

Woodlands Conservation By-law
November 22, 2016 Public Meeting
Community Centre in Innerkip
6:30 PM - 8:00 PM

MEETING START TIME: 6:37 PM

- Warden David Mayberry welcomed attendees, made introductory comments and encouraged public feedback on the draft by-law
- Gord Hough 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.

QUESTION AND ANSWER SESSION

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

- A question was raised regarding how woodlands under 1 ha (2.47 acres) were being dealt with by the County? The speaker indicated that tickets had been issued for infractions that were not actually in violation of the by-law.

County staff responded that typically, where there is question as to the size of a woodland that has been harvested without a permit, the County enlists the assistance of a professional certified by the Ontario Professional Foresters Association to assess the woodland and this is not left to the By-law Enforcement Officer. Staff also indicated that the County has never laid charges where an affected woodland was under the 1 ha threshold.

- A question was raised as to why the County was hiring people to do assessments (such as described above) when this should be done by County staff.

County staff indicated that Provincial Standards require that a professional forester be retained to assess the woodland to make sure that the area in question is considered to be woodlands (i.e. they count the trees). This takes away the onus on the By-law Enforcement Officer. Whether to hire a forester and/or what action the County will take

regarding an infraction goes through the County's Rural Properties Supervisor and the Director of Public Works.

- A question was asked with respect to how many trees make a woodlot.

County staff responded that whether a woodland meets the criteria of the by-law depends on the number and sizes of trees and that this is determined by the By-law Officer in accordance with the definition contained in the by-law.

- Question was asked as to whether all levels of government are required to comply with the by-law. Example – several years ago, a road in Embro was paved, all of the trees died and there was no replanting. Another example – across from Tollgate School, trees were removed without public comment to install sewers and the lands across from Vuteq (in Woodstock) look like a bomb went off and there is nothing left.

Staff responded that the Municipal Act [the legislation that governs tree by-laws] provides exemptions for work done by a municipality. Hydro One is also exempt from the by-law as per the Municipal Act.

It was further indicated by staff that the County by-law can only be enforced on woodlands greater than 1 ha. Woodstock has their own by-law for tree harvesting and enforce it for woodlands less than 1 ha. If Woodstock [or any local municipality] wants the County to enforce the protection of woodlands less than 1 ha, they would have to delegate the authority to the County.

- A question was asked with respect to a situation where Oxford County cut trees in a woodland owned by the Long Point Region Conservation Authority. The speaker had heard that the County did not notify Long Point before removing trees.

Warden Mayberry responded and indicated that the noted tree removal was undertaken by the Township of South West Oxford and that it was for drainage purposes. The LPRCA was notified of the proposed removal, however, the Authority did not get back to the Township and that the situation was unfortunate.

The speaker responded that this did not seem fair and that the municipality did not do its research.

- A participant asked whether the Drainage Act applied to tree removal on private property.

County staff responded that drains constructed under the Drainage Act are exempt from the woodlands by-law.

The same participant asked whether maintenance of a private drain was also exempt, to which staff indicated that private drains were not exempt, but that the owner could apply to the County for an exemption from the by-law for tree removal affecting a private drain and

that the draft by-law included provisions intended to make applying for these exemptions less time consuming.

- A comment was made that the exemptions in the by-law need to be 'black and white' for clearing near private farm drains and fence lines and that the language in the by-law should not be vague and left to the discretion of the By-law Officer.
- The facilitator, Ms. Damman, encouraged all participants to utilize the comment sheets provided at the door to submit written comments in addition to the discussion at the meeting.
- A question was asked about a fence row that is attached to a woodland. The fence row in question stretches a considerable distance across the field and it is overgrown.

Staff suggested that in such situations, the owner should call the County for clarification and to determine if the fence row is considered to be part of the woodland. Generally, if the fencerow is within 20 metres of the 'main' woodland, it would be considered part of the woodland for the purposes of the by-law.

A follow-up question was asked about what was considered a tree and were hawthorn and sumac considered to be trees. Staff indicated that any 'woody plant' that could grow to at least 15 feet would be defined as a tree and that both sumac and hawthorns were trees covered by the current by-law.

- A question was asked as to why we need a by-law at all and why is the County 'terrorizing' land owners.

Staff indicated that the by-law was implemented to assist the preservation of woodlands and that a by-law is a tool supported by the Official Plan, which is a policy document approved by County Council.

As a follow up, it was suggested that just because the County has had a tree by-law since 1946 did not make the by-law right. Several counties don't have by-laws and perhaps Oxford doesn't need one either.

In response, staff indicated that the County currently has a by-law approved by Council and that direction has been given by Council to review and update the by-law.

- A participant indicated that they were in possession of crown letters patent for their property that date back to when the land was granted to settlers by the government. These crown patents provide rights to landowners and that most of the people in the gallery have no idea what their rights are under these patents. The provisions provide for landowners to hold all the lands, woods and waters granted by the patents forever. Each landowner is in control of their own land, not the municipal government and the rights of

landowners are being eroded. Landowners control water, minerals and woodlots on their own land and government intrusion, such as the woodlands by-law, needs to stop.

