

2015



Community Planning Division

TERMS OF REFERENCE:

HASTINGS DRIVE ZONING STUDY

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Terms of Reference

Hastings Drive Zoning Study

1.0 INTRODUCTION

Hastings Drive is an area at the base of the Long Point spit on the north shore of Lake Erie. Long Point is the largest fresh water sand-spit in the world sticking out 42 kilometres into Lake Erie. It is subject to coastal processes such as erosion, flooding and deposition. It is unique because of the variety and rarity of the flora and fauna that inhabit it or migrate through it. It is also unique in that there is a long history of both private and public ownership. In addition to its international importance, it is also of great interest to the federal, provincial and local governments and private landowners.

Legally Hastings Drive is described as South Walsingham, Plan 206, Lots 66 and 67 and South Walsingham, Plan 251, Lots 1 to 148. It might also be described as all of the lots west of the cottage located at 43 Hastings Drive. There were 150 original lots on the south side of Hastings Drive, of which 4 are set aside as road accesses and owned by the County, 24 have cottages located on them, 47 are vacant lots owned by Norfolk County and the remaining 75 vacant original lots are in private ownership. Lake Erie is on the south boundary of these lots and the Big Creek National Wildlife Area owned by Environment Canada is located on the north side of Hastings Drive.

In the Norfolk County Official Plan, the Hastings Drive area is designated “Hazard Land” and Schedule C indicates several Natural Heritage Features are located there. In order to implement the County Official Plan, Council undertook the development of a Norfolk County Zoning By-law to replace the four existing by-laws from the previous municipalities.

1.1 STUDY OBJECTIVES

Council resolution of July 15, 2014, directed sufficient funds be included in the 2015 Capital Budget for the purposes of retaining a consultant to assist in determining future land uses on Hasting Drive. Council has received many deputations and submissions regarding Hastings Drive where many issues have been identified. The final terms of reference will be developed in consultation with land owners and a Technical Advisory Committee. Matters such as consistency with the Norfolk County Official Plan, shoreline management, access, Species At Risk legislation, Natural Heritage policy, land owner and visitor interests should be considered in the development of appropriate land use zoning.

The purpose of this **Terms of Reference** is to provide a work plan and identify the specific deliverables and items to be reviewed, in the Hasting Drive Study. The overall objectives include:

- The inclusion of the Hastings Drive community stakeholders in consultation

throughout the project in order to gain a level of acceptance of the proposed zoning

- Review of Provincial Policy and the Norfolk County Official Plan to ensure consistency these documents
- Development of an Issues and Options paper to inform discussion of the most suitable zoning for Hastings Drive
- The development of a By-law for Council approval which would amend the Norfolk County Zoning By-law 1-Z-2014 and provide suitable zoning for Hastings Drive.

1.2 STUDY LOCATION

Legally Hastings Drive is described as South Walsingham, Plan 206, Lots 66 and 67 and South Walsingham, Plan 251, Lots 1 to 148. It is also described as all of the lots west of the cottage located at 43 Hastings Drive. The study area is the immediately west of the Long Point resort area.

1.3 BACKGROUND

Council received many deputations and submissions during the development of the Norfolk County Zoning By-Law 1-Z-2014 regarding Hastings Drive and potential land uses. Council, having provided no specific direction in response to these submissions, was provided with three options on April 15, 2014 in staff report DCS 14-42 (Note: *Section 11.1 is the Hazard Land (HL) Zone*);

leave matters as they are in the proposed third draft as set out above in Section 11.1, reduce the permitted uses set out in Section 11.1, through a special provision for Hastings Drive permitting only a “park, provided there are no buildings or structures located thereon”,

maintain only the uses currently set out in the Township of Norfolk Zoning By-law through a special provision for Hastings Drive. Only an “open pavilion” and a “park, provided there are no buildings located thereon except buildings used for sanitary facilities, change houses for bathers and accessory maintenance and storage buildings” would be permitted

Council’s resolution on these options was;

THAT the current Zoning for the Hasting Drive area remain in place pending the results of further consultations and review and a staff report on the area.

