



6 November 2015

SUBMISSION OF THE BLUE MOUNTAIN WATERSHED TRUST FOUNDATION

“THE NIAGARA ESCARPMENT COMMISSION AND GREY COUNTY: OPPORTUNITIES FOR A PRODUCTIVE DIALOGUE”

AN OPEN LETTER

SUMMARY:

The BMWT has become aware of a confrontation between the NEC and the Grey county council regarding several NEC discussion papers which proposes to enlarge the NEP in Grey County. In their presentation to County Council, the county planning department strongly advocated consultation with NEC in order to reach an acceptable compromise. The council accepted the staff report but went one step further in proposing the dissolution of the NEC. Our position is that the confrontational attitude to these NEC discussion papers is totally non-productive and that serious consultation should have taken place between staff at NEC and the County prior to any political confrontation on this subject. Fortunately, as recent discussions with the Director of Grey County planning has confirmed, a dialogue between the two parties is presently underway.

A BACKGROUND STUDY OF THE ISSUES

This brief is submitted by the Blue Mountain Watershed Trust Foundation in response to the present land use controversy between the Niagara Escarpment Commission and Grey County Council and its constituent townships/municipalities.¹ In particular, we are concerned by the resolution that was passed at the 6 October Grey Council meeting (Planning and Development Committee cc 137-15) “That the County of Grey recommend that the Niagara Escarpment

¹ The focal point of the controversy were two NEC discussion papers associated with the 2015 Co-ordinated Land Use Review, and posted on the on the NEC web-site: “Land Use Designation Criteria Mapping,” County of Grey (21 May 2015); and “Additions to the Niagara Escarpment Area” (15 July 2015).

Commission be dissolved given the existence of professional planning in county, regional and municipal governments.”²

The BMWTF is an independent, local grass-roots environmental organization that has served the Collingwood, Blue Mountain and Beaver Valley region for over twenty years. During that period we have worked closely with the Niagara Escarpment Commission, the Nottawasaga Valley Conservation Authority, the Grey-Sauble Conservation Authority, and the towns of Collingwood and The Blue Mountains. We currently have about 175 members and broad local support.

The Blue Mountain Watershed Trust strongly supported the goals and strategies of the Niagara Escarpment Commission during the recent Co-ordinated Land Review process (the Crombie Panel). As part of this exercise we consulted most of the special discussion papers that were prepared over a three years period (2013-15) concerning important trends and issues associated with the future status of the Niagara Escarpment as one of the world’s premier UNESCO Biosphere Reserves.³ We also appreciate that the Niagara Escarpment Plan Area is the focal point of Ontario’s rapidly expanding ecotourism industry, which is gaining increased popularity among Ontario residents at large, a trend that was clearly documented during the sessions of the Co-ordinated Land Review town meetings in Barrie & Owen Sound.

Unfortunately, there appears to be a number of misconceptions about the present relationship between the Niagara Escarpment Commission and the County of Grey and its constituent townships and municipalities. In trying to rectify this problem, the BMWT has posed a number of relevant questions:

A Is there any difference between a NEC discussion paper and a policy directive from the Ministry of Natural Resources and Forestry?

Of course the answer is a resounding yes! The 2015 Co-ordinated Review is a special exercise, carried out as part of a ten year assessment of land use policies in the Greater Golden Horseshoe, the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan, and the Niagara

² Grey County, Council Minutes: Planning and Community Development Committee, October 6, 2015, 3-5; Owen Sound Sun Times 9 October 2015.

³ There are a number of other important NEC discussion papers that relate to this controversy. They include: Proposed Addition of Lands to the Niagara Escarpment Parks and Open Space System (18 June 2015); Niagara Escarpment Commission Response to Our Region, Our Community, Our Home: A Discussion Document for the 2015 Coordinated Review (21 May 2015); An Overview of the Risk-based Inspection, Investigation and Enforcement Program and Occurrence Tracking System for the Niagara Escarpment (21 May 2015); Scenic Resources Discussion Paper (18 September 2014); Woodlands and Significant Woodlands (20 November 2014); Aggregate Resource Policies—Addendum 1 (20 November 2014); Species at Risk (July 2014); Cultural Heritage Discussion Paper (20 November 2014); Urban Uses and Urban Designations :Phrase 1 & 2 (19 December 2013, 15 January 2015).

