



COUNTY OF SIMCOE



To: COMMITTEE OF THE WHOLE

Section: Consent - Corporate Services – Planning

Item Number: CCW 15-092

Meeting Date: February 26, 2015

Subject: Update on County Official Plan Ontario Municipal Board Process

Recommendation:

THAT Item CCW 15-092, regarding updates on the County Official Plan Ontario Municipal Board Hearing Process and potential public information session, be received for information.

Executive Summary:

County Council requested information from County legal counsel to determine whether the County of Simcoe is permitted to provide a public information session regarding the County of Simcoe Official Plan which was adopted in 2008 and currently under appeal to the Ontario Municipal Board. Staff was also requested to prepare a summary report regarding the County of Simcoe Official Plan matters that have been settled and matters that remain outstanding.

The County Official Plan has been under appeal to the Ontario Municipal Board for lack of decision since December 2009. The formal hearing process began with a first Pre-hearing Conference in March 2013. To date there have been 11 Pre-hearing Conferences.

The County was successful in receiving partial approval of the Plan in April 2013. Since then, approval of the remaining sections of the plan still under appeal have been pursued either through experts' meetings and/or Board-assisted mediation. These actions have resulted in several additional parts of the Plan being approved without the need for contested hearing time. Further work on the remaining parts of the Plan will take place throughout 2015. This report provides Council with an update on the parts of the Plan recently approved and what remains outstanding.

In making modifications to the County Official Plan, staff have been working within the general intent and purpose of the adopted draft modified official plan and ensuring that it conforms to the Provincial Growth Plan and is consistent with the Provincial Policy Statement.

The report also outlines the option available for Council to conduct a public information session regarding the County Official Plan.

Background/Analysis/Options:

The table on the following pages presents a chronology of the Official Plan process since the initiation of the 5 year review of the in effect plan in 2004. Milestones are colour coded to also denote public engagement or consultation events, changes to Provincial policy or legislation, and official steps in the OMB hearing process.

History of the Simcoe County Official Plan Process

Date/Period	Action/Milestone	
		Engagement/Consultation
		Provincial Policy or Legislative Change
		OMB Hearing Process
2004	County of Simcoe initiates 5 year Simcoe County Official Plan (SCOP) Review and Update	
July 12, 2004	Release of Provincial discussion paper "Places to Grow: Better Choices, Brighter Future", for comments	
December 16, 2004	Greenbelt Plan comes into effect	
March 1, 2005	Updated Provincial Policy Statement comes into effect	
June 13, 2005	Places to Grow Act enacted	
June 16, 2006	Growth Plan for the Greater Golden Horseshoe approved (Official Plan conformity deadline June 16, 2009); Establishes single Population & Employment growth target for Simcoe County (including City of Barrie & City of Orillia)	
2007	Meetings conducted by the Office of the Provincial Development Facilitator (OPDF), between County of Simcoe, City of Barrie and City of Orillia to try to disaggregate the Schedule 3 population and employment forecasts	
May 4, 2007	Simcoe County Transportation Master Plan commences	
January 2008	Letter from Ontario Growth Secretariat, to distribute population and employment between the County, Barrie and Orillia leaving 40,000 unallocated population and 13,000 unallocated jobs.	
Late 2007 to May 2008	5 sub-committees work on addressing growth management issues in the Simcoe Area – included representatives from the County of Simcoe and City of Orillia. City of Barrie chose not to participate.	
May 2008	Simcoe Area Growth Strategy released by Hemson Consulting Ltd. and adopted by County Council	
July 2008	County of Simcoe Transportation Master Plan completed and adopted by Council	
July 2008	Release of draft SCOP update which included allocation of the unallocated 40,000	
July 23 and July 28, 2008	Public Open Houses and comment period on draft SCOP	
August 13 and September 10, 2008	Statutory Public Meetings for SCOP Review & Update	
November 25, 2008	County Council adopts the SCOP update	
December 11, 2008	County submitted Clerk's Record package to Ministry of Municipal Affairs & Housing (MMAH)	
June 2, 2009	Lake Simcoe Protection Plan comes into force	

