



NIAGARA PENINSULA CONSERVATION AUTHORITY

WELLAND

FEBRUARY 20, 2008

7:15 p.m.

MINUTES

MEMBERS PRESENT

D. Ransom, (Chairman)
B. Baty (Vice-Chairman)
B. Bentley
G. Burroughs
T. Dalimonte
C. D'Angelo
D. DiFruscio
A. Fevez
D. Goulbourne
B. Heit
B. Henderson
N. Johnson
B. Steckley

MEMBERS ABSENT:

B. Butters (with regrets)
B. Greenwood (with regrets)

STAFF PRESENT:

A.L. Burt, General Manager
L. Sawatzky, Recording Secretary
M. Stack, Director Communications
T. D'Amario, Director, Water Management
D. Baker, Director, Land Management
T. McDougall, Executive Director Conservation Foundation
I. Barrett, Aquatic Habitat Biologist
P. Bond, Senior Watershed Planner

OTHERS PRESENT:

Greg Berti
Rick Brady
Jon Whyte
Mario Duva

BUSINESS:

The Chairman called the meeting to order at 7:04 p.m., welcomed everyone in attendance and then requested that if anyone had a conflict of interest to declare it. Brian Heit declared a conflict with respect to Telus or Talk Wireless.

(1) **DELEGATIONS**

The Chairman moved the delegations to this point in the agenda and advised of the 10 minutes limit for presentations. He then invited Mr. Greg Berti come forward.

Mr. Berti thanked the Board for the opportunity to make his presentation and outlined the reasons for coming to the Board.

Following Mr. Berti's presentation, the Director, Water Management outlined the staff concerns with the proposal noting a portion of the land proposed for the residential development was within the regulatory floodplain. A lengthy discussion took place and the following resolution was presented.

FA-13-08

MOVED BY: A. Fevez

SECONDED BY: C. D'Angelo

THAT: the Board reject the proposal as presented;

And that staff work with the landowner and Town of Niagara-on-the-Lake to seek a solution that is consistent with the Authority's floodplain management policies.

"CARRIED"

The Chairman then invited Mr. Rick Brady to make his presentation.

Mr. Brady thanked the Board for the opportunity and noted that he was representing developers in Niagara Falls and outlined the proposed Thundering Waters re-development proposal.

Following this presentation, the Director, Water Management outlined the staff report concerning this proposal. After a lengthy discussion, the following resolutions were presented.

FA-14-08

MOVED BY: B. Steckley

SECONDED BY: T. Dalimonte

THAT: Report No. 12-08 regarding the Thundering Waters Development Proposal in the City of Niagara Falls be received.

"CARRIED"

FA-15-08

MOVED BY: B. Baty

SECONDED BY: B. Henderson

THAT: the proposed relocation of the wetland be approved subject to the conditions noted in Report No. 12-08 which are amended by substituting the word "commenced" for "completed" in Condition 3.

"CARRIED"

Authority Meeting - Minutes
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(2) **MINUTES**

(a) **FULL AUTHORITY ANNUAL MEETING – JANUARY 16, 2008**

The following resolution was presented.

FA-16-08

MOVED BY: T. Dalimonte

SECONDED BY: G. Burroughs

THAT: the Minutes of the Annual Authority meeting held January 16, 2008, be received and approved as printed.

"CARRIED"

(b) **FULL AUTHORITY MEETING – JANUARY 16, 2008**

The following resolution was presented.

FA-17-08

MOVED BY: B. Henderson

SECONDED BY: G. Burroughs

THAT: the Minutes of the Full Authority meeting held January 16, 2008, be received and approved as printed.

"CARRIED"

(c) **BALL'S FALLS HERITAGE ADVISORY COMMITTEE MEETING – FEBRUARY 6, 2008**

The following resolution was presented.

FA-18-08

MOVED BY: B. Baty

SECONDED BY: M. DiFruscio

THAT: the Minutes of the Ball's Falls Heritage Advisory Committee meeting held February 6, 2008, be received and approved as printed.

"CARRIED"

(3) **BUSINESS ARISING FROM MINUTES**

There was no business arising from the Minutes.

