conservation of land test

Furthermore, the LSRCA incorrectly applied the conservation of land test applicable to decisions such as this. Most importantly, its review of this test was undermined by the incorrect legal conclusion that it had no choice but to approve the permit and that it was required to follow its 2012 guidelines. This is clear from the following passage in the relevant staff report:

The planning status established the legal right for the Maple Lake Estates development. LSRCA's policies clearly state that the Authority will issue a permit for previously registered plans of subdivision. The Maple Lake Estates development as approved cannot avoid impact/s on the ecological function of the regulated wetland. Therefore, the conservation of land test can only be satisfied through mitigation and offsetting approaches.¹⁷

That statement is not true. The conservation of land test could be satisfied by denying the permit.

Furthermore, a section 28 permit cannot in law be granted to destroy a provincially significant wetland and replace it with a subdivision on the basis of any kind of land swap or ecological offsetting.¹⁸ The *Provincial Policy Statement* clearly prohibits development in provincially significant wetlands in Southern and Central Ontario, except in certain situations which do not apply here.¹⁹ It provides no exception for offsetting of any kind.²⁰ As discussed above, it is binding on the LSRCA.²¹ This is therefore determinative of the question. Furthermore, the developer put forward no legal precedent suggesting that the conservation of land test could be satisfied through any kind of offsetting.

Furthermore, even if offsetting could in theory meet the relevant legal criteria, the developer did not meet its burden to establish that the offsetting it specifically proposed would be sufficient to replace the ecological functions of the wetlands being destroyed. The application and supporting documents did not contain the necessary evidence. For example, the developer's Environmental Impact Statement found that the development would cause significant, unavoidable impacts on the wetlands. It *did not* conclude that those negative impacts could be adequately mitigated by offsetting or that the conservation of land will not be affected by the development.

¹⁶ LSRCA, *Guidelines for the Implementation of Ontario Regulation 179/06, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation*, June 1, 2020, s. 8.3; In contrast, the 2012 guidelines used by LSRCA staff for the purposes of the 2018 permit approval, state that "the LSRCA will grant approval for development on lots within registered Plans of Subdivision," and this section was removed in the current version.

¹⁷ LSRCA Staff Report No. 10-18-BOD, March 16, 2018, p. 5 (emphasis added).

¹⁸ Although different legal rules apply to unavoidable public utility infrastructure projects (e.g. pipelines), those rules would not apply to a subdivision.

¹⁹ *Provincial Policy Statement, 2020*, Order in Council No. 229/2020, Effective May 1, 2020, s. 2.1.4 ("Development and site alteration shall not be permitted in: a) significant wetlands").

²⁰ *Ibid.*

²¹ See footnotes 7 and 8 above and the accompanying text.

Indeed, the specific offsetting proposed by the developer is clearly insufficient because it does not in fact involve actual ecological offsetting. The developer's proposed offset has two components. The first component is merely to transfer certain property that is mostly farmlands into public ownership. This proposed ownership transfer will create zero ecological benefits. Furthermore, these farmlands are already located in the Greenbelt Protected Countryside and are therefore already off-limits to significant development in any event. The second component (recommended in the developer's Environmental Impact Statement) is to pay LSRCA to plant trees offsite at locations of the Authority's choosing. The ecological benefits will be trivial compared to the loss of the provincially significant wetlands. Furthermore, neither of these proposed offsetting components were actually set out as conditions in the permit granted to the developer.

Therefore, the granting of the permit was unreasonable and undermined by fundamental legal errors.

Request to annul permit

The permit issued on June 18, 2020 is invalid for each of the independent reasons set out above. Any one of those reasons would be sufficient for a court to quash the decision through a judicial review application.

However, the LSRCA Board has the authority to annul the decision instead and should do so. Although permits can be cancelled in certain circumstances, it is not necessary to analyze whether those circumstances are present because the permit was null and void from the outset, as set out above. The LSRCA Board merely needs to acknowledge this and advise the developer. The developer would then be free to submit a further application to be considered on its merits by the LSRCA. Although we believe the LSRCA would be bound to reject this application due to the conflict with the PPS and other reasons, the proper process would be for this fresh application to be submitted, duly considered, and decided-on.

