

Bill Pr11

*(Chapter Pr21
Statutes of Ontario, 1986)*

An Act respecting the Township of Mara

Mr. McLean

<i>1st Reading</i>	June 24th, 1986
<i>2nd Reading</i>	November 4th, 1986
<i>3rd Reading</i>	November 4th, 1986
<i>Royal Assent</i>	November 4th, 1986

Bill Pr11**1986****An Act respecting the Township of Mara**

Whereas The Corporation of the Township of Mara considers it desirable that it be given power to acquire real property, including easements in or over real property, that is being used, or intended to be used, for private parks, foot-bridges, foot-paths and waterways; that it is also desirable that the Corporation be given the power to establish a local board to manage, maintain, regulate and control the property so acquired; and whereas the Corporation desires to apportion the cost of the maintenance and regulation among the properties obtaining a benefit therefrom; and whereas the Corporation hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Commission” means the “Lagoon City Parks and Waterways Commission” established under subsection 3 (1);

“Corporation” means The Corporation of the Township of Mara;

“council” means the council of the Corporation;

“private park” means an area of land or beach for the recreational use of those persons referred to in subsection 2 (2);

“shorewall” means a building improvement on a lot or block on a registered plan of subdivision or registered reference plan abutting a waterway and constructed to replace the natural shore at the rear or side of the lot or block;

“waterway” means a lagoon, water channel, canal or passageway for boats including the shore and bed thereof and including any bank of land lying between the shore and the

abutting boundary of any lot or block shown on a registered plan of subdivision or registered reference plan.

By-laws
respecting
acquisition
of lands

2.—(1) The council may by by-law authorize the Corporation to,

- (a) accept conveyances of land and easements in or over land, on a registered plan of subdivision or registered reference plan used or intended to be used for or in connection with a network of waterways and may include private parks, foot-bridges, foot-paths or any of them;
- (b) enter into agreements respecting any conveyance of land or easement under clause (a) and the maintenance thereof;
- (c) manage, maintain, regulate and control any land or easement conveyed under clause (a); and
- (d) provide that the owner of land abutting a waterway owned by the Corporation has the exclusive right to moor boats to the shorewall appurtenant to the owner's land without charge.

Restriction
on use

(2) The use of the land conveyed to the Corporation under clause (1) (a) is restricted to those persons contributing to the maintenance thereof under subsection 8 (1) and their tenants, guests or invitees.

Commission
established
to manage
lands

3.—(1) If land or easements are conveyed to the Corporation under clause 2 (1) (a), the council may by by-law establish a body corporate to be known as the "Lagoon City Parks and Waterways Commission" to manage, maintain, regulate and control lands and easements conveyed.

Local board
R.S.O. 1980,
c. 303

(2) The Commission is a local board within the meaning of the *Municipal Affairs Act*.

Remuneration
and expenses

(3) Any amount paid by the Corporation in respect of the remuneration or expenses of members of the Commission is an expense of the Commission.

Composition
of
Commission

4.—(1) The Commission shall consist of,

- (a) two members appointed from and by council for a term of one year or until their successors are appointed; and

- (b) three members appointed by council who shall be owners or tenants in a registered subdivision in which land has been conveyed under this Act to the Corporation for a term of three years or until their successors are appointed.
- (2) On the initial appointment of members under clause (1) (b), one member shall be appointed for one year, one member for two years and one member for three years. Initial appointments
- (3) All members of the Commission are eligible for re-appointment. Re-appointment
- (4) A member appointed under clause (1) (b) may, in the sole discretion of council, be removed by council at any time. Removal by council
- (5) A replacement for a member removed by council shall be an owner or tenant as described in clause (1) (b). Replacement to be owner or tenant
- (6) A vacancy arising in the membership of the Commission shall be filled by council and any person so appointed shall hold office for the unexpired portion of the term of office. Vacancies
- (7) The Commission may exercise its powers if there are at least four members appointed to the Commission. Exercise of powers
- (8) A concurrent vote of at least three members is necessary to pass any resolution or by-law. Voting requirement
- (9) The Commission shall at its first meeting in each year elect a chairman and if the chairman is absent from a meeting, the Commission may elect another member to preside at the meeting. Chairman
- (10) The meetings of the Commission shall be held at least two times each year and shall be open to the public. Meetings
- (11) The chairman or any two members of the Commission may call a special meeting of the Commission upon giving seven days notice in writing to each member setting out the purpose of the meeting or upon obtaining a waiver from all members of the notice requirement. Special meetings
- 5.—**(1) The Corporation may delegate to the Commission any or all of its powers under clause 2 (1) (c) upon such terms and conditions as may be set out in the by-law. Delegation to Commission
- (2) The Corporation shall, at the expense of the Commission, provide insurance, Council to provide insurance

- (a) for all buildings, structures and equipment owned by or under the care of the Commission; and
- (b) in respect of any public liability that may result from the activities of the Commission or the ownership of the lands or easements conveyed to the Corporation under this Act.

