

**COMMUNITY-BASED STRATEGIES FOR RESOLVING
AGRICULTURAL AND LAND USE CONFLICT**

**TEN STEPS TO CREATING A
LOCAL ADVISORY COMMITTEE**



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Funded by:

The Canadian Agricultural Rural Communities Initiative (CARCI)
Ontario Ministry of Agriculture and Food (OMAF)
Ontario Pork
Sustainable Rural Communities (SRC)
Livestock Environmental Initiative (LEI)

This Guide was prepared as part of a research project entitled Community-Based Strategies for Resolving Agricultural and Land Use Conflict. The entire project results may be viewed at www.waynecaldwell.ca. The researchers would like to thank the funders of this research who are listed at the bottom of this page.

A number of individuals were consulted during the preparation of this Guide. These include members of the Huron Farm Mediation Committee, The Perth County Mediation Committee, the Ministry of Agriculture and Food and the Huron, Perth and Oxford Planning Departments. The assistance of Alicia Evans and Gillian Auld with the layout and design of this report is appreciated.

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Purpose

The purpose of this manual is to assist municipalities and communities with the establishment of Local Advisory Committees as anticipated under the Nutrient Management Act. It is intended as a guide.

This manual:

- outlines key questions municipalities should ask
- suggests how committees can be structured
- explains the purpose of the Committee
- offers suggestions concerning how the Committee might operate
- provides guidance concerning the role of the Committee

Ten Steps to Creating a Local Advisory Committee

Step One: *Is there a need for a Local Advisory Committee (LAC)?*

The first step is to consider the need for a LAC.

Step Two: *Becoming Familiar with Bill 81- The Nutrient Management Act*

The municipality needs to be familiar with the Nutrient Management Act and the role of LACs in the context of this legislation.

Step Three: *Who should be on the Committee?*

The regulation identifies the general composition of a LAC. Beyond this, however, municipalities need to carefully consider who will serve on the Committee.

Step Four: *Establishing the Committee*

- Upper Tier or Lower Tier? Which level of municipal government should establish a LAC?
- Passing a by-law – What are the key considerations in passing a by-law?

Step Five: *Deciding upon approaches to governance*

Once a LAC has been established how will it approach its responsibilities?

Step Six: *Mediation – What are the Options and How to Conduct a Successful Mediation*

Mediation is one of the key responsibilities. A number of directions need to be established early in the process to ensure fairness, consistency, and success.

Step Seven: *Education and Awareness Building- Evaluating the Options*

LACs also have a responsibility for helping to educate the community. A number of key directions need to be established.

Step Eight: *Getting some training*

The LAC needs to be appropriately trained, particularly to carry out its responsibilities related to mediation.

Step Nine: *Ongoing Monitoring and Evaluation*

How will the municipality monitor and evaluate the success of the LAC?

Step Ten: *First Steps- The Committee is formed – Now What?*

Once a LAC is established, it is important to communicate this to the community.

Step One

Is there a need for a Local Advisory Committee?



In Ontario we have witnessed many changes in the relationship between agriculture and the rural community. Agriculture has become increasingly large, intensive, and specialized. Simply put, it is big business. At the same time, as agriculture has changed so has the rural community. With the specialization in agriculture, the once homogenous agricultural landscape is today a combination of many different types of production – from livestock to cash-crop to various specialty forms of agriculture. The result is that “Farmer A” and “Farmer B” may have very different expectations for the countryside. There are also more non-farmers living in the community. They have made significant investment in homes and property and there is greater awareness of the environment and concern for its continued health. They have expectations of a clean and perhaps pristine environment.

Together, the changes in agriculture combined with the changes in the rural community are a recipe for conflict.

Conflict has the potential to be disruptive for communities. It can detrimentally affect both the potential for agriculture production and sour neighbourly relations. Sometimes conflict lasts for years; sometimes it simmers, sometimes it erupts, and sometimes it ends up in the courts in litigation. Generally, however, the principle cause of conflict is poor communication and an early intervention that promotes good communication can often resolve conflict before people become too entrenched in their positions.

A recent study showed that, prior to the Nutrient Management Act coming into force there were nearly 90 municipalities in Ontario that had adopted Nutrient Management By-laws. In most of these areas, there were issues related to the management



of materials containing nutrients and these areas might benefit from the establishment of Local Advisory Committees (LAC). Conversely, there are other areas where nutrient management issues have not been prevalent and in these areas a LAC may have minimal benefit.