Furthermore, if the LSRCA Board acts quickly, the developer cannot claim that any hardship resulted from the short period during which it believed its permit was valid when in fact it was null and void. In contrast, the alternative course of action – allowing the void permit to stand – could result in significant financial and legal risks.

Annuling the permit would also support the Town of Georgina in relation to the steps it is taking to implement the LPAT's decision regarding the designation of the subject lands in the Official Plan and bring its zoning bylaw into conformity therewith. Authorizing the destruction of the provincially significant wetlands at issue puts unnecessary pressure on those processes. If no section 28 permit was in place, there would be no concern that the developer might begin work to develop the land prior to the zoning changes coming into force.

The bigger picture policy issues are important in addition to the legal issues discussed above. The destruction of a large provincially significant wetland in the heart of the North Gwillimbury Forest would not be in the public interest. Also, the proposed "offsetting" is not reasonable. The

LSRCA would receive some farmland and some tree-planting money in exchange for the destruction of a wetland. Furthermore, this farmland is in the Greenbelt Protected Countryside and therefore is already subject to significant development protections. If there was indeed no other choice, that would be a different question. However, there is another choice – the LSRCA was and is under no obligation to grant a permit merely because the proponent received previous planning approvals.²² The LSRCA could have and should have said “no.” And now it can and should annul the permit.

Yours truly,



Kent Elson

cc: Harold Lenters, hlinters@georgina.ca
 Rachel Dillabough, rdillabough@georgina.ca
 Jack Gibbons, jack@SaveNGForest.org
 Leo Longo, llongo@airdberlis.com
 Anthony Usher, auplan@bellnet.ca

²² *Rinaldi v. Lake Simcoe Region Conservation Authority*, File No. CA 008-01, H. Dianne Sutter, Deputy Mining and Lands Commissioner, February 3, 2003 (“Just because the plan was registered did not guarantee him any development rights.”); *611428 Ontario Limited v. Toronto and Region Conservation Authority*, Appeal No. CA 007-92, L. Kamerman, Mining and Lands Commissioner, February 11, 1994; (“In fact, it must be recognized that, notwithstanding a designation on an Official Plan which would be favourable to development, a proposal must still obtain the permission of the conservation authority for lands within its jurisdiction.”); Linda M. Kamerman, Mining and Lands Commissioner, *Edited Speaking Notes for Speech to Urban Development Institute*, June 11, 2002 (“By the provisions of the Conservation Authorities Act, a CA has, over those lands within its jurisdiction, the power to outright prohibit, regulate or grant permission to a private property owner the right to develop his or her land as he or she sees fit. For purposes of an application under section 28, Official Plan designations or zoning are not relevant. Just to be clear, lands having a certain designation for municipal planning purposes such as residential, industrial or commercial, does not mean that permission under section 28 must follow as a foregone conclusion.”).

Elson Advocacy

September 17, 2020

Board of Directors

Lake Simcoe Region Conservation Authority (“LSRCA”)
120 Bayview Parkway
Newmarket, Ontario
L3Y 3W3

Dear Board Members,

Re: Maple Lake Estates Inc. - Unlawful LSRCA Permit to Destroy North Gwillimbury Forest Wetlands

I am writing on behalf of the North Gwillimbury Forest Alliance (“NGFA”) further to my letter of August 11, 2020 regarding the permit granted to Maple Lake Estates to destroy provincially significant wetlands at the heart of the North Gwillimbury Forest. As you know, the recent permit was surrendered on August 19, 2020. However, the developer could apply for another permit at any time and the issues are far from moot. We therefore ask that the LSRCA:

1. Respond in writing to each of the points in my letter of August 11, 2020;
2. Immediately notify the NGFA and Town of Georgina if the developer applies for another permit; and
3. Grant the NGFA and Town of Georgina the opportunity to make submissions before the LSRCA makes a decision.

Response to August 11, 2020 Letter

A response to the points in my letter of August 11, 2020 is critically important as the LSRCA continues to publicly make assertions that are legally incorrect and could result in the granting of another permit in the future. For example, The Georgina Post reported on August 25, 2020 that the LSRCA’s General Manager of Planning and Development said that “the LSRCA had no choice but to reissue the permit as MLE is an approved registered subdivision.”¹ It is very concerning that LSRCA staff still believe they *must* issue this permit. This topic is discussed in the following paragraph excerpted from my letter of August 11, 2020:

¹ Mike Anderson, *Town threatens LSRCA with legal action after DG Group surrenders section 28 permit*, The Georgina Post, August 25, 2020, [link](#).

