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**THE NEW REGIONAL FOREST CONSERVATION BY- LAW
FINAL REVIEW**

The Transportation and Works Committee recommends:

- 1. The presentation by Ian Buchanan, Manager of Natural Heritage and Forestry, be received;**
- 2. The following deputations and/or written submissions be received;**
 - (a) Philip Wellman, resident, Sutton and communication dated April 12, 2005;**
 - (b) Dr. Terry O'Connor, President, York Federation of Agriculture and written submission;**
 - (c) Jamie Huntley, resident, Sutton;**
 - (d) Margaretha Vandervelden, President, North East Sutton Ratepayers Association Inc. and written submission;**
 - (e) Peter Sibbald Brown, Director, The Lakewatch Society and written submission; and**
- 3. The recommendations contained in the following report, April 21, 2005, from the Commissioner of Transportation and Works be adopted.**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorize the enactment of a Forest Conservation by-law in accordance with the recommendations set out in this report, effective June 1, 2005.
2. By-law No. TR-1-91-154 (Regional Tree By-law) be repealed, effective June 1, 2005
3. The staff of the Transportation and Works Department identified in this report be appointed to administer the Forest Conservation By-law.
4. The Regional Clerk circulate this report and the Forest Conservation By-law for information purposes to local municipalities and they be requested, as appropriate, to finalize by-laws to delegate authority to make the Region's Forest Conservation By-law applicable to woodlots from 0.2 hectares to 1 hectare in size.
5. Regional staff be directed to implement the Forest Conservation By-law communications strategy, as outlined in this report.

6. Legal Services be directed to prepare by-laws for presentation to Regional Council in accordance with these recommendations.

2. PURPOSE

The purpose of this report is to report on the comments received the final consultation on the draft Regional Forest Conservation By-law, and further to provide the staff response to these comments. Proposed amendments to the draft by-law are highlighted. As a final step, a public communications strategy is identified which will be implemented concurrent with the release of the Region's Forest Conservation By-law.

3. BACKGROUND

The last report on the Forestry Conservation By-law was presented to the Transportation and Works Committee on October 16, 2004. This report included a schedule for final consultation with local municipalities, stakeholders, and the public. The report and draft Forest Conservation By-law were made available for public review through the Region's web site and was mailed out to interested parties.

The Regional Clerk sent letters to the local municipalities requesting consideration of the delegation of authority required to make the Regional by-law applicable to woodlots between .2 and 1 hectare.

The current Tree By-law was enacted in 1991 under the Trees Act (now repealed). The new by-law will be enacted under the Municipal Act, 2001. The following are the key elements that were proposed in the recent draft Forest Conservation By-law presented to agencies, stakeholders and the public in the final round of consultation (December 2004 to March 2005):

- Restriction of the Region's jurisdiction to woodlands greater than one hectare in accordance with the Municipal Act. This is a limitation on The Region's current jurisdiction over woodlands .2 hectare and greater in area.
- Regional tree protection abilities and powers through agreements with local municipalities to protect woodlands less than one hectare in size. Through this arrangement, the Region's by-law could apply to woodlands greater than 0.2 hectares (0.5 acres) in size, as under the existing by-law. These agreements are important for consistency and public communications.
- Exemptions – statutory exemptions are included, and further exemptions are proposed for (a) personal use of up to five cords of wood per 12-month period, and (b) building

- permits involving the clearing of less than one hectare of forest.
- More effective administrative instruments, including a permit system for tree cutting activities. The proposed permit system includes the following 3 categories of permit:
 - **Good Forestry Practices Permit** – permit fee \$25.00.
 - **Harvest Permit** – permit fee \$250.00.
For both “Good Forestry” and ‘Harvest Permits’, staff would be delegated the authority to issue permits for sustainable harvest activities (e.g. selective thinning of woodlots).
 - **Special Permit** – permit fee \$500.00.
A - ‘minor’ tree clearing, less than 0.2 ha of forest, decision at staff level, and
B - ‘major’ tree clearing, greater than 0.2 ha of forest, referred to Council.
 - A right of appeal to the Ontario Municipal Board in accordance with the Municipal Act.
 - Enhanced enforcement tools and penalties; including the ability to use a ‘set fine’ process for ticketable offences, and “stop work” order provisions.

