



Toronto and Region Conservation Authority

Board of Directors Meeting Revised Agenda

#10/18

January 4, 2019

9:30 A.M.

HEAD OFFICE, 101 EXCHANGE AVENUE, VAUGHAN

Pages

1. ACKNOWLEDGEMENT OF INDIGENOUS TERRITORY
2. MINUTES OF MEETING #9/18, HELD ON NOVEMBER 30, 2018
Minutes [Link](#)
3. BUSINESS ARISING FROM THE MINUTES
4. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF
5. DELEGATIONS
6. PRESENTATIONS
7. CORRESPONDENCE
8. SECTION I - ITEMS FOR BOARD OF DIRECTORS ACTION
 - 8.1 SOLID WASTE AND RECYCLING COLLECTION AND MANAGEMENT PROGRAM 2019-2021
Award of Contract #10009310 4
 - 8.2 UNIFORMED SECURITY SERVICES 2019 - 2024
Award of Contract #10009592 7

9. SECTION III - ITEMS FOR THE INFORMATION OF THE BOARD

9.1 THE MEADOWWAY – VISUALIZATION TOOLKIT

10

Award of Contract #10009458

9.2 DRAFT COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO (ERO)

14

Bill 66, Restoring Ontario's Competitiveness Act, proposed Open-For-Business Planning Tool (ERO #013-4125), and new regulation under the Planning Act (ERO #013-4239).

10. MATERIAL FROM EXECUTIVE COMMITTEE MEETING

Following reports are available separately in the Executive Committee Meeting Minutes

10.1 SECTION I - ITEMS FOR BOARD OF DIRECTORS ACTION

10.1.1 BRE INNOVATION PARK

Update and Authorization to Lease a Lot at Innovation Park at Kortright, 9550 Pine Valley Drive, City of Vaughan, Regional Municipality of York, Humber River Watershed (CFN 59237). Response to proposals from Mattamy and Services and Housing in the Province (SHIP) for a lease at the BRE Innovation Park at Kortright to be located south of Major MacKenzie Drive and west of Pine Valley Drive, municipally known as 9550 Pine Valley Drive, in the City of Vaughan, Regional Municipality of York, Humber River watershed. TRCA staff recommend to enter into a 5-year lease (with three, 5 year options) with Mattamy and to enter into a 3-year lease (with three, 5 year options) with SHIP of Toronto and Region Conservation Authority-owned land for the construction and occupation of a research and demonstration building at the Innovation Park site at less than market rent, recognizing other benefits of these leases.

Page 567 (PDF Page 3)

10.2 SECTION III - ITEMS FOR THE INFORMATION OF THE BOARD

10.2.1 2018 THIRD QUARTER EXPENDITURES REPORT

Receipt of Toronto and Region Conservation Authority's expenditures as of the end of the third quarter, September 30, 2018 for information purposes.

Page 577 (PDF Page 11)

10.2.2 KIRBY ROAD EXTENSION ENVIRONMENTAL ASSESSMENT

Keele Street to Bathurst Street. TRCA staff are informing the Executive Committee of their concerns with this undertaking as proposed and are informing the Executive Committee that staff will be pursuing adjustments to the preferred alignment with the City of Vaughan, proponent and involved agencies.

Page 581 (PDF Page 15)

10.3 SECTION IV - ONTARIO REGULATION 166/06, AS AMENDED

Receipt of Ontario Regulation 166/06, as amended, for applications under 11.1, which were approved at Executive Committee Meeting #10/18, held on December 14, 2018.

Page 584 (PDF Page 18)

11. NEW BUSINESS

ANNUAL BOARD OF DIRECTORS MEETING #1/19, TO BE HELD ON JANUARY 25, 2019 AT 9:30 A.M. AT BLACK CREEK PIONEER VILLAGE

John MacKenzie, Chief Executive Officer

/am

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Meeting #10/18, Friday, January 04, 2019

FROM: Derek Edwards, Director, Parks and Culture

RE: **SOLID WASTE AND RECYCLING COLLECTION AND MANAGEMENT PROGRAM 2019-2021**
Award of Contract #10009310

KEY ISSUE

Award of contract for Solid Waste and Recycling Collection and Management services for 12 TRCA locations for 2019-2021.

RECOMMENDATION

THAT Contract #10009310 for Solid Waste and Recycling Collection and Management Services for 2019-2021 for twelve (12) Toronto and Region Conservation Authority (TRCA) facilities be awarded to Canadian Waste Management at a total cost not to exceed \$116,000, plus 10% contingency, plus HST for to be expended as authorized by TRCA staff for an initial term of two (2) years (March 1, 2019 to February 28, 2021) with an option to renew for additional two (2) years with revised rate in accordance with Ontario's Consumer Price Index;

THAT should TRCA staff be unable to negotiate a contract with the above-mentioned proponent, staff be authorized to enter into and conclude contract negotiations with other Proponents that submitted proposals, beginning with the next highest ranked proposal meeting TRCA specifications;

AND FURTHER THAT authorized TRCA officials be directed to take whatever action may be required to implement the contract, including the obtaining of necessary approvals and the signing and execution of any documents.

BACKGROUND

TRCA is committed to moving toward zero solid waste in the day-to-day operations for programs and at facilities, with a target of 80% diversion of waste. Currently TRCA is achieving over 40% diversion. Progress towards increasing diversion rates is directly related to expectations placed on TRCA's waste service provider to help achieve TRCA goals.