[T]he LSRCA incorrectly believed it had no choice but to issue the permit because the developer had been granted prior development approvals.² This is an error of law. There is no doubt that the LSRCA is exercising its own jurisdiction and is required to consider the relevant factors and considerations regardless of previous development approvals.³ Development approvals do not mean that permission under section 28 must follow as a foregone conclusion.⁴ The LSRCA made a legal error in believing that its own discretion was fettered such that it was required to grant approval. Indeed, an analogous argument was made by the developer in the recent LPAT case in relation to amendments to the Town of Georgina’s Official Plan, and was soundly rejected by the Tribunal.⁵

More generally, it is concerning that the LSRCA believes it *must* issue the permit when in fact the opposite is true – it must *not* issue the permit, including because it conflicts with the *Provincial Policy Statement*. For the details explaining why a permit cannot be issued, please see the letter of August 11, 2020. The NGFA requests a substantive response to these.

Notification and Opportunity to Make Submissions

As noted above, the NGFA asks that it and the Town of Georgina be notified if the developer applies for another permit. The NGFA also asks for an opportunity to make submissions before the LSRCA makes a decision. This is required by the common law duty of procedural fairness.

Procedural rights, such as the right to notice, can be found in (a) legislation or (b) the common law. The NFGA acknowledges that the legislation does not specifically grant the NGFA the right to notice and submissions in this case. However, the legislation does *not* rule that out and the common law rules around procedural fairness in fact require it. Common law rules are based in past legal precedents. According to those precedents, parties may have procedural rights even if those are not specifically set out in legislation.⁶ Those rights are determined by a number of factors, including “the importance of the decision to the individual and individuals affected.”⁷ In this case, the decision is incredibly important to the NGFA and the Town of Georgina. They have a right, in the very least, to be notified that the LSCRA is considering another permit

² See e.g. LSRCA Staff Report No. 10-18-BOD, March 16, 2018, p. 5.

³ *Rinaldi v. Lake Simcoe Region Conservation Authority*, File No. CA 008-01, H. Dianne Sutter, Deputy Mining and Lands Commissioner, February 3, 2003 (“Just because the plan was registered did not guarantee him any development rights.”); *611428 Ontario Limited v. Toronto and Region Conservation Authority*, Appeal No. CA 007-92, L. Kamerman, Mining and Lands Commissioner, February 11, 1994; (“In fact, it must be recognized that, notwithstanding a designation on an Official Plan which would be favourable to development, a proposal must still obtain the permission of the conservation authority for lands within its jurisdiction.”); Linda M. Kamerman, Mining and Lands Commissioner, *Edited Speaking Notes for Speech to Urban Development Institute*, June 11, 2002 (“By the provisions of the Conservation Authorities Act, a CA has, over those lands within its jurisdiction, the power to outright prohibit, regulate or grant permission to a private property owner the right to develop his or her land as he or she sees fit. For purposes of an application under section 28, Official Plan designations or zoning are not relevant. Just to be clear, lands having a certain designation for municipal planning purposes such as residential, industrial or commercial, does not mean that permission under section 28 must follow as a foregone conclusion.”).

⁴ *Ibid.*

⁵ *NGFA v. Town of Georgina*, Case No. PL161206.

⁶ *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

⁷ *Ibid.*

application. Furthermore, the provision of notice and the opportunity to make submissions is not at all onerous. Weighing the importance of the issues to the NGFA against the non-burdensome nature of the participatory rights in question, it is clear that the NGFA should be notified and granted the opportunity to make submissions.

Furthermore, it would benefit the LSRCA to have an opportunity to review submissions made by the NGFA before making a decision. This will provide more information on which to base a decision. As shown by the recent LPAT victory, the NGFA has useful knowledge and expertise to bring to this issue. In that case, the NGFA's position prevailed even though it was opposed by a number of officials and the developer. Going forward, we hope the LSRCA will consider the NGFA to be an important stakeholder whose contribution will be considered and addressed seriously.

