

**MUSEUM & ARCHIVES AND
HERITAGE LANDS BOARD
AGENDA**



**Wednesday, November 28, 2012 at 10:00 a.m.
Sutton Room (Second Floor)
55 Zina Street, Orangeville**

Declarations of Pecuniary Interest by Members

1. MUSEUM BOARD – November 28, 2012 – Item #1
2013 Budget

Further discussion on the 2013 Budget.

2. MUSEUM BOARD – November 28, 2012 – Item #2
Museum Trust Fund Board -

Report from the Curator/Director dated November 28, 2012 to present a draft Terms of Reference for a proposed public fundraising committee to support the goals and activities of the Dufferin County Museum and Archives (DCMA).

Recommendation:

For consideration of committee.

CORRESPONDENCE

3. MUSEUM BOARD – November 28, 2012 – Item #3
Forest Conservation By-law

Correspondence from an East Garafraxa resident dated November 16, 2012 with respect to the Dufferin County Forest Conservation By-law.

Recommendation:

THAT the correspondence from a resident of East Garafraxa dated November 16, 2012 with respect to the Dufferin County Forest Conservation By-law be received.

CLOSED SESSION

4. MUSEUM BOARD – November 28, 2012 – Item #4
DMCA Staff Restructuring

In accordance with Section 239 (b) personal matters about identifiable individuals, the committee move into Closed Session.

Report from the Curator/Director regarding staff restructuring at the Dufferin County Museum and Archives.

NEXT MEETING To be determined

THE CORPORATION OF THE COUNTY OF DUFFERIN



REPORT TO DCMAHL BOARD



To: Chair and Members of the Board

From: Wayne Townsend, Director/Curator

Meeting Date: November 28, 2012

Subject: **Draft/Revised Terms of Reference – DCMA Trust Fundraising Committee**

Purpose

The purpose of this report is to present a draft terms of reference for a proposed public fundraising committee to support the goals and activities of the Dufferin County Museum & Archives (DCMA).

Background & Discussion

As members will know, most recently there has been discussion about the ultimate role and purpose of a committee of appointed citizens as it relates to the function of the DCMA. Original terms of reference were drafted several years ago for a “trust fund advisory board” which, more recently, was modified to encompass an expanded focus on “planning and operations” in addition to fundraising. During discussions at the October 2012 meeting of the Museum Board, the consensus was that a citizen board to support the DCMA should be focused on fundraising only. DCMA staff was thus asked to bring forward appropriately-focused draft terms of reference for further review and consideration.

Revised and draft terms of reference for a DCMA fundraising committee are attached to this report for the review and consideration of the Board.

Local Municipal Impact

None at this time.

Financial, Staffing, Legal, or IT Considerations

None at this time.

Recommendation

None at this time. For the review and action of the Museum Board.)

Attachments: One – Draft Terms of Reference, DCMA Fundraising Committee
Status:



Dufferin County Museum & Archives Fundraising Committee [DRAFT] TERMS OF REFERENCE

DEFINITIONS:

“DCMA FC” refers to the *Dufferin County Museum & Archives Fundraising Committee*.

“County” refers to the Corporation of the County of Dufferin.

“County Council” refers to the Council of the Corporation of the County of Dufferin

“DCMA” refers to the Dufferin County Museum & Archives.

“DCMAHL Board” refers to the *Dufferin County Museum & Archives and Heritage Lands Board* of Dufferin County Council.

“Trust Fund” refers to the *Dufferin County Museum & Archives Trust Fund*.

OBJECTS & PURPOSES:

The purpose of the DCMA FC is to advise and make recommendations to the DCMAHL Board and County Council with respect to the raising and holding of funds for the DCMA through:

- (i) Receipt of property, both real and personal, by way of donation, gift, legacy or otherwise; and to hold and/or convert the same into cash and apply the income or capital in furtherance of the purposes of the Trust Fund;
- (ii) Provision of financial and other assistance to the DCMA for purposes including but not limited to the following:
 - specific capital projects approved by the County
 - special exhibits
 - artifact acquisition and special collections
 - research and publications
 - educational programming
 - specific administrative, including promotional, projects and costs
- (iii) Promotion of the existence, programs and needs of the DCMA within present and potential visitor and supporter communities.
- (iv) Provision of “gifts-in-kind” to the DCMA

COMMITTEE STRUCTURE:

The DCMA FC shall, at a minimum, be comprised of the following:

- A member of County Council, appointed by County Council
- Director/Curator of the DCMA (or designate)
- 3 members of the public

The DCMAHL Board reserves the right to increase the number of Committee members as it deems necessary, not to exceed 9.

