**Niagara Escarpment Commission**

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# MINUTES OF M829/10-2023

**NIAGARA ESCARPMENT COMMISSION**

**HYBRID MEETING**

**October 19, 2023**

## MEMBERS PRESENT:

J. Chevalier, J. Collard (Chair), M. Curley (left at noon), M. Francis, R. Gibson,
L. Golden, D. Hutcheon, G. Krantz, G. Little, K. Lucyshyn, D. McKinlay, D. Measures,
D. Nielsen, J. Vida, A. Witteveen.

## REGRETS:

## G. Driedger, L. Kiernan.

## STAFF PRESENT:

K. Woeller, K. Peters, M. Cairns, J. Sperling, G. Hang, B. Henderson, L. Wang,
L. Rodriguez Miguel, A. Bochenek, J. Olah, H. Gray.

## ALSO PRESENT:

D. Kappos, Counsel.

## MEETING CALLED TO ORDER 10:15 a.m.

Chair Jim Collard presided.

## INTRODUCTIONS / ANNOUNCEMENTS:

The Chair welcomed everyone to the meeting. He congratulated staff on the well written and concise reports.

The Chair welcomed Becky Burns, GIS IM/IT Coordinator, and thanked her for her assistance in setting up the meeting.

## LAND ACKNOWELDGEMENT:

The Chair read the Land Acknowledgment.

**DIRECTOR’S REMARKS:**

The Director thanked the Chair and introduced the new NEC staff as follows.

Heather Gray, Administrative Support Coordinator for the central team;

Holly Templeton, Senior Planner, on the north team;

Becky Burns, GIS IM/IT Coordinator.

The Chair and Commissioners welcomed the new staff to the NEC team.

## BUSINESS ARISING FROM PREVIOUS MEETINGS:

No business arising.

**APPROVAL OF MINUTES**

**M829R1/10-2023**

*Moved By: Hutcheon*

*Seconded By: Measures*

*“That the Commission approve the September 14, 2023 Commission Minutes
M828-09-2023 as written.*

**Motion Carried**

## MOTION FOR SPEAKERS

**M829R2/10-2023**

*Moved By: Gibson*

*Seconded By: Hutcheon*

*“That the persons representing the applications listed on the agenda be invited to address the Commission.”*

**Motion Carried**

## CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

## No conflicts were declared.

## DISCUSSION AGENDA: A and B PACKAGES

## (*Staff Reports, External submissions)*

*Broke: 10:25 a.m.*

*Reconvened: 10:30 a.m.*

**A1**

**STAFF REPORT**

**Niagara Escarpment Parks and Open Spaces System (NEPOSS):**

**Inglis Falls Conservation Area Management Plan**

**CONCLUSION:**

NEC staff reviewed the Management Plan and found that it complies with Part 3 of the Niagara Escarpment Plan (NEP) and generally follows the format outlined in the NEPOSS planning manual (2021).

**RECOMMENDATION:**

That the Commission endorse the Inglis Falls Conservation Area Management Plan and forward it to the Ministry of Natural Resources and Forestry for final approval.

Note:

* Janet Sperling, Senior Strategic Advisor, provided a summary of the staff report and answered questions.
* Bonnie Henson, A/Senior Policy Advisor, Natural Heritage Section, Resources Planning and Development Policy Branch, Natural Resources and Forestry, was present to observe.

**M829R3/10-2023**

*Moved By: Hutcheon*

*Seconded By: Francis*

*“That the Commission accept staff’s recommendation and endorse the Inglis Falls Conservation Area Management Plan and instruct staff to forward the plan to the Ministry of Natural Resources and Forestry for final approval.”*

***For the Motion: 14 votes***

*Chevalier, Curley, Francis, Gibson, Golden, Hutcheon, Krantz, Little, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

None.

**Motion Unanimously Carried**

**DISCUSSION:**

Commissioner Measures thanked staff for the thorough report. He did question why the management plan could not have been endorsed by the Director and a copy provided to the Commission for their information. Staff advised that the Director follows the Delegation of Authority (DOA), which does not include the endorsement of park management plans. The Director advised that a review of the DOA is something that will be raised with the Ministry for consideration.