TRCA requires Solid Waste and Recycling Collection and Management Services at the following 12 locations:

- Glen Rouge Campground: 7450 Kingston Road, Toronto
- Black Creek Pioneer Village: 1000 Murray Ross Parkway, Toronto
- Petticoat Creek Conservation Area: 1100 Whites Road, Pickering
- Boyd Conservation Area: 8739 Islington Avenue, Woodbridge
- Boyd Office: 9755 Canada Company Avenue, Woodbridge
- Restoration Service Centre: 9741 Canada Company Avenue, Woodbridge
- Kortright Centre for Conservation: 9550 Pine Valley Drive, Woodbridge
- Bruce's Mill Conservation Area: 3291 Stouffville Road, Stouffville

Item 8.1

- Lake St. George Field Centre: 950 Bethesda Side Road, Richmond Hill
- Bathurst Glen Golf Course: 12481 Bathurst Street, Richmond Hill
- Claremont Field Centre: 4290 Westney Road, Claremont
- Swan Lake: 1229 Bethesda Side Road, Richmond Hill

TRCA facilities located in Peel Region receive free waste and recycling services through the Region of Peel and therefore are not included in this contract.

The Request for Proposal (RFP) documentation was reviewed prior to release by TRCA's Corporate Sustainability staff to ensure vendor selection would meet TRCA's Solid Waste Management Plan: Toward Zero Waste. The RFP was structured to ensure traditional hauling and recycling services as well as to help TRCA select an environmentally focused firm.

RATIONALE

RFP documentation was posted on the public procurement website biddingo.com on November 18, 2018 with proposals received from the following firms:

- Waste Management of Canada;
- GFL Environmental Inc.;
- Waste Connection;
- Waste Reduction.

An evaluation committee of TRCA staff reviewed the proposals. The criteria used to evaluate and select the recommended Proponent included the following:

Criteria	Score Weight
TECHNICAL:	
- Proponents Information and Profile	10%
- Experience and Methodology	20%
- Scope of Work Capabilities	30%
TOTAL Technical (a minimum of 40% required)	60%
PRICING	40%
TOTAL WEIGHTED SCORE	100%

The fees summary of the received proposals is as follows:

Firm	Annual Fee (Plus HST)
Waste Reduction Group	\$77,062
GFL Environmental Inc.	\$63,221
Waste Management of Canada	\$58,346
Waste Connection	\$48,140

The scoring was completed by each member of the evaluation committee, and averaged to produce total scores as follows:

Proponent	Proposal Score (/100)
Waste Reduction	82%
GFL Environmental Inc.	84%
Waste Management of Canada	94%
Waste Connection	N/A - Did not meet the minimum 40% technical requirement.

Item 8.1

Based on the Evaluation Committee's review of the proposals, Waste Management of Canada was evaluated to be the highest scoring Proponent. Therefore, staff recommends that Contract #10009310 be awarded to Waste Management of Canada at a total annual cost not to exceed \$58,346, plus 10% contingency, plus HST, for a total two-year contract amount of \$116,692, plus 10% contingency, plus HST, it being the highest ranked proposal meeting TRCA specifications.

Waste Management of Canada demonstrated its qualifications and expertise as a specialist in designing and implementing waste reduction strategies and initiatives, while providing waste and recycling collection services. The firm is committed to waste diversion data collection and evaluation as well as waste audit practices to ensure that all services meet TRCA's Solid Waste Management Plan: Toward Zero Waste.

FINANCIAL DETAILS

Funds have been identified for contract services in the respective facility operating budgets from TRCA's municipal funding partners.

Report prepared by: Kate Pankov, extension 6418

Emails: kpankov@trca.on.ca

For Information contact: Kate Pankov, extension 6418

Emails: kpankov@trca.on.ca

Date: December 12, 2018

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Meeting #10/19, Friday, January 04, 2019

FROM: Derek Edwards, Director, Parks and Culture

RE: **UNIFORMED SECURITY SERVICES 2019 - 2024**
Award of Contract #10009592

KEY ISSUE

Award of contract for Uniformed Security Services for various TRCA locations 2019-2024.

RECOMMENDATION

THAT the contract for uniformed security services for Toronto and Region Conservation Authority (TRCA) public use facilities, campgrounds, offices and select properties for 2019 - 2023 be awarded to Neptune Security Services Inc., at a total cost not to exceed \$770,360, plus 15% contingency, plus HST, it being the highest ranked proposal meeting TRCA specifications;

THAT an option for a one year extension (2023-2024) at the discretion of TRCA staff be available at an additional cost not to exceed \$192,590, plus 15% contingency, plus HST;

THAT should TRCA staff be unable to achieve an acceptable contract with the above-mentioned proponent, staff be authorized to enter into and conclude contract negotiations with other Proponents that submitted proposals, beginning with the next highest ranked proposal meeting TRCA specifications;

AND FURTHER THAT authorized TRCA officials be directed to take whatever action may be required to implement the contract, including the obtaining of necessary approvals and the signing and execution of any documents.

BACKGROUND

It is a priority of TRCA to ensure that its facilities, staff and visitors are effectively protected from unauthorized entry, threatening behavior and vandalism during and after regular operating hours. In order to achieve this goal, uniformed security services are required to act as a deterrent and to handle situations that threaten facilities and occupants. There are two types of services required by TRCA: Annual Services performed daily from January - December and Seasonal Services performed between April - October.