Next Steps

I will be making a deputation at the LSRCA board meeting on September 25. In the interim, I would greatly appreciate a substantive response to my letter of August 11, 2020 and to the above requests.

Yours truly,



Kent Elson

cc: Harold Lenters, hlenters@georgina.ca
Rachel Dillabough, rdillabough@georgina.ca
Jack Gibbons, jack@SaveNGForest.org
Anthony Usher, auplan@bellnet.ca

ClearWater Farm presentation to LSRCA Board of Directors

Colin Dobell
Executive Director
Ontario Water Centre

September 25, 2020

Reducing Potable Water Use in Agriculture by 35% at ClearWater Farm (while educating the community...)

Proposal to Green Municipal Fund from
Ontario Water Centre (an educational
charity partnered with Town of Georgina)

GREEN MUNICIPAL FUND

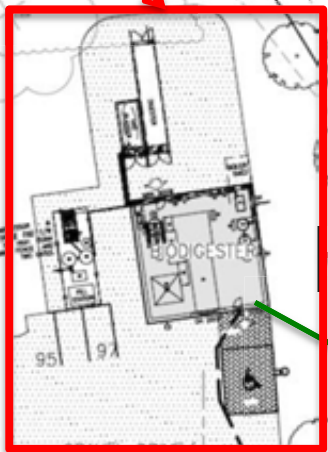
Capital project: Water conservation, community project

We fund capital projects of retrofit initiatives that reduce potable water use by at least 20% in a neighbourhood, facility or group of facilities. This funding helps Canadian cities and communities of all sizes promote...

WATER

- ClearWater Farm is a community-based educational and convening facility located on Town-owned land in Georgina; operated by Ontario Water Centre under 30-year lease and partnership agreement.
- Site currently hosts more than 2,500 visitors (to more than triple in 3 years), with ~ 10 residents, 15,000 s.f. of greenhouse, 3 acres of producing fields (growing to 8 acres), food wash facilities
- Site currently operates off of a single well, augmented from occasional lake draws, with a single septic bed. Clay soil produces stormwater run-off to be addressed in future site project.

**Pure Organic Foodwaste
High liquid content**



Digestate

**Mixing/
Distribution
Drip Irrigation
Apparatus**



**Underground
Cistern**

**Municipal
Water/Sewer**

**Produces renewable
natural gas for
greenhouses
and delivery vehicles**

**Water
Harvesting**

**Well
Septic**

**Result = reduction in potable water usage +
improved crop yields without chemical fertilizer.
"A solution for small farms across Ontario"**