Public review and consultation was initiated in the fall of 2003. To complete the consultation process, the December 2004 draft “Forest Conservation By-law” was posted on the Region’s web site, and mailed out to agencies, the public and stakeholders. In addition, presentations were made to local municipal councils, Environmental Advisory Committees, stakeholder and at other public forums.

4. ANALYSIS AND OPTIONS

4.1 Final Consultation

Consultation has been ongoing since the fall of 2003. The last report on the Forest Conservation By-law was presented to the Transportation and Works Committee on October 16, 2004. Through the past 5 months of consultation, a variety of input was received on the report, the by-law, and the fee schedule associated with the by-law, from agencies, municipalities, stakeholders and the public. Table 1 represents a list of meetings, forums or other items where the proposed Forest Conservation By-law was presented for input:

Table 1
Public Review and Final Consultation Schedule

Date	Forum
November 12, 2004	• York Chapter Ontario Woodlot Association (OWA).
November 22, 2004	• Township of King, Council presentation.
November 30, 2004	• Local Municipal foresters, parks and planning forum.
November 30, 2004	• Local Municipal Environmental Advisory Committee (EAC) forum.
December 2004	• Municipal Clerks Forum.
December, 2004	• Past participants in Public Open Houses, and other interested individuals were emailed or mailed “Tree By-law – A New Regional Forest Conservation By-law”, Report of the Commissioner of Transportation and Works and Works, October 6, 2004 and the December 4, 2004 draft Forest Conservation By-law.
December 21, 2004	• York Region’s web site posting of “Tree By-law – A New Regional Forest Conservation By-law”, Report of the Commissioner of Transportation and Works and Works, October 6, 2004 and the December 4, 2004 draft Forest Conservation By-law.
January 24, 2005	• York Regional Agricultural Liaison Committee meeting.
January 25, 2005	• Town of Whitchurch-Stouffville Council presentation.
January 28, 2005	• York Region Securement Working Group update.
February 21, 2005	• Town of East Gwillimbury Council presentation.
February 23, 2005	• York Region local municipal law enforcement officers (MLEO) forum.
March 21, 2005	• Aurora Environmental Advisory Committee (EAC).
March 23, 2005	• Federation of Agriculture forum presentation.
April 18, 2005	• Town of Georgina Council and stakeholder forum.

In addition, a number of telephone enquiries, emails and letters were received.

4.2 Municipal Harmonization

Under the Municipal Act, the Region may implement a by-law to prohibit or regulate the destruction of trees in woodlands greater than one hectare (2.5 acres). However, the legislation enables local municipalities to regulate tree cutting in woodlands less than one hectare. The Municipal Act also allows local municipalities to delegate some level of tree or forest protection authority to the Region.

To maintain consistency with the current jurisdiction of the existing Tree By-law, which has been in place for 14 years, the Region proposed that in partnership with the local municipalities, and at their request, we would assume local powers to regulate tree

cutting in woodlands between 0.2 hectares (0.5 acres) and one hectare (2.5 acres). There are no budgetary implications to the local municipalities for this service, as the relationship represents the status quo.

Consultation with local municipalities has been ongoing for the past 18 months. Meetings have been held with local municipal planning staff, and staff associated with tree management and protection (Parks, Legal, Forestry etc.). In addition, updates have been provided at other forums including meetings with Environmental Advisory Committees, Regional Forestry Forums, and through the Securement Working Group meetings. The Region had received a positive response to the harmonization of Tree Cutting By-laws, to ensure forests are protected in a consistent and coordinated fashion across the landscape.

