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Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Monday, October 05, 2020 9:57:32 PM

From: Niagara Region Website
Sent: Monday, 05 October 2020 21:57:23 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

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Name

John Bacher

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Organization

standing committee

Regional Council

Presentation Topic

Woodland Review

Presentation includes slides

No

Previously presented topic

No

Presentation Details

Request that changes be made to Woodland policy to require peer reviews of Environmental Impact Statement. Policy should also require provisions for public participation in these reviews.

Video Consent

Yes



Comments on Niagara Region Woodland-by Law Review. Dr. John Bacher (PhD)

1. Woodland -By Law Sound, but. Improvements can be made

I agree with the general conclusion that the Woodland by-law of the Niagara Region is basically sound. I have keenly followed the course of the by-law since it emerged out of the weaker tree by-laws of Welland and Lincoln counties. The Niagara Regional Council should be aware that there were two specific incidents that triggered the two phases of the current by-law.

2. Significant Origins of Niagara Regional Tree By-law.

The two incidents that drove the evolution of Niagara's tree by law are among the darkest moments of our community's recent environmental history. One was a clear cutting incident of a 35 acre old growth wetland forest. It was north of Oldfield Road and part of the ecosystem which has come to be known as the Thundering Waters Forest. The other was the removal of half of an approximately, 20 acre forest on Garner Road in Niagara Falls.

3. Need for Stronger Application of Restoration Requirements of Niagara Regional Tree by-Law.

Where my experience has found that the Niagara Regional Tree by-law needs strengthening of the enforcement of its restoration provisions. The provisions are quite valid, but are not properly triggered. In actual practice they are ignored, and the problem of how restoration takes place is left to a slow moving process of natural restoration, without even restoring cuts which were made in the tree removal process.

Tree planting in response to violations of the by-law is appropriate. Perhaps the by-law should certify a minimum size of tree, or age. Most importantly, the by-law does require inspections of the how well restoration is doing. This is important since in periods of drought there can be extensive death of young trees. The penalties that result from properly enforced restoration plans are normally more extensive than individual tree fines, which are in comparison, minimal deterrents.

4. Lack of Restoration Requirements in Violation of By-Law in Thundering Waters Forest Ecological Restoration Area.

My understanding of the problems of triggering tree planting restoration can be seen in the case of a violation by a contractor employed by GR (CAN) Investments in an area targeted for ecological restoration by Amendment 128 of the Niagara Falls Official Plan. This area is part of the Lower Welland River Provincially Significant Wetland Complex. Under the Amendment the area was slated for ecological restoration work such as the removal of invasive, exotic Buckthorn.

The impact of the cutting at Thundering Waters was described by a Professor of Biology, Dr. Michael Dickman. Dr. Dickman recalls how, "On Nov. 2018 (Wed) at 2pm I drove to the Riverfront Community, (previously referred to as Thundering Waters) proposed development area where it abuts onto the Chippawa Parkway near Bukator Park. I witnessed areas where the cutting was done in a spot identified in OPA 128 for ecological enhancement. This area was supposed to be improved through methods such as Buckthorn removal to compensate for the deforestation of other areas.

I took several photos to document the indiscriminate tree damage and later learned that the bulldozer operator had been employed by the developer who did not have the required permits to bulldoze vegetation in the area.”

Several months after receiving Dr. Dickman’s statement, I visited the site and contacted the NPCA. The only evidence of prosecution appears to be the installation of blue marking flags along the course of the bulldozer. No restorative plantings had taken place. There were some ruts in the path created by the bulldozer. When I contacted the NPCA they expressed satisfaction with the site, attributing the ruts, in my view wrongly, to the uses of the site by off road vehicles. They also seem to indicate that the natural growth of what appears to be Grey Dogwood saplings was the equivalent, of the ordered restoration of planted young trees under the by-law. In my view this shows the need to strengthen provisions for compulsory restoration in response to violations of the by-law.

5. Mandatory Peer Reviews of Environmental Impact Studies (EIS) in Core Natural Heritage Areas are Needed.

Currently under the Regional Plan, there is a provision for discretionary Peer Review of Environmental Impact Studies (EIS). Where (EIS) studies are required in practise, it is within areas that form part of the Core Natural Heritage System of the Niagara Region Official Plan. These are largely predominately woodland covered Environmental Conservation Areas (ECA) lands. Not only should such Peer Reviews be required, a process needs to be mandated for public participation in the Peer Review. Before the Peer Review begins, a notice should be given whereby the public will have the opportunity to meet the reviewer. Following the completion of a draft review, a second public meeting should also take place before the peer review is completed.

6. Recommendations of Peel Regional Plan Should be Incorporated in By-law to Prevent Removal of Lands from Protection of By-law from Ash Die Off.

There is a danger that lands which were in the past, or may in the future, protected under the Tree by-law, may be removed because of temporary canopy reduction caused by Ash Die Off from the Emerald Ash Borer. The by-law in this regard, should incorporate the sensible precautionary principles recognized in a background study for the new Niagara Regional Official Plan. This is, that such impacted lands should not lose their current level of protection.

Dr. Dickman has also written on the problem of Ash Die off. He disputes notions of degradation of woodlands to Buckthorn dominated thickets, noting that the US Forest Service has found that “in the long run a succession would take place in which the buckthorn would be replaced by taller trees such as oak, whose canopy would arch out over the buckthorn depriving them of light.”

7. Conclusion

It is to be hoped that the Niagara Region will develop a tree-by law that will be a model for other municipalities to emulate. This should be a high priority for the council as it develops a new official plan.