Prior to the establishment of the Nutrient Management Act, there were three counties in Ontario (Perth, Huron and Oxford) that had Committees with a specific responsibility to mediate local, agriculturally related conflict. While they did not resolve all situations that they reviewed, their experience was positive.

To determine the need for a Committee, municipalities should ask the following questions:

Are there periodic conflicts between agriculture and residents, involving the management of materials containing nutrients?

Is there the need to educate people within the community about matters related to the management of materials containing nutrients?

If the answer was yes to either one of the above questions the establishment of a LAC is well worth considering.

Step Two

Becoming Familiar With Bill 81 - The Nutrient Management Act



The Nutrient Management Act provides the framework for municipalities to establish Local Advisory Committees but, of course, it does much more. The legislation is the product of lengthy consultation with farm groups, individual farmers, the public, and municipalities and focuses on the connections between nutrients and the environment.

The Act itself is introduced as:

"An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments."

Furthermore, the legislation lists the specific purpose of the Act as follows:

"The purpose of this Act is to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development."

To implement the legislation, the province has released regulations and protocols that provide a series of standards including such topics as construction standards, siting, setbacks, and enforcement, among many others. The legislation and regulations are all available on the OMAF website. The municipal Council and staff will want to have a general appreciation of the legislation and regulation as part of the overall strategy to establish Local Advisory Committees (LAC). The LAC will want to have a more detailed understanding of their role in the context of the legislation. Council and the LAC are encouraged to consult with OMAF staff and to consider the Training Options outlined in Step 8.

Local Advisory Committees in the Context of the Nutrient Management Act.

The Act indicates that the government may issue regulations concerning a whole series of standards. In particular, it specifies that regulations may be issued:

"Providing for the establishment and operation of local committees to assist in the doing of any prescribed matters including mediation of disputes in connection with the management of materials containing nutrients on lands."

The specific approach to these local committees is outlined in Part XII of the Regulation and in the Local Advisory Committee Protocol. The Regulation outlines a role for the Committee that includes Mediation, Education and Consultation. The specific Regulation and Protocols also direct the activities of the Committee, establishing parameters around the Committee, its operation, and processes to be followed. Part XII of the Regulation and the Protocols are attached as Appendix A and B to this Guide. The relevant details from the regulation and protocols are discussed elsewhere within this guide.

Step Three

Who Should be on the Committee?



The Regulation provides direction to municipalities in establishing a Local Advisory Committee but they also provide considerable flexibility. Key directions from the regulations are as follows:

- 1) The Committee shall include a minimum of 5 people
- 2) The Members shall be residents of the community and have knowledge concerning nutrient management practices
- 3) A majority of the members shall be farmers or represent an agricultural operation in the municipality
- 4) At least one member shall not be a farmer
- 5) At least one member shall be a

member of the council or a municipal employee

In addition to the above, municipalities should also consider the following:

General Considerations In appointing committee members, it is important to remember the role of the Committee. Given the potential for mediation, it is important to remember that the Committee is trying to resolve conflict and “mediate” certain disputes. Committee members, therefore, should display particular characteristics:

- they need to be good listeners;
- they need to be patient;
- they need to be objective and consider all sides of the issue;
- they are not to be advocates for one side of a dispute vs. the other side;
- they need to respect the role of the legislation and the various levels of government;
- they should be willing to take training for committee members;
- they need to be team members;
- and be respectful of the need for confidentiality.

Farm representation The regulations require that the majority of members be farmers. First, it is recommended that municipalities work closely with farm groups to ensure a good balance of members with diverse knowledge of farming practices. For example, having each of the main commodity groups represented is likely to be a good idea (this guarantees that, for each complaint reviewed, there is a least one LAC member who has experience with the specific commodity). There are also benefits in appointing additional non-farm residents. While this may lead to a large committee it should be remembered that when a specific “incident” is reviewed this will be completed by a small panel and not the entire committee (more on this later).

