

MISSISSIPPI VALLEY CONSERVATION AUTHORITY

BOARD OF DIRECTORS MEETING

Mill of Kintail Gatehouse

MINUTES

April 18, 2012

MEMBERS PRESENT:

M. Burnham, Chair;
J. Karau, Vice-Chair;
D. Abbott;
D. Black;
G. Code;
A. Gillis;
A. Jones;
J. Karau;
G. Martin;
G. McEvoy;
W. Millar;
A. Snider;
P. Sweetnam.

MEMBERS ABSENT:

E. El-Chantiry;
R. Kidd;
B. Sutcliffe.

INVITED MEMBER PRESENT:

L. Antonakos;
E. Preston.

STAFF PRESENT:

Services;

P. Lehman, P. Eng., General Manager;
J. Sargeant, Secretary-Treasurer;
C. Craig, Project Manager;
M. Craig, Manager, Planning & Regulatory
Services;
R. Fergusson, Operations Supervisor;
E. Levi, Administrative Assistant;
G. Mountenay, Water Management Supervisor.

The Chairman called the meeting to order at 1:00 p.m.

BUSINESS:

1. Approval of Minutes – Board of Directors Meeting – March 21, 2012

Mr. Sweetnam commented on the wording used in the last sentence of the first paragraph in the section on Strategic Planning. He requested that the word reaffirm be changed to affirm so that the sentence will read “He pointed out that given the changes in both the Board and staff membership, it is an appropriate time to conduct a review and affirm MVC’s future directions.

It was also noted that John Karau should be recorded as Vice-Chair.

B04/18/12-1

MOVED BY: A. Jones

SECONDED BY: G. Martin

Resolved, That the Minutes of the Mississippi Valley Board of Director's Meeting held March 21, 2012 be received and approved as amended.

“CARRIED”

2. Minutes – Office Building Committee – April 11, 2012

B04/18/12-2

MOVED BY: A. Jones

SECONDED BY: D. Black

Resolved, That the Minutes of the Mississippi Valley Office Building Committee Meeting held April 11, 2012 be received.

“CARRIED”

3. Ontario Regulation 153/06 Permits

B04/18/12-3

MOVED BY: G. Martin

SECONDED BY: W. Millar

Resolved, That the Board of Directors approve Permit Nos. W12/20, W12/08, W12/17, W12/14, W12/12, W12/13, W12/16.

“CARRIED”

4. New Office Building – Construction Management Agreement

Mr. Craig commented on Staff Report #2674/12 regarding the Part 2 Contract, and the revised budget. He also noted that the original plan was to begin construction in the spring of 2012 but during the Official Plan Amendment circulation to all Ministries, staff from the Ministry of Natural Resources raised concern regarding grassland habitat under *The Endangered Species Act*. They have advised that the grassland/hay on the site could be suitable habitat for bobolink and meadowlark. A meeting with staff from MNR has indicated that MVC will be required to do additional survey work on the site to see if the two endangered species are present. The survey work must be carried out at specific times of the day and certain times of the month during the mid-May to mid-June period. If the survey work reveals no nesting habitat, then MNR will issue a letter of clearance to satisfy the Town of Carleton Place for the Development Permit Application and the Building Permit by the end of June. As a result, construction could not begin until sometime in July. If the survey work reveals that there are species at risk on site, then the Authority would have to take out a permit to destroy habitat which involves compensation allocating a similar size of habitat at the site or somewhere else close by. The process for a permit to destroy habitat could be lengthy and postpone the construction date to fall or even early in 2013.

In response to a question, Mr. Craig noted that the original Environmental Impact Study did not identify species at risk but the survey was completed at a different time of year when the birds would not be nesting.

Mr. Craig noted that the project is approaching the end of the Part 1 Contract with Argue Construction Ltd. Part 1 work involved preliminary design, final design and a detailed cost estimate. Part 2 work involves the tendering and construction. He noted that there will be some overlap between Part 1 work and Part 2 work but the transition can be seamless. The overlap would involve finishing up design and specifications for some of the later work (e.g. millwork, flooring & painting, etc.) and starting the tendering process or lining up sub trades for the earlier work (e.g. site works, foundation & building envelope, etc.).