June 4, 2009	Ministry of Energy & Infrastructure (MEI) release of Simcoe Area: A Strategic Vision for Growth ("Simcoe Vision Plan") discussion paper for comment
June 9, 2009	Letter from MMAH stating reasons for no decision on SCOP
June 16, 2009	Growth Plan conformity deadline – MEI issued letters to 16 local municipalities to provide a 1 year extension
August 24, 2009	Letter from MMAH outlining two-phased approach to the review and comments on the SCOP
August 2009	Meetings with local municipalities and County with MEI staff to understand Vision Plan and prepare feedback for September 2 nd deadline
September 2009	Comment letters submitted to MEI on Simcoe Vision Plan
October 2009	Meetings between County Planning staff and MMAH planning staff to review phase 1 comments/proposed modifications on County OP
November 2009	Meetings with MEI staff and County Planning staff to work through comments and requirements of County Land Budget
November 24, 2009	County Council passes resolution to direct staff to appeal lack of decision of SCOP and request that the Ontario Provincial Development Facilitator (OPDF) get involved to help resolve the matter
November 26, 2009	First meeting with Métis Nation of Ontario with MMAH staff and County Planning staff regarding SCOP
December 3, 2009	Meeting between MEI staff and County Planning staff to receive an update on the Simcoe Vision Plan status and timing of proposed amendment to Growth Plan for the Greater Golden Horseshoe
December 7, 2009	Appeal letter submitted to MMAH for lack of decision on SCOP and request made to involve the OPDF
December 2009	Minister's Zoning Orders establish employment lands in Bradford West Gwillimbury (O. Reg. 464/09, O. Reg. 465/09, O. Reg. 466/09)
January 1, 2010	Bill 196 becomes law (Barrie-Innisfil Boundary Adjustment Act, 2009)
January 14, 2010	Meeting between MMAH staff, County Planning staff and Beausoleil First Nations (aboriginal consultation process)
January 18, 2010	Meeting between MMAH staff, County Planning staff and Métis Nation of Ontario (part of aboriginal consultation process)
January 28, 2010	Letter sent to Ontario Provincial Development Facilitator (OPDF) to request involvement
January 2010	MEI engages Hemson Consulting Ltd. to undertake a review of Schedule 3 of the Growth Plan (Population & Employment Forecasts)
February 2010	Final Simcoe County Land Budget submitted to MEI for consideration
March 15, 2010	County Planning staff meets with MEI staff to review Simcoe Vision Plan (Growth Plan Amendment) policy ideas regarding Economic Districts
April 20, 2010	Letter sent to MMAH and MEI asking for the OPDF to become involved
April to July 2010	County Planning Staff meets with MMAH staff to review/refine proposed Phase 1 modifications to the SCOP in preparation for a partial decision at some later date
Oct 28, 2010	MOI releases proposed Growth Plan Amendment #1 for Simcoe Area – comments to be submitted through EBR by January 31, 2011