Following the last report to Committee on the Forest Conservation by-law, the Regional Clerk sent a letter requesting that local municipalities consider this delegation (October 2004). The following table (Table 1) outlines the status of the local municipal consideration of delegation of authority by-laws.

Table 2
Status of Local Municipal Interest in Delegation

Municipality	Delegation	Status/Comment
Markham	• Council support delegation (March 29, 2005)	• Drafting a delegation by-law
Vaughan	• Support delegation (staff)	• Staff report pending
King	• Council support delegation • Committee of the Whole (Nov.24, 2004)	• Drafting a delegation By-Law
East Gwillimbury	• Council support delegation • Committee of the Whole (Feb.21, 2005)	• Drafting a delegation By-Law
Richmond Hill	• Council support delegation (Feb.28, 2005)	• Drafting a delegation By-Law
Aurora	• Council requested input from the EAC	• EAC in support of delegation
Newmarket	• Support delegation (staff) • Staff report pending April 2005	• <u>Note:</u> Staff report (draft) recommends no delegation for a 1 year review period

Whitchurch-Stouffville	• Support delegation (staff) • Town Council (Jan 25, 2005) By-law No. 2005-017-MA	• By-law passed Feb 1, 2005
Georgina	• Council support delegation • Town Council Resolution No. C-2004-0481 (Oct. 8, 2004)	• Delegation By-law authority Oct.8, 2004

At this time all municipalities, with the exception of the Town of Newmarket, appear to be proceeding with the delegation. This harmonization, consistent with the current jurisdictional approach, is seen as a positive step by agencies and the public. Markham, Newmarket, Richmond Hill, Whitchurch-Stouffville and King are considering or developing a local tree by-law. The Town of Aurora has a local tree by-law in place.

Technical or editorial comments have been addressed in the by-law. Additional concerns submitted by local municipalities, are addressed under the following Section (5.3 Comments- What was heard).

4.3 Comments – What Was Heard

During the many consultation sessions, (listed in Table 1), staff received a full range of comments in support of the by-law, questions, issues and concerns. A variety of positive feedback was provided including:

- Toronto and Region Conservation Authority – February 25, 2005, Resolution #A17/05:

“...that York Region be notified of TRCA’s support for the proposed Forest Conservation By-law and York Region’s ongoing commitment to the protection and management of the Region’s Natural heritage system.”

- Lake Simcoe and Region Conservation Authority – February 28, 2005, correspondence:

“...the Region of York is to be commended for its ongoing commitment to protecting and enhancing the Region’s natural heritage system.”

- Town of Georgina – February 21, 2005, Staff Report:

“...the draft Forest Conservation Bylaw, with the proposed permitting system and staff delegation for certain matters provides a great improvement over the existing Tree By-law.”

- Town of East Gwillimbury – February 21, 2005, Staff Report:
“...the proposed new by-law will continue to provide East Gwillimbury with the benefits that forest conservation and related initiatives bring to the community.”

Council Attachment 1 provides a detailed summary of what was heard, and presents a response including proposed changes and amendments to the Forest Conservation By-law. Table 3 provides a summary of significant changes proposed in the by-law as a result of the final consultation.

Table 3
Consultation – Proposed Changes to the Forest Conservation By-law

Comment	Proposed Change	Source
5 cords of wood for a personal exemption is not enough	• Change – s.3.1 (m) – increased to 6 bush cords, harvested in accordance with good forestry practices.	Agriculture, public
Farmers need cedar posts for fence maintenance	• Change – s.3.1 (n) – new exemption for up to 3 bush cords of cedar for fencing, harvested in accordance with good forestry practices.	Agriculture
Tree nurseries should be exempt	• Change – s.3.1 (i) – new exemption for tree nurseries. • Note: orchards and Christmas tree plantations are also exempt.	Agriculture
The permit fees are too high for farmers	• Change - Schedule “C” - Agricultural – bona fide farmer - applications subject to a fee of \$25.00 for all three types of permits.	Agriculture
The By-law needs to reflect a special consideration of agriculture needs	• Change – Special Permit s.5.5 and 5.6 – provides special consideration of (existing) agricultural policies and principles. • Change – Schedule C – reduced permit fee \$25. • Change(s) – also note Exemptions s.3.1 (i), (m) and (n).	Agriculture