- A question was asked regarding the differences between the draft by-law and the current by-law.

Staff indicated that the key changes included removing the circumference harvest provisions and relying solely on Good Forestry Practices for tree harvesting; updating definitions for good forestry practices and woodlands; introducing provisions for minor exemptions and providing clearer provisions for Committee Exemptions. It was indicated that the draft by-law did not introduce radical changes from the current by-law.

A follow up question was asked regarding what exemptions were included in the draft by-law that are not in the current by-law. Staff indicated that minor exemptions for things like clearing around private drains or removing trees from certain non-significant features were new as well as other limited circumstances, such as removing trees to allow equipment to move from one field to another.

An additional question as to whether removing fence rows [from a previous question] would be exempted was asked. Staff indicated that if the fence row was in proximity to the main woodlot it would be considered part of the woodlot and would require an exemption. However, if the woodlot was separated from the woodlot, it would only be subject to the by-law if the fence row was over 1 ha.

- A question was asked as to whether the updated by-law will clearly define a fence row? The speaker indicated that the wording for this had been previously provided to staff. Staff indicated that past discussions (i.e. those held previous to the public meetings) will be reviewed together with all other information gathered. It was further asked if a township can refuse to have the by-law apply and that if Township residents were to vote on the matter, the by-law would lose. An example was cited where a fence was put up on clear land years ago and not maintained and now it becomes part of a woodland and can't be cleaned while at the same time, everything in town can be paved over and destroyed. Farmers produce food and run into obstacles.
- A question was raised regarding the number of trees that can be cut out of a bush each year.

Staff indicated that 20 logs or bush cord of wood could be removed for own use annually. There was a further discussion regarding the removal of thorn trees and what the impact of removing trees from a woodland would have on that woodland if the removal of trees dropped the area and/or tree count to less than identified in the by-law. Could the removal of trees for own use reduce a woodland to less than 1 ha and then, as a result, permit the remainder of the woodland to be removed?

- A participant indicated that in the County to the northeast of Oxford (Wellington County) you are allowed to clear trees back to the fence line where the bush has become overgrown.

Staff asked a professional forester active in Wellington if they could clarify this. The forester indicated that Wellington's by-law makes provision to allow clearing wooded areas less than 20 years old back to a fence line with the approval of the By-law Officer.

- A participant indicated that they were aware that you can clear trees when you have a building permit and that you can take 20 cord for own use, however, what you can and cannot take is not clear in the by-law. What is and is not exempted should be clear so that residents are aware as to when they should contact the By-law Officer (and when they don't have to contact them).
- A question was asked as to whether the removal of the circumference harvest provisions from the by-law would then require an owner to pay for a plan under good forestry practice. It was further explained that the good forestry practice permit route costs money, which is not necessarily the case with circumference harvest. The same speaker related an experience where a forester retained by the speaker marked out a woodlot for harvest and then the County hired a second forester to review the marking and indicate whether he (the County-retained forester) agreed with the owner's forestry professional. This practice is a duplication.
- A participant indicated that Oxford County used to plant two trees for every one that was removed and that they don't see that anymore. In response, the Warden indicated that the Township of South-West Oxford has a policy that generally two trees are planted for every one removed from township road allowances. It was also indicated that over 13,000 trees [to date] had been planted on County lands in 2016.

It was further indicated by the speaker that the fence line issue is a huge concern. Other jurisdictions have lots of controversy over this. Land owners are paying a lot in taxes and want to claim their land back. The County and the by-law should help them do this. Staff indicated that it was possible to apply to a Committee to obtain exemptions from the by-law for the type of clearing that was being discussed, it was pointed out by the speaker that the process was time consuming and potentially costly.

Staff indicated that the issues that were being raised regarding fence rows were being noted for further consideration.

- A question was asked with respect to clarifying whether the by-law applies to all lands in Oxford County or just lands that belong to the County (i.e. the corporation). The speaker indicated that the Municipal Act says that the County can only make by-laws on its own property and that everyone at this meeting are men and women and not just members of a municipality – they are human beings. In addition to the woodlands by-law, there are

other by-laws, such as property standards by-laws that are in violation of private property rights. A municipality does not have the right to control private property.

A further question to this topic was asked regarding whether a crown patent supersedes the Municipal Act and if so, would the municipality be subject to a law suit [if it were attempting to enforce by-laws]. Staff responded to this second point indicating that the County has obtained legal advice on this matter in the past and that the woodlands by-law is sound.