Mr. Craig advised that the Office Building Committee is proposing to use the construction management approach for the second phase of the project. They propose to use the standard contract form known as CCDC 5B which is a Construction Management Contract – for Services and Construction developed by the Canadian Construction Documents Committee. The balance of the design fees, the construction management fees, and the cost of the tendered work will form the basis for the contract.

The proposed approach is considered to provide the necessary flexibility to allow MVC to start construction as soon as possible. It also provides the more open or transparent approach to costs and tendering and the potential to take advantage of any cost savings through the tendering process.

Similar to the Part 1 contract with Argue Construction Ltd, the Building Committee is recommending that the Board of Directors authorize the Committee to review and approve the Part 2 contract on behalf of the Board of Directors.

Mr. Craig advised that in 2011, the Board of Directors approved a Draft Budget and Financing Plan for the New Office Project which included a total project budget of \$5,554,520 amortized over 15 years and operating expenses of \$112,500/year for a total annual cost of \$489,850. The draft project budget was based on preliminary estimates, obtained in 2010, of typical construction and other incidental costs. The Building Committee and design team have been working diligently to develop a building design and detailed budget while maintaining costs within that draft budget amount.

Mr. Craig pointed out that based on the final building design and site plan a detailed cost estimate has been completed as outlined in Table 1 of Staff Report #2674/12. He noted that a number of budget items have been revised which include:

- 1) Building construction estimates.
- 2) The entrance off Hwy 7 assuming one third cost sharing for left and right turn lanes - still under discussion.
- 3) Hydro connection costs based on recent discussions with Hydro One.
- 4) Gas connection costs based on recent discussions with Enbridge.
- 5) Addition of exterior washrooms.
- 6) Cost for new telephone system/new servers.

Mr. Craig advised that the Office Building Committee has reviewed the cost estimates and has recommended that the project budget be revised to an upset limit of \$6,500,000. The upset limit is derived from the current cost estimates for the construction cost, land acquisition cost, and soft costs with an additional contingency.

Mr. Craig noted that Table 2 attached to Staff Report #2674/12 provides a comparison for annual financing and operating costs based on amortizing the project cost over 15, 20 and 25 years. Tables 3 and 4 provide the current (2012) and projected municipal levy requirements based on debt financing being amortized over 15, 20 and 25 years. Based on the anticipated construction schedule the projected changes in municipal levy would occur in 2013. He noted that apportionment figures used to apportion the total cost on a general benefitting basis are based on 2011 current value assessment data provided by MNR and are subject to change from year to year.

Mr. Sweetnam thanked Mr. Craig for his leadership on the project and for keeping the project on track in spite of issues like The Endangered Species Legislation. He noted that it makes sense for the contractor to begin lining up the trades as soon as possible before they get fully booked on other projects for the season. Mr. Sweetnam also noted that the Office Building Committee has agreed to only do the turning lanes off Highway 7 if there is a cost sharing arrangement between the MVC, the Town of Carleton Place and the adjacent landowner. He noted that the funding is included in the 6.5 million dollar budget figure but it will not be spent unless all parties agree on a cost sharing arrangement.

Mr. Burnham noted that the revised project budget figure is \$6,285,015 but the Office Building Committee would like to have Board of Directors approval to establish an upset limit of 6.5 million.

Mr. Craig responded to numerous questions regarding the increase in the project budget figure from \$5,554,520 to \$6,285,015. He noted that the \$5,554,520 budget figure was established very early on in the project when design plans were not finalized.

Mr. Sweetnam explained the additional costs to bring gas and hydro to the site based on recent discussions with Enbridge and Hydro One. He noted that the Office Building Committee is seriously considering using propane for a few years as opposed to paying for infrastructure for gas to the site.

Mr. Martin suggested that a second conduit be installed to accommodate a fiber optic cable.

Mr. Lehman explained that the 6.5 million dollar budget is to establish an upset for budgeting for 2013. He noted that the Authority will have to establish the terms of financing for the debenture with the Town. The Town of Carleton Place has agreed to provide interim financing for the project.