Norfolk County Council approved the Norfolk County Zoning By-law 1-Z-2014 on July 15, 2014, and as set out in subsection 1.6.2 of that By-law that the Township of Norfolk Zoning By-law remains in effect in so far as it affects the area known as Hastings Drive. Section 1.6.2 Repeal of By-Law 1-NO 85 and All Amendments, reads as follows:

By-Law 1-NO 85 (The Township of Norfolk Zoning By-Law) and all amendments thereto, passed pursuant to the Ontario Planning Act as amended, and which were approved by the Ontario Municipal Board, the Region of Haldimand-Norfolk or the Township of Norfolk,

are hereby repealed except in so far as it affects the area known as Hastings Drive (South Walsingham, Plan 206, Lots 66 and 67 and South Walsingham, Plan 251, Lots 1 to 148). The Hazard Land Zone (HL) as set out in 1-NO 85 remains in effect.

As appeals were received on the County Zoning By-law 1-Z-2014, and are not yet settled, the Township of Norfolk Zoning By-law 1-NO 85 is currently in force and effect and zones the Hastings Drive area "Hazard Lands (HL) zone". Two of the appeals and part of a third were made on the basis that Council did not provide zoning for Hastings Drive.

A staff report from the Public Works & Environmental Services Department, PW 14-34, Hasting's Drive – Road Follow Up was presented to Council in Committee on July 8, 2014. In that report it was noted that, "Staff continue to agree that interpretation and enforcement activities remain challenging. As such, staff are requesting that Council direct further review of the ecological functions and the natural environment in partnership with the LPRCA and the MNR. This work will be pursued as part of the 2015 Capital Budget which will be conducted with full consultation of the Lakeshore community in hopes of obtaining future land use direction. On July 15, 2014 Council passed the following resolution

Res. No. 17

Mover: Councillor James Oliver

Secunder: Councillor John Wells

THAT Resolution No.21 of the Council-In-Committee minutes dated July 8, 2014, be adopted as presented which reads as follows:

THAT Staff Report P.W. 14-34, Hastings Drive – Road Follow Up, be received as information;

AND THAT staff be directed to continue summer maintenance on Hastings Drive;

AND FURTHER THAT staff be directed to provide winter maintenance on Hastings Drive with defined timelines of 36 hours to clear the roadway;

AND FURTHER THAT a by-law be presented to Council approving the restriction of parking at all times on the south side of Hastings Drive;

AND FURTHER THAT a by-law be presented to Council approving the restriction of parking in areas of limited sightlines on the north side of Hastings Drive;

AND FURTHER THAT Council instruct staff to begin negotiations with property owners along Hastings Drive in order to resolve the encroachment issues;

AND FURTHER THAT planning staff be directed to include sufficient funds in the 2015 Capital Budget for the purposes of retaining consulting services to assist in determining future land uses on Hasting Drive.

Carried

As a result of the above resolution and Council deliberations, the 2015 capital budget includes thirty-five thousand (\$35,000.00) for a Hastings Drive Study and Lakeshore Management Plan.

1.3.1 PLANNING ACT

According to the Ontario Planning Act, Section 34, zoning by-laws may be passed by

municipalities for

1. restricting use of land,
2. restricting, erection locating or using of buildings
3. marshy lands, etc.,
 - 3.1 contaminated lands; sensitive or vulnerable area
 - 3.2 natural features and areas,
 - 3.3 significant archaeological resources
4. construction of building or structures
5. minimum elevation of doors, etc and
6. loading and parking facilities.

There is more detail in the Act regarding each point. Of note for this Study;

In Subsection 34 (1) 3. Marshy land, etc. –

on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy, unstable, hazardous, subject to erosion or to natural or artificial perils.

In Subsection 34(1) 3.2 Natural features and areas –

- i. that is significant wildlife habitat, wetland, woodland, ravine, valley or are of natural and scientific interest,
- ii. that is a significant corridor or shoreline of a lake, river or stream, or
- iii. that is a significant natural corridor, feature or area.

In Subsection 34 (1) 5 Minimum elevation of doors, etc. - regulating the minimum elevation of doors, windows or other openings in buildings or structures or in any class or classes of building or structures to be erected or located within the municipality or within any defined area or areas of the municipality. ,

1.3.2 PROVINCIAL POLICY STATEMENT 2014

The Provincial Policy Statement (PPS) is issued under Section 3 of the *Planning Act*. It provides policy direction on matters of provincial interest related to land use planning and development. It sets the policy foundation for regulation the development and use sf land. Decision makers are required to ensure their decisions are consistent with the Provincial Policy Statement. Decision makers implement the Provincial Policy Statement in the context of other planning objectives and local circumstances.

