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October 19, 2016

District Municipality of Muskoka
70 Pine Street
Bracebridge, Ontario
P1L 1N3
Attn: Planning and Economic Development Committee

Dear Sir:

**Re: District of Muskoka Proposed Official Plan Amendment
Lake System Health Policy Official Plan Amendment #45**

Muskoka Lakes Association (MLA) represents 2300 households in the District of Muskoka. Our mission is to promote the responsible use, enjoyment, and conservation of the unique Muskoka environment.

We agree with the District of Muskoka that “water is an essential part of Muskoka’s natural environment” and that “in the face of changing climate and the pressures of growth and development, continued strong action is needed to protect, maintain and where possible, enhance the health of Muskoka’s watershed for present and future generations.”

Science behind water quality testing

According to the Hutchinsons Environmental Sciences Report, the science behind the existing district water quality model is questionable. The linkage between water quality and the presence of phosphorous in the water can no longer be considered the best indicator of water quality as the percentage of phosphorous in Muskoka’s lakes and rivers has not changed in the past 10 years. In addition over the past 10 years and this year again there have been blue green algae blooms whose cause and prevention is unknown.

This report is disturbing. The District has undertaken a water quality monitoring program for over 10 years. The MLA has undertaken testing of water quality in over 180 lake and river location locations annually, again for over ten years. Unlike the District practice, the MLA tests water quality in the near shore, the recreational area of the lake, as well as for the presence of e coli bacteria whereas the District tests the deep water locations in the middle of the lakes. Other lake associations in Muskoka undertake water testing following the province’s Lake Partners program. Together we provide data on the quality of Muskoka waters.

Given the Hutchinson's findings, the District proposes to move away from the existing model as the scientific linkage has not been confirmed.

The MLA is comforted that the District intends to continue its water quality testing program. We intend to continue our discussions with the District regarding their and our water testing models.

Change in policy directly affects over 15 lakes within the District's jurisdiction

A minimum of 15 lakes in Muskoka will be directly impacted by this change in policy; some, by being removed from the over threshold/ highly sensitive classification and thus having no additional development protection, others, by being added to a list of lakes having a high phosphorous indicator and requiring further study.

Lake associations in both groups have raised concerns. Those removed, feel abandoned by protections that control development even if development proceeds based on site specific criteria. Those remaining on the list or added to the list, understand that causation studies will be undertaken by the District to determine the cause and to develop a remedial action plan.

In the past 10 years, various studies have been undertaken of the algal blooms on Three Mile Lake for example and yet an algal bloom was present again this year. Pursuing causation studies appears to be the main route forward. But at what cost? Will the studies be peer reviewed? And what is the timetable? The lack of action by the District, local municipalities, MOEE and the health department in the past, raises concerns as to effective action being undertaken in the future. Although the MLA endorses the development of remediation plans once the causation studies have been completed. these take time to develop and to implement. What is the interim policy? What assurances have been given to the lake associations and residents most affected?

Consultation has led to improved policy

The MLA has had several meetings and discussion with District staff regarding their proposed policy change. The proposed policy relies heavily on the local municipalities for implementation.

One of our concerns is the lack of consistency between the various municipalities. We are pleased to see an addition to the amendment stating "The District of Muskoka, in consultation with the area municipalities will develop site plan guidelines to address recreational water quality considerations and to promote a consistent approach across all watersheds." (F.30)

The resulting site plan guidelines should be formally adopted by each local municipality to give consistency in its approach to site plan approval. These guidelines will aid the area planners in determining appropriate criteria beyond the minimum zoning and building regulations in approving site plan control applications. Such guidelines should include consideration of shoreline buffering, tree cover and natural native vegetation, slope protection, and the use of stormwater management techniques and water runoff. Publicizing the adopted site plan guidelines for each municipality would provide a level of transparency and education of water quality criteria to cottagers, contractors and developers.