- A comment was made indicating that the farm community has a 'certain fear' of the By-law Officer and that many issues around woodlands by-law would be addressed if by-law enforcement was undertaken with a 'gentle but firm' approach. The speaker noted that it was important to find a way to enforce the by-law with less confrontation and that the farming community was open to suggestions. The speaker concluded by stating that the By-law Officer is unreasonable.
- Another comment was made with respect to dead trees in public woodlands. These trees are a hazard and there is a need for better enforcement in public wooded areas. It was also stated that the County needs to exhaust avenues for mediation and that more discussion between the County and farmers was necessary. This point appeared to be related to a specific incident involving the speaker and the County in which the speaker was charged for an infraction. The speaker's point was that the charges were laid without discussion and that the speaker's attempts to contact the County (left messages) were unsuccessful and the messages were not returned.
- A comment was made with respect to the reference to circumference harvest in the staff presentation that all trees of a certain diameter could be removed from a woodland. It was pointed out that the basal area of the woodland would have to be maintained which would not permit all of the said trees to be removed. Staff acknowledged the information presented in the slide show was incorrect and that this would be clarified going forward.
- A further comment was made with respect to the need to have to 'run to the County every time I touch a tree' and that the County needed to listen to the community on the fence row and private drain issues that were being raised. It was noted by the speaker that trees want to come out into fields and that farmers don't want to have to ask if they can remove trees to move machinery between fields and that exemptions should be provided directly in the by-law to allow for cutting and trimming trees that impede agricultural operations.
- A question was asked about cutting branches and staff indicated that the by-law allows for the trimming and cutting of branches provided that it doesn't kill the tree. A follow up comment indicated that sometimes removing the tree is the best course of action and a question was asked as to whether this required a minor exemption [as proposed in the draft by-law]. Staff indicated that removing trees in limited circumstances could be considered through a minor exemption and that it was intended that staff would be able to

review these types of requests within 2 or 3 days. The speaker responded that this was not acceptable and did not reflect or acknowledge how a farm works.

- A question was asked whether the 20 cord exemption mentioned earlier in the meeting applied to dead trees. Staff indicated that dead trees were not subject to the by-law. As a follow up, the speaker asked whether you can cut as many dead trees as you want to which staff indicated that yes, you can cut all dead trees, but you could not damage other trees to do so.
- A participant indicated that a large number of trees were recently removed in Woodstock along the Thames River in Burgess Park and that the area had been devastated by the County. Staff indicated that the trees were removed by the City and that, as per earlier discussion earlier in the meeting, the City is exempt from the provisions of the by-law.

An additional question was asked with respect to the current By-law Officer's training. It was suggested that the By-law Officer had no training and should be fired. People are scared and the conduct of the officer is harassment. A question was asked regarding the number of stop work orders that had been issued by the County. Staff indicated that this information was not immediately available.

- A participant indicated that people in Oxford fear the by-law. The speaker works with landowners from Windsor to Niagara Falls and multiple times per month, receives calls from land owners in Oxford County asking if the speaker will perform work without a permit. This is not because the owners don't understand that there is a by-law, it's because they are in fear of dealing with it. Why do landowners in Oxford feel this way? Other Counties are working with landowners and people are being encouraged [by the speaker] to use professionals and consult with the By-law Officer and not try to do work illegally. Tickets, fines or stop work orders for projects that are half completed means that the property is seized and costly equipment is sitting idle. People are upset about the time lost more so than the fine.
- A question was asked regarding how far a fence line needed to be from the main woodland for it not to be considered part of the woodland. Staff indicated that figure used with the current by-law is 20 metres, but that 30 metres had been included in the initial draft by-law, the latter is a figure drawn from other by-laws (Wellington).

It was suggested by the speaker that the landowner could use the 20 cord exemption to cut trees from the fence line to create the 20 or 30 metre separation. It was also suggested that 20 bush cord per year for personal use was not a sufficient to meet his needs.

- A participant indicated that he had not met the By-law Officer, but that people he had spoken with referred to the officer as the 'Tree Nazi', which suggests that the officer is

doing something wrong. The speaker indicated further that it was not necessary for farmers to have their 'hand held' to cut a tree.

- A question was asked regarding how many Counties have a by-law similar to Oxford's. Staff indicated that all of the municipalities surrounding Oxford have woodland by-laws. It was noted by the speaker that Chatham-Kent doesn't have a by-law and that people like you (i.e. staff) have no idea about farming. Staff noted that the by-law was put in place by Council.
- The next speaker commented that it seemed the County would rather see two trees damaged than one cut down and that the By-law Officer is difficult to talk to. A question was asked as to whether the same information would be presented at the next meeting (i.e. next public meeting in Embro). Staff responded that essentially the same information would be provided at each public meeting and that it was the County's intent to hear from all parts of the County, report to Council and make revisions accordingly for further public comment.

It was stated further by the speaker that all comments from the meeting should be made available for public viewing and that the community didn't want to waste their time. Concern was expressed that the meeting would mean nothing and that the County will do whatever it wants.

- A participant indicated that the ash trees on his property were dying and that he was paying tax on ash and would like to generate some revenue from it before it all dies. The speaker was encouraged to provide the comments to staff in writing if he had more detail to share.

CLOSING REMARKS

- The Warden made closing remarks, thanking everyone for attending and providing their input.

MEETING ADJOURNED: 8:08 PM