The PPS 20014 protects Ontario communities through policies directing development away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety, or property damage. This is set out in Section 2.1 on Natural Heritage and Section 3.1 on Natural Hazards. Through this study, what the PPS 2014 means for Hastings Drive is to be examined.

1.3.4 NORFOLK COUNTY OFFICIAL PLAN

Official Plans contain the goals, objectives and policies of the municipality and are primarily developed to manage and direct physical change and the effects on the social, economic and natural environment (Subsection 16 (1) of the Planning Act).

The Norfolk County Official Plan was approved by Norfolk County Council on May 9, 2006 (By-law 6-OP-2006) and received Ministry of Municipal Affairs and Housing (“MMAH”) approval, with some modifications on December 23, 2008. When an official plan is approved it is considered to:

have had regard to the matters of provincial interest listed in section 2 of the Planning Act; and
be consistent with policy statements issued under subsection 3(1).

The Official Plan is currently under its required 5 year review through a separate project. Through the Official Plan Review Project any inconsistencies with the 2014 Provincial Policy Statement will be addressed.

The Hastings Drive area is designated Hazard Land and the lands to the north as Provincially Significant Wetlands. Natural Heritage features are also present. Through this study these designations and related policy should be explored to discern the limitations these place on the zoning of Hastings Drive.

1.3.5 TOWNSHIP OF NORFOLK ZONING BY-LAW 1-NO 85

This zoning by-law was approved in 1985 and is currently in effect. It zones the Hastings Drive area as “Hazard Land (HL) zone. Permitted uses (Section 30.1) include

- (a) park, provided there are no buildings located thereon except buildings used for sanitary facilities, change houses for bathers and accessory maintenance and storage buildings
- (b) open pavilion.

Park means “an area of land used for horticulture and outdoor recreational facilities but excludes a tent and trailer park as defined herein” (section 4.58). A tent and trailer park is defined as “an area of land used for camping facilities or for the temporary parking of tent trailers, motor homes or truck campers (section 4.59) and this use is permitted in the Open Space – Tent and trailer zone (OST). (Section 29.1)

1.3.6 LONG POINT REGION CONSERVATION AUTHORITY

The Long Point Region Conservation Authority (LPRCA) performs a number of important roles in the land use planning and development process. In these roles, LPRCA derives its authority from the Conservation Authorities Act and its associated Regulations, and from the Ontario Planning Act.

The LPRCA has the responsibility to regulate activities in flood plains and hazardous areas in order to:

- prevent the loss of life and property due to flooding and erosion, and
- protect features and functions of dynamic beaches, watercourses and wetlands

This is done through the application of regulations affecting areas in and near rivers streams, floodplains, wetlands, slopes and the Lake Erie shoreline. LPRCA is authorized under Section 28 of the Conservation Authorities Act to implement and enforce the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 178/06).

The LPRCA also works with municipalities to review development applications under the Ontario Planning Act to ensure they meet local and provincial guidelines.

Lakeshore Management Plan

The purpose of the 1989 project was to investigate alternative concepts of shoreline protection, development, environmental impact, monitoring, emergency response and public education to develop an overall shoreline management plan for all of the shorelines in the entire Long Point Region Conservation Authority watershed. The plan was prepared according to guidelines from the Ministry of Natural Resources and in anticipation of further Provincial policy. Four detailed study zones (DSZ's) received detailed study. Long Point (DSZ1) was one of those and three reaches within it were recognized; Hastings Drive, Transition Zone and Long Point Settlement. Specific recommendations were set out for each reach. For Hastings Drive, the following specific recommendations were made (excerpt from page 5 of the Summary section):

- 1 That the municipality adopt a "No Re-Build" policy for existing development.
- 2 That public ownership of the shoreline properties be encouraged and that the municipality and conservation authority approach senior levels of government and other organizations for financial assistance.
- 3 That when properties are transferred to public ownership, the remains of shore protection structures and cottages be removed. This process is to be completed under the guidance of a professional engineer to ensure acceptable local impact where other private development still exists.
- 4 That no reinforcement of existing shoreline protection structures be allowed because these structures cause much of the erosion problems and because they cannot be relied upon to provide effective protection during severe storms.
- 5 That existing dwellings located on private lands be allowed to be raised above the design wave crest level where owner wishes to continue personal use with a reduced potential for wave damage. Such modifications must only be allowed with support piles designed by a professional engineer.