Annual Services (January – December)

- A. Black Creek Pioneer Village - daily scheduled security guard service
- B. Bond Lake and Philips Lake - patrol services based on irregular shifts
- C. Mobile Alarm Response Services at various TRCA Facilities and Conservation Areas
- D. Special Event Security Services – scheduled guard, on-call “as required” shifts
- E. Spot Check Services to TRCA facilities, properties and locations

Item 8.2

Seasonal Security Services (April – October) provided based on scheduled shifts as required by TRCA

F. TRCA Campground Facilities:

- Indian Line Campground
- Albion Hills Campground
- Glen Rouge Campground
- Heart Lake Conservation Area
- Petticoat Creek Conservation Area and Glen Rouge Campground
- Boyd Conservation Area,
- Kortright Centre for Conservation
- Boyd Office and Restoration Services Centre
- G. TRCA Conservation Parks and Facilities:

RATIONALE

Request for Proposals (RFP) #10009592 was posted on the public procurement website biddingo.com on November 13, 2018 with proposals received from the following firms:

- Active Security
- Garda World
- Knights on Guard
- Neptune Security Services Inc.

Proposals were opened by the Procurement Opening Committee on December 5, 2018. A Selection Committee of TRCA staff reviewed the proposals. The criteria used to evaluate and select the recommended firm included the following:

Criteria	Score Weight
Proponent's Information and Profile	10%
Key Personnel	15%
Experience and Protocols	15%
Scope of Work Capabilities	20%
Proposed Workplan and Project Team	10%
Pricing	30%
TOTAL	100%

The fees summary of the received proposals is as follows:

Firm	Annual Fee (Plus HST)
Active Security	\$ 269,150
Garda World	\$ 322,361
Knights on Guard	\$ 241,768
Neptune Security Services Inc.	\$ 192,590

Item 8.2

The scoring was completed by each member of the evaluation committee, and averaged to produce total scores as follows:

Firm	Proposal Score (/100)
Active Security	64
Garda World	77
Knights on Guard	74
Neptune Security Services Inc.	90

Based on the Selection Committee's review of the proposals, Neptune Security Services Inc. was evaluated as the highest by the committee. Therefore, staff recommends that Contract#10009592 for 2019-2023 be awarded to Neptune Security Services Inc. with an option for a one-year extension (2023-2024) at the discretion of TRCA staff.

Neptune Security Services Inc. demonstrated qualifications and expertise as a leader in the security services field. Their corporate protocols and documentation showcase a streamlined and professional organization with appropriate policies and communication channels. They also demonstrated a thorough understanding and ability to meet the contract and scope of work requirements.

FINANCIAL DETAILS

Funds have been identified for contract services in the respective facility operating budgets from TRCA's municipal funding partners.

Report prepared by: Kate Pankov, extension 6418

Emails: kpankov@trca.on.ca

For Information contact: Kate Pankov, extension 6418

Emails: kpankov@trca.on.ca

Date: December 12, 2018

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Meeting #10/18, Friday, January 04, 2019

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **THE MEADOWAY – VISUALIZATION TOOLKIT**
Award of Contract #10009458

KEY ISSUE

Update to the Board of Directors regarding the award of contract #10009458 - development of a visualization toolkit for The Meadoway.

RECOMMENDATION

THAT the staff report regarding the award of contract for professional landscape architecture and design services to lead the development of a visualization toolkit in support of The Meadoway be received.

BACKGROUND

Led by Toronto and Region Conservation Authority (TRCA) in partnership with Toronto and Region Conservation Foundation, City of Toronto, Hydro One, and The W. Garfield Weston Foundation, The Meadoway Project will transform 16 kilometres of hydro corridor in Scarborough into one of the largest urban linear greenspaces in Canada.

On April 11, 2018, Mayor John Tory along with the Directors of The W. Garfield Weston Foundation, and representatives from TRCA and Toronto and Region Conservation Foundation jointly announced The Meadoway at a ceremony in Scarborough. As part of this announcement, The W. Garfield Weston Foundation pledged up to \$25 million in support of the project, with a firm commitment of \$10 million available immediately to support Phase 1 of the project. The City of Toronto committed \$6.3 million to realize the shared vision for The Meadoway by supporting the multi-use trail infrastructure, and to support the City's ongoing operations and maintenance activities in the hydro corridor.

At Authority Meeting #7/18, held on September 28, 2018, an update on The Meadoway and recommendation to advance implementation of key priorities was approved per Resolution #A143/18, in part, as follows:

WHEREAS The W. Garfield Weston Foundation has made a \$10 million of the \$25 million pledge available immediately to TRCA to implement Phase 1 of the project;

THEREFORE LET IT BE RESOLVED THAT with appropriate Board Authority approvals including purchasing approvals, authorized TRCA and LCF officials be directed to take all necessary actions regarding retaining consulting services, the hiring of contract staff including project managers, and the signing and execution of any service agreements within the limit of the confirmed approved funding agreement for Phase 1.

A Schedule C Municipal Class Environmental Assessment (Class EA) is currently being undertaken to inform planning and design of potential trail alignments for sections of multi-use trail that have not been completed or approved. At Authority Meeting #7/18, TRCA staff received

Item 9.1

authorization to award Contract #10008912 to Dillon Consulting Limited for professional planning and engineering consulting in support of the Class EA and detailed design.