Non-farm representation The regulations require that at least one member of the Committee is a non-farmer. Perhaps the key reason for having non-farmers is to bring a perspective to the committee that helps to develop trust, confidence and understanding amongst the non-farm sector; these individuals can bring a different perspective to discussions and help to ensure that the broader community is accepting of the Committee’s work and findings. In some instances, it may be advantageous to have more than one non-farmer on the Committee. For example, if the Committee includes representation from most farm commodity groups, the Committee may be relatively large in which case it would be possible to have a balanced committee with representation from most of the key non-farm sectors. In some communities, this may include a rural non-farm resident, a cottager, and someone from a town or village.

Municipal Representation The regulations require at least one councillor or municipal employee on the Committee. This person will also wear a second hat as either a farmer or non-farmer. This person can make a valuable contribution to the Committee by bringing a municipal understanding to the issues and by sharing information with his/her municipal council. There is the option of appointing more than one councillor as long as the majority of the members are farmers.

Step Four

Establishing the Committee



Upper Tier or Lower Tier?

In most of the province, municipalities will need to ask the question “Do we establish a Local Advisory Committee at the upper tier (County or Region) or do we establish it at the lower tier (town or township)?” The legislation allows the committee to be established at either level. In single tier municipalities, such as Chatham-Kent or Brant County for example, the LAC will be established at the County level.

While there may be reasons to establish the Committee at the local level (for example the County or Region is unwilling to do it), there are benefits to establishing County-(Region) wide committees. Research completed by Caldwell and Ball (2003) into the effectiveness of local mediation committees in Perth, Huron and Oxford County (established prior to Bill 81) found the following advantages associated with a county committee:

1) Volunteers: It will be easier to recruit volunteers from across an entire County (Region) than from a single municipality. If working with the farm groups, for example, these groups are likely to exist at the County (Region) level.

2) Anonymity: Some of the issues to be mediated will be contentious – it is better from a number of perspectives if Committee representatives are not known by the residents they are visiting and vice versa.

3) Learning from Experience and Level of Activity: In some instances the committees may not be overly busy. It is probably better to have one trained Committee at a county level gaining experience than several local committees gaining minimal experience.

4) Administration: Each of the Committees will require a certain amount of administrative support. It will be more efficient to provide this support at a County or Regional level than to repeat it for several local committees.

There are several issues to consider in establishing a Local Advisory Committee.

Partnerships Does the municipality have partners that will contribute to the LAC. Partnerships are important from a number of perspectives. Is there support for the initiative? For example, are farm groups and the general public supportive and are they prepared to work with the municipality?

Membership The municipality will need to determine the membership of the Committee. This is reviewed in Step 3.

Budget The municipality will need to consider issues related to a budget. Municipalities could solicit volunteers for the Committee in which case costs would be negligible. Conversely, municipalities could consider covering expenses (mileage) and offering per diems. In this instance, municipalities will want to establish some parameters around the budget (see Appendix C).

By-law – Passing the By-law

Section 116 (1) of the Nutrient Management Act Regulation states the following: "*A council of a municipality may, by by-law, establish a committee to address nutrient management issues in the municipality.*" Appendix A includes the full text of the Regulation as it relates to Local Advisory Committees. Appendix C consists of a sample by-law to establish a Committee (this by-law is provided for information purposes only- municipalities may want to consult with their solicitor prior to the passage of the by-law).

Step Five

Deciding Upon Approaches to Governance

Having established a Committee and instructed it to mediate certain disputes and engage in activities designed to educate people about matters related to the management of materials containing nutrients, how will the LAC actually work?

The regulation provides the following direction (Section 117):

- 1) The Council of the municipality that establishes a committee shall appoint a chair and one or more vice-chairs from among the members of the committee.
- 2) The committee shall adopt rules of procedure to facilitate its activities and the rules must be consistent with the Local Advisory Committee Protocol.
- 3) The members of the committee shall follow the rules of procedure that apply to the activities of the committee.

The protocols specify that the chair or vice-chair shall assign a panel of three to investigate the incident. In following the Mediation Protocol (Protocol for Handling Nutrient Management Incident Reports), one of the key cautions is for the Committee to avoid situations that may be a spill or violation of any provincial law or regulation. Additional details concerning the operations of the Committee are included in the Regulation and Protocols (Appendix A and B).

Once a LAC is established, it is suggested that an annual meeting occur to update members on the

activities of the Committee and to review any issues or training needs. For the balance of the year, it is expected that “incidents” requiring mediation will result in meetings of a panel of three at the call of the chair or vice chair. It may be helpful for the municipality to provide support to the Committee (meeting notices, etc.).