In the budgeting process for 2015 the Long Point Region Conservation Authority approached Norfolk County for funding assistance with a proposed update to the Norfolk

County portion of the Lakeshore Management Plan. Elgin County set aside funding and is already well into the final stages of an update for their municipality's lakeshore. According to the Conservation Authority, updating Norfolk County's Lakeshore Management Plan is the next priority.

1.3.7 MINISTRY OF NATURAL RESOURCES

The Ministry of Natural Resources and Forestry protects Ontario's biodiversity while promoting economic opportunities in the resource sector and supporting outdoor recreation opportunities.

The Ministry has responsibility for implementing many provincial acts on a variety of natural resources. The Endangered Species Act 2007 through which Species At Risk are protected is just one example. Wildlife management, invasive species control, fish habitat and Provincially Significant Wetlands also form parts of their responsibilities.

1.3.8 COUNCIL RESOLUTION

At the July 7, 2015, Council-IN-Committee meeting, the following resolutions were passed.

THAT Staff Report D.C.S.15-74 be received as information;

AND THAT staff be directed to initiate the Hastings Drive Zoning Study as outlined in staff report D.C.S. 15-74;

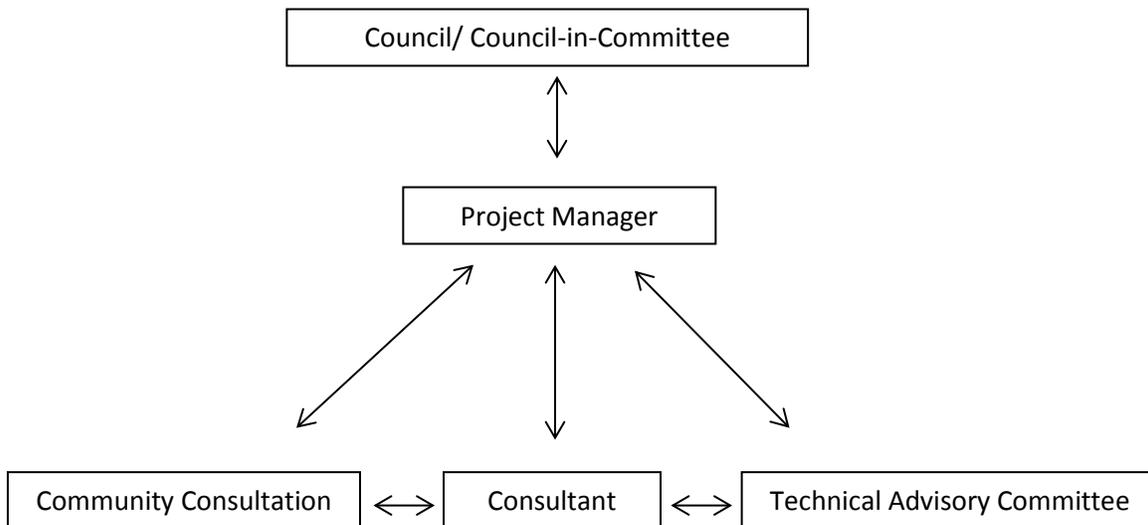
AND FURTHER THAT the following actions be taken with respect to the Hastings Drive Zoning Study:

- A. That staff be directed to conduct consultation meeting(s) as outlined in staff report DCS 15-74 with a consultant, and make the draft Terms of Reference publicly available in order to enable review of the draft document and receive community comment on its content;
- B. That staff be directed to form and consult with a Technical Advisory Committee, throughout this study process, which is composed of relevant County staff, one existing cottage owner and one existing vacant land owner, and representatives of the Ministry of Municipal Affairs and Housing, Ministry of Natural Resources and Forestry, Canada Wildlife Service and Long Point Region Conservation Authority at a minimum. The Norfolk Environmental Advisory Committee (NEAC) will also be consulted through their regular meetings by staff;
- C. That staff be directed to finalize the Terms of Reference for the Hastings Drive Zoning Study taking into account comments received from the public and Technical Advisory Committee and NEAC and report back to Council;

- D. That staff be directed to prepare with a consultant a draft Issues and Options paper which on approval of Council, will be subject to consultation with the public, Technical Advisory Committee and NEAC and be the topic of a Council Public Meeting; and
- E. That staff be directed to prepare with a consultant a final Hastings Drive Zoning By-law Study report which includes a recommended Zoning By-law amendment in preparation for a Public Meeting to be held at a yet to be determined future Council Meeting in accordance with Section 34 of the *Planning Act*.