Landowners in the Managed Forest Tax Incentive Program (MFTIP) should have special consideration	• Change – Good Forestry Practices Permit s.5.3(b) – provides special consideration and streamlining for MFTIP participants, including reduced permit fee \$25.	Public, woodlot owners
Confusion around <i>Building Code Act</i> - building permit harmonization	• Change – Exemptions s.3.1 (j), (k) and (l) – wording clarified. • Intent is to exempt tree clearing directly associated with an approved Building Permit.	Environmental, Georgina
Concern with exemptions for harvest of diseased trees	• Change – Exemption s.3.1(m new o) – delete reference to diseased trees. • Intent will be captured within hazard tree exemption.	MNR, environmental, public

4.4 General Content – Forest Conservation By-law

The following is a general outline of the key components of the proposed by-law as updated with current information and reflecting the proposed amendments:

4.4.1 Tree By-law Harmonization

An updated schedule will be attached to the Forest Conservation By-law indicating those municipalities which have, or are seeking to implement a delegation by-law. Should there be any changes to this schedule it will be updated accordingly.

4.4.2 Exemptions

Most of the statutory exemptions which applied to the existing by-law are carried forward in the new legislation. These include: activities undertaken by a municipality or a local board, activities conducted under the Surveyors Act, or according to a Planning Act approval.

In addition, staff are proposing the following exemptions:

- Exemptions for clearing up to within 15 meters of a structure for which a building permit under the Building Code Act has been issued.
- Exemptions for personal use, for the equivalent of six bush cords of wood per 12-month period.
- Exemption for personal use, for use as fence posts for fence maintenance, for the equivalent of 3 bush cords of Eastern white cedar per 12 month period.

4.4.3 Decision Authority and Permit structure

A permit application system is proposed where an application must be made to obtain a permit to cut. The following permit structure is proposed. There will be three types of permits:

1. Good Forestry Practices Permit – For sustainable selective harvest activities. Where the services of a Registered Professional Forester (R.P.F.) have been secured to prescribe and direct the harvesting activities. A harvest prescription is written, the woodlot is marked and the trees are cut according to the prescription. Staff review the application and issue a permit with conditions. A nominal administration fee of \$25 is proposed in light of the landowner investing in the services of a R.P.F, and that staff will not be conducting a detailed assessment.

Landowners enrolled in the Managed Forest Tax Incentive Program (MFTIP) undertaking tree cutting activities consistent with their approved plan will be able to submit an application under this type of permit. MFTIP plan participants will not require the services of an R.P.F., but will be required to mark their forest for harvest compliant with the intent of their approved plan.

2. Harvest Permit – For sustainable selective harvest activities. Where a woodlot is marked in accordance with good forestry practices and/or where the basal area and minimum circumference limits are met as set out in the by-law. Staff review the application in accordance with the by-law and the decision tree screening process, and issue a permit with conditions. A permit fee of \$250 is proposed to offset staff time and administration costs.

It is proposed the administration of both of the Good Forestry and Selective Harvest permits be delegated to staff.

3. Special Permit - This permit would be available to consider tree destruction activities not consistent with good forestry practices e.g. clear cutting. Staff will review the proposal in accordance with policies adopted by Council, particularly with reference to the special criteria and principles developed for agricultural applications. Staff will consult with local municipalities and agencies on major tree clearing proposals. For the Special Permit a permit fee of \$500 is proposed to offset staff time and administration costs.