Step Six

Mediation – Conducting a Successful Mediation



While the regulation and protocols provide considerable detail concerning how a complaint will be processed, the approach that a panel uses in investigating an “incident” is left to the discretion of the municipality and LAC.

While in some instances an actual sit-down mediation with two parties may occur it is expected that in most instances it will take the form of **“shuttle diplomacy.”** This approach avoids bringing the 2 disputants together in the same room at the same time. Shuttle diplomacy implies that the panel will meet with both parties independently, probably on-site, allowing the panel to hear both sides of the issue and to observe management practices. The panel needs to confirm the willingness of both parties to participate in discussions and should immediately withdraw from an issue that is “too hot to handle.” Appendix B and C provide details concerning how

to approach a Mediation. Appendix B includes the Local Advisory Committee Protocol and Appendix C includes a Terms of Reference for Committee functions. Both of these outline the process to be followed for a mediation.

Specific approaches to mediation will be covered in detail in related training materials.

Step Seven

Education and Awareness Building- Evaluating the Options



The Regulation indicates that one of the responsibilities of the Local Advisory Committee is education. Specifically, the regulation states:

119. "A committee or its members may engage in activities designed to educate people about matters related to the management of materials containing nutrients and for that purpose may consult with representatives of the Ministry of Agriculture and Food and the Ministry of the Environment regarding the presentation and content of educational seminars."

Although this topic is left relatively open, education in the community could be targeted to two or more groups. First, farmers themselves will benefit from additional information related to the management of nutrients. In particular, a good neighbour policy is one of the best ways to prevent

conflict. The committee may also find it beneficial to help raise the profile of nutrient management planning. Secondly, non-farmers often have perceptions about how nutrients are managed and a factual and objective presentation may help to explain modern farming practices.

Although the term education has different meanings, ranging from the provision of courses to awareness-building, the Committee will want to be sure that their activities are targeted to the needs of the community. The Committee will want to use the expertise of OMAF staff in developing an educational strategy.

Step Eight

Getting Some Training



The legislation gives Local Advisory Committees two important responsibilities - mediation and education. Both of these have the potential to place the committee in the midst of contentious issues. Tact and diplomacy will be essential. The committee will need to be sensitive to the issues and the process of mediation. Committee members need to be conversant with mediation strategies to ensure that their involvement helps to develop understanding and resolve issues. In fact, the importance of training is reiterated in the Regulation which specifies that "A member of a committee may mediate disputes...if the council of the municipality that established the committee is satisfied that the member has knowledge of mediation practices." Following an appropriate approach to mediation greatly enhances the chances of

success.

Specific training that will benefit Local Advisory Committees will include the following topics:

- the Nutrient Management Act
- Alternative Dispute Resolution focusing on Mediation
- Strategies for Community Education
- Organizing for Mediation
- Communication Skills

OMAF will be offering periodic training for Local Advisory Committees that will cover the above topics. OMAF staff can also be contacted for additional information.

Step Nine

Ongoing Monitoring and Evaluation



Monitoring and Evaluation means different things to different people. Basically, however, it is about monitoring activities to evaluate effectiveness.

The final step in the establishment of Local Advisory Committees is to consider how the municipality will monitor and evaluate their success. To do this, it is suggested that the municipality will need to ensure that certain data is collected. For example:

- How many incidents did the Committee investigate?
- Did the intervention of the LAC help to resolve or diffuse an issue?
- Did the incident reoccur?
- Were the local municipalities (in a two tier system) satisfied with the outcome?
- How many educational activities did

the Committee initiate or contribute to?

- What worked and what didn't work?
- Where there any problems in the operation of the Committee?
- What comments does OMAF or MOE have concerning the success of the Committee?

In many ways, this information can be easily obtained through good record keeping. This would allow municipal staff to review the success of the Committee or the Committee itself may complete its own review on an annual basis. Other options might include inviting OMAF to conduct the evaluation.

The key advantage of monitoring and evaluation is that it will provide direction to the municipality concerning the success of the initiative. This will allow the municipality to alter the approach if needed and to evaluate the merits of the program.

Step Ten

The Committee is Formed – Now What?