Summer of 2011	OPDF (Paula Dill) appointed by Premier McGuinty to get involved in the Simcoe area regarding the proposed Growth Plan Amendment 1 and bring back recommendations to Minister of Infrastructure by November 1, 2011
Summer/Fall 2011	Paula Dill meets with all municipalities, the County, and anyone else who requested meetings in order to gather information to assist with making recommendations to the Minister
November 1, 2011	OPDF (Paula Dill) submits her recommendations to Minister of Infrastructure
January 19, 2012	Growth Plan Amendment #1 for the Simcoe Sub-Area (and related Transition Regulations) comes into effect. Disaggregates the Schedule 3 Population and Employment forecasts for Barrie, Orillia, and then to all 16 Local Municipalities within the County (Schedule 7)
February 2012	County Planning staff meet with Provincial staff (both MOI and MMAH) to understand new legislation and transition regulations
February to June 2012	County staff continue to work with Provincial staff to prepare proposed changes to the adopted SCOP 2008 to reflect the new legislation
June 2012	County Council approves the release of the proposed Draft Modified SCOP for public review and comment – 2 months given for comment period.
Summer 2012	County Planning staff review comments received, meet with several stakeholders to get clarity, etc. and then prepare staff recommendations to County Council to address the comments
July 2012	MOI issues letters on 3 of the 4 Employment Areas to finalize boundaries and uses – County updates maps and policies to reflect these (only outstanding one was Innisfil Heights)
Oct 2012	County Council approves the staff recommendations related to proposed Draft Modified SCOP. County Council requests staff to update the SCOP accordingly and bring back in its final form (was published on County website as December 2012 version)
Jan 22, 2013	County staff bring the updated Draft Modified SCOP text and maps back to County Council for endorsement
Feb 4, 2013	MOI issues letter for Innisfil Heights Strategic Settlement Employment Area to finalize boundary and uses (Note: County has not updated OP or maps to reflect this at this time)
March 5, 2013	Formal Ontario Municipal Board (OMB) hearing process begins with the first Pre-hearing Conference – all parties register their interest and what status they are seeking (i.e. appellant party, party or participant) (OMB Order issue date March 25, 2013)
April 19, 2013	Pre-hearing Conference #2 - County Motion for partial approval of the SCOP approved by the OMB – all parts of the Plan not at issue (OMB Order issue date June 13, 2013 and amended July 5, 2013)
June 20, 2013	Pre-hearing Conference #3 – Participants list finalized; Motion to dismiss Midhurst Ratepayers Association appeal to SCOP (OMB Orders July 25, 2013 and August 2, 2013)
November 7, 2013	Pre-hearing Conference #4 – County Motions dealing with approval of Primary Settlement Areas; site-specific aggregate mapping and the Economic Districts/Strategic Settlement Employment Areas, and finalizing of Procedural Order for Phases 1a, 1b and 1c (OMB Order issue date February 25, 2014)
April 15, 2014	Pre-hearing Conference #5 – Town of Innisfil Motion for Fennell's Corners; County Motion for Waste Management Policies; Motions for Midland and Penetanguishene settlement boundaries; partial approval of the 20,000 population policies (Phase 1a) (OMB Order issue date May 15, 2014)
June 2, 2014	OMB Hearing – Various Participants provided their evidence to the Board (OMB Order issue date July 28, 2014 – included comment from Board about public consultation paragraph 10)

June 20, 2014	Pre-hearing Conference #6 – Various motions seeking Appellant Party Status (OMB Order issue date August 1, 2014)
August 12, 2014	Pre-hearing Conference #7 – report on progress on Phase 2 and mediation (OMB Order issue date August 25, 2014)
September 2014	OMB assisted Mediation on Phase 2b – Transition matters
September 12, 2014	Pre-hearing Conference #8 – OMB oral decision on Transition policies as resolved through mediation; certain mapping matters for Town of Innisfil and various site-specific mapping corrections (OMB written Order pending)
October 24, 2014	Pre-hearing Conference #9 – OMB oral decision on Phase 2a – Growth Management and Settlement designation policies based on County Motion (OMB written Order pending)
December 1-4, 2014	OMB assisted Mediation on various Phase 2 and site-specific matters
December 8, 2014	Pre-hearing Conference #10 – County Motion for Schedule 5.1 Land Use Designations as it relates to most settlement areas; Township of Oro-Medonte Motion for mapping modification for Highway 11 Commercial corridor; confirm remaining phases of hearing (OMB written Order pending)
January 29, 2015	Teleconference to hear County Motion to approve Section 4.8 Transportation and related mapping schedules – Board gave verbal approval (OMB written Order pending)

Status of the County Official Plan:

The OMB has jurisdiction on the approval of the County of Simcoe Official Plan. The OMB hearing process serves as the public process to determine the outcome of the appeals. The hearing is a proceeding not just to decide the dispute between the parties but also the administrative inquiry of the public interest. The OMB has the jurisdiction to approve or refuse all or parts of the plan and make modifications to all or parts of the Plan.