Term

The term of a Committee member shall be four (4) years, coinciding with the term of County Council.

Meetings

The Committee shall meet at least quarterly each year at the DCMA.

Member Eligibility

Persons eligible for membership on the DCMA FC include:

- members of the DCMA; or
- persons who have served in the past as a member of the DCMA FC or as a member of the DCMAHL Board; or
- persons who support the DCMA and DCMA Trust Fund, particularly in fundraising efforts, and who are prepared to work in the best interest of the DCMA and Trust Fund.

Recruitment

Recruitment and selection of Committee members shall occur in accordance with the following:

1. Public advertisements will be placed in Dufferin and area newspapers to solicit applications from eligible candidates.
2. Selection of initial Committee members will be based on a list of candidates chosen by, and interviews conducted by, an interview team comprised of one member of the DCMAHL Board, appointed by the DCMAHL Board; the General Manager of DCMA, and the Curator or Archivist of the DCMA. The interview team shall consider the following criteria in their evaluation of candidates: (i) previous experience in fund raising; and (ii) previous experience as a member of a community board, committee or trust.
3. Selection of initial and subsequent DCMA FC members shall be subject to the approval of the DCMAHL Board and County Council.

Quorum

A quorum of the DCMA FC for dealing with matters relating to fundraising and the DCMA Trust Fund shall be a majority of its members.

Voting

Voting on matters relating to fundraising and the Trust Fund shall occur by a majority vote among the members present.

Officers

The DCMA FC shall, at a minimum, designate the following officers: Chairperson and Vice-Chair. The position of Chairperson of the Committee shall only be held by an appointed member of the public. The Secretary shall be a staff person from the DCMA.

COMMITTEE RESPONSIBILITIES & POWERS:

The DCMA FC Board shall develop an annual fundraising and activities plan for review and ratification of the DCMAHL Board at its November meeting, and formulate recommendations to the DCMAHL Board in accordance with the objects and purposes of the DCMA Trust Fund and the approved fundraising and activities plan.

COMMITTEE RESPONSIBILITIES & POWERS (continued.)

In the implementation of its plans and the undertaking of its responsibilities, the DCMA FC shall, in accordance with applicable County policies and procedures, have the power to:

- encourage the contribution of funds or other property from any person, corporation, Trust Fund, municipality or government agency which the Committee in its discretion deems advisable
- accept donations, gifts, legacies, grants, devises or bequests of real or personal property of every nature and kind; with or without donor conditions or stipulations
- use and distribute such portions of the funds available to the DCMA Trust Fund as the Committee deems proper and in accordance with the objects and purposes of the DCMA Trust Fund and an approved activities and fundraising plan; this includes the forwarding of annual interest earned by money in the possession of the Trust Fund to the County/DCMA for Museum operations
- provide advice and make recommendations to the DCMAHL Board regarding the hiring of personnel
- reject gifts; including donations, legacies, grants and devises; when such gifts or the terms under which they are proposed to be given to the DCMA Trust Fund are not consistent with the objects and purposes of the Trust Fund
- in the event that no direction for the use of a gift is provided by its donor, use and apply a gift for purposes as the Committee deems proper and consistent with the objects and purposes of the Trust Fund

The DCMA FC does not have the power to borrow or to mortgage any of the assets of the Trust Fund under any circumstances.

Membership on the DCMA FC is strictly “volunteer” in nature, and therefore members are unpaid.