Escarpment Plan (NEP). In meeting its obligations, the Niagara Escarpment Commission has undertaken a systematic review of topics deemed important for the future of the NEP Area by highly qualified specialists. In turn, these reports go through an exhaustive review process by the 17 members of the Commission, who can request content and stylistic changes, or even reject the document altogether. The next stage is the call for public comment, with each discussion paper being posted on the NEC website. Finally, **selective** topical reports papers are forwarded to the Minister of Natural Resources and Forestry (and Cabinet) who ultimately decide whether “to accept them, or reject them.”⁴

COMMENT: As explained, final decision making concerning NEC discussion papers remains in the hands of the MNR&F. As a result, it is sometimes challenging for NEC specialists and their county and local counterparts to develop long term collaborative arrangements, particularly since the Commission’s mandate is to consider the Escarpment as a whole, rather than one specific geographical area such as Grey County. The structural deficiencies of this approach have been all too evident during the present controversy, and the Commission should substantially improve its communication skills in dealing with local government, and environmental NGO’s.⁵ At the same time, critics should recognize that unlike the deliberations for changes to the other Greenbelt Plans, the NEC’s work is open and transparent.

B In what ways does NEP Area Enlargement Threaten Grey County and its Local Governments?

Clearly the recommendation of the two discussion papers on expanding the Niagara Escarpment Plan Area represents a challenge for Grey County. For example, the “Additions” study recommended that 44,196 hectares should be shifted from municipalities that border on the NEP Area, both to rectify past mistakes, and to take advantage of the provincial goal of expanding the entire Greenbelt region.⁶ In addition, there was a discussion of how this revised land re-distribution system would operate—notably by the application of a complex and multi-faceted designation criteria.⁷

⁴ Don Scott, Chairman of the NEC for the past seventeen years, outlined this process in a recent article of the Owen Sound Times .(9 October 2015)

⁵ Telephone interview with Kim Peters, NEC Senior Strategic Adviser, Georgetown, 19 October 2015.

⁶ Significantly, one half of the land (44,196 hectares) recommended for transfer were originally recommended for inclusion in the pre-1985 Niagara Escarpment Plan. “Additions to the Niagara Escarpment Plan” (15 July 2015),2-3.

⁷ Lands would be recommended for inclusion in the NEP if the following criteria applied: it contains Escarpment brow, toe, slope, secondary scarp or outlier; it contains a significant Escarpment-related landform, as defined by the NEP; it constitutes part of a Provincial Park, nature preserve, Conservation Area; it includes natural heritage features; it includes Provincial and Regional Life Science ANSI’s, Significant Woodlands, Provincially or Locally Significant Wetlands, headwaters, waterfalls and environmentally sensitive areas (ESA);it has been assigned a high

Under the proposed scheme 32,559 hectares of Escarpment land would be shifted from the control of Grey County into the NEP Area on the grounds that "the main Escarpment is very well defined and is accompanied by many well-defined Escarpment-related land-forms." (12) Not surprisingly, there has been a hostile reaction from Grey County Council about the 32,559 hectares, the lack of adequate consultation and the fact that 73.7 % of the total amount of land comes from their region. In contrast, there is only 6.9 hectares from the Niagara Region; 765 and 4129 hectares from Bruce and Simcoe counties respectively; and zero lands from Halton, Peel and the City of Hamilton.

To be fair, these are only speculative recommendations not policy directives. And while all discussion papers for the 2015 Co-ordinated Review are extensively researched, and thoroughly reviewed by the 16 members of the Commission, only a few select briefs are ever forwarded to the Minister of Natural Resources and Forestry or related ministries. More important, it is the MNR&F (or Cabinet) that ultimately decides whether "to accept them, or reject them." ⁸

COMMENT: Again, these are only discussion papers, not policy directives. In addition, these two NEC discussion papers do provide some important arguments to justify their recommendations: 1) that many Escarpment lands in the southern regions had already been incorporated into the Greenbelt system; 2) that mapping inaccuracies of Escarpment lands was most pronounced in Grey County; 3) and that the utilization of natural heritage features as an important land use criteria remains somewhat under-developed in this region. ⁹ Efforts were also made by NEC staff to explain how the new system of evaluation operated. In the Land Use Designation Criteria Mapping discussion paper, for instance, there was a discussion of how lands, previously designated as Escarpment Recreational, would be transformed into Escarpment Natural Area and Escarpment Protected Area. ¹⁰ And why this was a good thing.

