



LAKE ÉRIE REGION SOURCE PROTECTION COMMITTEE MEETING MINUTES

Thursday, April 26, 2012

The following are the minutes of the Lake Erie Region Source Protection Committee meeting held on Thursday, April 26, 2012 at the Grand River Conservation Authority, 400 Clyde Road, Cambridge, ON.

Members Present: C. Ashbaugh, Chair; M. Ceschi-Smith, H. Cornwell, A. Dale, R. Haggart, D. Hill, K. Hunsberger*, R. Krueger, I. Macdonald, D. Murray, J. Oliver, D. Parker, T. Schmidt, G. Schneider, M. Wales, P. Wilson, D. Woolcott, W. Wright-Cascaden

Members Regrets: J. Harrison, C. King, J. Laird, L. Perrin, B. Ungar

Proxy Representatives: A. Henry (L. Perrin), P. Busatto (J. Laird)

Liaisons: L. Ross, Provincial Liaison

Region Management Committee: C. Evanitski, LPRCA; R. Geysens, LPRCA; S. Martyn, CCCA; C. Murray, KCCA; K. Smale, CCCA; E. VanHooren, KCCA

Staff: J. Deter, GRCA; B. Fields, Norfolk County; L. Heyming, GRCA; C. Jacques, LPRCA; M. Keller, GRCA; K. Smith, GRCA; E. Stahl, WESA; G. Zwiers, GRCA

Also Present: P. Hania, Toronto

1. Call to Order

C. Ashbaugh called the meeting to order at 1:00 p.m.

2. Roll Call and Certification of Quorum – 17 Members Constitute a Quorum (2/3 of members)

The Recording Secretary called the roll and certified quorum.

3. Chairman's Remarks

C. Ashbaugh welcomed members, staff and guests and noted the following:

- Two public meetings were held at the end of March as part of the public consultation on the Kettle Creek Draft Source Protection Plan. The first meeting was held in Port Stanley and the second in Belmont, where a total of three members of the public attended. Public attendance has dropped significantly since the original public meetings were held during the earlier stages of the program. This is indicative of a positive trend of increased public understanding and that staff have been successful in answering the majority of their questions and concerns.
- A second Source Protection Region (SPR) Chairs meeting was held on Monday April 16 in Toronto. The meeting began with a round table discussion between the Chairs and Program Managers, where three dominant topics were commented on:
 - 1) The importance of maintaining and enhancing the stewardship program.
 - 2) Concerns regarding funding for the Risk Management Official (RMO) position. The potential financial burden continues to be a major concern for municipalities.
 - 3) Decreasing attendance at public meetings, and how that is a positive achievement for the program.

Additionally, C. Ashbaugh expressed his disappointment at the Chairs meeting that source water protection was not mentioned during the election. The program was neither advertised as a success nor debated by any of the politicians. Also during the Chairs meeting, C. Ashbaugh brought attention to the potential for Source Protection Plan (SPP) extensions beyond the August 2012 deadline. There was apprehension to discuss extensions in great detail; however there are approximately six to ten SPPs that may be delayed. After the meeting, the Chairs were able to meet with the Minister of the Environment to discuss their specific concerns. All of the Chairs left the meeting satisfied with the Ministers' responses to their questions. Specifically, the Minister informally expressed that the extension request for the Grand River SPP submission date should not be problematic. His main message was that he values the quality of the product more than meeting the deadline.

- The grand opening of the new Port Rowan wastewater treatment plant took place on Friday, April 20. C. Ashbaugh commended Bob Fields from Norfolk County on an excellent job speaking at the opening. The state of the art facility cost 11 million dollars to complete, where 3.9 million was provided by the federal government. Also presented at the opening were plans for decommissioning all lagoons and generating a special project to convert the areas into wetland habitat.
- K. Smith will replace S. Brocklebank as Source Protection Program Assistant for the Lake Erie Region (LER) while she is away on a one year maternity leave.

4. Review of Agenda

Moved by: A. Henry
Seconded by: M. Wales **carried unanimously**

THAT the agenda for the Lake Erie Region Source Protection Committee meeting of April 26, 2012 be approved as amended.