ADMINISTRATION & REPORTING:

The offices of the DCMA FC and Trust Fund shall be located at:

Dufferin County Museum & Archives
936029 Airport Road
Post Office Box 120
Rosemont, Ontario, CANADA L0N 1R0

The fiscal year of the DCMA FC and Trust Fund shall be a calendar year, beginning January 1st and ending December 31st.

The County, through its Treasury Department, shall provide accounting, auditing and investment services to the Committee and Trust Fund at no cost. Any interest earned on Trust Fund holdings shall be directed to the Trust Fund.

The County, through its Treasury Department, shall administer the issuance of income tax receipts for donations to and in the name of the Trust Fund.

Financial statements shall be prepared by the Treasury Department for the review of Committee members at their meetings.

ADMINISTRATION & REPORTING (continued.)

The DCMAHL Board shall be informed of the Committee's plans and activities by way of the DCMAHL Board's review and approval of an annual fundraising and activities plan. In addition, minutes of the meetings of the Committee shall be circulated on a regular basis to members of the

DCMAHL Board for their review and information. The General Manager and Curator or Archivist shall inform the DCMAHL Board of issues, activities and matters relating to the DCMA FC and Trust Fund, and provide information as requested by the DCMAHL Board.

DISSOLUTION:

In the event the Committee and/or Trust Fund are/is dissolved, any and all assets formerly received and held by the DCMA Trust Fund shall be transferred to the County to be held and used for the purposes for which they were given to the Trust Fund.

[Revised November 2012]



431068 19th Line (The Maples Road)
R.R. #2 Orangeville, Ontario L9W 2V9

16 November, 2012

Walter Kolodziechuk, Warden of Dufferin County
375591 6th Line Amaranth
RR # 1 Shelburne, ON L0N 1S5

Dufferin County Tree-Cutting Bylaw

Dear Mr Kolodziechuk:

Attached is a report on the Dufferin County tree-cutting bylaw, 2006-15 compiled from available information. It traces the origins of the present bylaw, examines its aims and flaws, concludes that the bylaw is not useful and recommends its repeal for sound reasons justified with references. Its aim is to reform this aspect of county law.

The declared aims of the bylaw are to take advantage of the Ontario Municipal Act's authority to pass a bylaw, and to appoint agents to police it. Those aims are purposeless; the aim of a bylaw should be positive, not merely control for the sake of control.

The tree-cutting bylaw has been re-drafted and argued over the past four years, with no benefit to the county, because it is written by a few persons with little or no knowledge of farming or forestry practices. Dufferin County is a farming community - most local employment is based on agriculture and forestry - yet a major element of farming is discouraged because Bylaw 2006-15 imposes only upon farmers - only those who would otherwise sustain and improve their woodlands. This bylaw actually requires farmers to degrade their forests. To the best of my knowledge, no farmers have been able to contribute to this law's development; yet they are the only persons affected by it.

Please consider the arguments presented in the attachment, with the best interests of Dufferin County at heart, and then endorse a motion to County Council to remove this bylaw from the books. I am convinced that an impartial review of all the facts will persuade you that this bylaw is bad. Please read the bylaw and the report. Thank you.

Yours sincerely,

Charles Hooker

Administration Department
Received

NOV 21 2012

For Information: _____

For Action: _____



The Dufferin County Tree-Cutting ("Forest Conservation") Bylaw 2006-15

Summary

Bylaw 2006-15 forbids landowners to harvest for sale trees in woodlands of one hectare or larger without county permission, but **allows all other destruction of privately owned trees**. It is biased and unfair, fails to achieve its stated aim and could be overruled by a Human Rights Tribunal or trigger a lawsuit against the county.

Bylaw 2006-15 errs by:

- stating no useful purpose,
- imposing biased restrictions only on tree harvests intended for sale,
- imposing harmful diameter-limited cutting,
- allowing authorities to decide arbitrarily whether to permit harvests,
- authorizing unwarranted entry into private land by county agents, and
- selectively harming innocent individuals,

and does no good because it will not stop clear-cutting.