TRCA has also determined the need to retain a consultant to provide professional landscape architecture and design services to help refine and illustrate the overall vision and design philosophy of The Meadoway. A Request for Proposals (RFP#10009458) was released by TRCA on October 23, 2018 via Biddingo, soliciting bids for professional landscape architecture and design services to lead the development of a visualization toolkit for The Meadoway.

An update on the outcome of the bidder evaluation process was brought to the Board of Directors Meeting #9/18, with the following recommendations approved per Resolution #A187/18, in part, as follows:

THAT the Chief Executive Officer be authorized to award contract #10009458 for Professional Landscape Architecture and Design Services, in support of The Meadoway, if staff is unable to report to the Board of Directors as per Toronto and Region Conservation Authority's (TRCA) Purchasing Policy due to timing constraints;

THAT staff report back to the next Board of Directors Meeting as required after award of contracts;

RATIONALE

RFP#10009458 was released via Biddingo on October 23, 2018 with a total of 12 proponents submitting proposals in advance of the submission deadline on November 9, 2018.

Proponent Name	Fee
The Planning Partnership	\$90,350
Schollen and Company Inc.	\$146,101.75
Agency Landscape & Planning	\$166,185
02 Planning & Design	\$161,430
Public Work	\$198,597
Moriyama and Teshima Planners Ltd.	\$324,500
Janet Rosenberg & Studio	\$214,522
IBI Group	\$171,487
DTAH	\$209,328
Perkins and Will	\$245,975
LANDInc	\$483,660
Stantec	\$1,206,274

Members of the Evaluation Committee, consisting of staff from TRCA and The W. Garfield Weston Foundation, received copies of the proposals on November 9, 2018. The criteria used to evaluate the submissions and to select the successful consultant included the following:

- Understanding of project and scope of work;
- Experience and project portfolio, including quantity and relatedness of past projects, awards and/or recognition, and overall layout, design, and creativity of portfolio;
- Expertise of staff and appropriate allocation of resources;
- Approach and methodology of work plan, including innovative ideas, identification of project limitations, and proposed solutions;
- Clear and well thought out schedule that meet or exceeds the project timeline; and
- Detailed cost breakdown, including an itemized cost of additional works anticipated beyond the approved budget.

Item 9.1

The results of the evaluation of received proposals by the Evaluation Committee are as follows:

Proponent	Technical Proposal Rank (80%)	Fee Proposal Rank (20%)	Overall Rank (100%)
02 Planning & Design	3	3	1
Perkins+Will	1	9	2
The Planning Partnership	8	1	3
MT Planners	2	10	4
Agency Landscape & Design	4	4	5
IBI Group	6	5	6
DTAH	5	7	7
Public Work	7	6	8
Schollen & Company Inc	9	2	9
Janet Rosenberg & Studio	10	8	10
Stantec	8	12	11
LandInc	11	11	12

At the proposal evaluation meeting held on November 29, 2018, consensus was reached between all members of the committee to select the second highest overall ranked proponent. The Evaluation Committee reached this unanimous decision for the following reasons:

- The technical proposal best met the criteria as set out in the RFP;
- The methodology and workplan submitted by Perkins+Will most clearly reflected the goals, key objectives, and guiding principles of The Meadoway and desired outcomes of the Visualization Toolkit process;
- The portfolio provided by Perkins+Will highlighted a suite of renderings, sketches, and animations best aligned with the objective of conveying the unique visual identity of The Meadoway to the public and received the highest score based on overall creativity.
- The complementary strengths and expertise of the proposed project team combined with the portfolio of past projects (e.g., the Atlanta Beltline, the Finch West LRT, The Bentway, Eglinton Connects EA and Streetscape, and Kenilworth Corridor) made Perkins+Will stand out as the proponent with the most relevant experience as it relates to the requirements outlined in the RFP; and
- The portfolio of past projects that the confirmed Project Team has worked on, including the Atlanta Beltline, the Finch West LRT, The Bentway, Eglinton Connects EA and Streetscape, and Kenilworth Corridor, represent nationally and internationally recognized linear corridor projects that are highly relevant to The Meadoway; and
- Perkins+Will's fee proposal is within the budget as set by TRCA in consultation with The W. Garfield Weston Foundation.

FINANCIAL DETAILS

The Meadoway project has a total proposed budget of \$85 million. Nearly 40% of the budget has been pledged to date and \$10 million is currently available in account 260-01. Primary deliverables to be covered by the initial \$10 million in funding include: the development of the visualization toolkit; planning and completion of the Class EA and detailed design; meadow habitat preparation, maintenance, and mowing; a 401 bridge feasibility study; fundraising campaign plan; and development and implementation of engagement and public relations strategies.

Item 9.1

DETAILS OF WORK TO BE DONE

The development of the Visualization Toolkit is expected to be a collaborative process led by the selected proponent and involving TRCA, Toronto and Region Conservation Foundation, The W. Garfield Weston Foundation, City of Toronto, Hydro One, and the community. The Visualization Toolkit will be informed by the objectives of The Meadoway project, existing conditions, and the conceptual design of the multi-use trail and restored meadow as it evolves through the Class EA process. It will also consider a case analysis of exemplary greenspace revitalization projects, with a focus on linear greenspaces, iconic gateway and bridge features, community connections, road crossings, and public realm features. The end result will include graphics that will convey the overall project vision that can be used in both print and electronic reproduction for marketing and communication purposes.