We are also pleased to see a policy recognizing that, additional expertise by qualified professionals may be required to assist in the implementation of site plan control. These additional studies or peer reviews of proposals should be at the expense of the proponent. After all without their input the development may not proceed and therefore it is in the proponent's best interest to agree to the cost of additional studies or a peer review of the proposal. This is not uncommon as a pre requisite for development.

Downloading of implementation to the local municipalities

“In order to ensure no negative impact on recreational water quality , all substantial development including lot creation, development of vacant lot and redevelopment of a lot within the Waterfront designation (including backlots) and on shoreline lots in the Urban Centre and Community designations will be subject to site plan control or development permitting.”(F 28)

In essence. this policy is stating that **the local municipalities will be responsible for recreational water quality**. Site plan control is a planning instrument that can only be exercised by the local municipality. The District does not enact site plan control by-laws. Similarly, the District has no power to enforce compliance with an approved site plan.

The MLA is concerned that the District is rushing to download control over water quality without doing due diligence to ensure appropriate control at the municipal level. We recommend that the new official plan policy be adopted only after the local municipalities have a clear understanding of their downloaded responsibilities, a plan for implementation. and have provided a council resolution indicating their commitment to undertake this responsibility.

The MLA is aware that some municipalities will have to amend their site plan control by-laws. All municipalities will have to undertake additional site plan approvals. Many will be challenged to find the resources to do so, without significant budgetary increases. One technique will be to examine application fees to ensure they are commensurate with municipal costs of processing a site plan application, similar to building permit fees.

The MLA is concerned that the local municipalities will not embark on such an additional work load, with the end result being a lack of protection of water quality and an inability to tract and timely change or modify unfavourable development results.

We are also aware that for all municipalities, enforcement of development in accordance with a site plan agreement is an issue.

Municipalities in Muskoka have been challenged to find and hire by-law enforcement officers to enforce the rules. Courts have been reluctant to levy fines beyond a simple \$500 slap on the wrist. If we cannot rely on the OMB, the municipalities, or the courts to strongly enforce the rules, we need other strong policies that discourage the idea that indiscriminant waterfront development is the road to long term prosperity in Muskoka. People who purchase properties in Muskoka or Georgian Bay are committed to these vacation properties and are prepared to pay the price to locate there. However if the recreational water quality is damaged, those same people will flee their cottage properties in droves, taking the economic prosperity of the region with them.

In this regard, the MLA is pleased to see the inclusion of a policy recommending the use of “Securities and processes to ensure implementation and long term monitoring and compliance.” (F29f) Securities, usually by way of a letter of credit, however, have to be sufficiently high to make adherence attractive and to be sufficient to provide for the municipality undertaking the work required itself with the proviso of adding any additional cost to the tax bill.

Additional dialogue

Prior to the adoption of the District’s proposed Official Plan Amendment #45, we request that the District receive a resolution from each local municipal council stating they will implement the changes needed to effect the District change.

Prior to adoption, there also needs to be additional dialogue with those lake associations including the MLA, who have commented upon the District’s proposed policy change, to answer the questions raised and provide the opportunity for further clarification and refinement of the proposed policy.

For these reasons, we are requesting that the District NOT adopt the proposed Official Plan amendment on October 20th, but rather continue to have consultation meetings with both the local municipalities and those lake associations who have commented upon the proposed policy. It is important that the District obtains “buy in” from the local municipalities and an understanding on the part of the local municipalities of their obligations as a result of the District’s proposed downloading.

Summary

In summary, we believe that the water quality of Muskoka's lakes is generally good. But it is also important and in everyone's interest that it remains so.

Thank you for your consideration. Please inform us of any additional meetings to consider this policy either at the District or at the local level, and of the date of the council meeting at which the proposed policy will be considered for approval.

In addition, please provide the MLA with a written copy of council's decision and a copy of the council minutes.

Yours respectfully,

Anne McCauley MCIP, RPP
MLA