**A2**

**STAFF REPORT**

### Development Permit Application G/C/2022-2023/340

607263 Sideroad 13B

Part Lot S 13, Concession 1

Municipality of Grey Highlands, County of Grey

### PROPOSAL:

To establish an on-farm diversified use (short-term accommodation) within an existing
± 465 m2 single dwelling on a 40-hectare lot with active agricultural uses (crop production).

**RECOMMENDATION:**

That the Commission approve with conditions.

Note:

* Kim Peters, Manager of Planning, provided a summary of the staff report and answered questions.
* Applicant presented and answered questions.

**M829R4/10-2023**

*Moved By: McKinlay*

*Seconded By: Francis*

*“That the Commission accept staff’s recommendation and approve with the following conditions of approval, including an increase in Condition 5 from six guests to eight guests:*

1. *Development shall occur in accordance with the Terms and Conditions of the Development Permit.*
2. *The Development Permit is valid for as long as the current landowner owns the subject property. This permit is not transferrable to a new landowner.*
3. *The use of the dwelling as a short-term vacation rental property is dependent on the continued use of the property for agricultural purposes.*
4. *No site alteration or construction is permitted in conjunction with this development permit.*
5. *No more than* ***eight*** *paying guests are permitted to use the property when the landowner is not present.*

***Advisory Notes:***

1. *A Development Permit does not relieve the landowner/permit holder from the requirements of any other required approval, licence or certificate under any statute (e.g., municipal by-law, Ontario Building Code. The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.*
2. *The Municipality of Grey Highlands licenses short-term accommodations. The landowner should contact the Municipality to ensure compliance with by-laws and licensing requirements.*
3. *The Niagara Escarpment Commission supports the protection of the night sky from excessive lighting and recommends the applicant obtain information on the use and operation of appropriate lighting fixtures in keeping with dark sky approaches.”*

***For the Motion: 14 votes***

*Chevalier, Curley, Francis, Gibson, Golden, Hutcheon, Krantz, Little, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

*None.*

**Motion Unanimously Carried**

**A3**

**ADDENDUM STAFF REPORT**

### Development Permit Application H/C/2021-2022/787

9459 Guelph Line

Part Lot 9, Concession 4

Town of Milton, Region of Halton

### PROPOSAL:

To implement a new commercial use (warehousing and commercial storage) within an existing ±1,394 sq m (15,000 sq ft) vacant industrial building on an existing 4.82 ha (11.9 ac) lot that also supports a single dwelling.

### RECOMMENDATION:

That the conditions of approval be approved.

Note:

* Ginny Hang, Senior Planner, answered questions.
* Rachel Suffern, Town of Milton Planner, answered questions.

**M829R5/10-2023**

*Moved By: McKinlay*

*Seconded By: Lucyshyn*

*“That the Commission* *refer this matter to the November 16th Commission meeting to give staff the time required to include the new information brought forward by the Town of Milton’s planner.”*

***For the Motion: 13 votes***

*Chevalier, Francis, Gibson, Golden, Hutcheon, Krantz, Little, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

*None.*

**Motion Carried**

**DISCUSSION:**

An initial motion was made by Commissioner Hutcheon to defer the staff report for six months, which was seconded by Commissioner Krantz.The Chair set aside the original motion for deferral to allow the staff to provide information on the contents of the addendum report. Staff noted that feedback from the Town of Milton had not been received until after the report had finalized and provided to the Commission. The Town of Milton has requested an additional advisory note indicating that site plan approval is required by the Town. Staff reasserted that no conditions could bring the proposed development into conformity with the NEP since the development criteria in Part 2 of the Niagara Escarpment Plan were not satisfied. The Town of Milton’s planner advised the Commission that the Town does not support the proposal and that approval would need to come from the NEC as the approving authority before the applicant could submit a site plan to the Town for approval.

**Broke for lunch:** 12:00 p.m.

**Reconvened:** 1:30 p.m.

**A4**

This item was set aside at the request of the Chair in consultation with the Director.