B04/18/12-4

MOVED BY: J. Karau

SECONDED BY: P. Sweetnam

Resolved, That subject to the review and acceptance of the Office Building Committee, the Chairman and General Manager be authorized to enter into an agreement with Argue Construction Management Ltd., for the provision of Part 2 Contract Services (tendering and construction) to an upset limit of \$5,123,000; and further

Resolved, That a revised upset limit for the MVC New Office Project be set at \$6,500,000.

“CARRIED”

5. Carp River Restoration Plan

Mr. Lehman commented on Staff Report #2675/12 outlining the background on the Carp River, Poole Creek and Feedmill Creek Restoration Plan. The staff report also outlined existing conditions on the Carp River, the Kanata West Development Area and its history, the Carp River Model Calibration Validation Exercise Final Report, and the Notice of Application for Official Plan and Zoning Bylaw Amendment. It was noted that staff have reviewed the proposed Official Plan and Zoning Bylaw Amendment and is of the opinion that the proposed amendments are consistent with the Carp River Watershed/Sub-watershed Study, the Implementation Plan for the Kanata West Development Area and reflect the hydraulic analysis completed as part of the Carp River Model Calibration Validation Exercise Final Report – July 2011.

With completion of the Carp River Model Calibration Validation Exercise Report, adherence to the Kanata West Implementation Plan, on-going monitoring commitments and staff's review of the Notice of Application for Official Plan and Zoning Bylaw Amendment, Mr. Lehman recommended that the Board of Directors endorse the proposed Carp River, Poole Creek, Feedmill Creek Restoration Plan and Carp River Restoration Policy Area and implementing Zoning Bylaw.

In response to questions, Mr. Lehman commented on the degrading state of the Carp River. He noted that the Restoration Plan is a significant project that will see the Carp River restored.

B04/18/12-5

MOVED BY: P. Sweetnam

SECONDED BY: J. Karau

**Resolved, That the Staff Report # 2675/12 regarding the proposed Carp River, Poole Creek, Feedmill Creek Restoration Plan be received; and further,
Resolved, That the Mississippi Valley Conservation Authority supports, in principle, the proposed Carp River Restoration Policy Area and implementing Zoning Bylaw.**

“CARRIED”

6. Palmerston Canonto Conservation Area – Quit Claim

Mr. Lehman commented on Staff Report #2676/12 and explained the Palmerston Canonto Conservation Area property title corrections that are required. It was noted that Mississippi Valley Conservation purchased the 259 acre Palmerston-Canonto Conservation Area (PCCA) in 1973. The property, located in North Frontenac Township in the County of Frontenac was registered with a meets and bounds description and transferred to MVC with a Quit Claim Deed. The early land division surveys of Palmerston Township were not detailed and after MVC purchased the property, a very detailed R-Plan survey was completed and registered in 1987. The R-Plan contains 30 different part numbers. Some of the parts are easements and Rights-Of-Way to adjacent landowners. There are currently three property title issues with a small part of PCCA, known as the Beach Area, which need to be addressed.

Trustees of the Estate of Coady, who own the property immediately to the East of the Beach Area, are in the process of settling the estate and selling the property. Coady's lawyer has discovered that there is a conflict between MVC's Quit Claim Deed and their client's deed. MVC's deed says that it owns everything in Lot 17. Coady's deed identifies that they own *part* of Lot 17. Coady has had possession of the property since 1973. The R-Plan shows that the Coady property is not included in the property MVC purchased. However, the R-Plan does show that Coady has an easement over MVC's property for access to their property.

It was noted that MVC's lawyer has reviewed the deeds and is in agreement that there is a title correction required. MVC has never had any interest in the Coady property. To correct this issue, the Authority is required to sign Title Correction documents.

The Coady's property access easement passes across MVC's property directly in front of the beach. The easement location does cause MVC concerns for the safety of beach users. The Coady property owners, in the mid-1980's, constructed a new access to their property from MVC's property and stopped using the access across the beach. The location of the new access is from the parking lot area. The new access was never surveyed or registered. The Coady property owners have now surveyed the access and are seeking to register the easement and will, in turn, legally abandon the old access in front of the beach.

Since the new access has been used by Coady for more than 20 years, they are able to claim Adverse Possession. According to MVC's lawyers, it makes things easier as all that is required is to sign additional Title Correction documents.