Staff is proposing that for Special Permit applications:

A - Less than 0.2 hectares of forest clear cutting proposed - where an application is submitted affecting less than 0.2 hectares (0.5 acres) of forest, staff are delegated the ability to approve or deny an application, or could refer to Regional Council for a decision.

B - More than 0.2 hectares of forest clear cutting proposed - on all applications proposing clearing of more than 0.2 hectares (0.5 acres) of forest, staff will prepare a report with recommendations for approval by the Transportation and Works Committee and Regional Council.

The natural environment and agricultural principles and policies adopted by Council for the review of Minor Exception applications under the current Tree By-law, will be applied to screen Special Permit applications. The minor exception process has now been eliminated from the legislation.

Consistent with the Region's approach of balancing the needs of the natural environment and the agricultural community in the administration of the existing tree by-law, staff are proposing an across the board permit application fee of \$25.00 for all agricultural applications. As such, the only permit application fee a bona fide farmer would be subject to for any permits under this by-law would be \$25.00. Applicants must demonstrate that they are bona fide farmers by providing their Farm Business Registration Number with their application.

Table 4 provides a summary of the proposed permits and administration.

Table 4
Forest Conservation By-law Permits and Process

Permit Type	Activity	Requires (Application Form Indicating)	Permit Fee	Decision
Good Forestry Practices Permit	Good forestry practices – selective harvest of trees e.g. thinning.	- Registered Professional Forester (R.P.F.) prescription required, woodlot marked accordingly, or - Landowner in the Managed Forest Tax Incentive Program (MFTIP), and woodlot marked in accordance with intent of the Plan.	\$25	Staff
Harvest Permit	Good forestry practices - selective harvest of trees e.g. thinning.	- Woodlot to be marked in accordance with good forestry practices, or - Marked based on the basal area and minimum circumference limits as set out in the by-law.	\$250 or \$25 - for a bona fide farmer	Staff

Special Permit (A and B)	Not consistent with good forestry practices e.g. clear cutting.	Identification of scope and extent of tree clearing or other works to be undertaken. May be supported by an Environmental Impact Study (EIS).	\$500 or \$25 - for a bona fide farmer	A - Clear cutting of less than 0.2 ha trees – Staff. B - Clear cutting of more than 0.2 ha of trees – Regional Council.
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4.5 Communications and Promotion Strategy

It is proposed that following enactment and release of the Forest Conservation By-law, a communications campaign would help further inform the public. The communications strategy would be developed with input from the Regional communications staff and include:

- Updated information including the new Forest Conservation By-law and Committee reports would be posted on the Region's web site.
- A Forest Conservation By-law folder is being developed which would be available to package communications information, and application forms.
- An information brochure is under development.
- Fact sheets and other supporting information are also under review.

It is proposed that "Call before you cut" Forest Conservation By-law awareness campaign be undertaken with local newspaper ads, and timely media releases. In addition, meetings would be coordinated with agricultural associations, logging associations, environmental groups and other interested parties on an ongoing basis.

While the provisions for Tree By-laws set out in the Municipal Act, 2001 can help regulate the destruction or injuring of trees, this may not result in a healthier forest if used alone. Many consider them as a measure of last resort, and prefer to ensure private land forest sustainability through the promotion of educational and stewardship initiatives. In the administration of the Tree By-law, the Region has a long-standing appreciation for the philosophy of "education before legislation". Greening Strategy initiatives such as stewardship, public education and awareness, are critical to the overall protection of forest resources.

4.6 Relationship to Vision 2026

Vision 2026 through the Enhanced Environment, Heritage and Culture goal identifies the following action area: Securing a Green York Region.

The development of a Forest Conservation By-law supports several Vision 2026 goal statements:

"In 2026, York Residents will continue to value and embrace the Region's unique natural heritage (land, air, water) and cultural heritage (sites and buildings important to our history, faiths and cultures)."

"In 2026, York Region will have grown at a pace that supports healthy communities, economic vitality, sustainable natural environment and effective human services."