Report prepared by: Corey Wells, extension 5233

Emails: cwells@trca.on.ca

For Information contact: Lisa Turnbull, extension 5645

Emails: lturbull@trca.on.ca

Date: December 11, 2018

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Meeting #10/18, Friday, January 04, 2019

FROM: Carolyn Woodland, Senior Director, Planning and Development

RE: **DRAFT COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO (ERO)**
Bill 66, Restoring Ontario's Competitiveness Act, proposed Open-For-Business Planning Tool (ERO #013-4125), and new regulation under the Planning Act (ERO #013-4239).

KEY ISSUE

Toronto and Region Conservation Authority's (TRCA's) draft comments on the Government of Ontario's proposed Bill 66, open-for-business planning tool and a new regulation under the *Planning Act*.

RECOMMENDATION

WHEREAS the Province of Ontario has posted the proposed amendments to the Planning Act as part of Bill 66, the Restoring Ontario's Competitiveness Act, for public comment on the Environmental Registry of Ontario (ERO);

AND WHEREAS the Board of Directors requested a report and draft comments be provided to the Board as soon as possible in 2019 given the January 20, 2019 deadline for submission of comments;

LET IT THEREFORE BE RESOLVED THAT the Toronto and Region Conservation Authority (TRCA) staff report and draft comments on the Ontario government's proposed open-for-business planning tool and associated implementing regulation, be received and that any comments from the Board of Directors be considered in informing TRCA's final ERO submission.

BACKGROUND

On December 6, 2018, the Government of Ontario released a request for comments on the Environmental Registry of Ontario (ERO) web page regarding two proposed changes to existing legislation. The first item being considered is the [proposed open-for-business planning tool](#), and the second is the [new regulation under the Planning Act for the open-for-business planning tool](#). The commenting period is open until January 20, 2019.

TRCA has an ongoing interest in this process and the amendments proposed through this legislation, given our experience and roles as a regulator under Section 28 of the *Conservation Authorities Act*, a public commenting body under the *Planning Act* and the *Environmental Assessment Act*. TRCA also derives interest as a resource management agency operating on a local watershed basis, and a body with delegated authority in plan review to represent the provincial interest for natural hazards.

The proposed legislation involves changes to the *Planning Act* to create a new economic development tool, the open-for-business planning by-law (OFBPBL). The OFBPBL would be available to all local municipalities to ensure they can act quickly to attract businesses seeking development sites. In circumstances where there are major employment and economic growth opportunities, municipalities could request to use an OFBPBL, provided certain criteria were

Item 9.2

satisfied. If a request is endorsed, the municipality could then pass an OFBPBL through a streamlined process. This process would:

- Allow municipalities to permit the use (for example, zone the lands) without having to strictly adhere to existing local requirements (for example, official plan and zoning requirements);
- Remove the application of a separate approval process for site plan control;
- Remove ability to use density bonusing (community benefits in exchange for height or density) and holding by-law provisions;
- Allow the municipality to impose limited planning-related conditions that may help to facilitate the proposal (for example, approval of plans and drawings that show site plan matters like transportation access, lighting, parking, and the like) and enter into agreements to ensure development conditions are secured;
- Allow public consultation at the discretion of the municipality, while requiring public notice after the by-law is passed (at a minimum);
- Provide that decisions are final and cannot be appealed to the Local Planning Appeal Tribunal (but allow the Minister of Municipal Affairs and Housing to intervene before the by-law comes into effect, 20 days after its passing); and
- Remove the requirement for decisions to strictly adhere to provincial policies and provincial plans (but allow the Minister of Municipal Affairs and Housing to impose conditions to protect matters like public health and safety when endorsing the use of the tool).

The regulation containing these criteria is not yet written, but would include details on the new major employment use, identify the uses of land, buildings or structures that may be authorized by the tool. The regulation would also prescribe how notice is to be given to the Minister of Municipal Affairs and Housing following the passing of an OFBPBL.

At Executive Committee Meeting #10/18, held December 14, 2018, TRCA staff gave a verbal update to the Board on the newly released provincial proposals. The Board requested that staff bring a report and draft comments back to the Board as early as possible in the new year, given that the deadline for comments to the posting on the Environmental Registry is January 20, 2019. Accordingly, staff has “fast-tracked” their draft comments based on the comments from the Executive Committee members, with limited additional internal or external discussion.

RATIONALE

The proposed changes to the *Planning Act* have significant implications for TRCA’s role in fulfilling its mandate and its role as a commenting agency under the *Planning Act*, and as a regulator delegated to represent the provincial interest on natural hazards under the *Conservation Authorities Act*. Bill 66 proposes a new OFBPBL process, which would enable municipalities to 1) request to remove applications for employment purposes from Planning Act requirements, and 2) remove the requirement for consistency with the Provincial Policy Statement, and 3) remove the conformity requirements to major pieces of environmental legislation such as the *Clean Water Act*, the *Great Lakes Protection Act*, the *Greenbelt Act* and the *Oak Ridges Moraine Conservation Act*. The key concerns highlighted in the attached draft comments are as follows:

- Public health risks from overriding significant threat policies of the *Clean Water Act* without the addition of appropriate safeguards;
- Public health and safety risks from overriding natural hazards provisions of the Provincial Policy Statement without the addition of appropriate safeguards; and
- Creating confusion for stakeholders by allowing matters to proceed outside of the LPAT process and long established processes related to public notification and consultation under

Item 9.2

the *Planning Act*. This could include the potential for costly litigation outside of the LPAT process.