To date, of the 148 pages of the Official Plan approximately 70 pages are approved. Of the 489 policies, 352 have been approved by the OMB. Ten of the fourteen maps (“schedules”) have been approved.

The County has been successful in getting the growth management, settlement areas and implementation sections of the SCOP approved. These two sections are some of the most significant sections of the plan. With these sections of the Official Plan being approved it allows our municipal partners to begin their own Official Plan conformity requirements.

As established by the procedural order the hearing has been divided up into phases to ensure a logical sequential order, with the broader issues being dealt with first and the site specific issues dealt with at the end. However, issues that can be easily solved have been expedited to the OMB for approval. Outlined below are the phases and the **status of each phase**. Originally, there were over 100 appeals to the Official Plan. With the establishment of phases it allows the appeals to proceed in the most efficient manner. Many of the appellants have multiple appeals related to various sections of the OP. As such the most effective way to proceed is topic by topic and section by section. This is the typical process that has occurred and is occurring in many of the regions where the Growth Plan applies.

Phases Completed of the County OP in 2014

Phase 1

- Phase 1a – 20,000 Population Allocation (Policies 3.5.10 to 3.5.16)
 - Completed
 - Total Policies Approved = 6
 - Critical policies to do first as they are time sensitive (expire in 2017)
- Phase 1b - Midland/Penetanguishene Settlement Area Boundaries
 - Completed
 - Map Schedule 5.1 revised to reflect boundaries
- Phase 1c – Waste Management (Section 4.9 – 4.9.1 to 4.9.17)
 - Completed
 - Total Policies Approved = 17
- Phase 1 Mapping
 - Revised mapping for the boundaries of Fennell's Corner, 4 Strategic Settlement Employment Areas/Economic Districts, and 6 aggregate sites in Springwater, Oro-Medonte, Clearview and Severn.

Phase 2

- Phase 2a - Growth Management and Settlement Area Policies
 - Completed
 - (3.1, 3.2, 3.4.1 (3.4.2 – 3.4.5 previously approved and 3.4.6 deleted in 2b), 3.5 (3.5.10-3.5.16 previously approved), and definition of Settlements/Settlement Areas)
 - Total Policies Approved = 47
- Phase 2b – Transition Policies
 - Completed
 - Removal of 3.4.6 and insertion of 3 new policies into 4.11 Implementation and several related mapping corrections approved
 - Total Policies Approved = 3

Phase 2a/2b pre-hearings occurred in September/October and December 2014. No Board Order has been issued for 2a or 2b but we are expecting the order shortly.

Phases Completed in 2015 to Date

Phase 3

- Phase 3c – Transportation (Section 4.8 and Schedule 5.5.1, 5.5.2)
 - Completed – January 2015
 - Section 4.8 – 4.8.1 to 4.8.64 – and 15 Definitions
 - Along with addressing 3 municipal appeals, the policies were updated as per the County's 2014 Transportation Master Plan
 - Total Policies Approved = 64

Phase 3c pre-hearing occurred in January 2015. No Board Order has been issued for 3c but we are expecting the order shortly.

