

Woodlands Conservation By-law
November 24, 2016 Public Meeting
Community Centre in Embro
6:30 PM - 8:00 PM

MEETING START TIME: 6:39 PM

- Warden David Mayberry welcomed attendees, made introductory comments and encouraged public feedback on the draft by-law
- Dianne Damman introduced County and support staff

PRESENTATION

Dianne Damman provided an overview of the public meeting agenda, including key changes to the by-law, next steps and opportunities to provide input via questions and comments. It was also indicated that the input through the County's social media outlets, notably Speak Up, Oxford was also welcome and encouraged.

County staff provided a presentation regarding the Woodlands Conservation By-law, including an overview of the history and purpose of the By-law and an introduction to the draft by-law for discussion purposes. The presentation outlined specific changes being considered in the draft version including updated definitions, the introduction of minor exemption permits and the removal of the circumference harvest provisions contained in the current by-law. The presentation also included information and comments regarding the recently completed Natural Heritage Systems Study.

Staff also provided an overview of the public information meeting that was held in Innerkip on November 22, 2016 highlighting a number of areas of discussion, including further consideration of tree harvesting activities that could be exempted from the by-law, how different tree species are covered by the by-law, the need for a County tree [or woodlands] by-law and what natural heritage activities the County participates in or sponsors besides the enforcement of a by-law. It was noted that the comments and questions raised at the November 22 meeting in Innerkip assisted staff in modifying and improving the overall presentation.

QUESTION AND ANSWER SESSION

Ms. Damman introduced the Q & A session and opened the floor for questions and comments.

- A question was asked regarding diseased trees, such as ash and maple. The speaker was concerned about the need to replant the same species that will probably be affected by the same diseases that killed the first tree. It was further questioned as to why a landowner is obligated to replant trees when they are naturally growing in the wild.

Staff responded that there is no requirement to replant trees where they are being harvested in accordance with the by-law. Replanting trees is typically only considered when trees are being removed by way of an exemption from the Woodlands Committee. Replanting of native species is typically preferred as is a diversity of species (as opposed to plantation planting). When removing dead trees, it is expected that the remaining woodland will not be destroyed in order to get to the dead trees. It is a requirement under

good forestry practices to make best efforts to preserve good trees. Staff further indicated that the replanting of trees, even through the by-law exemption process, is not always required and is considered by the Woodlands Committee on a case-by-case basis.

The same speaker indicated that he is aware of people who have removed ash trees, thorn trees and other 'scruff' and were told to replant, which is contrary to what the County is saying at this meeting. Staff responded that there is no requirement to replant dead trees or trees otherwise harvested in accordance with the by-law and that if someone was told to replant in those circumstances, it wasn't by County staff. Staff further indicated that anyone having particulars regarding this type of situation are encouraged to fill out a comment sheet or talk to staff outside of the meeting.

- A question was asked regarding trimming and/or removing fence rows to avoid damage to expensive equipment. Staff responded that the trimming of trees for this purpose hasn't been changed significantly in the draft by-law for discussion, but that the County is seeking input on this issue. You are permitted to trim a portion of the tree in this situation provided that you don't injure or damage the tree.

The same speaker asked whether it was appropriate to use an excavator to cut limbs from a tree. Staff responded that this was within the provisions of the by-law, provided the tree wasn't killed. Staff further commented that the proposed minor exemption provisions of the draft by-law contemplated the trimming back of trees that may occur beyond the basic trimming discussed above. The speaker questioned if this meant that a landowner would need a permit to trim trees. Staff noted that it was not intended that basic trimming would require a permit and that this whole area of discussion will continue to be reviewed and will be discussed with the County's Agricultural Advisory Committee at an upcoming meeting. The speaker concluded that pruning is what one did to a fruit tree.

- A participant raised a question regarding whether a woodland that straddled a property line was considered a single woodland for the purposes of the by-law. For example, if a woodland was 0.5 ha on one property and 1 ha on another, is that one woodland of 2.5 ha or two separate woodlands?

Staff indicated that the woodland described would be considered a single woodland and that property boundaries were not recognized in the by-law.

- The next speaker suggested that there is a bigger issue with clearing fence rows and asked what was considered a tree for the purposes of the by-law. In some instances, the tree limbs [along fence rows] are hanging out 20 feet and saplings are sprouting up in the area underneath – are these considered to be trees?

Staff indicated that the definition used by the Ministry of Natural Resources and Forestry (MNR) identifies any woody plant that has the ability to grow to at least 15 feet as a tree and that this is the definition used in the County by-law. Staff also acknowledged that

some seedlings (i.e. walnut) can pop up quickly. Other municipalities have made allowances for recent growth and this matter will be investigated further going forward.

The speaker asked how the edge of a bush was determined and noted that pruning bushes can be dangerous work and people don't do it often because it takes time, which allows tree saplings to spring up. It was suggested that where land used to be farm land, it should be allowed to be returned to farm land. Staff responded that some municipalities make provision in their by-laws for the removal of recent growth (i.e. 10 years) without need to obtain a permit. This will be investigated further.