FINANCIAL DETAILS

The financial impact related to TRCA's review of *Planning Act* applications will be assessed once more details on the Act and Plan and municipal responses is known. No additional funding is proposed to support the policy analysis work associated with the preparation of these comments.

DETAILS OF WORK TO BE DONE

Upon endorsement by the Board of Directors of the staff comments, the attached draft comment letter will be updated and submitted as TRCA's official comments to the ERO. Staff will continue to brief the Board on other legislative changes that result from this circulation.

Report prepared by: Daniel Brent, extension 5774

Emails: daniel.brent@trca.on.ca

For Information contact: David Burnett, extension 5361

Emails: david.burnett@trca.on.ca

Date: January 2, 2019

Attachments: 1

January 3, 2019

BY E-MAIL ONLY (ken.petersen@ontario.ca)

Mr. Ken Petersen
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay St., 13th Floor
Toronto, ON M5G 2E5

Dear Mr. Petersen:

Re: Response to Request for Comments
Bill 66, Restoring Ontario's Competitiveness Act, 2018 (ERO #013-4293)
Proposed Open-for-Business Planning Tool (ERO #013-4125)
New Regulation Under the Planning Act (ERO #013-4239)

Thank you for the opportunity to comment on the Ministry of Municipal Affairs and Housing (MMAH) circulation proposal for Bill 66 and the associated Open-for-Business planning tool and proposed future regulation. Toronto and Region Conservation Authority (TRCA) has an ongoing interest in this process given our experience and roles as:

- a regulator under Section 28 of the *Conservation Authorities Act*;
- a public commenting body under the *Planning Act* and the *Environmental Assessment Act*;
- a resource management agency operating on a local watershed basis;
- a body with delegated authority in plan review to represent the provincial interest for natural hazards; and
- one of the largest landowners (18,000 hectares) in the Toronto Region.

It is our understanding that Schedule 10 of the proposed legislation involves changes to the *Planning Act* to create a new economic development tool, the open-for-business planning by-law (OFBPBL). The OFBPBL would be available to all local municipalities to ensure they can act quickly to attract businesses seeking to advance proposals on development sites. In circumstances where there are major employment and economic growth opportunities, municipalities could request to use an OFBPBL, provided certain criteria were satisfied. The regulation containing these criteria is not yet written but would include details on the new major employment use, identify the uses of land, buildings or structures that may be authorized by the tool, and prescribe how notice is to be given to the Minister of Municipal Affairs and Housing following the passing of an OFBPBL.

Our understanding of the intent of Bill 66, and Schedule 10 in particular, is that an approved OFBPBL would have the effect of exempting applications under the *Planning Act* from having to be consistent with the Provincial Policy Statement (2014). It would also exempt applications from having to conform to policies in a number of other Provincial Acts, such as the *Clean Water Act*, the *Great Lakes Protection Act*, the *Greenbelt Act* and the *Oak Ridges Moraine Conservation Act*, among others. Additionally, an OFBPBL is only available to authorize uses of land for "prescribed purposes" (job creation), which have not yet been defined and are to be prescribed by regulation at a later date.

TRCA offers the following comments for your consideration in finalizing the regulations and associated documents.

General Comments

The Provincial Policy Statement, the Acts listed above, and their associated policies and/or plans are vital to the long-term sustainability, health, and safety of the people of Ontario and to fulfilling TRCA's mandate under the CA Act. The PPS guides land use planning to serve the public interest and deliver development that balances economic, environmental and social objectives. Without consideration of the PPS and area specific Acts and Plans that have been promulgated over the last two decades to address areas of public concern, the proposed OFBPBL tool could result in economic considerations outweighing of equally important or more important public interests.

As currently proposed, these changes to the *Planning Act* significantly diminish our ability to achieve our mandate particularly within our jurisdiction where growth pressures are significant, and the need to protect drinking water, sensitive lands, and aquatic and natural heritage resources is great. At present, it is unclear what criteria municipalities would have to meet before seeking approval to adopt this new economic development tool. The proposed authorization for an OFBPBL uses only the single test of present day job creation (50 or 100 jobs per population of less or greater than 250,000, and the types of jobs are not defined) as the rationale for waiving an assessment that includes other equally important considerations. Without the comprehensive tests afforded by the various pieces of identified legislation and regulations, there could be inadvertent and undesirable impacts on the site itself, as well as to adjacent and downstream properties, in the short term or over time. These impacts may include flooding, groundwater contamination, loss of critical habitat function or linkages, and the loss of productive agricultural lands that provide important environmental functions.

TRCA recommends that the province amend the draft Bill and regulations to require municipalities to maintain the conformity/consistency requirements of the PPS, the SWPA and area specific Plans such as the Oak Ridges Moraine Conservation Plan and Greenbelt Plan.