Upcoming Phases

- Phase 3a – General Development Policies (3.3 - 5 Policies), Settlement (2.3 - 1 Policy), Infrastructure (4.7 - 7 Policies), Healthy Communities (4.1 - 3 Policies), Community Facilities (Section 4.2) + Definition of Affordable Housing
 - Status – Experts Meetings are underway
- Phase 3b – Local Municipal Official Plans (4.10 – 7 policies), Implementation (4.11 – 4 Policies) + Definition Major Growth or Development
 - Status – Not scheduled yet
- Phase 3c – Railway and Stormwater Management Policies 3.3.23 and 3.3.18, 3.3.21 (3 Policies)
 - Status – not scheduled yet
- Phase 3d – Agricultural (3.6 – 5 Policies)
 - Status – Experts Meetings underway
- Phase 3e – Rural (3.7 – 11 Policies) + Definition of Rural Employment Areas
 - Status – Experts meetings to begin in March
- Phase 4a – Greenland (3.8 – 24 Policies), General Development (3.3 – 3 Policies), Resource Conservation (4.5 – 47 Policies), Schedule 5.2.2 and 10 Definitions
 - Status – not scheduled yet
- Phase 4b – Aggregate Development (4.4 – 3 Policies), Cultural Heritage (4.6 – 13 Policies) + 2 Definitions
 - Status – not scheduled yet
- Phase 5 – Other and Site Specific Matters

Schedules Approved (10 out of 14 Schedules)

5.1a – Big Bay Point Structure Plan

5.1.2 – Simcoe Sub Area

5.2.1 – High Potential Mineral Aggregate Resources

5.2.3 – Areas of Natural and Scientific Interest

5.3.1 – Niagara Escarpment Plan Land Use Designations

5.3.2 – Oak Ridges Moraine Conservation Plan Land Use Designations

5.3.2.1 – Oak Ridges Moraine, Hydrologically Sensitive Features and Aquifer Vulnerability

5.3.2.2 – Oak Ridges Moraine, Key Natural Heritage Features and Landform Conservation Areas

5.3.3 – Greenbelt

5.5.1 – County Transportation Systems (Awaiting OMB Order)

5.5.2 – Future County Transportation Systems (Awaiting OMB Order)

4 Unapproved Schedules

5.1 Land Use Designations

5.2.2 Streams and Evaluated Wetlands

5.6.1 County Waste Disposal Sites

5.6.2 Private, Other Municipal or Government Waste Disposal Sites

Party or Appellant Party and Participant:

All interested persons, bodies or corporations have the right to file an appeal to the OMB with respect to the non-decision of the Official Plan. In situations such as this, where the appeal was due to lack of decision, there is no time limit when to file an appeal. However the OMB can set conditions on accepting an appeal once the hearing is taking place. All individuals who wish to take part in the process are required to establish their interest and the nature and extent of their appeal. They are also required to establish their status as either a “party” or a “participant”. Generally, most corporations at the County of Simcoe Official Plan hearing became *appellant parties or parties* to the hearing. Most individuals and ratepayer groups became *participants*.

Party and or Appellant Party’s Role:

A party’s role in the OMB hearing process can include: exchanging documents, presenting evidence, questioning witnesses and making submissions to the Board. A party may also request costs and be subject to costs. A party can request adjournments or a review of the Board’s decision. A party does not need legal representation though the party may have an agent speak on his/her behalf.

Generally duties of a parties at a hearing are:

- Describe their point of view on the matter
- Submit all necessary documentation as exhibits at the hearing (this includes any maps, case law, document books, etc.)
- Present their case using exhibits, witnesses and other evidence
- Cross-examine the other parties, witnesses and evidence
- At the end of the hearing, give final arguments or a summary of all their evidence
- Follow the procedures set out in a procedural order from a prehearing (these procedures may set out when to appear at a hearing, when to exchange documents with the other parties and other important instructions that are required to be followed before the hearing).

Participant’s Role:

A participant is a person or organization that participates at a hearing by making a statement to the Board on some or all of the issues on the matter being heard. A participant may attend all or part of the proceedings. There is no requirement for a participant to have made submissions to council before becoming involved in an OMB matter.

When making a statement to the Board, participants must swear (or affirm) to tell the truth. They may be questioned by the Board and parties. Participants generally do not question witnesses and cannot ask for costs, adjournments or request a review of the decision.

