

**SAUGEEN VALLEY CONSERVATION AUTHORITY
EXECUTIVE COMMITTEE MEETING**

Thursday July 25, 2019 10:30 a.m.
Location: Teleconference

AGENDA

1. Adoption of Agenda
2. Declaration of Pecuniary Interest
3. Minutes of Executive Committee Meeting – January 22, 2019 – **attached**
4. Minutes of Section 28 Hearing – Klages – February 22, 2019 – **attached**
5. Minutes of Section 28 Hearing – Municipality of Brocton – April 12, 2019 – **attached**
6. New Business
 - a. General Manager/Secretary-Treasurer position
7. Other Business

Adjournment

SAUGEEEN VALLEY CONSERVATION AUTHORITY

MINUTES

Conservation through Cooperation

MEETING: EXECUTIVE COMMITTEE
DATE: Tuesday January 22, 2019
TIME: 10:00 a.m.
LOCATION: Formosa Office

CHAIR: Dan Gieruszak

MEMBERS PRESENT: Paul Allen, Maureen Couture, Mark Davis, Barbara Dobreen

OTHERS PRESENT: Michael Hueftlein, President, Grey Matter Beer Company
Meag Durkin, Manager of Sales, Project Manager, Grey Matter Beer Company
Gerhard Weiland, Consultant, Tract Consulting
Wayne Brohman, General Manager/Secretary-Treasurer
Janice Hagan, Recording Secretary

The Chair called the meeting to order at 9:55 a.m. He welcomed Grey Matter Beer Company and introduced each Executive Committee Member.

1. Adoption of the Agenda

Motion #E19-01

Moved by Maureen Couture

Seconded by Paul Allen

THAT the agenda be adopted as presented.

Carried

2. Declaration of pecuniary interest

No persons declared a pecuniary interest relative to any item on the agenda.

3. Minutes of the Executive Committee Meeting – August 29, 2018

MOTION # E19-02

Moved by Maureen Couture

Seconded by Barbara Dobreen

THAT the minutes of the Executive Committee meeting August 29, 2018 be approved as circulated.

Carried

4. New Business

a. Grey Matter Beer Company

Wayne Brohman, General Manager/Secretary-Treasurer, reviewed the report and in addition addressed the following:

- The GM/S-T took over the file in September 2018 since he has a responsibility to ensure the legal agreements and contracts entered into by SVCA are enforced for the protection and benefit of SVCA.
- There have been 2 other requests to build on the easement – both did not progress. The most recent was in 2011 on the same property.
- Grey Matter has provided several letters of support; however, those organizations have only heard one side of the issue while Authority Members have the benefit of a complete understanding.
- Another option could be to build a sidewalk patio which works in Barrie. If the Municipality is keen to help they could look into allowing a patio on their property.
- The slope stability project was conceived and designed with the input of numerous professionals including SVCA staff and the SVCA Board. There is no reason to second guess the rationale for the easement agreement.

The Members asked the GM/S-T for more information regarding inspections of the easement and it was noted that staff inspect it annually. There has not been any need to complete any maintenance in the 25 years since the project was completed. The Members asked if the GM/S-T had obtained any legal advice to determine if the easement is still required. He told the Committee that in similar properties, after 25 years, serious maintenance had to be done and that it is not possible to predict what could happen.

Mr. Weiland told the Committee that the advantage to having the location of the business in Kincardine is the view of the lake. He presented a diagram of the area to show the proposed deck. He noted that Grey Matter had proposed an 8-foot-wide deck and believes that this would be reasonable compromise. He told the Members that Grey Matter is open to design modifications to respect the easement restrictions.

The Members discussed the easement restrictions and directed staff to examine the easement provisions. The Chair reminded the Committee that a permit had not yet been submitted by Grey Matter and that staff in following the Environmental Planning & Regulations Policies Manual, may be required to call a Section 28 Hearing.

