

November 19, 2020

Mayor Weber and Lambton Shores Council
Amtelecom Pkay.
Forest, Ontario

Re: Gypsy Moths, 2021

Dear Mayor Weber and Councillors;

Thank you to Councillor Dan Sageman for requesting our citizens group's specific response in regards to CAO Kevin Williams' Report 06-2020 about the Gypsy Moth Outbreak. Since the public outcry to this issue has resulted in an enormous number of emails and letters to the municipality and individual councillors, we limit ourselves here to summarizing in general terms our group's central concerns; this in no way undermines the perspectives outlined personally by others in response to CAO Williams' report. There are myriad possibilities to which one might reasonably object and we do not wish to limit that response.

To keep messaging clear and on-topic, we are responding *directly to segments of the CAO's report*. We have highlighted in blue text the CAO's assertions in his report, and then made our responses to those assertions, below his.

Recommendations:

THAT staff develop a resource page on the Lambton Shores website in order to share third party information related to the lifecycle and management of the pest including the location and nature of any known neighbourhood-planned gypsy moth control initiatives on private property; and
THAT prior to January 31, 2021, the Municipality direct-mail all Lambton Shores property owners, to advise of available website resources and neighbourhood contact information in order that the property owner can make informed decisions that best fit their individual situation; and
THAT the municipality support the control of gypsy moth on lands adjacent to its own by not objecting to any third party BTK spray initiative; and
THAT the Municipality of Lambton Shores supports any known aerial BTK gypsy moth spray initiative by facilitating the necessary permissions/applications to the Ontario Ministry of Environment, Conservation, and Parks to enable alternate forms of notification and to Transport Canada to enable low flying aircraft.

This list of recommendations is premised on a "do nothing" approach that did not investigate, compare or evaluate the merits of a municipally-led spray programme against a privately-organized effort. The report provide Council with inadequate information because it assumed *one* path forward.

We believe, once review is completed of the constructive details presented in this and previous correspondence, you will come to the conclusion those recommendations will need to be revised to reflect a pro-active, more effective and efficient Municipally led "do something" approach. To those of you who do not agree, let me say, there is no sin in changing your mind. In fact, in the face of science and other municipalities' models, this would be the wise and prudent course.

Background:

THAT staff investigate options for gypsy moth control in consultation with other governmental and non-governmental organizations with affected lands in Lambton Shores; and
THAT, prior to December 1st, staff prepare a report to Council advising of any control plans being proposed by the consulted organizations, including opportunities for private property owners to participate in a 2021 gypsy moth control program. Carried 20-0623-12

Respectfully, we do not believe those resolutions have been fulfilled by the CAO Report. Adequate consultation has not been done with other governmental or non-governmental organizations, nor have options been given for private property owners to participate in a control program.

In regards to consultation, although we have not contacted every land steward the CAO listed, the first on the list was the County of Lambton. We received this correspondence from Jason Cole, P.Eng., General Manager, Infrastructure & Development Services, County of Lambton:

“The County of Lambton continues to monitor and assess options for control of Gypsy Moth on its properties, including both the Lambton County Heritage Forest and Lambton Heritage Museum. We are working with the St. Clair Region Conservation Authority, our managed lands partner, and the Ministry of Environment, Conservation and Parks to conduct an egg mass assessment at these two locations in the next couple of weeks, once the foliage has fully dropped. We will review this information in conjunction with the province’s Gypsy Moth impact reporting, once released, to consider an action plan and costing for these properties.

It is our intention to report back to Lambton County Committee A.M. on January 20, 2021 and Council on February 3, 2021 with a recommendation for the County’s participation in a BTK spray program on the identified properties. It is expected that the report will consider cost, potential woodlot impacts, visitor experience, neighbouring property impacts, and natural infestation cycle.”

To be generous, we will allow the CAO likely missed adding one word to his report on the status of other government entities, “yet”. The County may not have been planning action at the time the CAO connected with them; however, it is likely that they are now. Additionally, Mayor Mike Bradley, with whom we spoke via telephone on November 18, said it is “highly likely” the County will undertake to spray its own lands.

As far as control program options, as previously stated, the CAO recommendations are only premised on tax payers controlling gypsy moths privately, offering “information” and “not interfering or objecting” as assistance to those private actions. “Not” doing something, does not qualify as doing anything, and although there is another option available--a municipally-led spray programme--the report does not even attempt to investigate that alternative.