In a strange way, the less active the committee the better! Given the key mandate of mediating disputes, an inactive committee may be a reflection of limited issues and conflict. Conversely, it might simply mean that no one knows about the Committee. To ensure that folks know about the Committee, the following actions are suggested:

- 1) If the Committee has been established by the County or Region, make sure each lower tier municipality is aware of the Committee and how to access it. A letter to local municipal Clerks and head of Council would be a good idea.
- 2) Make sure that both OMAF and MOE know about the Committee.
- 3) Make sure other relevant government agencies are aware of the committee (i.e. The local Health Unit and Conservation Authorities).
- 4) Be sure that all farm groups are aware of the Local Advisory Committee.
- 5) Try to reach the general public using the newspaper or the local radio station. In terms of contacting the media, a press release would be useful, although simply contacting a local reporter and telling them that you have a story is likely to get the desired publicity.

6) Alternatively, the Committee might start with an educational initiative. For example, a meeting to review the role of agriculture in the local community might be worthwhile.

For further information contact:
Your local OMAF representative or
www.waynecaldwell.ca
for Local Advisory Committee training materials

Appendix A

Ontario Regulation 267/03 made under the Nutrient Management Act, 2002

PART XII LOCAL ADVISORY COMMITTEES

Definitions

115. In this Part, “committee” means a local advisory committee.

Establishment of committees

116. (1) A council of a municipality may, by by-law, establish a committee to address nutrient management issues in the municipality.

(2) The council shall appoint the members of the committee who shall consist of not fewer than five persons.

(3) The members of the committee shall be residents of the municipality and the council shall ensure that they have knowledge of nutrient management practices.

(4) A majority of the members of the committee shall be persons who are farmers or who represent an agricultural operation located in the municipality.

(5) At least one member of the committee shall be a person who is not a farmer or a representative of an agricultural operation.

(6) At least one member of the committee shall be a member of the council or an employee of the municipality.

Operation of committees

117. (1) The council of the municipality that establishes a committee shall appoint a chair and one or more vice-chairs from among the members of the committee.

(2) The committee shall adopt rules of procedure to facilitate its activities and the rules must be consistent with the Local Advisory Committee Protocol.

(3) The members of the committee shall follow the rules of procedure that apply to the activities of the committee.

Mediation

118. (1) A member of a committee may mediate disputes in connection with the following matters that involve the management of materials containing nutrients on lands if the council of the municipality that established the committee is satisfied that the member has knowledge of mediation practices:

1. Matters that a resident of the municipality reports to the municipality and that do not amount to a contravention of the Act, the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Safe Drinking Water Act, 2002*.

2. Matters that are reported to the Minister of Agriculture and Food or the Minister of the Environment and that either of those Ministers refers to the committee.

(2) The Minister of Agriculture and Food and the Minister of the Environment may delegate, to persons whom they authorize, their power under paragraph 2 of subsection (1) to refer matters to a committee.

- (3) The Minister of Agriculture and Food, the Minister of the Environment and their authorized delegates may use their statutory discretion when referring matters to a committee.
- (4) If a member of a committee who is assigned to mediate a matter in dispute under this section has, either on his or her own behalf or while acting for, by, with or through another, has a pecuniary interest in the matter, whether direct or indirect as described in section 2 of the *Municipal Conflict of Interest Act*, the member,
- (a) shall, before beginning to mediate the dispute, disclose to all parties the interest and the general nature of it; and
- (b) shall not proceed to mediate any question in respect of the matter unless all parties agree to having the mediation proceed.
- (5) If a Director or a provincial officer advises a member of a committee who is mediating a matter in dispute under this section that the matter involves a contravention of the Act, the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Safe Drinking Water Act, 2002*, the member shall suspend the mediation until the alleged contraventions have been dealt with in accordance with the applicable legislation.
- (6) Subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable legislation, a member of a committee who conducts a mediation under this section shall do so on a confidential basis.
- (7) A member of a committee who acts as a mediator of a dispute under this section shall not provide advice that might be regarded as legal advice to any of the parties to the dispute or their representatives.
- (8) The outcome of a mediation of a dispute under this section does not relieve any of the parties to the dispute of the responsibility to comply with the requirements of any Act that governs the management of materials containing nutrients.

Education

119. A committee or its members may engage in activities designed to educate people about matters related to the management of materials containing nutrients and for that purpose may consult with representatives of the Ministry of Agriculture and Food and the Ministry of the Environment regarding the presentation and content of educational seminars.