- The next speaker asked whether a permit would be required to remove areas overgrown with thorn trees. Staff indicated that thorn trees and other trees that have been discussed (i.e. sumac) are generally considered trees under most by-laws. The issue of hawthorn and sumac has come up generally in the discussion of fence rows and will be looked at as discussion of the by-law continues.

The speaker then asked about trees located in a swamp bottom area. Staff indicated that if the trees (any trees) were in such an area, it may be protected by Conservation Authority regulations and the CA with jurisdiction should be consulted.

- A question was asked as to whether a landowner could take down a tree on the farm no matter where it was located.

Staff responded that the by-law allows for 20 bush cord to be removed by a landowner for personal use annually, however, the by-law does not allow the taking of wood for personal use to reduce a specific area below the minimum number of trees required to still be considered a woodland.

- A speaker indicated that buckthorn is considered to be a disease vector and that in London, they are permitted to remove them. Even though they are considered a woody plant by definition, the disease bacteria is noxious. Staff responded that different jurisdictions have different requirements. In any case, removing one tree would not be in contravention of the County by-law (as discussed above under the 20 bush cord allowance).
- A question was asked as to why fines for corporations and partnerships were 5x higher than for individuals. There are numerous small farms that are corporations and large farms that are sole proprietorship. Why does the by-law discriminate based on 'what the accountants tell us?'

Staff indicated that these provisions will be reviewed further to determine if they are appropriate.

- A question was asked as to whether there is a definition in the by-law for 'scrub brush'. Staff indicated that there is no such definition in the by-law. The speaker then indicated

that the term is common and might be a good term to include and asked whether the author of the by-law was in attendance. It was indicated that the draft by-law for discussion purposes was prepared by staff and drafted using the current by-law and other recently drafted by-laws from other municipalities in southwestern Ontario.

- The next speaker asked whether a submission by a Registered Professional Forester (RPF) from London and his notes on the by-law had been read by staff and whether staff had that information with them at this meeting. Staff responded that they were aware of the information, but that it was not available at this meeting.

The speaker asked about whether a policy instead of a by-law might be an option, whereby the onus would be on the landowner to carry through regarding the policy, which would be more of a cooperative approach. The speaker indicated that the RFP was of the opinion that the proposed by-law worsens the problems being experienced.

Staff responded that the policy approach suggested will be looked at together with potential changes to the by-law as part of the overall review of woodlands in Oxford. Staff also indicated that it was agreed that the County needs to identify better methods of customer service and providing educational information regarding woodlands and the by-law.

The speaker suggested that it would be wise for the County to require the By-law Officer to have an RPF Certificate. The County currently relies on someone from the Upper Thames River Conservation Authority. Ratepayers in the County are entitled to have qualified By-law Officers. Staff responded that the County is currently investigating different methods of delivering the administration and enforcement service in Oxford. The speaker concluded by suggesting that how the by-law is enforced in Oxford is the issue for the most part.

- A question was asked regarding intersections where a tree was encroaching on the road and inhibits visibility. Does the By-law Officer decide whether the tree can be removed for safety reasons? The speaker indicated that they had discussed this with the Mayor of the Township in question and wondered whether there would be something included in any new by-law to allow for removal of trees in these situations.

Staff responded that this type of tree removal would be covered under the Highway Traffic Act and not the County by-law. Municipalities are required to ensure that roads are checked for safety.

The speaker suggested that there may be too many trees in the wrong place and asked if the by-law applied to the County. Staff indicated that the County, as a municipality, was exempt from the by-law but does have minimum maintenance standards for roads. Patrols regularly look for potential safety issues and that maintenance of lower traffic

volume roads, such as Township roads, was more difficult than most County roads which are more frequently travelled.

- A participant indicated that the Township has a machine that takes out trees and asked whether the municipality needed permission to do so. Staff indicated that the Township does not need permission to cut trees for safety reasons. The speaker indicated that a number of maple trees on his property have been cut back by the municipality. It was noted further that there are some intersections which are very dangerous and require a driver to edge out into traffic before they can see what's coming. The municipality doesn't cut the right trees down. The speaker indicated that they wanted to know where the 'line' was with respect to municipal tree cutting. Staff responded by indicating that the 'line' [meaning property line] was important to understand because there are trees that are in the road allowance and others that are on the abutting property or that straddle the property line. The County encourages tree planting on private property in locations where it is clear that the tree(s) are on the private lands (i.e. mature trees should be well behind the lot line).
- The next speaker asked who sits on the Committee that considers exemptions to the by-law and will this be the same arrangement under the new by-law. Staff responded that the current Committee is the Land Division Committee (LDC), wearing a different hat and that this committee is appointed by County Council. Staff further indicated that this issue has been raised previously and that the LDC may not be the right committee for considering exemptions, but there have been no plans/discussions regarding this to date. Change would require County Council direction.