The Region's Natural Heritage framework referred to as the Greenlands System includes a variety of forest resources. The Regional Official Plan includes a number of policies and objectives specific to the protection and restoration of our forests. These include:

The Sustainable Natural Environment goal:

"To conserve and improve the natural environment for this and future generations so that it will sustain life, maintain health and provide an improved quality of life."

The objectives in terms of Forest Resources are:

- To protect forested areas of Regional significance and to encourage reforestation to provide environmental, social and economic benefits to the residents of York Region.
- To increase forest cover to a minimum of 25% of York Region's total land area from the current 18%.

The advancement of a Forest Conservation By-law is intended to help meet these goals and objectives. A Forest Conservation By-law will further strengthen the Region's commitment to the natural environment and therefore support Vision 2026.

4.7 Enforcement

Currently, the following Regional Forestry staff are appointed as by-law enforcement officers under the Tree by-law:

- Ian Buchanan
- Douglas Wells
- James Lane

It is recommended that these staff be re-appointed to enforce the new by-law. Recently, Cat Cybulski has joined the Forestry staff as an Area Forester. It is recommended that Ms. Cybulski also be appointed to enforce the Forest Conservation by-law.

4.8 Next Steps

It is proposed that:

- The Forest Conservation By-law be enacted and effective June 1, 2005.
- Existing Tree By-law Officers be re-appointed to administer the Forest Conservation By-law.
- The Regional Clerk circulate this report and the final Forest Conservation By-law for information purposes to local municipalities.
- Local municipalities be requested, as appropriate, to finalize by-law's to delegate authority to make the Region's Forest Conservation By-law applicable to woodlots from 0.2 hectares to 1 hectare in size.
- Regional staff be directed to implement the Forest Conservation By-law communications strategy.

5. FINANCIAL IMPLICATIONS

To assist in the communication of the new by-law and its implications to landowners, a Forest Conservation By-law booklet, pamphlets and information sheets will be developed. The communications strategy will also be implemented. Information transfer is critical to the effective implementation of a new by-law, and is consistent with the Region's "education before legislation" philosophy. Funds to develop and promote these products were identified in the 2005 budget.

It is anticipated with the staffing adjustments made in 2004, the existing Forestry staff complement, including dedicated clerical support, will be able to administer the proposed by-law. Once a new Forest Conservation By-law is in place, it is proposed the workload will be monitored for a one-year rationalization period. After this review period, an assessment will be considered and any necessary adjustments will be made as part of the budget and work planning process for 2006.

6. LOCAL MUNICIPAL IMPACT

The harmonization agreements with local municipalities will be beneficial in preserving the status quo in terms of the protection of 0.2 hectares (0.5 acre) woodlots and above. Agencies and the public have identified the importance of a consistent approach across the Region. Staff will continue to work with local municipal staff to ensure harmonization is effective.

Staff will coordinate communications activities with local municipal staff as necessary to ensure duplication is avoided, and the interests in tree and forest cover protection is secure.

7. CONCLUSION

As the population of the Region expands, the demands for forest protection and restoration are increasing. The public is becoming increasingly sensitive to both the needs of the environment, and the accountability of agencies responsible for their protection.

The development and administration of a Forest Conservation By-law linked to the Regional Official Plan and the promotion of good forestry practices is expected to help demonstrate the Region's commitment to protecting forest resources and the natural environment.

The evolution of the Regional Tree By-law to a Forest Conservation By-law within a sound and complementary policy and administrative framework, will provide more effective tools, raise the profile of forest management, and advance forest cover protection in York Region.

The new by-law will demonstrate the Region's continuing commitment to protecting our significant forest resources and supporting our natural environment. The by-law will promote good forestry practices, provide better tools for more effective forest management and advance the protection of the Region's 39,000 hectares of diverse woodland habitat. The Regional Municipality of York will continue to promote good forestry practices through both the administration of the new Tree By-law, and through educational and stewardship initiatives.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)