5. Declarations of Pecuniary Interest

There were no declarations of pecuniary interest made in relation to the matters to be dealt with.

6. Minutes of Previous Meeting – March 1, 2012

H. Cornwell noted a spelling error on page 5: 'Durham Centre' should be spelt 'Dereham Centre'.

Moved by: M. Ceschi-Smith
Seconded by: M. Wales **carried unanimously**

THAT the minutes of the previous meeting March 1, 2012 be approved as distributed.

7. Hearing of Delegations

None

8. Presentations

None

9. Correspondence

a) Copies for Members

i) Correspondence to Craig Ashbaugh, Chair, Lake Erie Region Source Protection Committee and Roger Geysens, Chair, Long Point Region Conservation Authority from Mary Anne Covelli, Director, Source Protection Programs Branch, Ontario Ministry of the Environment Re: Submission of the Long Point Region Source Protection Area Updated Assessment Report

ii) Correspondence to Craig Ashbaugh, Chair, Lake Erie Region Source Protection Committee from Kim Smale, General Manager, Catfish Creek Conservation Authority Re: Combination of the Catfish Creek and Long Point Region Source Protection Plans Under One Cover

J. Oliver commented that a decision to separate the Catfish Creek and Long Point Region SPPs from one cover was not formally noted in the previous minutes (March 1, 2012) or in this month's agenda (April 26, 2012). He wondered if the concerns have been acknowledged. M. Keller responded that the issue has been resolved and the two documents have been divided under separate covers.

b) Not Copied

None.

Res. No. 21-12 **Moved by: D. Murray**
Seconded by: R. Krueger **carried unanimously**

THAT the correspondence be received for information.

10. Reports

a) **SPC-12-04-01 Committee Meeting Dates – July to December, 2012**

owner moves across the road or what happens if the spill occurs somewhere else). The need for protecting against future occurrences has now been recognized; however, the SPC now faces significant time restrictions. The legislation stipulates that policies can only apply within vulnerable areas and to update the intake's vulnerable areas would push submission of the SPP past the deadline. The most feasible option would be to work on updating the Assessment Report as quickly as possible following plan submission, and updates to the plan would follow afterwards.

W. Wright-Cascaden asked for clarification on A. Henry's main concern. She asked if the solution being proposed is an amendment to the Assessment Report that would extend the current vulnerable area, allowing policies to reach further than they currently do. M. Keller confirmed that this was correct. The desire is to extend the boundaries of IPZ-2, based on new modeling that determined that if a spill were to occur outside of IPZ-2 it would have the same effect as a spill within IPZ-2. However, additional public consultation would be required to notify newly identified landowners on whose properties significant threats would be possible. The two options include: begin making amendments to the Assessment Report now and submit the plan late, or proceed with plan submission and amend the Assessment Report immediately afterwards.

A. Henry noted that this has become a matter of principle. He asked whether or not the SPC can support a plan that does not fully protect the source water, as it is hindered by a legislative timeline. L. Ross suggested that the SPC request an extension for the Kettle Creek SPP submission, allowing time for making Assessment Report amendments. Otherwise, she felt that the SPC should submit the plan as it is currently written, and seek to amend the Assessment Report as soon as possible afterwards. She added that the length of time required to complete the amendment process will be the same; however, a complete SPP will have been submitted to the MOE for review in the meantime. A. Henry asked if the SPP is submitted as written now, and the updating process begins shortly afterward, what the MOE will allow in terms of timing. For example, if the SPP is approved in the fall of this year, and an updated version is submitted a month later, will the MOE consider the new plan or is there a 2-5 year cycle for approving updates. M. Keller noted that throughout the future of this process there will be many technical addendums and improvements to the Assessment Reports and the SPPs that cannot wait years before being considered. He strongly suggested that the MOE accept submissions of adjustments as they appear, since they will initially be occurring at a frequent rate across the province. With this in mind, it can be assumed that an update to the Kettle Creek SPP may be provided to the MOE a few months after submission of the plan in August. However, this assumption requires confirmation. L. Ross responded that she could not speak specifically to the Minister's position in terms of process. However, the legislation allows for an SPC and SPA to update an Assessment Report, and follow with an improved SPP, as new information becomes available and at a pace that they feel is appropriate. W. Wright-Cascaden mentioned that in the SPC's consideration of this issue it would be helpful to receive confirmation from the MOE that they will consider early amendments to the Assessment Report as a priority for review, if the SPP is submitted according to schedule.