Orangeville Mayor and County Councillor Rob Adams was quoted: "The county bylaw would accomplish little, except to take away the right of property owners to do what they wish with their own trees on their own property."ⁱ

Repeal of Bylaw 2006-15 will do no harm because the only persons affected by it care for their trees without legal enforcement as it is in their interest to do so.

Past History

The Dufferin County Tree-Cutting Bylaw, later re-named the Forest Conservation Bylaw, was first passed into law in 1947. Bylaw 1947-1011 aimed to improve "forest ...soil ... game and fish". "Own use" was exempt. It specified the minimum sizes of specific tree types as 12 inches diameter at 18 inches above ground. Subsequent bylaws increased the tree diameters. Bylaw 1956-1215 removed the exemption for "own use." Bylaw 1982-47 defined a "woodlot" as having a certain number of trees of specified size per acre, defined "own use" and restored that exemption. Exemptions a to k were listed. The fine increased to \$5,000 and/or three months in jail plus re-planting.ⁱⁱ Bylaw # 2006-15 – "Forest Conservation Bylaw" - authorizes county agents to enter private property; a warrant is not mentioned contrary to the Constitution of Canada. It imposes a fine of \$10,000 or \$1,000 per tree (whichever is greater), leaves harvest approval up to a county agent who may or may not allow the application for personal reasons, and exempts property owners who intend to open, but have not obtained approval for, a quarry. Curiously, it no longer mentions the desirability of environmental improvement as justification, only that the county is allowed to pass a bylaw and appoint agents and therefore does so. The one common theme of all the bylaws is that only landowners who wish to sell their trees as timber come under bylaw control; no one else is affected.ⁱⁱⁱ

Recent History

A new bylaw was drafted in 2008 but, after four years of changes, was discarded. It responded to a North Dufferin Agricultural and Community Task Force (NDACT) request to stop the proposed Highland Group quarry in Melancthon, the aim being to prevent destruction of trees impeding the quarry. That approach failed because Bylaw 2006-15 allows potential quarry operators to destroy trees before a quarry is approved by the Ontario government; the landowner need not open a quarry once the trees are destroyed.^{iv} Highland destroyed over one hectare of trees but could not be charged.^v

In 2012, Orangeville Council considered passage of a municipal tree-cutting bylaw. Municipalities are authorized by Dufferin County Bylaw 2006-15 to pass local bylaws controlling only woodlots between 0.5 and 1.0 hectares (approximately 1.4 to 2.8 acres) in size.^{vi} As there is no woodlot of 0.5 hectare or larger in Orangeville, a town tree-cutting bylaw would have no effect whatsoever.

Taken together, the exemptions and stipulations of Bylaw 2006-15 restrict only tree destruction conducted on farms to sell timber; no one else is affected.

The bylaw did not prevent destruction of mature maple trees shading a short street in Orangeville; they were destroyed to “make it easier” to re-pave the roadbed.

The bylaw did not prevent destruction of trees to pave a skateboard park in Orangeville.

The bylaw did not prevent Hydro One from destroying without permission black walnut trees planted on a farm, when the owner had promised to move the trees.^{vii}

Neither the bylaw nor the Ontario Endangered Species Act prevented destruction of “endangered” American chestnut trees in Grand Valley by Orica, the local explosives storage facility. The OMNR decided that American chestnuts are “not native to the area” and refused to prosecute. (American chestnuts are growing naturally in Dufferin County, Sudbury and Thunder Bay.^{viii}) Dufferin County did not prosecute Orica because Bylaw 2006-15 exempts tree destruction for “own use.”^{ix}

In the third quarter of 2012 alone, the County Forester sold county forest logs for \$8,236. Farmers should not be denied similar income.^x