(4) **CHAIRMAN'S REMARKS**

The Chairman thanked everyone for coming.

(5) **GENERAL MANAGER'S REPORT**

The General Manager advised that due to poor ice conditions the ice fishing derby to be held at Binbrook Conservation Area on February 10th had been changed to February 24th and will run from 8:00 a.m. to 2:00 p.m.

(6) **ACCOUNTS – DECEMBER, 2007 - REPORT NO. 03-08**

Brian Heit declared a conflict of interest regarding Telus and Talk Wireless. The following resolution was presented.

FA-19-08

MOVED BY: G. Burroughs

SECONDED BY: T. Dalimonte

THAT: the list of accounts for the month of December, 2007, in the amount of \$1,358,826.68 be received and approved.

"CARRIED"

(7) **ACCOUNTS – JANUARY, 2008 - REPORT NO. 04-08**

The following resolution was presented.

FA-20-08

MOVED BY: B. Henderson

SECONDED BY: T. Dalimonte

THAT: the list of accounts for the month of January, 2008, in the amount of \$507,451.94 be received and approved.

"CARRIED"

(8) **2007 CURRENT & CAPITAL BUDGETS – UNAUDITED YEAR END – REPORT NO. 05-08**

The following resolution was presented.

FA-21-08

MOVED BY: B. Heit

SECONDED BY: T. Dalimonte

THAT: Report No. 05-08 regarding the 2007 Current and Capital Budgets – Unaudited Year End be received; and

That the recommended appropriations be approved.

"CARRIED"

(9) PROPOSED 2008 CURRENT BUDGET – REPORT NO. 06-08

The General Manager provided a brief outline of the proposed 2008 Current Budget and noted that in accordance with regulations, a recorded vote was required.

The following resolution was presented.

FA-22-08

MOVED BY: B. Baty

SECONDED BY: G. Burroughs

THAT: Report No. 06-08 regarding the Proposed 2008 Current Budget be received; and

That the Proposed 2008 Current Budget with a total expenditure of \$6,337,250 and a general levy of \$2,003,770 and special levies of \$2,064,000 to the Region of Niagara, \$120,500 to the City of Hamilton and \$9,200 to Haldimand County be approved; and

That the 2008 matching levy in the amount of \$174,500 and the total non-matching levy in the amount of \$1,829,270 for the 2008 Current Budget be apportioned to the member municipalities on the basis of the 2000 current value assessment of the member municipalities proportionate to the total 2000 current value assessment within the Authority's area of jurisdiction; and

That the special levies for the 2008 Current Budget be assessed in the amount of \$2,064,000 to the Region of Niagara, \$120,500 to the City of Hamilton and \$9,200 to Haldimand County.

	<u>YES</u>	<u>NO</u>
Douglas Ransom	x	
Brian Baty	x	
Bob Bentley	x	
Gary Burroughs	x	
Barbara Butters	absent	
Tony Dalimonte	x	
Carmen D'Angelo	x	
Dominic DiFruscio	x	
Andy Fevez	x	
Damian Goulbourne	x	
Barbara Greenwood	absent	
Brian Heit	x	
Barbara Henderson	x	
Norm Johnson	x	
Robert Steckley	x	

"CARRIED" Unanimously

(10) PROPOSED 2008 CAPITAL BUDGET – REPORT NO. 07-08

The General Manager presented the staff report and noted that in accordance with regulations, a recorded vote was required.

The following resolution was presented.

FA-23-08

MOVED BY: B. Henderson

SECONDED BY: B. Baty

THAT: Report No. 07-08 regarding the Proposed 2008 Capital Budget be received; and

That the Proposed 2008 Capital Budget with a total expenditure of \$7,892,100 and a general levy of \$1,048,600 and special levies of \$1,409,600 to the Region of Niagara, \$247,500 to the City of Hamilton and \$12,500 to Haldimand County be approved; and

That the 2008 general levy in the amount of \$1,048,600 be apportioned to the member municipalities on the basis of the 2000 current value assessment of the member municipalities proportionate to the total 2000 current value assessment within the Authority's area of jurisdiction; and

That special levies for the 2008 Capital Budget be assessed in the amount of \$1,409,600 to the Region of Niagara, \$247,500 to the City of Hamilton and \$12,500 to Haldimand County.