The Clean Water Act and Source Water Protection Policies

Several pieces of provincial legislation including the *Greenbelt Act*, the *Oak Ridges Moraine Conservation Act*, and the *Clean Water Act* are in place to protect some of the most hydrologically sensitive lands in Ontario. These lands capture, infiltrate and clean rainwater and snowmelt for storage in natural underground aquifers, which then provide drinking water to hundreds of thousands of residents and their communities that rely on groundwater. The *Clean Water Act*, which provides the legislative basis for Source Water Protection Plans and their associated policies, is an essential tool necessary to avoid another tragic contaminated water incident such as what occurred in Walkerton in 2000, which led to multiple deaths and long-term illnesses for many hundreds of people.

Bill 66 proposes to override the need to conform to significant threat policies, which were mandated and approved by the Province in Source Protection Plans under the *Clean Water Act*. Eliminating the ability to guide land use planning decisions that protect clean, safe drinking water sources creates risks of more contaminated water illnesses and in a worst case scenario loss of life. Further, Bill 66 is inconsistent with the Province's recently proposed Made in Ontario Environment Plan, put forward by the Ministry of the Environment, Conservation and Parks. The plan states, "We will protect these critical systems by using water more sustainably and keeping our water and air clean while growing our economy."

TRCA recommends reinserting the requirement for compliance with the Clean Water Act and the other Area Specific Acts noted above, to avoid risks to public health from contamination impacts to ground water and aquifers relied upon for drinking water and ecosystem health.

Natural Hazard Risks from Flooding and Erosion

TRCA is a commenting agency under both the *Planning Act* and the *Environmental Assessment Act*, and a regulatory agency under the *Conservation Authorities Act*. The *Conservation Authorities Act* provides the legal basis for TRCA's mandate to undertake watershed planning and management programs that prevent, eliminate, or reduce the risk to life and property from flood hazards and erosion hazards, as well as encourage the conservation and restoration of natural resources. TRCA also has a delegated responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement.

All new development has the potential to increase the risk of hazards to life and property from flooding and erosion, and add to downstream cumulative impacts. Bill 66 with its employment focus would benefit from recognizing the importance of the management of stormwater from increased impervious surfaces. Historically, employment lands have increased impervious surfaces on up to 90% or more of a site, requiring significant stormwater management infrastructure to minimize impacts from flooding and erosion. Ensuring new development or redevelopment is not at risk from flooding or erosion is essential, and must remain a basic principle in determining the feasibility of new development. Without proper evaluation of these potential impacts, maintenance and operation costs will be uncertain creating risk. Furthermore, downstream residential areas could face increasing flood risks, with the attendant costs and liabilities attributed to the Province and municipalities involved in their review and approval. TRCA has useful mapping tools and hydrology models to aid municipalities in evaluating these risks, managing them with effective mitigation strategies and helping to decide on strategic locations where an OFBPBL could be best utilized. TRCA has successfully worked with municipalities and the proponent to facilitate development of major employment uses within tight timeframes including the Costco, Fed Ex, Canadian Tire, and Home Depot distribution centers within the current planning framework outside of the Canadian Tire distribution center in Caledon where a Minister's Zoning Order approach was applied. Very recently TRCA has worked with municipalities to facilitate major employment uses on urban redevelopment sites which provided retrofitting and restoration opportunities. Without a specific need to consider important PPS and area specific plan requirements remediation and restoration opportunities that address important matters of public safety and hazards could be missed resulting in costly impacts.

We recommend that Bill 66 and the implementing regulation require municipalities to work closely with their local Conservation Authority and to obtain their sign off on the proposed conditions and requirements to mitigate risks and protect downstream communities from flooding and erosion hazards.

We recommend that any proposal only be considered by the Minister if it is at a minimum consistent with Section 3.1 of the current 2014 PPS so as to protect public safety and to minimize risk.

Consultation and Due Planning Process

Bill 66 proposes that an OFBPBL is not required to be subject to any public process, including the holding of a public meeting / hearing or the ability to appeal decisions to the Local Planning Appeal Tribunal (LPAT). Additionally, site plan approval by a municipality is not required, although similar conditions may be imposed. A municipal council must first pass a resolution requesting that the Minister of Municipal Affairs approve an OFBPBL. The Minister has the power to impose conditions on an approval, but a municipality is not required to give public notice or hold a public meeting prior to the passing of an OFBPBL. Only after passing the OFBPBL is the municipality required to give public notice within 30 days, even though the by-law comes into force within 20 days after passing.

TRCA supports broad consultation and stakeholder engagement throughout the planning and development process. In particular, conservation authorities (CAs) have long-established close working relationships with local municipalities, and local municipalities regularly consult with CA staff, especially

where development occurs within a CA's regulated area. The approach of providing notice after the fact creates a troubling precedent whereby municipal councils can bypass normal public notice requirements, creating a situation where public and other private interests may not be given adequate consideration.

From a development review perspective, removing site plan approval by a municipality presents serious concerns. The site plan stage is the time when approval agencies receive confirmation that the promises, commitments and conceptual designs made during early stage discussions (stormwater management, grading outside the natural heritage system, hazard land impacts, etc.) are shown that they can be achieved. The site planning process is the time when development feasibility of the proposal on the site needs to be proven. Sites with physical constraints need to be designed appropriately to meet technical standards for public health and safety. Many recent applications proposed a development footprint within site constraints, and benefit from a thorough site plan review process. Without site plan approval, design proposals made at earlier stages will potentially not be followed through to construction and implementation. Further, if the development is not required to obtain site plan approval from the municipality, there will be the potential for confusion, as site plans will be required by CAs for final permits, where development is within lands regulated by a CA.