A. Henry elaborated that he has two conflicting responsibilities. One is ensure that the Kettle Creek SPP secures protection for all water sources adequately upon its submission, while the other is to not delay the entire process because of one outstanding issue. T. Schmidt added that as a water supplier, A. Henry believes the Assessment Report is not appropriate for his facility and the SPP policies will not completely protect the intake. That is a strong statement for the SPC's consideration. R. Haggart agreed that if the data modeling and technical justifications are correct, then this is a very serious matter. He felt that the SPC should focus on resolving the issue as soon as possible, and that relying on the assumption

that an updated plan will be reviewed sometime in the near future, could be quite problematic. Historically, the SPC has always favored enhancing the quality of the product rather than meeting timelines, and now that the SPC is aware of this concern, they should throw their weight behind it.

J. Oliver noted that A. Henry is suggesting that if the SPC proceeds with the plan as written, there will still be a risk to the intake after the August 20 submission date. However, postponing the submission of the plan will have the same result. There will still be a risk to the water supply regardless of if the plan moves forward in June or if the SPC chooses to amend the Assessment Report and commence a new round of public consultation. He suggested that there might be more value in proceeding with the current schedule and work on amendments immediately afterward. I. MacDonald added that whether the plan is provided to the MOE in August or December, until it is approved and implemented, it does not provide more or less protection by being submitted early or late.

W. Wright-Cascaden commented that the SPC would be more comfortable pushing the plan forward if there was confirmation from the MOE that they will deal with updates expeditiously. L. Ross confirmed that taking either approach is legislatively feasible; however, she cannot anticipate the decision of the Minister. She offered to ask these questions internally and provide feedback to the SPC as soon as possible. M. Keller stated that all four Assessment Reports will inevitably require updating, and new versions of the SPPs will have to be submitted. He felt that choosing to postpone submission could be problematic, as more items will undoubtedly cause other delays along the way. From a staff perspective, he advised that it would be most beneficial to move forward with the Kettle Creek SPP and deal with updates immediately following. M. Ceschi-Smith pointed out that the Assessment Report is a 'living document' and therefore requires continuous updating. Given that this has been the understanding from early on in the process, does the MOE have the proper mechanisms in place to allow for edits to be made as circumstances evolve. M. Keller confirmed that the message from the MOE has been that these are working documents, and that the legislation allows for updates and improvements. However, despite this being expected, staff still need to determine the appropriate timelines and processes for accomplishing these amendments. R. Haggart added that there are other 'working documents' in existence that do not receive timely review from the MOE, and that is concerning for the future of these Assessment Reports and SPPs.

J. Oliver commented that if he were a resident of Belmont, he would be anxious to see the water supply of Belmont protected at the earliest possible date. Any postponement from this SPC due to events in Port Stanley will result in further delays for Belmont. E. VanHooren agreed, but reminded SPC members that the Port Stanley intake is facing existing threats, while the policies for Belmont are only addressing future threats. W. Wright-Cascaden added that unfortunately the *Clean Water Act* does not provide the flexibility for the SPC to approve the parts of the plan that are ready for submission, while deferring the parts that are not. M. Keller suggested that while staff are utilizing the next month for making policy revisions, they will also seek clarification from the MOE on how the amendment process works and bring that information back to the SPC at the June 7 meeting. C. Ashbaugh agreed, and concluded that it would be undesirable to delay the process at this stage. He acknowledged that this is a compromise the SPC can support under the expectation that improvements will be made as soon as possible.