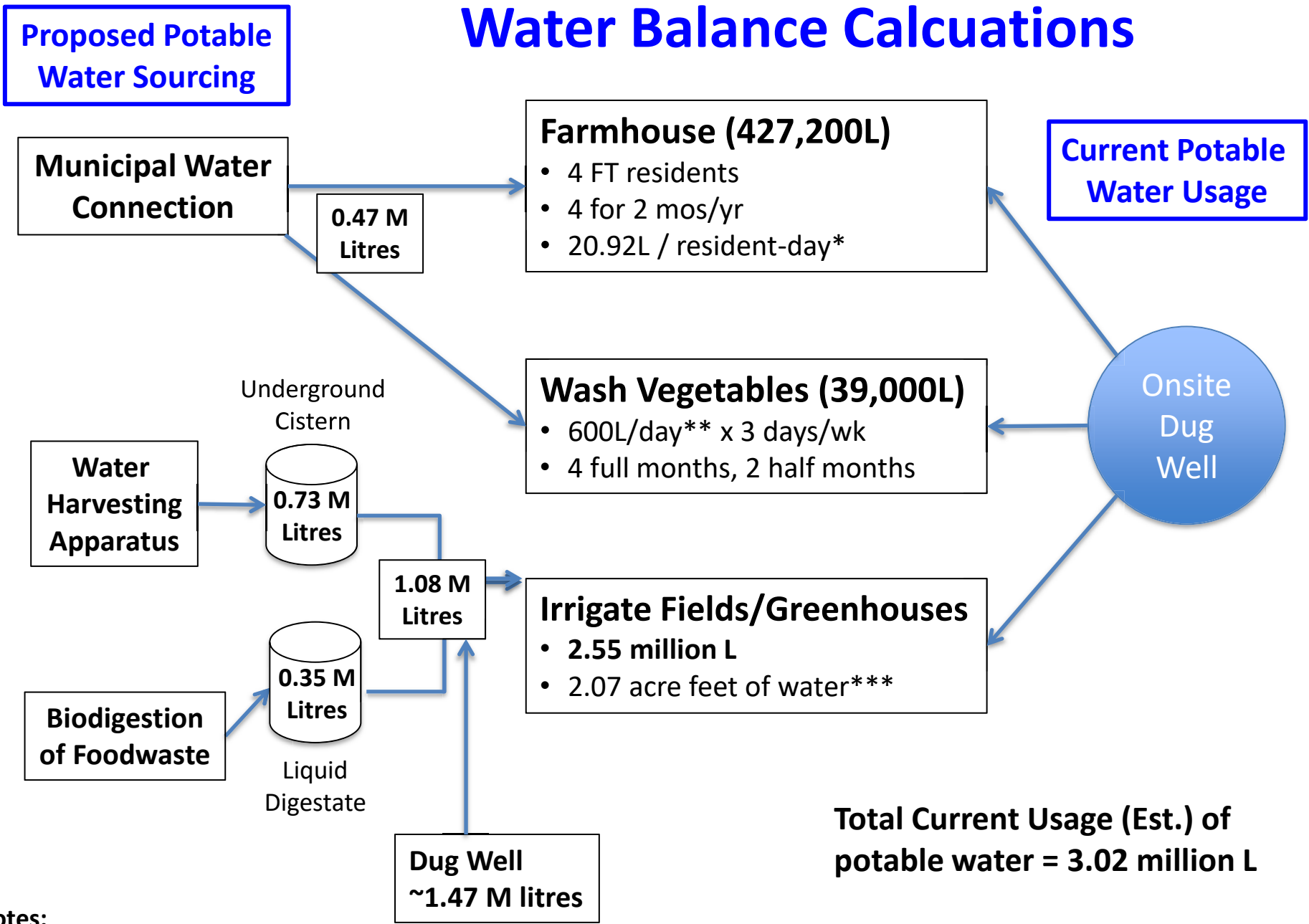
Proposed Project Components

- Connect site to municipal water/sewer to handle human water needs
 - Retire septic tank, isolate human potable water needs to be sourced from Town supply
- Water harvesting from roof (barn, garage, greenhouses); store in cistern
- Anaerobic biodigester “imports” water through pure organic foodwaste
- Run-off + liquid digestate used as irrigation/nutrient source for agriculture
 - Mixing/distribution/irrigation apparatus in/between greenhouses/garden
 - Secured partners to demonstrate efficacy (Cropquest, OMAFRA)

Environmental Benefits -- A model for farms across Ontario?

- Replaces >35% of site potable water used for irrigation – otherwise drawn from well
- Manages 0.73M litres of stormwater – preventing excessive run-off to lake
- Diverts 188 m³ of commercial foodwaste from landfill
- Local production of 13,160 litres of renewable natural gas
- Local production of solid compost for soil enhancement

Water Balance Calculations



Notes:

* Environment Canada estimate
 ** Estimate from farmworkers (to be validated this summer before project implementation). Also Vegetable and Fruit Washwater Treatment Manual (OMAFRA) p. 22.
 *** Estimate by Barr Engineering (to be validated this summer before project implementation). Can be cross-referenced with local crop consultant (Cropquest Inc.)

The Invisible Becomes a Visible Resource

Barr Engineering who is designing the Water Harvesting system at ClearWater Farm is a world leader in the design of green infrastructure technology. Their wisdom gained is powerfully informing the work at ClearWater Farm.

"In the past, engineers have tended to treat stormwater as a waste product. Traditional designs focus on getting it off of our landscapes as quickly as possible. Now, as we adapt to climate change, water conservation will be more important than ever, leading us to designs that will use stormwater as the resource that it is."