	<u>YES</u>	<u>NO</u>
Douglas Ransom	x	
Brian Baty	x	
Bob Bentley	x	
Gary Burroughs	x	
Barbara Butters	absent	
Tony Dalimonte	x	
Carmen D'Angelo	x	
Dominic DiFruscio	x	
Andy Fevez	x	
Damian Goulbourne	x	
Barbara Greenwood	absent	
Brian Heit	x	
Barbara Henderson	x	
Norm Johnson	x	
Robert Steckley	x	

"CARRIED" Unanimously

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(11) **SHRINER'S CREEK DAM "C" IMPROVEMENT PROJECT – REPORT NOS. 08-08 & 14-08**

The Director, Water Management outlined the staff reports. The following resolutions were then presented.

FA-24-08

MOVED BY: B. Heit

SECONDED BY: G. Burroughs

THAT: Report No. 08-08 regarding the Shriner's Creek Dam "C" Improvement Project be received.

"CARRIED"

FA-25-08

MOVED BY: G. Burroughs

SECONDED BY: B. Baty

THAT: the contract for the Shriner's Creek Dam "C" Improvement Project be awarded to Circle P. Paving Inc., for the tendered price of \$148,184.40 including GST, subject to confirmation of funding from the City of Niagara Falls.

"CARRIED"

(12) **2008 VEHICLE PURCHASE – REPORT NO. 09-08**

The Director, Land Management presented the staff report. After responding to questions, the following resolution was presented.

FA-26-08

MOVED BY: B. Baty

SECONDED BY: G. Burroughs

THAT: the low quotation, dated February 11th, 2008, received from Performance Chrysler Dodge Jeep to supply two (2) 2008 ½ ton pick-up trucks, for the total price of \$20,448.48 including trade-in and all applicable taxes be accepted.

"CARRIED"

(13) **2008 EQUIPMENT PURCHASE – REPORT NO. 10-08**

The Director, Land Management outlined the staff report. A request was made to show the trade-in values in the future. Carmen D'Angelo advised that the Region of Waterloo has a hybrid policy that perhaps the Authority could look at with the possibility of adopting something similar. The following resolution was presented.

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FA-27-08

MOVED BY: B. Heit

SECONDED BY: B. Henderson

THAT: the low quotation, dated February 6th, 2008, received from Ben Berg Farm & Ind. Equipment, to supply two (2) 2008 Kubota F3680 front mount mowers for the total price of \$17,474.32 including trade-in allowance and all applicable taxes, be accepted.

"CARRIED"

(14) **CORRESPONDENCE – NIAGARA SOUTH FEDERATION OF AGRICULTURE – REPORT NO. 11-08**

The General Manager outlined the staff report. The following resolution was presented.

FA-28-08

MOVED BY: M. DiFruscio

SECONDED BY: T. Dalimonte

THAT: Report No. 11-08 regarding Correspondence – Niagara South Federation of Agriculture be received for information.

"CARRIED"

(15) **PROJECT STATUS REPORT – REPORT NO. 13-08**

With respect to the Water Quality Program, Gary Burroughs asked if the locations of the Authority's sampling sites were available. The General Manager advised that the information could be found in the Annual Water Quality Report.

Andy Fevez requested an update on the responses received with respect to fees recently imposed in the hunting program. The General Manager advised that for the most part, they were generally accepted, however, there were several complaints received.

The General Manager noted that the Ministry of Natural Resources has issued a permit to stock pickerel at Binbrook.

A question was raised as to whether a firm date has been set for the opening of the Ball's Falls Centre. The General Manager advised that it will be Thursday, May 8th.

There were no further questions on the Status Report, therefore the following resolution was presented.

FA-29-08

MOVED BY: B. Baty

SECONDED BY: G. Burroughs

THAT: Report No. 13-08 outlining the status of Authority projects be received for information.

"CARRIED"

(16) OTHER BUSINESS

Norm Johnson requested information on the four restoration projects on 20 Mile Creek as indicated in the December accounts listing.