Annual estimates

6.—(1) The Commission shall submit to the council its estimates for the current year at the time and in the form prescribed by council.

Annual report

(2) On or before the 1st day of March in each year, the Commission shall submit to council its annual report for the preceding year including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

Auditor

(3) The Corporation's auditor shall be the auditor of the Commission and all books, documents, transactions, minutes and accounts of the Commission shall, at all times, be open to the auditor's inspection.

Records open to public

(4) The records, books and transactions under the control of the Commission shall, at all reasonable times, be open to inspection by any person.

Reserve fund
R.S.O. 1980,
c. 302

(5) Subject to subsection 165 (2) of the *Municipal Act*, the Commission may establish a reserve fund to meet the cost from time to time of dredging the bed of a waterway or for such other purposes as the council may approve.

Estimates to be budget

(6) The estimates as approved by council shall constitute the budget of the Commission and no expenditure other than those set out in the approved estimates shall be made without the prior approval of council.

Borrowing restrictions

(7) The Commission may borrow money solely from the Corporation with the approval of council on such terms as to interest and repayment as may be determined by council.

Initial appointment of secretary-treasurer

(8) Council may by by-law appoint a person to serve as the initial secretary-treasurer of the Commission for a term not exceeding the balance of the year in which the Commission is formed and two years thereafter.

Head office

(9) The head office of the Commission shall be located in the municipal offices for the Township of Mara for a minimum of the balance of the year in which the Commission is formed and two years thereafter and the cost of such facility,

as determined by by-law of council, is an expense of the Commission.

7.—(1) The council may by by-law require every owner of land abutting a waterway conveyed to the Corporation under this Act to construct and maintain a shorewall, at the owner's expense, to the specifications and within the time limits set out in the by-law.

By-law
respecting
shorewalls

(2) A by-law passed under subsection (1) does not apply to undeveloped land or to an undeveloped lot or block so long as it is registered in the name of the applicant for first registration of the registered plan of subdivision until a building permit in respect of the undeveloped land or undeveloped lot or block has been issued by the Corporation.

Limitation

(3) Where an owner fails to construct or maintain a shorewall in accordance with a by-law passed under subsection (1), the Commission may construct or repair the shorewall, at the owner's expense, if,

Commission
may
construct
or repair
shorewalls

- (a) the Commission gives at least thirty days notice to the owner, by registered mail at the address shown on the assessment rolls, outlining the nature of the work proposed and an estimate of the cost; and
- (b) the Commission,
 - (i) gives the owner the opportunity to make oral or written representation to the Commission as to the necessity of repair or cost of construction or repair of the proposed work if such request is made within fifteen days of the mailing of the notice, and
 - (ii) considers any objection under subclause (i), confirms or varies the proposed work and advises the owner of its decision.

(4) An owner may appeal a decision of the Commission to the court of revision established under section 43 of the *Local Improvement Act* by giving written notice to the Commission and to the clerk of the Corporation within fifteen days of receiving notification of the decision of the Commission.

Appeal to
court of
revision
R.S.O. 1980,
c. 250

(5) Where an appeal has been commenced under subsection (4), no work referred to in the appeal shall be undertaken by the Commission until the court of revision has made a decision or, where an appeal has been further made to the

When appeal
pending

Ontario Municipal Board, the Ontario Municipal Board has made a decision.

Powers of
court of
revision

(6) The court of revision has jurisdiction and power to review the necessity of repair or the cost of construction or repair of the work proposed under subsection (3) and may order that,

- (a) additional estimates of the cost be obtained;
- (b) an inspection and report be furnished by an independent, qualified engineer;
- (c) the cost of any work, including interest, be paid in equal annual instalments not exceeding three in number; and
- (d) the cost of the appeal be allocated between the parties.

Appeal to
O.M.B.

(7) The Commission or the owner may appeal to the Ontario Municipal Board from any decision of the court of revision.

Powers of
O.M.B.

(8) The Ontario Municipal Board has the like jurisdiction and powers as are conferred on a court of revision under subsection (6) and the decision of the Ontario Municipal Board is final.

Entry upon
private
property

(9) An agent or employee of the Commission may enter upon private property for the purpose of,

- (a) inspecting the construction or state of repair of a shorewall to ensure that it complies with the specifications set out in the by-law; or
- (b) constructing or repairing a shorewall in accordance with this section.