- Erin Anderson Wenz, ENV SP, PE, Vice President, Senior Water Resources Engineer, Barr Engineering

"The engagement of the public around water quality related issues, and particularly young people, is an extremely important aspect to creating those environmental stewards of the future. Lively and playful above ground features, such as a cistern or water reuse system, offer a unique canvas for such educational and outreach opportunities. Interactivity and visual playfulness can make a feature memorable and highly engaged with, potentially planting the seeds of environmental leadership"

- Matt Kumka, Senior Landscape Designer, Barr Engineering

*Educational Cistern at
Maplewood Mall,
Minneapolis, Minnesota
- Barr Engineering Co.*



Project Costs (for GMF)

- Project/proposal preparation - \$12,750
- Water/sewer brought onsite - \$643,000
- Water capture/storage infrastructure - \$229,260
- Modification to biodigester - \$27,000
- Mixing/distribution/irrigation apparatus - \$78,350
- Project manager/crop consultants - \$36,000
- Analysis/reporting/recommendations - \$17,050
- GMF-allowed lead applicant overhead – \$115,000
- Contingency (10% of project costs) - \$122,500
- **Total Project Cost: \$1,347,910**

OWC planning \$150,000 in additional educational components (with support from York Region)

Page 34 of 51

Total of
\$1.5M

Proposed Funding Model

- Green Municipal Fund – Pilot: \$500,000
- Town of Georgina - \$650,000
- LSRCA - \$150,000
- OWC - \$200,000
- **Total Project Cost: \$1,500,000**

York Region committing to support educational components

Timing / Next Steps

- Secure Town approval for loan (September)
- Submit application to GMF (October)
- Installation of municipal infrastructure (Fall-Spring)
- Approval of pilot by GMF (January 2021)
- System installation (Spring-Summer-Fall 2021)
 - Benchmarking of “pre-system” water usage
- Operation of pilot - 2022
- Final reporting – end 2022

**Ministry of Natural
Resources and Forestry**

Regional Operations
Division

Room 6610, Whitney Block
99 Wellesley Street West
Toronto ON M7A 1W3
Tel: 416-314-9075
Fax: 416-314-2629

**Ministère des Richesses
naturelles et des Forêts**

Division des opérations
régionales

Édifice Whitney, bureau 6610
99, rue Wellesley Ouest
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Tél.: 416-314-9075
Télééc.: 416-314-2629



355-2020-45

July 29, 2020

Mr. Mike Walters
Chief Administrative Officer
Lake Simcoe Region Conservation Authority
M.Walters@lsrca.on.ca

Dear Mr. Walters:

Thank you for your inquiry and I apologize for the delay in responding. I am pleased to respond on behalf of the Deputy regarding your letter concerning the Pefferlaw Dam in the Town of Georgina.

As this dam does not appear in the ministry's asset inventory records, we do not consider it to be a provincially-owned dam.

I understand that Vanessa Aspri, A/Resource Management Supervisor in our Aurora District Office, spoke with Trish Barnett at the Lake Simcoe Region Conservation Authority (LSRCA) on July 9, 2020. It was explained that ministry staff are currently working remotely and need to access files regarding past approvals that are stored on microfilm located in the Regional Office in Peterborough, and there may also be historical paper-based files in the Aurora District Office.

We are committed to getting back to you by August 14, 2020 on whether the ministry has any relevant information (e.g., past approvals) to assist the LSRCA in their determination.

If you have further questions, please contact Brad Allan, District Manager, Aurora District, at brad.allan@ontario.ca.

Thank you again for writing.

Sincerely,

Marty Blake
A/Assistant Deputy Minister
Regional Operations Division

c: Monique Rolf von den Baumen-Clark, Deputy Minister of Natural Resource and Forestry
Serge Imbrogno, Deputy Minister of the Environment, Conservation and Parks
Brad Allan, District Manager, Aurora District Office

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Ministry of Natural
Resources and Forestry

Office of the Minister

Room 6630, Whitney Block
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Tel: 416-314-2301

Ministère des Richesses
naturelles et des Forêts

Bureau du ministre

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Toronto (Ontario) M7A 1W3
Tél.: 416-314-2301



AUG 11 2020

354-2020-1243

Mr. Wayne Emmerson
Chair
Conservation Ontario
chair@conservationontario.ca

Dear Mr. Emmerson:

A handwritten signature in blue ink that reads "Wayne".