Generally, participants at the hearing should:

- Show up on the first day of the hearing at the start time
- Give their statement to the Board
- Give their statement at a later date if the hearing has been scheduled for multiple days
- Follow the procedures set out in a procedural order from a prehearing (these procedures may set out when to appear at a hearing and when to provide participant statements to the parties).

Note: Participants do not provide evidence or witnesses, and cannot be asked to pay costs.

County's ability to hold a Public Information Session:

The Planning Act requires a public meeting be held prior to the adoption of an Official Plan. Public consultation is a tool used to engage the community prior to the adoption of a plan. The meeting shares information and seeks the opinions of residents with respect to the plan and can express their concerns and opposition or support for the plan. At this stage there is an opportunity to deal with specific issues that can be addressed by making changes to the plan.

As noted herein, during the development of the County Official Plan the County held a number of public meetings and open houses in 2008 across the County of Simcoe. The County's public engagement process led to some positive changes to the Official Plan and gave Council the confidence to adopt the Official Plan in the public interest. When the Official Plan was updated to incorporate the requirements of provincial legislation the document was released to the public for further comment in June 2012. (A two month comment period was provided) Once the comments were received staff provided a report to Council on the comments and proposed a number of changes. Council approved the recommendations and requested that staff bring the Official Plan back in its final form. On January 22, 2013 Council endorsed the updated modified Official Plan which was posted on the County of Simcoe web page. *Note: On an ongoing basis the County Official Plan Web page is updated to include all motions, expert reports, affidavits and OMB orders.*

Web Page Link: <http://www.simcoe.ca/dpt/pln/policy>

The County Solicitor has provided his opinion on the ability of Council to hold a public information session (see Schedule 1) to advise the public of the status of the County of Simcoe official plan process. He indicates Council can have a public information session on the Official Plan but little would be accomplished by doing this; the OMB has jurisdiction and is now the public process for the County Official Plan. Caution would be needed here if Council did proceed with a public information session because of the perceived expectations of having the meeting; it would be assumed for the purpose of seeking opinions for possible changes in the plan. That would not be the case here, in this case the public can only be provided information on the OMB public process and what has transpired. Providing information on the scale and breath of the changes that have occurred would be challenging to convey given that much of the plan is fragmented and is still before the OMB. Such a meeting, if held, should be in the form of an open house with story boards indicating the changes that have occurred.

Public meeting cost estimate: Advertisement \$8,000 to \$10,000 Story Boards \$2,500

In 2015 the County Planning staff will continue to work through the remaining parts of the Plan on a topic by topic basis involving the parties with declared interest. The approach taken to date has been successful in reaching agreement and resolving issues with the various parties involved without the need for lengthy contested hearing time. Notwithstanding the successful outcome, the process is lengthy and time consuming. The Ontario Municipal Board strongly supports the approach being taken

and continues to provide assistance as needed through a Board-appointed mediator. The length of time that the County Official Plan is taking for approval is not unusual for an upper tier plan in the Growth Plan area. Many of the Plans are taking 4 to 5 years to receive final approval.

The next scheduled Pre-hearing is May 8th.

Financial and Resource Implications:

Funds for this project have been allocated in the Operating Budget each year for the on-going OMB hearing. The approvals of the motions and successful experts' discussions have resulted in fewer actual hearing dates being required.

Public meeting cost estimate: Advertisement \$8,000 to \$10,000 plus Story Boards \$2,500. This expense has not been budgeted.

Relationship to Corporate Strategies:

No relationship to corporate strategies.

Reference Documents:

The County Official Plan is posted on the County website and is being kept updated as each OMB Order is issued.

Attachments:

Schedule 1: County Solicitor opinion



Schedule 1

Prepared By: David Parks, Director of Planning, Economic Development and Tourism

Approvals:

Date:

Debbie Korolnek, General Manager, Engineering, Planning and Environment
Trevor Wilcox, General Manager, Corporate Performance
Mark Aitken, Chief Administrative Officer

February 17, 2015
February 19, 2015
February 19, 2015