Consultation

- 120.** (1) In carrying out its powers or duties, subject to subsection (2), a committee or its members may consult with representatives of the municipality that established the committee with respect to issues related to the management of materials containing nutrients, including site plan or building permit issues.
- (2) A committee or its members shall not participate in any way in evaluating, approving or endorsing nutrient management strategies or nutrient management plans.

Reports to clerk of municipality

121. The by-law of the municipality that establishes a committee may require the chair of the committee to provide reports about the committee's activities to the clerk of the municipality at the times that the by-law specifies.

Appendix B

Local Advisory Committee Protocol

For the Regulation made under the *Nutrient Management Act, 2002*

General

Local Advisory Committees (LAC) are committees set up at upper tier municipal levels, and occasionally lower tier, to deal with complaints and concerns regarding agriculture. The membership of the LAC has been outlined in Regulation 267/03, made under the *Nutrient Management Act, 2002*. LACs will not deal with incidents or complaints related to contraventions of environmental or agricultural legislation, such as the *Nutrient Management Act, 2002*, or the *Environmental Protection Act*. The Ministry of the Environment may refer complaints that are local in nature and minor to a LAC for resolution.

LACs can consult with the Ministry of Agriculture and Food (OMAF) and the Ministry of the Environment (MOE) as appropriate, if they have questions regarding the *Nutrient Management Act, 2002*, and its application. The Ministries are a resource to help the LACs and will attempt to provide technical guidance and assistance where possible.

Should a LAC determine, through the course of its mediation responsibilities, that an incident or complaint relates to the contravention of any legislation, the LAC will stop mediation and refer the incident to the appropriate agency.

Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56 as amended, LAC mediations and any reports generated from such mediations, are confidential.

A LAC mediation does not prevent administrative or enforcement procedures from being carried out under provincial or other legislation.

General Procedure

Description of the General Procedure for Handling Nutrient Management Incident Reports

Complaints may be received by municipalities, the Ministry of Agriculture and Food (OMAF) and the Ministry of the Environment (MOE).

Complaint Received by OMAF or MOE

If a complaint is received by either the Ministry of Agriculture and Food or the Ministry of the Environment, MOE will determine if the incident should be referred to the LAC. If MOE determines the complaint is related to an incident is of the type that normally should be referred to the LAC, the citizen filing the complaint will be notified and asked if s/he will permit the incident report to be referred to the LAC. If the citizen filing the complaint does not permit the incident report to be referred to the LAC, the citizen will be notified that the incident report file will be closed. If the citizen filing the complaint will permit referral to the LAC, a written complaint report will be forwarded to the municipality by MOE, which in turn, will be referred to the LAC to be dealt with according to the LAC mediation process outlined below.

If it is determined that the incident is a violation of the *Nutrient Management Act, 2002*, is a spill or could have serious impact on the environment or human health, MOE will follow internal procedures for assessing and responding to the incident. If the violation warrants Ministry response, MOE will proceed with abatement and/or

enforcement responsibilities. If it is decided that the incident does not warrant Ministry response, nor should it be referred to the LAC, it will be documented and filed, or in turn referred to the appropriate agency for further action.

Complaint Received by Municipalities

If the municipality receives a complaint from a citizen, the municipality will assess whether it is a spill or a violation of the *Nutrient Management Act, 2002*. If the complaint does not involve a spill or violation, a written complaint report will be forwarded to the LAC. The LAC will then follow the process below. If the complaint does involve a spill or violation, or if the municipality is unable to determine whether a spill or violation has occurred, the matter is to be referred to MOE and the process should be followed as described above.

Local Advisory Committee Process

- After the LAC receives a complaint report, the Chairperson or Vice chair shall assign a 3- person mediation panel to investigate the incident. At least one member of the mediation panel shall be from the same or a similar agricultural operation as that referred to in the complaint report.
- The panel will then investigate the matter.
- If at any time during the mediation, it is determined that a violation or spill has occurred, the mediation shall be terminated in accordance with the stop mediation procedure.
- If there are no violations and the report raises valid issues, the panel will meet with the parties to reach a resolution.
- At the conclusion of the mediation, the panel will provide its recommendation(s) to the parties for the resolution of the matter.
- The panel's involvement ends. The panel then files the results with the LAC.
- If either of the parties is not satisfied with the outcome of the mediation, they may request a hearing by the Normal Farm Practices Protection Board or request that the matter be referred to the municipality for further action as appropriate.