Thank you for providing me with an update on Conservation Ontario's Client Service and Streamlining Initiative. I am pleased to see the progress and success since its launch.

As you are aware, Ontario has committed to modernizing the regulations under the *Conservation Authorities Act* to focus conservation authorities on their core mandate of protecting people and property from flooding and other natural hazards following recommendations from the Special Advisor on Flooding's Report, and also in support of the government's Housing Supply Action Plan.

This work, along with the success of the Client Service and Streamlining Initiative, complements the broader work led by the Ministry of the Environment, Conservation and Parks (MECP). Both my ministry and the MECP are working together to define the conservation authorities mandatory natural hazard management program; ensure that other recent changes to the Act increase transparency; and help to focus conservation authorities' ability to deliver on their core mandate.

As proposals for new changes are developed, I assure you that opportunities for further consultation will be available for stakeholders to provide their feedback. I look forward to continuing to work together to protect people, property and communities from flooding and other natural hazards.

Thank you again for writing.

Sincerely,

A handwritten signature in blue ink, likely belonging to John Yakabuski.

John Yakabuski
Minister of Natural Resources and Forestry

- c. The Honourable Jeff Yurek, Minister of the Environment, Conservation and Parks
The Honourable Steve Clark, Ministry of Municipal Affairs and Housing
Kim Gavine, General Manager, Conservation Ontario

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement,
de la Protection de la nature et des
Parcs

Office of the Minister

Bureau du ministre

777 Bay Street, 5th Floor
Toronto ON M7A 2J3
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777, rue Bay, 5^e étage
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Tél. : 416.314.6790



September 10, 2020

TO: Conservation Authorities as listed in the attached **Schedule “A”**

SUBJECT: Amendment to the Minister’s Direction for Conservation Authorities during the COVID-19 Outbreak

On March 26, 2020, I issued a Minister’s Direction (“**Direction**”) pursuant to subsection 19.1 (7) of the *Conservation Authorities Act* that applied to all conservation authorities in Ontario, listed in **Schedule “A”** as attached. The Direction enabled conservation authorities to convene a meeting electronically in order to make the necessary amendments to their administrative by-laws to deal with both provincial and municipal emergencies. It identified the minimum areas where the by-laws should be amended, in the manner deemed appropriate by the CA, to make provision for emergency situations (e.g., electronic participation in meetings and hearings and achieving quorum while participating electronically). The Direction also identified that each conservation authority, depending on their individual by-laws, may identify the need to make other necessary amendments to respond to emergencies.

It has come to my attention that certain conservation authorities amended their by-laws to allow virtual meetings only during declared emergencies. Now that the provincially declared state of emergency has ended and municipally declared state of emergencies have or may end, conservation authorities may be prevented from continuing to be able to meet virtually. As such, I am amending the Direction that I issued on March 26, 2020 to remove this barrier. I am directing the conservation authorities listed in Schedule “A” to meet virtually for the purpose of reviewing and amending their by-laws, as applicable, to allow for members of a conservation authority to participate electronically in meetings when it is deemed appropriate by the conservation authority to do so. For greater certainty, the other provisions of the Direction continue to apply.

Effective Date

This amendment to the March 26, 2020 Direction is effective immediately. If it is in the public interest to do so, I will provide further direction or clarification at a later date related to the matters set out in this Direction.

If you have any questions related to this Direction, please contact:

Chloe Stuart
Assistant Deputy Minister, Land and Water Division
Ministry of the Environment, Conservation and Parks
Robinson PI South Tower, 6th Floor
300 Water Street
Peterborough, ON, K9J 3C7
(705) 755-5341
chloe.stuart@ontario.ca

To learn more about how the province continues to protect Ontarians from COVID-19, please visit www.ontario.ca/coronavirus.