Gary Burroughs advised that the Town of Niagara-on-the-Lake was having difficulty obtaining a 5 day extension from DFO to do some shoreline protection and asked the General Manager if he had any information on why. The General Manager advised that in his previous discussions with DFO he was of the impression that it would be granted. He indicated that he would look into the matter.

(17) IN-CAMERA – VIOLATIONS STATUS REPORT

The following resolution was presented.

FA-30-08

MOVED BY: T. Dalimonte

SECONDED BY: M. DiFruscio

THAT: this meeting do now move in-camera.

Received at 8:50 p.m.

"CARRIED"

FA-31-08

MOVED BY: B. Henderson

SECONDED BY: N. Johnson

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

Received at 8:55 p.m.

"CARRIED"

ADJOURNMENT

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

FA-32-08

MOVED BY: M. DiFruscio

SECONDED BY: G. Burroughs

THAT: this meeting do now adjourn.

Received at 8:40 p.m.

"CARRIED"



"L. Sawatzky, Recording Secretary

D. Ransom, Chairman"



TO: The Chairman and Members of the Authority

DATE: February 14, 2008

SUBJECT: Thundering Waters Development Proposal City of Niagara Falls – Report No. 12-08

The subject property is comprised of approximately 227 hectares within the City of Niagara Falls as illustrated on the attached plan. NPCA staff originally met with the proponents (at their request) in February of 2007 to discuss general NPCA issues that may affect development of these lands. The existing wetlands on the site were the focus of these discussions but there are two watercourses as well.

The wetland features on the subject lands are considered to be part of the Niagara Falls Woodlot No. 1, last evaluated by the Ministry of Natural Resources as a Locally Significant Wetland in December 1998. The majority of the evaluated wetlands on these properties are located south of Oldfield Road and north of the Con Rail Drainage Ditch, although pockets of wetlands have also been identified between the Drainage Ditch and the CP Rail Lines, south of the Rail Lines and west of Kister Road. The extent of evaluated wetlands on these properties are represented by the green shaded area on the attached figure. According to studies prepared for the proponent by L. Campbell and Associates, the areas identified for preservation incorporate the most significant natural heritage features on the subject lands.

The Region of Niagara Core Natural Heritage Map (December 2005) identifies the lands south of Oldfield Road, between Drummond and Dorchester Roads, as Environmental Conservation Area, with the exception of a small portion of the northwest corner which has been cleared. As well, portions of the lands south of the CP Rail Line have been designated as Environmental Conservation and part of the Potential Natural Heritage Corridor System. Carolinian Canada has also identified portions of these lands as Priority Areas for preservation, due to the presence of Provincially rare plant species.

In late August of 2007 the NPCA was circulated a formal application for Official Plan Amendment for this property to convert the lands from Industrial to Residential and Environmental Protection. There are approximately 3,000 dwelling units proposed in total. The development will be phased generally from north to south, but the phasing details have not been confirmed. In addition to the Official Plan amendment, there is a parallel Secondary Plan approval process also underway that the NPCA is involved with. The Secondary Plan will cover a slightly larger area than the developer's lands.

Since the initial meeting, there have been ongoing discussions, correspondence and additional meetings with the developer's consultants and City of Niagara Falls staff. Additional environmental data and information was provided by Lisa Campbell over that time as well. These discussions have centered around the developer's request for CA staff to consider relocating a significant section of wetland on the site in exchange for a wetland to be created (by the developer) elsewhere on the site. The attached plan illustrates this concept.

The relevant sections with respect to consideration of the proponent's request to relocate a wetland under the NPCA's approved "Land Use Planning Policy Document" are sections 3.24.1(b) and i(A) which read as follows:

3.24.1(b)

Development and/or site alteration will not be permitted in or on the areas of any PSW and will generally not be permitted within any LSW or wetland greater than 2 hectares in size. Some Restricted Uses may be permitted in a wetland (other than PSW's) provided that the proposed use(s) is supported by an approved Environmental Impact Study (EIS) or Environmental Assessment and conforms to Authority Wetland Policy (i).