October 7th Gypsy Moth Invasive Species Centre Seminar, and Its “Take Home” Points:

The presentation [from the Invasive Species Centre] noted that it is not realistic to expect any control program to eradicate the pest, but rather to assist in mortality of the larvae, in an attempt to keep any defoliation rates below 50% until such times as natural factors and predators more significantly collapse the population”

It is very difficult to predict population levels from year to year

- Pest Management initiatives are like insurance – and depend on individual risk tolerance
- Control methods will not drive the outbreak to zero – they just reduce numbers in order to enable natural predators/parasites to take effect.
- There is no doubt that gypsy moth is a nuisance to many landowners – and causes varying levels of stress to trees.

According to our discussions with Bio Forest, a consulting firm extremely experienced at conducting egg mass surveys, and Paul Zimmer of Zimmer Air – prediction and control of the invasive species is entirely possible, but dependent on scientific monitoring and mapping of where the severe outbreaks are occurring – accomplished by conducting egg mass surveys. From those surveys, maps are created to pinpoint exactly where measures should be taken, based on the severity of the infestation.

From Paul Zimmer of Zimmer Air:

“London, Burlington, Oakville and Hamilton have carried out their egg mass counts and 3 of those municipalities have already contacted us to advise us they will be spraying. I am waiting for others to finish their process.

If you can't rely on egg mass counts I am not sure what you can rely on. It is the standard in the industry and is quite accurate. Outbreaks can still occur in areas where lower egg mass counts were because of blow ins so maybe that is what Kevin is referring to as being not that reliable.

I will dispute the 50% effectiveness and I can assure you that Taylor (Taylor Scarr, Canadian Forest Service) concurs with me. He knows the Gypsy Moth and understands the benefits of targeted aerial applications. If he said 50% it was taken out of context. With btk 100% control is not expected or the goal. Saving foliage and reducing stress on the trees is. Allowing residents not to suffer from the effects of the caterpillar is the side benefit. A program carried out properly at the correct timing and rate will provide controls at a much higher level than 50%”

Furthermore, we in the citizen group take exception with the word “nuisance” used in this context from the CAO Report. “Nuisance” does not begin adequately to describe thousands of larvae raining excrement on property, vehicles and belongings, the skin rashes, the cough, and the ten weeks of prime outdoor time stolen from those who experienced a severe infestation during a pandemic in 2020. If it was just a “nuisance”, do you truly believe you would have received the number of emails and letters on the topic? We have come to the conclusion that it is impossible to understand how debilitating a severe infestation of gypsy moths is without first-hand experience.

CAO Williams suggests: Although the neighbourhood groups have been moving toward a self-organized aerial spray, some participants were also looking for the municipality to clarify what actions it would or would not be taking before they continued their organizational efforts.

As per our letter entered into correspondence at the Council Meeting on November 10th, this statement is incorrect. The overwhelming consensus of the group was for a municipally-led spray program, and the group was working towards receiving a commitment from the municipality in this regard. Because each area cannot – for a variety of reasons—organize a group area spray, requiring each property owner to contract spraying individually, it was communicated that it would be difficult, if not next to impossible, for groups to coordinate aerial sprays.

CAO Williams writes: Staff have also talked with Zimmer Air to ask if/how the municipality can assist both the operator and the property owner in undertaking an aerial spray program. Suggestions include:

- providing assistance with public notifications of spray activity leading up to and at the time of application, including making application to the Ministry of Environment, Conservation and Parks for approval of an “alternate means of notification”, on behalf of the applicator and landowners, and
- not objecting to the aerial application of BTK on lands immediately adjacent to municipal property, and
- providing Transport Canada with permission/support from the Municipality to enable low flying aircraft for the purposes of the spray application.

According to Paul Zimmer, he was **never asked** about a municipally led spray program – he was only asked to provide what could be done in regards to a private one. He writes:

“I have talked and corresponded to CAO Kevin’s inquires numerous times since we first flew him to aerially view the defoliation last June. The point of the conversations has always been what can the municipality do to help ZASI establish a privately run program...”

Financial Impact

CAO Williams says if the Municipality undertakes a special direct-mail initiative to all 7,800 property owners, the cost will be \$10,000. This cost can be reduced if inserts are provided through existing utility billing cycles. The development of social media and/or website materials can be done through existing administrative resources.