C How Have Grey County Planners Responded to the Challenge of NEP Expansion?

In his 15 September Report Planner Randy Scherzer took issue with a number of aspects of the two NEC reports. Significantly, he began his critique with the report on Land Use Designation, with particularly reference to the large increase (53.6 %) of land in Grey County that would be

scenic value in the Niagara Escarpment Landscape Evaluation Studies; it contains a cultural heritage feature as defined in the NEP." Ibid., 2-3.

⁸ Don Scott, Chairman of the NEC for the past seventeen years, outlined this process in a recent article of the Owen Sound Times (9 October 2015)

⁹ It should also be noted that lands included in the Escarpment Natural Areas could affect the tax policies of local governments since they would become eligible for the Conservation Lands Tax Incentive Program. Additions to the Niagara Escarpment Plan, 4.

¹⁰ Land Use Designation Criteria Mapping (21 May 2015), 3.

designated Escarpment Natural Area. ¹¹ In Scherzer’s opinion this major shift of potentially commercial lands into the most restrictive category could have negative consequences for future development throughout Grey County. As a result, he proposed a series of compromises: that Significant Valleyland, Significant Woodlands and other wetlands should be determined by “policies contained in keeping with “policies contained in municipal official plans;” that the NEC should view natural heritage factors “as development constraints and not a designation;” and that the Four Seasons Craighleith Camperdown Recreational Area should remain “the same as currently identified in the NEP.”¹²

In dealing with the proposed transfer of 32,559 hectares of Grey County lands to the Niagara Escarpment Plan Area, the Scherzer Report was even more assertive. For example, after examining the ten specific targeted areas, the report concludes that “municipalities would lose decision making control for development proposed within these areas as the authority would likely rest with the NEC.” Even worse, the report noted, future commercial activity would be seriously hindered because a substantial portion of these lands had been designated Escarpment Natural Area and Escarpment Protection Area “which have fairly restrictive policies for any new development or lot creation.” ¹³

An essential dimension of the Scherzer report is the request for a more effective form of consultation, that would ensure that individual notices would be sent “to all landowners affected by the proposed additions;” that there would be specific negotiations to determine the governance of all lands being added to the NEP; and that the NEC would respect existing Grey County planning regulations “that these lands would be developed in a sustainable and appropriate manner.”¹⁴

COMMENT: After a careful reading of the Scherzer report, it would appear that Grey County planners are more than capable of negotiating effectively with the Niagara Escarpment Commission both in decreasing the total amount of land proposed for transfer (32,559 hectares), and reducing the percentage of lands categorized as Escarpment Natural and Escarpment Areas.

¹¹ These changes were attributed to the use of two new terms “Provincially Significant Areas of Natural and Scientific Interest (Life Science,” rather than “most significant”; and Significant Valley lands, Significant Woodlands. Report PDR-PCD-35-16 (Scherzer Report), 3.

¹² Ibid., 3. There was also an attempt to explain some of the problems in locating Significant Woodlands because of Grey County’s ineffective mapping system.

¹³ Additions to the Niagara Escarpment Plan Area Discussion Paper,”6-9. Significantly, two thirds of the proposed lands were within the Municipality of Meaford, with the Township of Georgian Bluffs being the second most affected area. In contrast, the Ravenna, Redwing, Mill Creek Escarpment Toe (G-3 on the map) was the only area affected within the Town of The Blue Mountains.

¹⁴ “Ibid.,8-9.