The speaker asked whether an exemption would take time to process. It was indicated by staff that for minor exemptions, it would need to be determined whether the proposed tree removal was minor, but minor exemptions were intended to be dealt with at the staff level and turned around quickly. For Committee exemptions, there would continue to be a process that involves circulating the application to agencies for comment as well as public meeting. When considering an exemption through the Committee process, has been typical of the Committee to require replanting of trees on a 1 to 1 basis for those removed.

- A participant asked how many trees can be cut for the landowners own use; was it 20 trees or 20 logs? Staff indicated that this was an area that was being reviewed and that the comments provided through the public meetings would be beneficial.

The speaker suggested that removing the circumference harvest provisions from the by-law would require that a landowner must hire a registered forestry professional at a cost to the landowner. The cost of marking trees for removal could increase from \$25.00 to \$1025.00 to log a bush, which is a big upfront cost. Eliminating the circumference harvest would be surrendering property to the County and foresters.

A speaker identifying himself as a forester indicated that it is part of a forester's business to assist owners in managing their forests and advise landowners on the best approach to ensure that a woodlot remains sustainable for future logging. Forester's generally charge by the hour or acre and help landowners get the best value over time. Circumference cutting usually takes out the biggest and best trees which can impact the quality of the woodlot for future cutting. A good woodlot has to be managed properly.

- The next speaker asked for clarification as to what extent a tree could be trimmed and whether a tree limb could be taken from a neighbour's property. Staff indicated that you were not permitted to remove any part of a tree that wasn't on your own property. The speaker asked whether the names of the people bringing the by-law forward to Council could be obtained. Staff indicated that the draft by-law had been prepared by County staff. The participant asked whether the by-law was being updated because staff had nothing better to do and whether the name of the RPF who had reviewed the by-law could be shared. Staff indicated that they had had the by-law looked at by David Pullen, who is an RPF employed by the County of Huron.
- A participant asked whether it was being recommended that ash trees not be protected and removed from the by-law as a protected species as by removing the ash, you could end up with a better woodlot. The speaker also indicated that 20 days was too long for a Notice of Intent (NoI) to be approved. The NoI form says that permission is good for 12 months, but the application form says it's good for 24 months. 24 months is preferred as it is in-keeping with the normal working length of a contract. The speaker also noted that if the County was open to having committee of stakeholders involved in the process, they would like to be on it. In response to a question from staff, the speaker indicated that the number of days for an NoI should be reduced to 10.
- A question was asked as to whether the County has a managed forest tax incentive plan. Staff indicated that there was no direct County plan, but that landowners could review their tax situation with MPAC and potentially apply for tax reduction. A second speaker indicated that there is a tax rebate program available to owners with woodlands greater than 10 acres (through the MNRF?), however, if the lands are already being taxed as farmland, there may not be any benefit.

The original speaker asked if a woodland was made up of three individual properties, would it be considered one or three woodlots and is this determined via the roll # of the properties. Staff indicated that the woodlot would be identified by the owner where the woodlots were abutting one another.

The speaker then indicated that Oxford County does have an Ontario woodlot owner's chapter and that there are currently approximately 20 members. New members with positive ideas about woodlot management are always encouraged.

- The next speaker requested clarification on trimming. If the tree is on a neighbour's property but has been planted too close to the lot line so that as the tree matures, it begins to overgrow the boundary and interfere with harvesting equipment, can an owner trim the tree back and keep it from infringing on agricultural property or the road allowance? The speaker indicated that it was his understanding that a landowner could trim any part of a neighbouring tree that was encroaching onto his property. Staff responded that you cannot remove the tree, but that the tree could be trimmed back to the lot line provided that the trimming does not kill the tree.
- A question was asked whether under the old [current] by-law a landowner can harvest wood for the owner's own use using the circumference harvest method and whether this was proposed to change under the new draft by-law. Staff indicated that yes, the current by-law allowed 'own use' harvest via the circumference method, but that the new draft did not include the circumference harvest provisions.

The speaker asked where the 'good forestry' provisions originated. Staff indicated that both the Ontario Professional Foresters Association and the Ministry of Natural Resources and Forestry advocate the use of good forestry practices and that the circumference harvest method is not considered a sustainable practice. The goal is to maintain the County's woodlots for long term benefit. In response, the speaker suggested that the County should expect landowners to be smart enough to employ sustainable harvest practices themselves.

The amount of separation between woodlots for them to be considered independent of one another was also discussed. Staff indicated that the current measure was 20 metres (i.e. anything less than 20 metres would be considered one woodlot), but that the new draft by-law included a larger figure, being 30 metres.

WARDEN CLOSING REMARKS

- The Warden made closing remarks and thanked everyone for attending and providing their comments and concerns.

MEETING ADJOURNED: 8:07 PM