**A5**

**STAFF REPORT**

**Development Permit Application G/C/2023-2024/259**

**576799 Concession 9**

W Part Lot 3, Concession 10 EGR

Municipality of Chatsworth (Holland), County of Grey

### PROPOSAL:

To recognize the Existing Use of Ridgewood Springs Organic Farm and Retreat Centre (renamed Bubble Grove) that historically included the following activities:

* Hosting group retreats and providing short-term accommodations and on farm camping for ±50 people
* Events:
	+ Workshops and classes (farming & spiritual classes)
	+ Tours (farm tours, wagon rides apple picking, etc.)
	+ Celebrations (honeymoons, weddings, family reunions)
	+ Camps (youth groups)
	+ Retreats (multi day and week-long retreats for groups)
* On-site sales (apples, produce, honey, books & spiritual items)
* Offering recreational, fitness, and educational experiences including trail hikes, swimming, volleyball and cross-country skiing on the property.

**RECOMMENDATION:**

NEC staff are recommending refusal of the proposed development permit application because, in the opinion of NEC staff, it has not been sufficiently demonstrated that the group retreats, camping, events, and commercial outdoor activities were legally established existing uses as required by the NEP.

Specifically, an existing use must meet the definition established in the NEP. Development Control has been in place for these lands since 1975 and there are no records of any NEC approvals for the retreat use. There are two records trying to establish a retreat use (G/R/1984-1985/144 and G/P/1985-1986/9001); however, both of those applications were refused by the Commission and a Development Permit was not issued. Although NEC staff do not argue that the use has been in operation, there is no evidence suggesting that it was legally established. Only uses that have been legally established can be considered existing uses.

Note:

* Brandon Henderson, Senior Planner, provided a summary of the staff report and answered questions.
* Two speakers in favour of the application presented.
* Applicants presented and answered questions.
* Three neighbours in opposition to the application presented.

**M829R6/10-2023**

*Moved By: Hutcheon*

*Seconded By: McKinlay*

*“That the Commission move in camera.”*

**Motion Carried**

**M829R7/10-2023**

*Moved By: Francis*

*Seconded By: Hutcheon*

*“That the Commission move out of camera with no report.”*

**Motion Carried**

**M829R8/10-2023**

*Moved By: Hutcheon*

*Seconded By: Francis*

*“That the Commission accept staff’s recommendation and refuse the application for the following reasons.*

1. *The previously established religious retreat function on the property fails to meet the Niagara Escarpment Plan definition of an Existing Use;*
2. *On-Farm Diversified Uses and Agriculture-Related Uses are not permitted in Escarpment Protection Area unless they are located in a Prime Agricultural Area;*
3. *Unserviced camping is only permitted on public and institutional lands in Escarpment Protection Area; and,*
4. *The intent of the County of Grey Official Plan is to not allow camping as an On-Farm Diversified Use.”*

***For the Motion: 4 votes***

*Francis, Gibson, Hutcheon, Little.*

***Against the Motion: 8 votes***

*Chevalier, Golden, Krantz, Lucyshyn, McKinlay, Measures, Nielsen, Witteveen.*

**Motion Defeated**

**M829R9/10-2023**

*Moved By: Lucyshyn*

*Seconded By: Chevalier*

*“That the Commission refer this matter for one month to the November 16th Commission meeting to give the Commission time to consider a motion for approval including conditions”*

**Motion Carried**

**A6**

**STAFF REFERRAL REPORT**

## PROPOSED Niagara Escarpment Plan Amendment PP 213 18

## Development Permit Applications P/E/2017-2018/408 and P/E/2023-2024/291

**Blueland Farms Ltd. (McCormick Pit)**

17736 Heart Lake Road and 17679 Kennedy Road

East Part of Lot 12, Concession 2 EHS

West Part Lots 11 and 12, Concession 2 EHS

Town of Caledon, Region of Peel

### PROPOSED AMENDMENT:

* To amend the Niagara Escarpment Plan (NEP) designation of Escarpment Rural Area to Mineral Resource Extraction Area to permit mineral aggregate resource extraction (gravel pit) both above and below the water table within a 26-hectare area on a 40.5-hectare property located at 17736 Heart Lake Road (East Part Lot 12, Concession 2 East of Hurontario Street), Town of Caledon, Region of Peel.
* To add a special policy under Part 1.9.3 of the NEP to allow for the transport of materials from 17736 Heart Lake Road onto the property located at 17679 Kennedy Road (West Part Lots 11 and 12, Concession 2 East of Hurontario Street), Town of Caledon, Region of Peel.