Stop Mediation Procedure

If at any time during the mediation, it is determined that the incident involves a violation or spill more serious than the original matter referred to the Local Advisory Committee, the mediation is to be terminated in accordance with the stop mediation procedure.

1. The mediation process immediately stops.
2. The panel shall not discuss the complaint further with any of the parties.
3. The panel advises the parties that they must report the issue to MOE.
4. The panel contacts the MOE, forwards the original written complaint report and briefly describes the reason for stopping the mediation.
5. At that point, the panel's involvement is complete. If MOE investigates the incident and determine that a violation did occur, the panel will not be consulted for further investigation or prosecution of the farmer.

Appendix C

Sample by-law establishing a Local Advisory Committee

BY-LAW NUMBER _____, 2003*

CORPORATION OF THE COUNTY OF _____.

A BY-LAW OF THE MUNICIPAL CORPORATION OF THE COUNTY OF _____ TO APPOINT MEMBERS TO THE _____ COUNTY LOCAL ADVISORY COMMITTEE.

WHEREAS THE NUTRIENT MANAGEMENT ACT, 2002 anticipates the establishment of Local Advisory Committees and

WHEREAS it is expedient by the Municipal Council of the Corporation of the County of _____ to establish a _____ County Local Advisory Committee and appoint members to same;

THEREFORE, the Municipal Corporation of the County of _____ enacts as follows:

- 1) That a _____ County Local Advisory Committee be established, which Committee shall operate in accordance with Ontario Regulation made under the Nutrient Management Act, 2002 and related Protocols and the Terms of Reference as set out in the attached Schedule “A”.
- 2) That the following representatives shall be appointed to the _____ County Local Advisory Committee for a period of time from the date of adoption of By-law Number _____, 2003 through until____, 200__ :

(List members. The Committee shall have a minimum of 5 members, the majority shall be farmers with at least one non-farmer and one municipal councillor or municipal employee)
(The County also needs to appoint a Chair and Vice Chair)

- 3) Schedule “A” attached hereto shall form part of By-law Number, ____ 2003.
- 4) By-law Number ____, 2003, shall be in force upon final reading thereof until such time as it is repealed.

PASSED IN OPEN COUNCIL this ____ day of _____, 2003.

, Warden

, Clerk

* The By-law and Terms of Reference are adapted from a by-law to establish the Perth County Agricultural Review Committee (by-law adopted in 2001 and predates the Nutrient Management Act).

SCHEDULE “A”

TERMS OF REFERENCE FOR THE _____COUNTY LOCAL ADVISORY COMMITTEE, 2003*

BACKGROUND:

The ____ County Local Advisory Committee has been established to operate within the parameters of the Nutrient Management Act, 2002. The Act and related regulations and protocols provide a framework for municipalities to establish Local Advisory Committees. These Committees have specific responsibilities for mediation and education concerning matters related to nutrient management. The following Terms of Reference provide an overview concerning how the Committee will function and operate. It is intended that this overview will work in tandem with the provincial requirements and where any contradiction exists between this terms of reference and the provincial regulations and protocols the provincial regulations and protocols shall prevail.

PURPOSE/MANDATE:

The primary purpose of the ____ County Local Advisory Committee is to address nutrient management issues in the municipality. Specifically and according to the Regulation...

Mediation

118. (1) A member of a committee may mediate disputes in connection with the following matters that involve the management of materials containing nutrients on lands if the council of the municipality that established the committee is satisfied that the member has knowledge of mediation practices

1. Matters that a resident of the municipality reports to the municipality and that do not amount to a contravention of the Act, the Environmental Protection Act, the Ontario Water Resources Act or the Safe Drinking Water Act, 2002.

2. Matters that are reported to the Minister of Agriculture and Food or the Minister of the Environment and that either of those Ministers refers to the committee.”

Education

119. A committee or its members may engage in activities designed to educate people about matters related to the management of materials containing nutrients and for that purpose may consult with representatives of the Ministry of Agriculture and Food and the Ministry of the Environment regarding the presentation and content of educational seminars.”

The Committee includes representation from the major commodity groups, farm organizations non-farmers and the municipality. Generally, it will operate as a group of peers with a majority of representatives from the farm community. It is intended that the Committee review complaints and consider inquiries concerning farm management practices and that it will provide advice in respect to same. It may provide an alternative dispute resolution service and has the potential to resolve many agricultural issues locally. The Committee acknowledges and understands that some complaints, specifically those relating to manure spills, clearly fall within the mandate of the Ministry of Environment and therefore the Committee would not become involved with these complaints.

