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**SUBMISSION OF THE BLUE MOUNTAIN WATERSHED TRUST FOUNDATION  
Reflections on the Proposals to Expand the Niagara Escarpment Plan Area**

**AN OPEN LETTER TO THE COUNCIL OF THE TOWN OF THE BLUE MOUNTAINS**

**THE RATIONALE FOR THIS REPORT**

The purpose of this short submission by the Blue Mountain Watershed Trust Foundation is to challenge the goals and strategy of the Town of the Blue Mountains Council on the important issue of expanded boundaries for the Niagara Escarpment Plan area. Or more specifically, to question many of the arguments presented in the Staff Report (PDS-16-120) of 3 October 2016. While the BMWTF recognizes that Planner Shawn Postma had a challenging assignment both in preparing the motion and providing relevant background information, we believe that this document should be substantially revised.

**BACKGROUND**

The Blue Mountain Watershed Trust Foundation strongly supports the role of the Niagara Escarpment Commission in protecting environmentally sensitive lands both within and adjacent to the Niagara Escarpment, one of the world's premier UNESCO Biosphere Reserves. 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.

Fortunately, during the 3 October meeting of the Committee of the Whole, a number of Council members spoke positively about the Niagara Escarpment Plan, and requested that the Staff Report contain more specific information about lands affected by the proposed NEP expansion. We applaud this approach since the Trust has already attempted to improve the dialogue between the NEC and local governments in Grey county, notably through the Avery/Kerr "Niagara Escarpment Commission and Grey County: Opportunities for a Productive Dialogue," (6 November 2015).

## **THE CRITIQUE**

### **Part A: The Motion**

Staff Report PDS-16-120 deals specifically with the proposed changes to the Niagara Escarpment Plan as part of the overall Coordinated Land Use Plan Review. More specifically it declares that the Town should not support NEC expansion “until a collaborative consultation process has been completed, including more detailed mapping being provided to allow municipalities and landowners to better understand the proposed changes. To facilitate more effective interaction with the NEC, the report calls for an extension of the comment deadline (31 October) or until such time as a collaborative consultation process has been completed.”

### **Part B: The Challenge**

Clearly the recommendation of the two discussion papers on expanding the Niagara Escarpment Plan Area represents a challenge for all local governments in the proximity of the Niagara Escarpment. 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.<sup>1</sup> In addition, there was a discussion of how this revised land re-distribution system would operate—notably by utilizing a multi-faceted designation system.<sup>2</sup>

No region of the province has been more affected by the NEP expansion than Grey County where 32,559 hectares of its lands have been recommended for inclusion in the NEP Area Plan. Unfortunately, this has intensified regional grievances towards the Niagara Escarpment which is based more on myth than on actual grievances—except perhaps for the fact that Grey/Bruce and Simcoe counties have been under represented in the make-up of Commission members. On the other hand, to accuse the NEC of targeting northern counties is to ignore the fact that many of

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<sup>1</sup> 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.

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

the Escarpment lands in the southern region have already been incorporated into the Greenbelt system.

### **Part C: Another Perspective**

While the NEC is accused of expansionist goals, in reality it was the 2015 Co-ordinated Review that requested the Niagara Escarpment Commission to undertake a systematic review of topics deemed important for the future of the NEP Area. Moreover, the discussion papers on NEP expansion represented only one of twenty five subjects addressed by NEC staff and reviewed by the 17 members of the Commission. Once the 31 October 2016 deadline has passed, **selective** topical reports will be forwarded to the Minister of Natural Resources and Forestry (and Cabinet) who ultimately decide whether “to accept them, or reject them.”<sup>3</sup>

The symbiotic relationship between the NEC and the Town of the Blue Mountains should also be considered particularly in terms of the administration of lands designated Escarpment Recreational, with 85 % of these properties being located in Grey County.<sup>4</sup> 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 as part of the highly acclaimed Niagara Escarpment Parks and Open Space System, with its 163 parks “for outdoor education and recreation... on public land for discovery and enjoyment by Ontario’s residents and visitors.”<sup>5</sup> In terms of commercial operations, the NEC, local governments and major recreational companies have a positive record of working 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.”

### **Part D: Specific Questions:**

What is the evidence that the Niagara Escarpment Commission has failed to consult with Town of Blue Mountains planners and local landowners during the past two years on NEP expansion? The evidence suggests that the NEC has been regularly involved in a consultative process with Grey county planners, politicians and landowners, as was evident in the special July, August and September meetings which provided “mapping and explained uses within each NEP

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<sup>3</sup> 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)

<sup>4</sup> NEC Discussion Papers, “Urban Uses and Urban Designation, (19 September 2013), 20-22.

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

designation.”<sup>6</sup> In addition, the NEP expansion report has been available for the planning staff over a two year period.