D. Parker noted that OMAFRA commented that they were not in support of prohibiting the use of land as livestock grazing or pasturing in WHPA-A. He asked why the prohibition policy was kept in place. E. VanHooren responded that Belmont's WHPA-A is a community

Ashbaugh agreed and wondered if the MOE could partake. M. Keller confirmed that Ministry staff have been approached on this matter and are looking into the role they could potentially play in finding a solution in Dufferin County. L. Ross added that the liaison officers have been made aware, but the MOE has not been formally requested in writing by the SPC to participate. C. Ashbaugh wondering if the SPC should pass a motion to formally ask for the MOE's assistance in mediating the discussions between the two SPRs. M. Keller responded that the SPC might not wish to restrict the options available by stating specifically what will be done in the resolution. Staff still have a long way to go before determining the most effective means for facilitating productive discussion.

A. Dale suggested that the resolution moved by D. Murray be sent as correspondence to the Source Protection Programs Branch Director, and the appropriate people/agencies be copied. The letter would highlight the need for mediation, and act as an invitation to the MOE to participate as arbitrator. W. Wright-Cascaden noted that the original hope was to not involve the Ministry. Therefore, it might be more beneficial to hire a professional mediator for facilitating the discussions, who would have a neutral standpoint to eliminate bias. D. Murray added that inviting a Chair of another SPR to mediate could be another option. SPC Chairs are experienced and knowledgeable in source protection and capable of dealing with these types of issues. C. Ashbaugh felt that a Chair from another SPR could eliminate complete neutrality. R. Haggart asked if Amaranth and East Garafraxa are receptive to the idea of a mediated meeting. Sending the letter would most likely prove effective; however, if the SPC triggers a situation that the municipalities are not comfortable with, the purpose is defeated. D. Murray concluded that the original goal was to work out the issues strictly between the two SPCs, without outside influences, while recognizing that if an agreement still cannot be reached; other options will be have to be explored.

A. Henry asked if water quantity issues in the rest of the LER will further complicate the situation for municipalities when the province releases Great Lakes regulations (i.e. the inter-basin transfer issue). This will likely become an additional responsibility of the already over-burdened RMOs. M. Keller agreed that this was possible, and could become another complicating factor for policy implementation.

J. Oliver noted that in the process of reducing cross-boundary conflict, Norfolk County council reviewed Oxford County's draft policies. Several of Oxford's wells are actually located in Norfolk, and Oxford has indicated that the policies protecting those wells will be those written by Norfolk instead of Oxford. He asked for clarification that this policy applicability was correct (i.e., if the wells of municipality A are located in municipality B, it will be municipality B's policies that will apply to those wells). M. Keller confirmed that this was correct. J. Oliver asked if this particular methodology was laid out in the *Clean Water Act*, or if the LER decided on this approach individually. M. Keller responded that it is partially a product of the LER's unique process, but also because of how Part IV powers are designed. The RMO by default does not have any authority beyond a municipality's jurisdiction; therefore, they legally cannot implement policies outside the municipal boundaries even when their own wells are located there. However, the *Clean Water Act* does allow for arrangements to be made between municipalities for sharing or delegating RMO powers. For example, under such an arrangement, the authority could be passed onto Oxford to enforce policies for their wells located in Norfolk.

Res. No. 26-12

**Moved by: A. Henry
Seconded by: R. Krueger**

carried unanimously

*THAT Report No. SPC 12-04-04 Cross-Boundary Policy Harmonization
Dufferin County be received for information.*

e) SPC-12-04-05 Source Protection Plan Development Update

M. Keller provided an overview of report SPC-12-04-05.

Res. No. 27-12 **Moved by: I. MacDonald**
Seconded by: A. Dale **carried unanimously**

*THAT Report No. SPC 12-04-05 Source Protection Plan Development
Update be received for information.*

11. Business Arising from Previous Meetings

None

12. Other Business

a) Question and Answer Period

None

13. Closed Meeting

Not applicable

14. Next Meeting – Thursday, June 7, 2012, 1:00 pm

Grand River Conservation Authority Administration Office, 400 Clyde Road, Cambridge, ON

15. Adjourn

The Lake Erie Region Source Protection Committee meeting of April 26, 2012 adjourned at 3:42 pm

Chair

Recording Secretary