Sincerely,

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

Jeff Yurek
Minister of the Environment, Conservation and Parks

c: Steve Clark, Minister of Municipal Affairs and Housing
John Yakabuski, Minister of Natural Resources and Forestry
Kim Gavine, General Manager, Conservation Ontario

SCHEDULE "A" CONSERVATION AUTHORITIES

Ausable Bayfield CA

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Mississippi Valley CA

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Nottawasaga Valley CA

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Doug Hevenor
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Otonabee Region CA

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Dan Marinigh
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Quinte CA

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TO: Board of Directors
FROM: Katherine Toffan, Manager Finance
DATE: September 15, 2020

SUBJECT: Proposal Call for External Audit Services

RECOMMENDATION: THAT Staff Report No. 40-20-BOD regarding Proposal Call for External Audit Services be received; and

FURTHER THAT staff’s recommendation to appoint BDO Canada LLP to provide external audit services for the period 2020 to 2024 inclusive, subject to annual review, at an annual fee of \$18,500 for 2020, \$19,000 for 2021, \$19,500 for 2022, \$20,000 for 2023 and \$20,500 for 2024 be approved.

Purpose of Staff Report:

The purpose of this Staff Report No. 40-20-BOD is to obtain approval from the Authority’s Board of Directors to appoint the firm of BDO Canada LLP to provide external audit services for the period 2020-2024.

Background:

The last call for proposal for audit services was in 2015. As the audit term was completed at the end of 2019, and in keeping with procurement guidelines, LSRCA issued a public Request for Proposal for Audit Services for the period of 2020 to 2024.

The Request for Proposal was issued on Friday August 7, 2020 and closed on Monday August 24, 2020. Responses were received by BDO Canada LLP, Rosenswig McRae Thorpe LLP, Welch LLP, Millards (Millard, Rouse & Rosenbrugh LLP), and RLB.

A team made up of Finance staff from LSRCA, including the Manager of Budget and Business Analysis, the Manager of Finance, as well as the Executive Director of the Lake Simcoe Conservation Foundation, and the General Manager of Conservation Ontario evaluated all proposals.

The proposals were evaluated based on the following criteria:

Capability of Audit Firm and Audit Team

- The Proponent Profile including, but not limited to, technical experience of the firm in audits of organizations similar to LSRCA;
- Staff continuity and the firm’s availability of resources to ensure that deadlines are met in a timely manner;
- The proposed audit team’s experience in the audit of organizations similar to the LSRCA, including comprehensive details of those skills and experiences which are directly relevant to the audit.

Proposed Audit Strategy

- Proposal and Workplan - General audit strategies and methodology to be employed, including, but not limited to: (i) preliminary audit plan, (ii) substantive audit procedures to be undertaken, (iii) resolution of accounting and disclosure issues, and (iv) report deliverables;
- The perceived understanding of the RFP deliverables and scope of work;
- An appropriate outline of a time budget, including estimated total hours for staff.

Price Proposal - Overall Pricing for the 5-year term and pricing per timelines submitted within the proposals.

Based on the above noted criteria BDO Canada LLP received the highest score.

Issues:

All proposals received were appropriate and reasonable in content. The evaluation team considered the working hours for the Organization staff, all criteria outlined in the proposals, including the proposed cost of the 5 year term and, as a result of this assessment, recommend that BDO Canada LLP be awarded the next five (5) year term.

Relevance to Authority Policy:

It is a requirement under S.38 (1) of the *Conservation Authorities Act* that an annual audit on all accounts and transactions be carried out “by a person licensed under the *Public Accounting Act, 2004*”.

Impact on Authority Finances:

The annual audit fee to be paid for the 2020 fiscal year is \$18,500. The audit fee for 2021 under the recommended proposal will be \$19,000; with an incremental increase of \$500 for each of the following 3 years.

When comparing the fees proposed by BDO Canada LLP for 2020 to the fees paid for 2019, there is a \$500 incremental increase year over year.

Summary and Recommendations:

It is therefore RECOMMENDED THAT Staff Report No. 40-20-BOD regarding Proposal Call for External Audit Services be received; and FURTHER THAT staff's recommendation to appoint BDO Canada LLP to provide external audit services for the period 2020 to 2024 inclusive, subject to annual review, at an annual fee of \$18,500 for 2020, \$19,000 for 2021, \$19,500 for 2022, \$20,000 for 2023 and \$20,500 for 2024 be approved.

Pre-Submission Review:

This Staff Report has been reviewed by the General Manager, Corporate & Financial Services/CFO and the Chief Administrative Officer.

Prepared by: Katherine Toffan, Manager Finance

Signed by:

Mark Critch
General Manager, Corporate &
Financial Services/CFO

Signed by:

Mike Walters
Chief Administrative Officer