It should also be noted that this report is essentially a document prepared for negotiation not confrontation. Hopefully this approach will prevail.¹⁵

D. Different Perspectives on the Present Controversy

During the past thirty years, Grey County and its different levels of government have benefitted from the existence of the NEC. Indeed, in examining alternative interpretations to the case presented by the Scherzer Report, it is important to recognize the growing popularity of ecotourism throughout Grey County, particularly in the Bruce Peninsula and in the Town of The Blue Mountains. Indeed this trend provides additional reasons to support the movement of lands into the more protected categories, an approach favoured by the highly acclaimed Niagara Escarpment Parks and Open Space System. Under NEPOSS, with its 163 parks (some being special Nodal Parks), there are unique opportunities “for outdoor education and recreation... on public land for discovery and enjoyment by Ontario’s residents and visitors.”¹⁶ Regional ecotourism is further enhanced by the Niagara Escarpment’s twenty five year standing as a UNESCO World Biosphere Reserve. For this reason, we encourage a cooperative approach between the NEC and the County without compromising the objectives of the Niagara Escarpment Plan.

Equally important is the need to appreciate that Grey County contains more than 85 % of the 7,335 hectares of land (4.26 % of the NEP) designated as Escarpment Recreational.¹⁷ This includes not only the five commercial ski operations (1 public and 4 private) in the Town of The Blue Mountains, but the expansion of four season recreational activities throughout the County. Significantly, the NEC, local governments and major recreational companies have successfully worked together to establish profitable operations such as the 2011-15 Blue Mountain Resort recreational rope and Zip Line at its ski site, while still ensuring that there was no “unnecessary encroachments on the slope of the Escarpment.”

Finally, for those who are concerned about expanding wind energy operations in Grey County, they should be delighted to learn that this activity cannot take place on lands categorized Escarpment Natural and Escarpment Protective.

E. Conclusion

¹⁵ While the study prepared by Michael Benner (5 October 2015) is entirely based on the Scherzer Report, it does not deal directly with the issue of the NEC dissolution. Instead, there is the comment that staff share the concerns of Grey County staff regarding proposed changes in the NEP, “and recommends that Council support the county’s position on the matter.” 4.

¹⁶ Discussion Papers, “the Niagara Escarpment Parks and Open Space System,” (14 October 2013), 5, 61.

¹⁷ NEC Discussion Papers, “Urban Uses and Urban Designation, (19 September 2013), 20-22.

In the opinion of the Blue Mountain Watershed Trust Foundation the dissolution of the Niagara Escarpment Commission would drastically undermine the ecological integrity of the Niagara Escarpment Plan Area, and undermine the opportunities for a dynamic ecotourist industry in this region. Nor do we accept the thesis that dissolution of the NEC would make little difference for the protection of the NEP in Grey County “given the existence of professional planning in county, regional and municipal governments.” In fact, available evidence suggests quite a different interpretation.¹⁸

It is also important to consider a number of economic and social realities that should be considered by all levels of government in Grey County:

1. The NEP is funded by the Province since it is a benefit for the entire province not just the contiguous municipalities. The budget for the NEC is \$2.4 million/yr. The contiguous municipalities should not be burdened with this cost even if it could be somewhat reduced by using municipal resources.
2. It is impractical for certain municipalities to have differing relationships to the NEP; therefore, the NEC would have to be dissolved entirely to satisfy this suggestion. Other municipalities would not agree to a changed relationship.
3. There may be reasonable criticisms of the NEC but these should be resolved by consultation rather than by unilateralism.
4. It should also be recognized that if there were no Niagara Escarpment Commission the present debate about proposed changes to the NEP would not be taking place in an open and transparent way. Instead, these would be internal review that would be carried out almost entirely within the Ministry or Ministries responsible for the legislation that created the Provincial Plans.
5. Finally, we wish to observe that municipalities have a range of land use planning objectives including accommodation of economic development and conservation of natural spaces. These objectives are sometimes in conflict. The Niagara Escarpment Commission has the unique and undivided obligation to protect the ecology of the Niagara Escarpment. There is no other institution that has this focus.

We were very disappointed about the apparent breakdown in communication and trust between the NEC and Grey County. We believe it is possible to advance the objectives of the Niagara Escarpment Plan while upholding an appropriate level of municipal planning—and to have different points of view while maintaining a productive dialogue.

¹⁸ Both the two NEC reports on expansion, and the study by Randy Scherzer support this line of argument.

Yours truly,

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