It should be noted that the Ministry of Municipal Affairs and Housing has requested not being part of the Technical Advisory Committee and therefore they have been removed from the Committee.

2.0 PROJECT ORGANIZATION



2.1 COMMUNITY PARTICIPATION & ENGAGEMENT

The Hastings Drive land owners need to have opportunity to voice their opinions on the issues to be addressed in the Zoning Study and provide their comments on the options which are developed and the draft By-law. This component of the project is to be carried out by a registered professional planner with experience in group facilitation and development of Zoning By-laws.

2.2 OVERALL PROJECT MANAGEMENT

The Hastings Drive Zoning Study will be lead by the Community Planning Division, with the project being managed by a Principal Planner. The Principal Planner will be

responsible for the management of the project timeline, work plan, consultant and day-to-day aspects of this project. The Community Planning Division will provide Council-in-Committee with the final Terms of Reference, draft Issues and Options Paper and final Hastings Drive Study report including the final proposed Zoning Amendment in order to obtain Council direction.

This Terms of Reference generally details the proposed role of the consultant. The consultant will be utilized for specific services including planning and facilitating public and Technical Committee consultation on the Draft Terms of Reference, preparing a draft Issues and Options Paper and presenting it to Council in Committee, preparing a final Hastings Drive Zoning Study report including a draft zoning by-law for Hastings Drive and presenting it to Council at a Public Meeting.

This approach is recommended to illustrate the intention of open and transparent principles of the project.

2.3 TECHNICAL ADVISORY COMMITTEE

The proposed Technical Advisory Committee is to consist of the Community Planning Division Manager and/or General Manager of Development and Cultural Services Department, a Principal Planner, a representative from the County Building Division, Roads Division and Fire (Emergency planning) Division, Long Point Region Conservation Authority, Ministry of Natural Resources and Forestry, the Canadian Wildlife Service and two community representatives (one lot owner with a cottage and one with a vacant lot).

The Technical Advisory Committee will be responsible for the following:

- Providing input into the identification of key issues related to zoning in the final Terms of Reference; and
- Providing technical input on the background and options for the Issues and Options paper; and
- Providing technical assistance on the final Hastings Drive Study and zoning recommendations.

3.0 COMMUNICATION & PARTICIPATION STRATEGY

The land owners and community groups will be asked to participate in finalizing the Terms of Reference for this zoning study. This is an essential component of this project and intended to provide a clear understanding for all of what will and will not be included in this zoning project.

3.1 CORE COMPONENTS OF COMMUNICATION STRATEGY

- Dissemination of information to the community at each phase of the project in order that individuals and groups are kept informed of the process and proposals for change;
- Identification of key stakeholder groups, community members, businesses, and other interested parties to be included in regular notifications and engagement opportunities (see Appendix A for preliminary list of key stakeholder groups);
- Provision for a feedback mechanism to encourage community input regarding the issues and zoning proposals being considered throughout the project process;
- Encouraging the Hastings Drive community and those interested in it are provided with information regarding the project and that their views are represented and considered in the process;
- Ensuring that stakeholder groups, individuals and community members who have expressed an interest in the project are provided with the continued opportunity to participate throughout the process;
- Provision of opportunity for small group discussions and larger community engagement opportunities designed to obtain input from a the Hastings Drive community and those interested in it; and
- Inclusion of project updates to Council as well as within the County website.

3.2 ROLE OF CONSULTANT

The consultant will be utilized for specific services including;

- 1) planning and facilitating public and Technical Committee consultation on the Draft Terms of Reference,
- 2) preparing a draft Issues and Options Paper and presenting it to Council in Committee,
- 3) preparing a final Hastings Drive Zoning Study report including a draft zoning by-law for Hastings Drive and
- 4) presenting the final report and proposed zoning amendment By-law to Council at a Public Meeting.

3.3 COMMUNITY EXPECTATION FOR THE HASTINGS DRIVE ZONING STUDY PROCESS

The following are some questions that would direct the issues to be assessed:

- Why is Hastings Drive zoned differently than other parts of Long Point?
- Should new private cottage uses be permitted?
- Should restoration, strengthening or additions be permitted for existing private cottages?