After further discussion the following motion was carried:

MOTION #E19-03

Moved by: Maureen Couture

Seconded by: Barbara Dobreen

THAT the Executive Committee support Grey Matter Beer Company in its efforts in constructing a deck by:

1. Examining and perhaps amending the easement provisions; and
2. Working with the company to ensure that the works do not interfere negatively with the stability of the existing project and potential ongoing maintenance of the slope stability project.

Carried

Mr. Weiland asked for clarification on the process. The Chair told Grey Matter that they would need to complete engineered drawings, return to SVCA to determine if the proposed project infringes on the regulated easement, then proceed with the application. Ms. Durkin thanked the Committee for hearing their proposal.

Grey Matter left the meeting at 11:32 a.m.

A coffee break was called at 11:32 a.m. and the meeting was reconvened at 11:41 a.m.

b. 2019 Initiatives/Goals

The GM/S-T discussed the proposed 2019 Initiatives/Goals as submitted. He told the Committee that it is the Chair's delegated responsibility to negotiate with the Counties & Municipalities to have the MOU's signed and finalized. He pointed out that SVCA is working with a new staff member at Bruce Power who is promoting long term initiatives rather than 1 year as in previous years. He reviewed the File Tracking System and noted that a consultant had been hired to assist in completion.

The GM/S-T left the meeting at 11:59 a.m.

The Committee discussed the negative public perception of SVCA staff and want the GM/S-T to implement a plan to address this cultural attitude. This would include approaching the Executive Committee for direction when issues with applications arise. After further discussion the Committee passed the following motions:

MOTION #E19-04

Moved by: Maureen Couture

Seconded by: Barbara Dobreen

THAT a strategy and 2019 implementation plan to address the perception of staff always saying "no" and not being approachable to proponents of development, be developed; and further

THAT the strategy should include an interim step prior to a Section 28 Hearing whereby staff can recommend bringing a project forward to the Executive for direction.

Carried

MOTION #E19-05

Moved by: Barbara Dobreen

Seconded by: Mark Davis

THAT the Executive Committee accepts the 2019 Initiatives/Goals as amended.

Carried

There being no further business the meeting adjourned at 12:14 p.m. on motion of Barbara Dobreen.

Dan Gieruszak
Chair

Janice Hagan
Recording Secretary

SAUGEEEN VALLEY CONSERVATION AUTHORITY

Conservation through Cooperation

MINUTES

MEETING: EXECUTIVE COMMITTEE – SECTION 28 HEARING
DATE: Friday February 22, 2019
TIME: 10:00 a.m.
LOCATION: Formosa Office

CHAIR: Dan Gieruszak

MEMBERS PRESENT: Maureen Couture, Barbara Dobreen, Cheryl Grace

ABSENT WITH REGRETS: Mark Davis

OTHERS PRESENT: Kevin Klages, Landowner
Wayne Brohman, General Manager/Secretary-Treasurer
Erik Downing, Manager, Environmental Planning & Regulations
Matthew Armstrong, Regulations Officer
Janice Hagan, Recording Secretary
Members of the Public

9:58 a.m. The Executive Committee convened as a Hearing under Section 28(12) of the Conservation Authorities Act, R.S.O. 1990, Chapter C.27 and amendments.

STATUTORY HEARING

Application to Alter a Regulated Area No. 18-267

Applicant: Kevin Klages
241020 Concession 16
Lot 1, Con 15
Geographic Township of Normanby
Municipality of West Grey

A copy of the report detailing this application is appended to the office copy of these minutes.

The Chair welcomed Mr. Klages to the meeting and read aloud an introduction (attached to office copy). Mr. Klages was advised that he could ask questions throughout the hearing and that he must be under oath to provide evidence to the Hearing Committee.

Matt Armstrong, under oath, introduced the permit application by reading aloud the staff report. This report is appended to the office copy of these minutes. He told the Hearing Board that it was staff recommendation to the Authority that permit application #18-267 to Alter a Watercourse after the fact be denied for the following reason:

The streambank filling and grading works fail to meet the Erosion and Control of Flooding tests of Ontario Regulation 169/06, as amended.