In what ways are municipalities such as the Town of the Blue Mountains “important partners in the implementation of land use planning and provincial policies? Obviously this is question that goes beyond the Town’s relationship with the Niagara Escarpment Commission; instead, it involves a wide range of government departments, notably the Ministry of Natural Resources and Forestry? A more important question is whether municipalities have the same commitment to preserve sensitive lands from inappropriate development given the difficulty of reconciling competing demands associated with population growth, economic activity and conservation. In contrast, the NEC has a specific mandate to protect ecological landscapes particularly those in the Escarpment Natural category, and to consider the Escarpment as a whole, rather than one specific geographical area.

Should the Town of the Blue Mountain follow the advice of its planning department and refuse to submit a report on NEP expansion before 31 October? In this regard it might be useful to point out that while every municipality affected by the NEP additions have expressed some opposition, most will respect the 31 October deadline.

#### **REQUEST FOR FURTHER EDITING**

Unfortunately, staff report PDS.16.120 contains a number of incorrect or misleading statements. Because of time and space considerations this section will be brief and focused.

#### **Example One: NEC Expansion and Enforcement Problems for Municipal Governments**

“Should the proposed changes or the proposed expansion be approved, this could cause further enforcement issues and put further pressure on local municipalities to provide resources that will need to be budgeted for.” (4)

In reality the Niagara Escarpment Commission has only minimal enforcement capability in the person of a single compliance officer, who is expected to ensure that the terms of the Niagara Escarpment Planning and Development Act (1975) and the Niagara Escarpment Plan (1985) are respected throughout its entire 725 kilometers entity. Instead, in almost all cases responsibility for enforcement is assumed by the Ministry of Natural Resources and Forestry, or other affected departments or agencies such as the Ministry of the Environment and Climate Change, and the Ontario Provincial Police.

#### **Example Two: Loss of Tax Dollars Because of NEP Expansion**

“Some municipalities have done some analysis based on information provided to date and

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<sup>6</sup> Private Report of NEC staff member, 15 October 2016.

indicated that the proposed changes will result in a tax revenue loss as more properties will be eligible for the Conservation Land Tax Incentive Program.”(3)

The Niagara Escarpment Commission should not be blamed for expanded use of the CLTIP in Grey County, or elsewhere. Instead, it should be recognized that this Program is administered by the Ministry of Natural Resources and Forestry and does not directly involve the NEC, other than the identification of lands in the Escarpment Natural Area which are eligible for the tax incentive. Taxation and financial value of lands are not within the scope of the NEC mandate.

**Example Three: The NEC Development Permit System is Becoming Dysfunctional**

“Concerns were raised with respect to existing service delivery by the Niagara Escarpment Commission including delays in the approval of development permits.” (4)

Since 1973, when the development permit system was first established (under the NEPDA), there have been complaints from local governments about unnecessary delays. Yet despite numerous attempts to restructure this system (usually with some kind of zoning arrangement), the development permit approach has continued to operate, in large part because of its flexibility in meeting the requirements of the different counties involved with the Niagara Escarpment Plan. It should be appreciated that this process coordinates multiple government agencies (provincial and local), and if there is a delay with one agency, it results in an overall delay in the process. On the positive side, during the past year the Commission has enjoyed some success in streamlining the development permit system, with additional changes in the offing.

**Example Four: Submission of Town of the Blue Mountains Report on NEP Expansion**

“...the comment deadline,, should be extended until such time as a collaborative consultation process has been completed. It was noted that expansion to the Oak Ridges Moraine Plan have been ‘put off’ until 2018.”

There are three problems with this logic. First, there is no evidence of what would represent a satisfactory “consultation process” either in terms of land areas, or thematic subjects. Second, are the land expansion issues of the Oak Ridges Moraine Plan similar to the Niagara Escarpment Plan Area? If so, in what ways? Finally, why would this delay in commenting on the Oak Ridges Moraine situation (if accurate) justify inaction by the Town of the Blue Mountains?

**CONCLUSION:**

In the opinion of the Blue Mountain Watershed Trust Foundation there are a number of reasons why the expansion of the Niagara Escarpment Plan would benefit Grey County, in general, and the Town of the Blue Mountains, in particular. In considering a positive response to the present situation, we would ask member of the Town Council to consider both the arguments presented in this short brief, but also the following issues:

1. The NEP is funded by the Province since it is a benefit for the entire province not just the contiguous municipalities.
2. There may be reasonable criticisms of the NEC but these should be resolved by consultation rather than by unilateralism.
3. It should also be recognized that if the Niagara Escarpment Commission did not exist the present debate about proposed changes to the NEP would not be taking place in an open and transparent way. Instead, these reviews would be carried out almost entirely within the Ministry or Ministries responsible for the legislation that created the Provincial Plans.
4. Finally, we wish to reiterate 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. In contrast 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.

Dr. Donald Avery: Director, Blue Mountain Watershed Trust Foundation