It was noted that Coady is prepared to abandon the original easement across the beach to their property and the easement has to be abandoned to the underlying property owner. The lawyers have discovered that there is an additional conflicting Property Title for that parcel of land. It appears the owner of the property under the easement, including the beach is not MVC but a third party - Smith. MVC's lawyer is reviewing the deeds with the regional registrar to determine who actually owns the property. There may be additional Title Correction documents required to finalize the abandonment of the easement.

B04/18/12-6

MOVED BY: G. Code

SECONDED BY: G. Martin

**Resolved, That Staff Report #2676/12 be received, and further
Resolved, That the Title Correction regarding access to the Coady property be
approved.**

“CARRIED”

7. Conservation Ontario Report

Staff Report #2677/12 was reviewed and Mr. Burnham provided a brief report on a Conservation Ontario meeting recently attended by himself, Mr. Lehman and Mr. Karau. He noted that the Honourable Michael Gravelle, Minister of Natural Resources spoke to Council regarding proposed changes to occur within the Ministry as part of the provincial budget. He noted that many of the messages relayed by the Minister were included in the transcript from the Deputy Minister as attached to the staff report. Conservation Ontario will be holding a two day meeting in June to provide an update on the changes at the Ministry of Natural Resources and their effect on conservation authorities.

8. Drainage Act & Conservation Authorities Act Protocol

Staff Report #2679/12 was reviewed and discussed. It was noted that in February 2008, a provincial committee was struck by the Ministers of Agriculture and Food and Natural Resources with a mandate to look at standardizing review procedures associated with conservation authority involvement in works required under Ontario's *Drainage Act*. The committee was called DART (Drainage and Regulation Team). Phase I recommendations dealing with drain maintenance and repair only have been posted on the Environmental Registry on March 9th (# 011-5657 titled "Drainage Act and Conservation Authorities Act Protocol"). Members were provided with the link to the site.

A 45 day public review and comment period is being provided by the Province with comments due (directly on the web site or to the Ministry staff person named on the posting) by April 23, 2012. Drainage Superintendents and municipal staff should be aware of the review procedures. MVC currently has 85 municipal drains within the watershed. Any works involving municipal drains are reviewed by Conservation Authority staff for compliance under the *Conservation Authorities Act* and the *Fisheries Act*. MVC's agreement with the Department of Fisheries and Oceans allows municipalities to consult or obtain permission from one agency only in a timely manner.

Following a brief discussion, Mr. Craig advised that the item is provided for information to the members. He noted that MVC has 85 municipal drains with 52 located in Mississippi Mills. He noted that the new process will standardize the procedures.

9. Watershed Conditions Report

Mr. Mountenay commented on low water conditions across the watershed for the present time of year. Mr. Martin questioned the practice of dropping water levels in the fall. Mr. Mountenay explained that historical records indicate that dropping water levels in the fall is required, however, recent years with lack of rain and snow make it difficult to fill the lakes in the summer. Mr. Mountenay noted that the operating plan on watershed lakes has not changed since the 1960's. It is the amount of precipitation in the spring that has changed.

Mr. Martin suggested that MVC publish information in local newspapers explaining the operating plan to help the general public understand what MVC does and why. Mr. Lehman and Mr. Mountenay agreed to attend a council meeting to explain the historical operation of the dams.

11. Correspondence

Correspondence from Janet Stavinga and Sommer Casgrain-Robertson regarding the posting of the Mississippi-Rideau Source Protection Plan and accompanying Explanatory Document was reviewed. It was noted that comments can be provided by May 4, 2012.

Correspondence from the Ganaraska Region Conservation Authority regarding commercial fill concerns was reviewed for information purposes.

12. Other Business

It was noted that the Tri-Valley Conservation Awards would be held later in the day at the Rideau Valley Conservation Authority office in Manotick.

ADJOURNMENT

The meeting was adjourned at 3:20 p.m.

B04/18/12-7

MOVED BY: A. Snider

SECONDED BY: G. McEvoy

Resolved, That the Mississippi Valley Conservation Board of Directors meeting be adjourned.

“CARRIED”