Erik Downing, under oath, noted that the Legal Opinion from Loucks & Loucks Barristers & Solicitors included in the agenda package addresses the possible liability if SVCA staff issue a permit that should not have been issued and subsequent flooding and damage to property occurs.

When asked how the same volume of fill taken from elsewhere on property would rectify the situation, staff responded that there was approximately 220m³ of fill added to a flood plain and removing the same amount from elsewhere in the flood plain would restore the balance.

Staff clarified that agricultural land has not been approved as an “other use” when protecting development and allowing erosion and sediment control structures in streambank stabilization work since it is a natural process. Staff explained that erosion may potentially increase further up/downstream and staff are required to follow the Planning & Regulations Policies Manual in this case. The Chair reminded the Hearing Committee that the challenge is to keep environmental protection and the economy in balance.

When asked if the bridge work or storage of the fill on the landowner’s property contributed to the erosion of the area by increasing the flow, staff responded that they do not have the file on the bridge permit on hand.

Mr. Klages asked for clarification regarding the timeline of when SVCA staff became involved with the issue. The report states that staff noticed the mounds of fill, however Mr. Klages remembers being told that there was a complaint. Matt clarified that SVCA staff were notified of the works but do not typically reveal who reported the potential violation.

Mr. Klages, under oath, reviewed his submitted report and correspondence with SVCA staff (appended to the office copy of the Minutes). He told the Committee that he noticed a series of pink ribbons tied to branches of trees in the stream bed on the day that he received a call from staff. He claims that SVCA staff had entered his property without his permission and had installed the ribbons as markers. The Chair asked staff to respond and Matt told the Committee that he has never attached any ribbons on any property while doing site inspections and that this is not a normal practice for staff to do so.

Mr. Klages told the Committee he had been unaware of any conditions on the bridge replacement permit (#15-074) regarding stabilization of the spoil removed from the watercourse to prevent re-entry into the watercourse or otherwise removed from the floodplain. This information had not been communicated to him regardless of the agreement he had made with the municipality and contractor to store the material on his property. Discussion surrounded the amount of material removed and that the municipality would have tracked it. Staff clarified that the fill was permissible to be placed on the Klages property if it wasn’t in the flood zone, and as such SVCA does not have any interest in the location.

Mr. Klages stated that he believed there were stall tactics being used by SVCA staff since he had to fill in more than one type of application. He believes that staff wanted his file delayed until there was a newly appointed Authority since there were members that were supporting him. Matt responded that a separate staff member who did not know the case had assisted Mr. Klages in completing the incorrect form. Erik confirmed that there was no reason for staff to try to delay the file for the purposes of waiting on a new Board.

Mr. Klages quoted several sections from the Farming and Food Production Protection Act, 1998. Section 6(1) states that "No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation.". Mr. Klages interpreted this to mean that it is in his right to protect his farmland by stabilizing the bank and this Act takes precedent over any local by-laws. Under oath, Wayne Brohman, GM/S-T stated that the Farming and Food Production Protection Act is relevant for two situations and is not relevant to this Hearing. Firstly, it is relevant for nuisance claims i.e. smells, noise, dust, and secondly for municipal by-laws that go against agricultural best practices. Mr. Klages asked for his permit fees to be refunded since he believes that he has a right to perform the streambank stabilization based on the quoted statement. When Mr. Klages was asked if he believed he did not need a permit because of the Farming and Food Production Protection Act, he said that this is correct.

Further discussion centered around the cut and fill requirement, and possible locations where the fill could be removed and replaced to restore the flood storage capacity in the floodplain. Mr. Klages was reluctant about removing fill from other parts of his property as trees would need to be removed or productive farmland would be removed. Staff explained the necessity of the cut and fill requirement.