3.24.1(i)(A)

Where no reasonable alternative exists to locate a proposed development, site alteration or other activity outside of the wetland or adjacent lands, the Authority may require that an area of wetland be created that is equivalent to the area of wetland and adjacent lands disturbed. Any required wetland creation should be located in close proximity to the area disturbed or in an area to be determined by the Authority. All wetlands created under this policy will be added to the Authority regulated area and identified on appropriate screening maps,

All proposals to reconfigure a wetland boundary will be assessed by NPCA staff and may require final approval of the NPCA Board of Directors.

As stated in 3.24.1(b), development is generally not permitted within an LSW except for some restricted uses subject to completion of an EIS and in conformance with policy (i). Policy (i)(A) provides for restricted development in a wetland where no reasonable alternative exists to locate a proposed development. The policies define "restricted uses" as:

Restricted Uses: means

- Conservation uses or activities such as wildlife or fisheries management, forestry or passive recreation, flood and/or Erosion control Structures;
- facilities which by their nature must locate near water or traverse water;
- ancillary facilities of an adjacent land use which are of a passive, non-structural nature and do not adversely affect the natural hazard or natural heritage feature or function; and
- municipal infrastructure including roads and utilities/servicing (i.e. sewer lines, gas pipelines, hydro facilities.).

NPCA staff believe large scale wetland re-location to accommodate major development proposals is outside the parameters of this policy, especially as there appears to be similar sized developable area outside the wetland features.

Notwithstanding the above, should the NPCA Board wish to consider the developer's proposal to relocate the wetland as proposed, staff recommend that the following specific conditions be included in any approval.

- 1) As a condition of NPCA approval, the NPCA requires that the proponent prepare a report to determine the feasibility of creating wetland area south of the Con Rail Drainage Ditch. The report will assess the feasibility of satisfying the following criteria:

- That an area of wetland be created south of the Con Rail Drainage Ditch that is greater than or equal to the area of wetland to be lost north of the Drainage Ditch. The NPCA also requires that the boundary of all wetlands located north of the Con Rail Drainage Ditch be verified in the field by a qualified biologist to accurately assess the area of wetlands to be developed and created.
 - That the wetland created south of the Con Rail Drainage Ditch be constructed to match both the hydrological and ecological functions of any wetlands to be lost north of the Drainage Ditch.
- 2) In order to determine the feasibility of creating wetlands south of the Con Rail Drainage Ditch, the above report shall include the following items:
- A detailed assessment of all earthworks and site grading required to facilitate wetland creation on the site. The assessment shall also include a detailed inventory of vegetation to be removed through any require earth works and site grading.
 - A hydrological assessment which will outline and detail the existing hydrologic function of wetlands located north of the Con Rail Drainage Ditch, as well as assess the potential of creating wetlands south of the Con Rail Drainage Ditch.
 - A detailed inventory of all vegetation to be removed from wetlands north of the Con Rail Drainage Ditch, as well as an assessment of habitat conditions and wildlife species utilizing wetland areas north of the Drainage Ditch.
- 3) As a condition of NPCA approval of this proposal subject to a satisfactory feasibility study, the NPCA should require that no land clearing, vegetation removal or site alteration be completed within any wetland area north of the Con Rail Drainage Ditch until all wetland creation works south of the Drainage Ditch are completed to the satisfaction of the NPCA.

The NPCA will note that the above items are intended only to provide an outline to assist with the preparation of a feasibility study. These requirements are not intended to replace detailed scoping of a feasibility study. The NPCA should be contacted prior to the commencement of any required studies to provide appropriate scoping.

The Board's direction in this matter is requested.

RECOMMENDATION:

That Report No. 12-08 regarding the Thundering Waters Development Proposal in the City of Niagara Falls be received.

Prepared by: Tony D'Amario, P. Eng. Director, Water Management

Respectfully Submitted By:



for _____
Andrew L. Burt, General Manager/ Secretary-Treasurer

Thundering Waters, Niagara Falls MNR Identified Wetlands (LSW)



Figure Four A
Draft 07/01/07

Legend

- Area to be Preserved
- Approximates Property Boundaries
- PSW wetlands
- Watercourse



L. Campbell & Associates
Environmental Consultants