As the report did not evaluate the costs of a municipally-led spray programme, Council was not given the information necessary to make an informed decision. As an aside, but again one worth investigation, the Mayor of Sarnia told us via telephone that the cost for Sarnia to spray was \$90,000 and it came from the General Tax Levy. The Gypsy Moth Action group has been asking for the Municipality to execute a spray program because it makes the most financial sense. To be clear, we are not asking the municipality to pay; it has always been our suggestion that you recover costs of the spray from taxpayers – however, it will be far cheaper for land owners if the municipality leads the program because suppliers have to charge individuals separate administration fees. The Municipality only gets charged one. The administration fee is approximately \$375.00 per property owner. In the attached CAO Report to Council for Pelham, near Niagara, they based pricing on 250 properties, subsidized slightly by their municipality.

From the Pelham CAO’s report (not included in CAO Williams’ report):

“If a Gypsy Moth Control program is approved, Council may consider the imposition of a *mandatory* cost recovery program for affected homeowners to help offset some of the cost requiring the enactment of a fee by-law. The estimated cost to the 250 benefitting property owners would be approximately \$216 (plus HST) per property. This estimation is based on the following formula:

$$\frac{(Total\ Cost) - (Town's\ Portion)}{Number\ of\ Benefitting\ Properties} = \frac{\$79,000.00 - \$25,000.00}{250} = \$216”$$

In addition, members of the Lambton Shores Gypsy Moth Research Group received this rough estimate in an email from Paul Zimmer:

“I use the Dalton subdivision as an example. The councilor and resident there sent me a request for pricing. Using our current formula I roughly calculated that there subdivision encompassed 25 acres and approximately 64 lots.

On a private run program we would charge \$22,848 or approximately \$913.92/acre. Depending upon how many of the residents signed up some discounting would be applicable but no more than 15% for the entire area.

If the municipality had assumed the program and passed a bylaw we would have sprayed the 25 acres put additional 9+/- municipal acres within the subdivision totaling \$12,376, or approximately \$190/lot to the landowner.

Please note these are just rough numbers based on that particular subdivision using the cheapest pricing we have previously charged to other municipalities. Each area would be different but there would be savings. Allowing people to opt out and our job gets a lot harder to do which is reflected in the price.

There is also the issue of HST. If Lambton Shores were the customer we would charge them the HST and they would recover it. I am not sure if they have to download that 13% to the taxpayer or not.”

\$375.00, plus land area costs of approximately \$125.00 per acre, versus approximately \$216.00 or less per property owner is a substantial savings. However, the money aspect pales in comparison to the administrative time savings.

Further to CAO Williams' report, there are other, more time-sensitive issues to consider. According to Paul Zimmer, his spraying "dance card" is already more than 50% full. He has also communicated that his organization does not have unlimited capacity, and in all likelihood will not be able to accommodate every property owner if they have to administer every spray contract separately. This may leave many property owners with no real recourse to fight gypsy moths, as, per US Forestry – banding trees, removing egg masses and daily attempts to control gypsy moths in severe infestation areas accomplishes very little in the face of hundreds of thousands of larvae.

Again, quoting from Paul Zimmer:

"The problem is we have spent almost 6 months getting here with only 4 months to our signup deadline. That will move very quickly. There are also other issues. While you folks are trying to get your municipality to move we are being contracted by other municipalities and our dance card so to speak is 50% full. Even at 100% capacity we can add to our capability but we cannot contract and map 3,000 participants, increase our twin engine helicopter fleet and purchase all the necessary equipment to get it on line if those contracts come in March 31st. Logistically impossible for a private program of this size and scope."

In Closing

We respectfully ask Lambton Shores Council to **review the attached short report from Pelham** that evaluates options succinctly. It offers a clear contrast to the report of CAO Kevin Williams. If further information is needed, by councillors, we suggest requesting a response from Patty Ross, who is the Sarnia staff person tasked with responsibility for that municipality's forests; she has spoken to members of our group on the record about why Sarnia chose to execute a by-law mandated spray program. Additionally, we suggest you speak with **Sarnia mayor Mike Bradley, a self-confessed cynic about spraying and a person who never advocated municipal control over private property rights**. He can tell you why **he changed his mind, and why you might consider doing so**, too. We want you to make this decision with access to all information that is currently available, not just what might be construed as relevant to our Lambton Shores' citizens' group's interest.