Harmful Bylaw Requirements

Bylaw 2006-15 violates the intent of “sustainable forestry” by imposing diameter limits on trees that may be harvested. **Diameter-limited cutting** degrades the quality of a forest by eliminating those trees which grow fastest and best; slower-growing trees are likely to be of inferior quality, and their progeny will follow suit. The Ontario Woodlot Association Newsletter twice warned of the dangers of diameter-limited cutting. Dufferin County Forester Caroline Mach agrees that diameter-limited cutting is bad. Registered Professional Forester Peter Williams (Masters degree in Forestry from the University of Toronto) agrees that diameter limits degrade a forest. The OMNR Extension Note, “Forest Conservation By-Laws in Ontario,” states: “After repeated use over time,

diameter limit cutting often results in detrimental changes to the genetic quality of of future generations of trees and the loss of sustainable, long-term economic value.^{xxi} Even Dufferin County's brochure on the tree-cutting bylaw – approved for publication by Dufferin County – regards diameter-limited cutting as bad.^{xii}

Despite these warnings, Bylaw 2006-15 limits tree harvests to specified diameters or larger.^{xiii} **The bylaw obliges timber sellers to degrade the quality of their forests.**

Unreasonable Enforcement

Bylaw 2006-15 authorizes county agents to enter private land without evidential reason or a warrant.^{xiv} **Warrantless entry** into private property violates Common Law. Any evidence gathered in this manner would be promptly rejected by any competent court of law, and culprits could be charged with trespass.

A **“Permit to Cut Trees”** may or may not be issued, even if the applicant has followed all the rules and requirements, because the relevant paragraph uses the word “may” in regard to approval.^{xv} This paragraph leaves the bylaw open to abuse by persons in authority who may have personal reasons for rejecting approval by the applicant; the law must eschew private abuse. County Council changed “may” to “shall” in a draft amendment in May 2008; “shall” was changed back to “may” by the Museum Committee in 2010, in **direct violation of County Council direction.**

Current Status

During the period 2008-2012, a new tree-cutting bylaw was drafted and re-drafted many times by both the Museum Committee and County Council. Most of the re-drafts were the direct result of interference in the process by the Museum Committee; **Chair John Oosterhof said “We decided we couldn't live with [County Council-ordered changes].”^{xvi}** Fed up by repeated unwanted versions, but unwilling to insist that the Museum Committee make the changes ordered in May 2010, the County Council discarded the draft, reverting to Bylaw 2006-15; so beneficial changes were thrown out with the unwanted changes.

Because the bylaw cannot be amended to the satisfaction of all parties, degrades forests and has no beneficial aim, it should be discarded entirely.

ⁱ “Proposed tree bylaw divides town council,” Orangeville Citizen, 25 October, 2012.

ⁱⁱ Visit by the author to the Dufferin County Museum and Archives, 30 October, 2012.

ⁱⁱⁱ Bylaws from 1947 to 1982 are available in the Dufferin County Museum Archives. The bylaw passed in 1993 is not available. Bylaw 2006-15 is available for copying on the county web site.

^{iv} Exemption Paragraph 5(h), “the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land, (i) that has not been designated under the Aggregate Resources Act or a predecessor of that Act.”

^v “NDACT seeks hefty fines for Highland tree removals,” Orangeville Citizen, 11 June, 2009; “County council asked to look into Highland tree cutting,” Orangeville Banner, 26 May 2009.

^{vi} Bylaw 2006-15, Paragraph 2(ii): “This bylaw shall apply to all woodlands greater than 0.5 ha within the county upon delegation of such authority by each local municipality to the County under s.135(10) of the Municipal Act.”

^{vii} Hooker farm in East Garafraxa.

^{viii} Source: Canadian Chestnut Council.

^{ix} Bylaw 2006-15, Paragraph 5(j), “the injuring or destruction of trees by a person who has been the registered owner of land for at least two years to cut trees thereon for the person’s own use.”

^x Museum Board Quarterly Financial Update, Dufferin County Agenda for 8 November 2012.

^{xi} Landowner Resource Centre publication, “Ontario Extension Notes: Forest Conservation By-laws in Ontario,” 2005, Page 2: “Diameter Limit Cutting.”

^{xii} County of Dufferin Forest Conservation By-La 2006-15

^{xiii} Bylaw 2006-15, Paragraph 6(b)(ii) and Schedule A.

^{xiv} Bylaw 2006-15, Paragraph 16.

^{xv} Bylaw 2006-15, Paragraph 6.

^{xvi} County Council meeting, February, 2012.