### RECOMMENDATIONS:

That the Commission:

1. Receive this report while taking no substantive position at this time on NEP amendment PP 213 18;

1. Ask the OLT to appoint one or more hearing officers to hold a hearing pursuant to Section 10(3) of the NEPDA as there are written objections to the proposed amendment;
2. Refuse DPAs P/E/2017-2018/408 and P/E/2023-2024/291 so that they can be appealed to the OLT concurrently with the proposed amendment and possibly consolidated with the hearing of other related approvals;
3. Support the consolidation of the proposed NEP amendment and DPAs with the related Planning Act and Aggregate Resources Act appeals;
4. Direct NEC staff to continue to work with the applicant, municipalities, conservation authority, MNRF and others to obtain outstanding information necessary to fully assess the proposed amendment and DPAs;
5. Instruct NEC staff to report back to the Commission before taking any final positions on the proposed amendment and DPAs.

**M829R10/10-2023**

*Moved By: Hutcheon*

*Seconded By: Chevalier*

*“That the Commission hear from two additional speakers on this matter.”*

**Motion Carried**

Note:

* Kim Peters, Manager of Planning, provided a summary of the staff report and answered questions.
* James Parkin, MHBC, presented and answered questions.
* Three concerned citizens presented in opposition.

**M829R11/10-2023**

*Moved By: Lucyshyn*

*Seconded By: Chevalier*

*“That the Commission accept staff’s recommendations as follows.*

1. *Receive this report while taking no substantive position at this time on NEP amendment PP 213 18;*

1. *Ask the OLT to appoint one or more hearing officers to hold a hearing pursuant to Section 10(3) of the NEPDA as there are written objections to the proposed amendment;*
2. *Refuse DPAs P/E/2017-2018/408 and P/E/2023-2024/291 so that they can be appealed to the OLT concurrently with the proposed amendment and possibly consolidated with the hearing of other related approvals;*
3. *Support the consolidation of the proposed NEP amendment and DPAs with the related Planning Act and Aggregate Resources Act appeals;*
4. *Direct NEC staff to continue to work with the applicant, municipalities, conservation authority, MNRF and others to obtain outstanding information necessary to fully assess the proposed amendment and development permit applications;*
5. *Instruct NEC staff to report back to the Commission before taking any final positions on the proposed amendment and development permit applications.”*

***For the Motion: 12 votes***

*Chevalier, Gibson, Golden, Hutcheon, Krantz, Little, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

*None.*

**Motion Carried**

## CONSENT AGENDA/ITEMS MOVED FOR DISCUSSION:

The Director provided a brief update on the status of the recommendations from the Auditor General’s report. The Director advised that many of the recommendations will be brought forward during the Coordinated Plan Review which has not yet commenced. The Director highlighted the recommendations that NEC staff have acted on to date. NEC staff are working closely with Ministry staff to address the recommendations in the report.

Information only Items

G1 Director Approvals and Dashboard for September 2023

G2 Appeals and Hearings Status Chart as of September 30, 2023

G3 Director’s Report for September 2023

G4 Plan Amendments Status Update as of September 30, 2023

**M829R12/10-2023**

*Moved By: Hutcheon*

*Seconded By: Measures*

*“That the Commission receive the information reports.”*

**Motion Carried**

**NEW BUSINESS**

The Commission was advised that the 2024 Commission meeting dates will be on the Agenda for the November 16th Commission meeting. The November meeting is the last meeting of 2023.

Commissioner McKinlay requested training on the NEC website. He also noted concerns about staffing continuity at the NEC. He expressed an interest in having Objective 3 (To provide adequate opportunities for outdoor recreation) and Objective 6 (To provide for adequate public access to the Niagara Escarpment) addressed during the next review of the Niagara Escarpment Plan.

The Director advised that there have been no updates on the Niagara Crossing environmental assessment to report.

## ADJOURNMENT

**M829R13/10-2023**

*Moved By: Measures*

*“That this meeting be adjourned.”*

**Motion Carried**

**Time of Adjournment:** 4:50 p.m.

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 James (Jim) Collard

Chair