We also submit that an egg mass count to verify target spray areas and to allow for mapping out where Transport Canada permits for flying are necessary, as well as a consideration of plans for road closures. With budget deliberations, and then Christmas approaching, time is of the essence for staff to implement cost recoveries within the property tax system, and for our staff to create a "mailer" that would accompany utility bills sent to tax payers in early January.

We realize some Councillors have received disparaging and rude emails. Please know that *was never intended*. We submit that our public representations to our elected officials and staff are professional, courteous, and intended to create dialogue. Residents who have gone through the severe infestation are understandably passionate about the subject, and, after spending months dealing with the pest itself, then organizing and researching science and expert analyses for best ways to ensure this infestation at its current levels never happens again, are likely reaching their breaking point. This experience, in conjunction with seeing the CAO's report that essentially disregards and belittles all of our research efforts and lived experiences, is simply too much. We have heard the Councillors' chief reason for not endorsing even a **targeted area** aerial spray – because they don't want to infringe on the rights of private citizens. However, that argument to many seems convenient, overly simplified, and also hypocritical. Gypsy moths are the new 'fire': our municipality requires that we all pay taxes to support the threat that fire mounts to our individual properties and those of our neighbours. Similarly, when the municipality decided that all residents needed municipal water, regardless of whether residents had private wells that passed MOE inspection, those people had to accept the municipality's decision: all would be billed for municipal water. And they did. Gypsy moths are the new fire and you cannot choose to opt out. We are a community, and we must stand together against this clear and present threat.

The pandemic has shown us that the greater good trumps personal inconveniences. By-laws to mandate wearing masks and keep socially distanced benefit all. To reiterate: Entire cities are mandated to go on public water and

sewer systems – regardless of whether private citizens would prefer to use wells and septic systems. We all pay for fire and policing, or even to cover costs of skating at somewhere like the Legacy Center, and we are not expected to deal with our own fires or become crime fighters. We get this. We all pay for education, or for skating, or for street lights in parts of our municipality, even though many of us don't have children, don't skate, don't drive cars or walk at night. We all have to pay insurance – we can't just opt out.

Comparisons have been made to the Emerald Ash Borer – however, we believe such a scenario is not comparable. The Ash Borer affected only Ash trees; there really was no effective treatment at that time, and the infected trees did not rain down excrement and larvae on humans causing rashes and breathing difficulties – and holding entire communities hostage indoors during the most beautiful part of the year. There is a solution to the Gypsy Moth problem, we just have to work together to achieve it. Please, please hear our plea.

We would suggest that in addition to informing tax payers of a municipally led gypsy moth control program, education programs that would be aimed at the extremely small percentage of residents who don't yet understand that BTK is a bio-insecticide – not a pesticide are essential. Dan Sageman told our spokesperson that he estimated opposition to be at about 10 per cent of his constituents' complaints, but even if that number is closer to 20 percent, we respectfully suggest that education could and would reduce that figure. Btk is an organically certified application that even organic food producers can use on their vegetable produce and keep their certification. It will be far worse if residents are forced, in sheer desperation, to use pesticides on their private properties to deal with Gypsy Moths.

Thank you again for hearing our concerns in regards to the CAO Report, and our plea for immediate action to combat further economic, environmental and personal repercussions of a potentially catastrophic gypsy moth infestation in 2021.

Yours very truly,

A handwritten signature in black ink, appearing to read 'R. Smith', written over a light blue horizontal line.

Dr. Romyne Smith Fullerton,
Spokesperson, Gypsy Moth Citizens' Action Group

SC-13/2019 - Special Meeting of Council

April 23, 2019

5:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

Pages

1. **Call to Order and Declaration of Quorum**
2. **Approval of the Agenda**
3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Staff Report Requiring Action**
 - 4.1 **2019 Town of Pelham Gypsy Moth Infestation** 1
5. **Resolution to Move in Camera**

Section 239(3.1) - Educational or training sessions
6. **Rise From In Camera**
7. **Confirming By-law** 15
8. **Adjournment**

Concept: How Might We Respond to the Gypsy Moth Infestation in the Town of Pelham

Background:

Whereas Council directed staff through the April 1, 2019 Public Works Report “Control of Gypsy Moth Outbreak in the Town of Pelham” to proceed with an urban infestation survey, this report serves to inform Council on the degree of gypsy moth infestation in the Town and propose a control strategy to reduce the damage to the urban forest and public lands in the areas surveyed, and to limit the spread of the infestation to other areas.