A recess was called at 11:55 a.m. and the meeting was reconvened at 12:07 p.m. Mr. Klages left the meeting.

MOTION # E19-06

Moved by Barbara Dobreen

Seconded by Cheryl Grace

THAT the Executive Committee move to Closed Session, In Camera, to discuss the permit application; and further

THAT Wayne Brohman, Erik Downing, Matt Armstrong & Janice Hagan remain in the meeting.

Carried

MOTION # E19-07

Moved by Cheryl Grace

Seconded by Maureen Couture

THAT the Executive Committee adjourn from Closed Session, In Camera, rise and report: and further

THAT the Executive Committee re-convene the regular meeting.

Carried

The Executive Committee reconvened in Open Session at 12:27 p.m. and passed the following motion:

MOTION # E19-08

Moved by Maureen Couture

Seconded by Cheryl Grace

THAT, Application to Alter a Watercourse No. 18-267, submitted by Mr. Kevin Klages, seeking permission for undertaking a development after the fact in a Regulated Area, at 241020 Concession 16, Lot 1, Concession 15, in the Geographic Township of Normanby, in the Municipality of West Grey, is denied for the following reason:

The streambank filling and grading works fail to meet the Erosion and Control of Flooding tests of Ontario Regulation 169/06, as amended.

Carried

There being no further business the meeting adjourned at 12:32 p.m. on motion of Cheryl Grace.

Dan Gieruszak
Chair

Janice Hagan
Recording Secretary

SAUGEEEN VALLEY CONSERVATION AUTHORITY

Conservation through Cooperation

MINUTES

MEETING: EXECUTIVE COMMITTEE – SECTION 28 HEARING
DATE: Friday April 12, 2019
TIME: 10:00 a.m.
LOCATION: Formosa Office

CHAIR: Maureen Couture

MEMBERS PRESENT: Dan Gieruszak, Barbara Dobreen, Mark Davis, Mark Goetz

OTHERS PRESENT: Sonya Watson, CAO, Municipality of Brockton
Jeff Graham, Engineering Consultants Ltd.
Don Moss, Greenland International Consulting Ltd.
Wayne Brohman, General Manager/Secretary-Treasurer
Erik Downing, Manager, Environmental Planning & Regulations
Janice Hagan, Recording Secretary
Members of the Public

10:00 a.m. The Executive Committee convened as a Hearing under Section 28(12) of the Conservation Authorities Act, R.S.O. 1990, Chapter C.27 and amendments.

STATUTORY HEARING

Application to Alter a Watercourse No. 19-054

Applicant: Municipality of Brockton
43 William Street
Roll No.: 410436000106500
Geographic Town of Walkerton
Municipality of Brockton

A copy of the report detailing this application is appended to the office copy of these minutes.

Authority Chair Dan Gieruszak welcomed the guests to the meeting and read aloud an introduction (attached to the office copy of the Minutes). The representatives for the Municipality of Brockton were advised that they could ask questions throughout the hearing and must be under oath to provide evidence to the Hearing Committee.

The Chair advised the Executive committee that due to his previous knowledge of the application, he would vacate the Chair. 1st Vice Chair Maureen Couture assumed the Chair position for the remainder of the Hearing.

Erik Downing, under oath, introduced the permit application by reading aloud the staff report. The report is appended to the office copy of these minutes. He told the Hearing Board that it was staff recommendation to the Authority that permit application #19-054 to Alter a Watercourse be denied for the following reason:

The proposed Truax Dam removal fails to meet the Erosion test of Ontario Regulation 169/06, as amended.

Erik noted that the legal opinion from Loucks & Loucks Barristers & Solicitors included in the agenda package addresses the possible liability if SVCA staff issue a permit that should not have been issued and subsequent flooding and damage to property occurs.

When asked if SVCA had permitted the Valleyside houses to be constructed, Erik responded that they had been built just prior to application of conservation authority regulations and before municipal zoning for natural hazards had been set.