Limitations
on entry,
liability

(10) An entry upon private property shall be limited to the duration and extent necessary to perform an inspection, repair or construction of a shorewall, as the case may be, and the Commission shall not be liable for any action for trespass or damages unless negligence can be shown.

Recovery of
expenses

(11) Expenses incurred by the Commission under subsection (3) shall be deemed to be taxes and may be levied and collected by the Corporation on behalf of the Commission in like manner and with the same priorities as municipal taxes.

8.—(1) The expenses of the Commission as set out in the estimates approved by council, including any deficit but excluding the repair and construction of shorewalls, shall be apportioned according to a formula determined by by-law of the council and levied by the Corporation upon property that has as a benefit to the owner thereof a registered right to use the waterways and private parks conveyed to the Corporation under clause 2 (1) (a) in common with other owners of property in the subdivision.

Apportionment of expenses of Commission

(2) A by-law or an amendment to a by-law passed by council under subsection (1) does not come into force until approved by the Ontario Municipal Board.

Approval of O.M.B. required

(3) Notwithstanding subsection (1), the following criteria apply to the formula determined by council:

Criteria for formula

1. Each residential unit, regardless of size, value or type of ownership shall be apportioned at the same amount.
2. Vacant lots or blocks of land zoned for single family residential use or having a zoning designation not included in this subsection or in a by-law passed under subsection (1) shall be apportioned at the single residential rate.
3. Vacant lots or blocks of land located within a registered plan of subdivision and subject to a zoning by-law prohibiting the development thereof shall be apportioned at a rate equal to one-half of the single residential unit apportionment.
4. Vacant parcels of land composed of one or more lots or blocks and zoned for multi-residential use shall be apportioned at a rate of two times the single residential rate or at a rate of one-tenth of the number of residential units permitted under the zoning by-law, whichever is greater, until the first year after the year in which a building permit has been issued in respect of the parcel, whereupon the formula established by council shall apply thereto.
5. Vacant parcels of land composed of one or more lots or blocks and zoned for commercial or industrial use shall be apportioned at a rate of two times the single residential unit apportionment until the first year after the year in which a building permit has been issued in respect of such commercial or

industrial lands whereupon the formula established by by-law of council shall apply thereto.

Limitation

(4) A by-law passed under subsection (1) and the criteria established under subsection (3) do not apply to undeveloped land or to an undeveloped lot or block on a registered plan of subdivision which,

- (a) continues to be registered in the name of the applicant for first registration of the registered plan of subdivision; and
- (b) abuts a waterway which remains in an undeveloped or unopen state or has not been conveyed to the Corporation under this Act,

until the first year after the year in which a building permit in respect of the undeveloped land or undeveloped lot or block has been issued by the Corporation.

Recovery of amount levied

(5) The amount levied by the Corporation under subsection (1) shall be deemed to be taxes and shall be added to the collector's roll and collected in the same manner and with the same priorities as municipal taxes.

Appeal to court of revision

(6) An owner of land may appeal the apportionment of expenses of the Commission as determined under subsection (1) to the court of revision established by council by giving written notice to the Commission and to the clerk of the Corporation within fifteen days of receiving from the Corporation notice of the amount levied against such owner's land.

Power of court of revision

(7) The court of revision has jurisdiction and power to review the proposed apportionment of expenses and may correct,

- (a) the names of the owners of the lands;
- (b) the number of apportionable units located on the lands; and
- (c) the number of single residential unit apportionments to be levied thereon.

Idem

(8) Where it appears to the court of revision that any parcel of land or lot or block that has not been made subject to the rate fixed under this section should be made subject to the rate, section 50 of the *Local Improvement Act* applies with necessary modifications.

(9) The Commission or the owner may appeal to the Ontario Municipal Board from any decision of the court of revision.

Appeal to
O.M.B.

(10) The Ontario Municipal Board has the like jurisdiction and powers as are conferred on a court of revision under subsection (7) and the decision of the Ontario Municipal Board is final.

Power of
O.M.B.

9. Where council has enacted a by-law under paragraph 33 of section 208 of the *Municipal Act*, it may delegate to the Commission the authority to cut or remove weeds in the waters of Lake Simcoe adjacent to the private parks and may charge part or all of the costs related thereto to the Commission.

Delegation
to
Commission
R.S.O. 1980,
c. 302

10. If no by-law is passed establishing a Commission under subsection 3 (1) or if the Commission is dissolved, all the powers and duties conferred on the Commission under this Act shall be exercised by the council.

If no
Commission
established

11. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

12. The short title of this Act is the *Township of Mara Act, 1986*.

Short title