- Is a public park an appropriate use on publicly-owned lands?
- If public parks on County lands are permitted, what types of structures are appropriate on these lands?
- Should the placement/restoration of shoreline protection structures/materials be permitted?
- Should private docks or boat launches be permitted?
- How should public and private parking be addressed?
- Should seasonal recreational vehicles or tent trailers be permitted?
- If buildings, structures or site alteration is permitted, what, if any, studies/tests or criteria should be required?
- Should commercial or business uses (e.g. commercial boat launches) be permitted?
- What level of service or infrastructure is required and appropriate to support the permitted uses?
- What structures or uses should be permitted to address matters of trespassing or other public nuisances?

4.0 WORK PROGRAM & TIMELINE

4.1 WORK PROGRAM

There are three stages in the proposed work program; with each new phase building on the previous one, moving towards a final Zoning By-law amendment for the Norfolk County Zoning By-law 1-Z-2014.

JULY to SEPTEMBER 2015	SEPTEMBER to NOVEMBER 2015	DECEMBER to FEBRUARY 2016
PHASE 1: Project Initiation <ul style="list-style-type: none"> • Community Workshops • Finalize Terms of Reference and Work Program with CIC 	PHASE 2: Issues and Options <ul style="list-style-type: none"> • Gather background, issues review, develop draft options • Draft issues & Options Report to CIC • Council Public meeting 	PHASE 3: Final Hastings Drive Zoning Study with recommended Draft By-law to CIC <ul style="list-style-type: none"> • Council Statutory Public Meeting • Council approval of Zoning By-law
		

4.1.2 **PHASE 1: PROJECT INITIATION**

Phase 1 Deliverables:

- Review draft Terms of Reference with Council-In-Committee
- Initiate community consultation with land owner and other interested persons through workshops regarding the draft Terms of Reference ;
- Post draft Terms of Reference for public review and input
- Initiate Technical Advisory Committee to review draft Terms of Reference
- Pending comments received, the modified and finalized Terms of Reference and Work Program would be brought back to Council-in-Committee in September for Council approval to commence the project.

The main purpose of the project initiation phase is to set out the matters to be considered as it is important to ensure the issues to be considered are those that must be addressed in order to provide appropriate zoning in the Norfolk County Zoning By-law 1-Z-2014 for Hastings Drive.

4.1.3 **PHASE 2: ISSUES AND OPTIONS**

Phase 2 Deliverables:

- Research into relevant zoning issues identified in Phase One.
- Review of other municipal zoning regimes related to sand spit or sand beach areas
- Development of options to address the identified issues
- Review of options for consistency with the Provincial Policy Statement and Norfolk County Official Plan
- Identification of preferred options in consultation with Technical Advisory Committee
- Draft Issues and Options report to Council-In-Committee for discussion and approval of Council to hold a public meeting
- Public meeting
- Revisions made based on community input;

The main purpose of the issues and options phase is to set out legislated limitations, preferences of the community, and alternative ways to address these matters. Preferred options are to be identified in the draft Issues and Options Report. Secondly the purpose of this phase is to obtain community comment through a Public Meeting on this phase.

4.1.4 **PHASE 3: HASTINGS DRIVE ZONING STUDY**

The final phase of the project will include incorporation of the Issues and Options report into the final Hastings Drive Zoning Study report.

Phase 3 Deliverables:

- Final Hastings Drive Zoning Study presented to Council-In-Committee for discussion and approval of Council for Public Meeting
- Hastings Drive Zoning Study available to the public for input;
- Schedule statutory Council Public Meeting
- Present proposed zoning By-law amendment to Council
- Council approval of Zoning By-law

Preliminary List of Stakeholder and Community Groups

Note: this is not an exhaustive list, but a starting point and can be expanded before finalization of the terms of reference. It is intended that a mailing list of those listed below and those requesting notice of the project will be maintained by staff throughout the project. If there is a missing name, it was not intentional and can be added at any time during the project.

Land Owners:

Although the list of owners is not included here, the Municipal Property Assessment Corporation's record of property owners will be used for mailings.

Governmental Agencies and First Nations:

Ministry of Municipal Affairs and Housing
Ministry of Natural Resources and Forestry
Long Point Region Conservation Authority
Canada Wildlife Service
Six Nations of the Grand River Territory
Mississaugas of the New Credit

Committees of Council:

Norfolk County Environmental Advisory Committee