Erik was asked to clarify how the flow of the river could affect erosion at a distance of a kilometer away. He told the committee that the flow may increase in velocity once the dam was removed. The report submitted by the engineer indicated that the increase of erosion can not be accurately predicted. The applicant's report states that the river flow will fluctuate once the dam has been removed. SVCA staff are taking a cautionary approach.

Discussion surrounded the responsibility for the maintenance of the dam and it was noted by staff that the Municipality of Brockton would retain ownership of the dam. Bank stabilization may be of interest to the municipality to protect at-risk municipality infrastructure, however privately-owned property may not be a municipal obligation.

It was asked if a staged process removal had been considered to evaluate how the flow would affect the toe erosion. SVCA is interested in a 100-year negative impact on erosion and a staged removal would not necessarily influence the recommendation of staff.

CAO Sonya Watson asked for clarification on condition #8 and stated that the terms are broad, and wording would need to be added to make it more specific.

The representatives for the Municipality of Brockton were introduced to the committee. Under oath, Jeff Graham, presented on behalf of the municipality. He reviewed the history of the project and indicated that the local community had been canvassed in 2016 giving 3 options for the future of the dam: 1) Full removal, 2) Partial removal, or 3) leave the dam as is. The community had preferred partial removal. This would reduce the overall cost, but still achieve the goals of environmental enhancement and improved fish migration. Mr. Graham presented artistic rendition drawings of the existing dam and of the proposed structure once the dam is partially removed. He told the committee that water flow through the town would remain unchanged. He distributed a copy of his presentation to the members and it is appended to the office copy of the Minutes.

Mr. Graham explained that hydraulic modelling had been completed by Greenland Engineering, using software designed by the US Army Corp of Engineers. The hydraulic model predicts no significant change in water levels and water velocities. The velocity at the toe of the cliff is not anticipated to change materially after the dam is removed.

Don Moss, Greenland Engineering, under oath, explained the process for using the sediment models. He told the committee that the stream bed has pockets that shift due to water flow. Twenty-two different scenarios were run to research the changes in flow and velocity and determined that large storm/flood events do not affect the sediments whether the dam is there or not.

Mr. Graham pointed out that the cliff appears to be currently eroding and it has been recognized as a significant hazard since the 1980's by both the municipality and SVCA. He also pointed out the potential hazard should the dam suddenly break. The stored water up stream could produce a surge releasing a flow velocity as high as 873 m³/second which is greater than the 100-year flood flow estimate of 670m³/sec. The flood dyke is only engineered to protect against the 100-year flood. Sudden breakage of the dam could send water over the flood berm and could potentially cause some collapse of the cliff bank. Mr. Graham sees a potential risk if the dam is not removed.

The members and staff were given the opportunity to ask for clarification. It was noted that the property owners at the top of the cliff had not been consulted about the potential hazards of removing the dam, however CAO Sonya Watson stated that newsletters had been sent out to the community residents and public information sessions had been held. It was also noted that the municipality may be liable for any damages caused by the removal of the dam since it is the responsibility of the municipality to maintain the dam. The CAO clarified that there is documentation of potential hazard on the title of the Valleyside properties. Discussion surrounded the type of erosion that may occur in the future and possible solutions including installation of gabion baskets. The gabion baskets may not work due to the steepness of the cliff and would be costly. Any restorative changes made to the cliff could have potential impact on the river further down. Mr. Graham clarified that the model showed a subtle increase in velocity at the toe of the cliff. The members expressed the necessity to use a save harmless clause to protect SVCA from any liability should the removal of the dam cause any damage to properties at the top of the cliff 1000 metres downstream from the dam.

A coffee break was called at 11:22 a.m. and the meeting reconvened at 11:34 a.m. Sonya Watson, Jeff Graham, and Don Moss left the meeting.

The committee moved into closed session for deliberation.