COMPOSITION:

As noted above, the Committee will consist of representatives appointed from the major farm commodity groups in the County, ___ County Federation of Agriculture, and ___ County Christian Farmers, non farmers and municipal representatives. Total number of members is to be ___, consisting of the following:

(In the Perth County committee that predates the Nutrient Management Act, they had representatives from the County Cattlemen's Association, the County Dairy Producers Committee, the County Pork Producers, the Ontario Egg Producers Marketing Board, the Chicken Farmers of Ontario, the County Federation of Agriculture and the County Christian Farmers. Under the new regulations representatives are also required from the municipality and the non-farm sector)

The County shall appoint a Chair and Vice Chair for the purpose of chairing meetings and overseeing Committee operations. The Committee shall appoint a Secretary for the purpose of providing secretarial duties at general meetings and to type reports, correspondence, etc.

It is intended that the entire Committee meet as necessary to discuss central issues, deal with general information/education matters, and review the types of complaints/inquiries the Committee is fielding. For this purpose, the entire Committee should meet at least once a year.

When dealing with a specific complaint or inquiry, a smaller group consisting of not more than three Committee members will be established for the purpose of conducting an on-site investigation of the complaint/inquiry and to formulate conclusions.

COMMITTEE ACTION (the following is intended to compliment the Provincial Protocols for Local Advisory Committees. These should also be provided to every Committee member).

- all complaints/inquiries reviewed by the Local Advisory Committee are to be either in writing to the Clerk of the local municipality, the Clerk of the County of ___, or referred to the Committee by the Ministry of Environment. If the municipality receives a complaint it will first assess whether it is a spill or violation and if it is or the municipality is not sure it will be referred to the Ministry of Environment. Once a complaint is received and it is determined that it is not a spill or violation, the Clerk will notify the Committee Chairman or Vice Chairman immediately in order that the Committee can initiate its review process. In the event that the Chairman or Vice Chairman can not be reached, one of the other Committee members should be notified.
- upon notification of the complaint, the Chairman or Vice Chairman will strike a panel consisting of not more than three of the representatives noted above. It will be the responsibility of this review group to meet on-site with the operator of the farm operation in question to review and discuss the complaint and/or inquiry. The panel may also meet with the complainant to better understand the issue.
- either during or after its on-site meeting with the farm operator, the review group will prepare a brief report outlining its findings and conclusions in respect to the complaint and/or inquiry. Copies of the report are to be provided to the farm operator, the complainant/inquirer, the host municipality, and the County of ___ Planning

and Development Office.

- the findings and conclusions of the review group will take into consideration the issues of good farm management practices and proper land stewardship.
- if during its review, the review group determines that the subject matter should be dealt with by the Ministry of the Environment, the Committee will stop the mediation and immediately refer the issue to the Ministry of Environment.
- at the conclusion of the mediation the mediators involvement ends.
- the Committee may develop a standard form to be used by the Clerk when forwarding a complaint to the Committee. Such standard form may include a check-list to assist in gathering data on the complaint.
- the Committee may prepare and adopt a more detailed procedural guideline for dealing with complaints.

COMMITTEE FUNDING (the following is offered as a suggestion only. It is identical to the approach developed by Perth County and used before the adoption of the Nutrient Management Act.)

- given that the adherence to good farm management practices and the resolution of disputes at a local level are of benefit to all ratepayers in a given area, the cost of operations for the Committee when dealing with a complaint/inquiry should be borne at the local level. Accordingly, the cost of operations will be charged back to the host municipality(s) on a cost recovery basis.
- it is anticipated that Committee operational costs would be minimal, consisting of the \$___ payment to each member attending an on-site meeting and 30 cents per kilometre for travel expenses (approximately \$___ per meeting).
- where the entire Committee is meeting to discuss central issues, deal with general information/education matters, and/or reviewing the types of complaints/inquiries that are coming before it, the costs associated with such meeting shall be borne by the County. The County has stipulated that it will fund no more than two such meetings in any given year.
- the County has passed By-law No. ___, 2003 for the purpose of establishing and appointing the ___ County Local Advisory Committee.