The bill and future regulation need to incorporate a municipal pre-screening process involving the CAs to confirm development limits, water management and the ability to appropriately address physical site constraints in keeping with provincial standards.

Removing the ability to appeal an OFBPBL to the LPAT undermines the principle of due process within the land use planning system in Ontario. A key purpose of the LPAT (formerly the Ontario Municipal Board, or OMB) is to ensure that all parties' interests are adequately and fairly considered, including those of the proponent, municipalities, agencies, and community members. Removing appeal mechanisms limits the ability of municipalities and planning agencies to ensure the development will not have negative impacts on the surrounding public, property, or environment.

Interestingly in some of our recent experiences involving employment lands it has been litigation between opposing private interests, e.g., landowners opposing landowners to ensure previous landowner agreements are upheld, or to ensure cooperation on servicing arrangements, cost sharing, equitable allocation of community uses, etc. in addition to public interests that have characterized approval processes. Currently, in our jurisdiction most landowners, where there is serviceable land, are part of cost sharing and servicing arrangements premised linked to established Planning Act processes. The notice and approval requirements allow landowners to self-police to allow equitable and orderly development of communities and fair cost sharing. One unintended consequence of this legislation may be to create a situation that would allow one private interest to benefit at the expense of other private interests resulting in an inequitable approach to land development. We are concerned that this situation might result in an individual landowner trying to shirk previous commitments around environmental conditions involving the Conservation Authority and the landowner group.

As currently proposed, by removing or restricting the appeal process, Bill 66 removes the ability for the voice of local communities and private interests to be heard. As the Bill is proposing that consultation with the public is not required, and that the public only have a very limited amount of time to voice their opinion during which time the OFBPBL can be passed, the public and private interests nearby, including landowners, has been effectively removed from the process.

We recommend that the LPAT appeal process remain, even in an altered manner, in order to give agencies, private interests and members of the public adequate channels to be engaged in the protection of public health and safety matters and the shaping of their communities.

It is unclear how the OFBPBL tool will operate in the context of the current planning framework. Municipalities have approved official plans with identified and designated employment lands based on full servicing. Municipal, TRCA and private interests are also currently engaged in the Municipal

Comprehensive Review (MCR) processes in our jurisdiction to identify the next generation of employment (and residential) lands to accommodate growth and development to the 2041 planning horizon. Accordingly, official plans have identified certain lands, based on public consultation, where other community values take precedence, to identify areas that are not suitable for employment lands. Bill 66 and the OFBPBL seems to be able to override these approved plans to potentially site new employment opportunities in unsuitable areas. The OFBPBL tool could be adjusted in scope to be used wisely to be able to accelerate development approvals for employment lands, while respecting past planning decisions.

We recommend that the Act and regulation clarify that an accelerated approvals process only be allowed to occur on lands currently serviced and designated for employment in municipal official plans.

Recommendations

1. TRCA recommends that the province require consistency with the PPS, SWPA and area specific plans in the proposed regulation to ensure we can fulfill our mandate.
2. TRCA recommends that the consideration of use of an OFBPBL be geographically limited to existing designated employment lands with access to full municipal sewer and water services and proximity to 400 series highways and/or other major transportation corridors.
3. TRCA recommends that where an OFBPBL is to be considered for lands outside of existing designated and serviced employment lands that only employment uses that are agriculture-related or on-farm diversified uses should be permitted. This measure will help to maintain the integrity of rural land uses in the Greenbelt.
4. If our first recommendation is not pursued in full, we recommend to include in the regulation of “prescribed criteria” for an OFBPBL application, the following minimum requirements to demonstrate that public health and safety issues will be addressed:
 - Municipal drinking water supplies and designated vulnerable areas are protected;
 - Appropriate considerations are incorporated to development and redevelopment decisions, to ensure new natural hazards from flooding and erosion are not created and existing hazards not aggravated, including review and sign off by the local CA prior to Ministerial endorsement;
 - Include requirements that no development or site alterations take place within a 30 metre setback from Key Natural Heritage Features and Key Hydrologic Features; and
 - That sites be pre-screened by a municipality, with approval from the local CA, to ensure the development feasibility of the proposal in relation to the physical characteristics of the site, so that public health, safety and natural hazard technical issues can be addressed appropriately on the site to meet provincial standards.
5. That the future regulation needs to include additional specific details to provide clarity on:
 - The types of employment uses that are permitted to use this fast-tracked process; and
 - A shortened, but open and transparent regime of notice and public consultation under the established Planning Act process.

Thank you once again for the opportunity to provide comments on this important initiative. Should you have any questions, require clarification, or wish to meet to discuss any of the above remarks, please contact David Burnett, Senior Manager, Provincial and Regional Policy, at extension 5361 or at david.burnett@trca.on.ca. We would appreciate receiving specific written responses to our comments.

Sincerely,

Carolyn Woodland, OALA, FCSLA, MCIP, RPP
Senior Director
Planning and Development

BY E-MAIL

CC:

TRCA:

John MacKenzie, Chief Executive Officer
Chandra Sharma, Director, Watershed Strategies
David Burnett, Senior Manager, Provincial and Regional Policy

DRAFT