Motion E-19-09

Moved by: Mark Goetz

Seconded by: Barbara Dobreen

THAT the Executive Committee move to Closed Session, In Camera, to discuss a permit application; and further

THAT Wayne Brohman, Erik Downing, & Janice Hagan remain in the meeting.

Carried

Motion E-19-10

Moved by: Barbara Dobreen

Seconded by: Mark Davis

THAT the Executive Committee adjourn from Closed Session, In Camera, rise and report, and further;

THAT the Executive Committee re-convene the regular meeting.

Carried

The Chair explained that the staff recommended condition #8 be removed since SVCA would not be able to enforce it and had been replaced by condition #11 whereby the municipality agrees to save SVCA harmless regarding any claims that may occur as a result of the dam removal project.

Motion E-19-11

Moved by: Mark Davis

Seconded by: Mark Goetz

THAT, Application to Alter a Watercourse No. 19-054, submitted by the Municipality of Brockton, seeking permission for undertaking a Watercourse Alteration, at 43 William Street, in the Geographic Town of Walkerton, in the Municipality of Brockton, is approved with the following Specific Conditions:

1. Associated with the partial removal of the Truax Dam and backfilling around the remaining dam construction shall be in accordance with the 'for construction' *Partial Removal of Truax Dam in Walkerton – Municipality of Brockton – July 2018* Design Drawings 17066-01 to 17-0066-08 prepared by GSS Engineering Consultants Limited for the Municipality of Brockton, dated March 7, 2019 and received by the SVCA by e-mail on March 27, 2019 and the Application to Alter a Watercourse dated March 8, 2019.
2. The SVCA shall be contacted if work deviates from the approved plan and drawings.
3. It is the responsibility of the Applicant (Municipality of Brockton) to ensure that any contractor(s) hired for construction are aware of this permit and conditions.
4. The in-water work shall occur between June 15, 2019 and September 15, 2019, but not to the exclusion of all other agency timelines, and during low flow conditions. Work shall not occur during or after extended periods of rain and high flow situations, within or upstream of Walkerton. If an extension to this time is needed, the Applicant (Municipality of Brockton) must contact the SVCA. The work outside of the watercourse can occur at any time prior to Permit's expiry.
5. It is the responsibility of the Applicant (Municipality of Brockton) to ensure that all other agency approvals are in place.
6. Appropriate sediment and erosion control measures shall be used and properly maintained to prevent the movement of sediment and shall remain in place during construction. Regular inspection and repairs (if required) of the erosion and sediment control measures and structures shall be completed during construction.
7. Downstream flow shall always be maintained.
8. The flood control dyke shall remain intact, other than as indicated in the drawings. During construction, works and access shall be isolated from the dyke, and post development the dyke shall be inspected by qualified personnel to verify no negative impacts. A report indicating no negative impact shall be provided to the SVCA upon works completion. Negative impacts to the dyke shall be rectified, to the satisfaction of the SVCA by the Applicant (Municipality of Brockton).
9. It is the responsibility of the Applicant (Municipality of Brockton) to receive permission from landowners to work on land not owned by the Applicant (Municipality of Brockton).

10. All activities, including equipment maintenance procedures, shall be controlled to prevent the entry of petroleum products, debris, or other deleterious substances into the watercourse. Refueling and maintenance of equipment shall be conducted at least 30 metres from the watercourse or the furthest extent from the watercourse on the temporary access route.
11. The Municipality of Brockton agrees to sign an agreement to save SVCA harmless with regard to any claims from landowners associated with this project, and further where such agreement is prepared by SVCA's solicitor.
12. This permit grants permission for the partial removal and decommissioning of the Truax Dam. Should any other work be proposed on the property in the future, the SVCA should be contacted, as permission may be required.

Carried

The Chair reminded the CAO that the Municipality of Brockton has 30 days to review and appeal the decision. The decision will be communicated in writing.

There being no further business the meeting adjourned at 12:04 p.m. on motion of Barbara Dobreen.

Maureen Couture
Chair

Janice Hagan
Recording Secretary