In 2017 staff began to receive concerns from residence regarding the emergence of Gypsy Moths in urban areas surrounding Fonthill, specifically Hillcrest Park which is located adjacent to Pancake Lane and Blackwood Crescent. In 2018 staff, by direction of Council, initiated the aerial spraying to reduce the infestation in Hillcrest Park (6.47 acres). Throughout the summer of 2018, Public Works Staff received photos of defoliation and reports of the presence of gypsy moths from approximately 116 citizens inside the urban boundary of Fonthill, Ridgeville and Fenwick.



Image 1 – Hillcrest Park aerial application May 2018



Image 2 – Gypsy moth larva – Memorial Drive 2018.

In the past, effected municipalities have worked together to assist with the preparation and public awareness of the infestation. Their assistance included funding of the pre-spray co-ordination & the treatment of their own lands. In 2019, the Township of West Lincoln joined the Town of Pelham to work with Trees Unlimited and Zimmer Air Services to prepare for the 2019 spring infestation.

To optimize spray efficacy, reduce Gypsy Moth populations, minimize host tree defoliation and reduce the expansion of the outbreak to other areas in the Town, a program for the aerial spraying is proposed to be conducted over the infested areas within the urban boundary of the Town of Pelham, as delineated through the surveying process. The determination of the aerial treatment zones is dependent on a number of factors including the density, size and distribution of egg masses, tree species, ground cover, and the existing condition of the trees related to other stress factors. Both public and private trees will be sprayed in urban areas under this program. It is not logistically possible to treat only street trees or omit individual properties when aerial applications are performed. The Egg Mass surveys and Urban/Rural Spray Blocks have been provided as an attachment to this report.

Adverse weather conditions such as wet, cool or windy conditions at the time of the proposed spraying may impact the program causing delays or not all areas being completely treated. Areas that do not meet the criteria established by Trees Unlimited for a spray program will not be included. Affected

property owners who do not meet the criteria will be advised as to how to implement integrated pest management strategies to reduce the population size on their properties.

Two aerial applications of *Bacillus thuringiensis kurstaki* (Btk) are required, typically beginning in mid-May and should be completed within a ten to fourteen day time frame. Btk is a naturally occurring, soil borne bacteria that only targets the larvae of insects within the order Lepidoptera (moths and butterflies). Because Aerial application of Btk is applied in early May before food plants for butterflies develop the impact on other butterfly populations is minimal. The active ingredient in Btk work only in the digestive system of the larvae and these conditions are not found in humans, mammals, birds, or other insects. Btk is one of the few chemicals that is registered for use for organic farming practices.

Although Gypsy Moth populations will be reduced within the proposed treatment areas, not all the gypsy moth caterpillars will be eradicated. Results will be variable between spray blocks and residents will observe some Gypsy Moths living in the treatment areas following the application; however, if the defoliation rates can be reduced, the overall tree mortality rates will also be lowered. As 2019 is the third year of the infestation within the Town of Pelham, it is unlikely that the population of gypsy moths would be high enough to warrant further treatment in 2020 as it is suspected that populations may begin to collapse.

The *Municipal Act, 2001*, Section 128, authorizes a local municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause a public nuisances. During past infestations in Ontario, Councils of several larger municipalities including the City of Mississauga, and Hamilton declared the infestation of Gypsy Moth to be deemed a public nuisance particularly given that if left unchecked would lead to devastation of the natural environment with in urban areas with the defoliation of many trees.

Alternatives for Consideration:

Alternative 1 a)

Council may decide to implement a Gypsy Moth Control program to include the aerial spraying of trees on municipally owned lands and upon private urban lands within the affected areas identified through the surveys to be at severe infestation levels. The maximum total area to be sprayed would be approximately 165 acres which would include of 85 acres private urbans lands and 80 acres of municipally owned properties, 30 urban acres & 55 rural acres, including unopened road allowances. The cost of this program would be approximately \$79,000 (plus HST) but could fluctuate mildly due to permit costs, application restrictions by federal and provincial agencies (equipment & road closure

requirements). If this Alternative is chosen, the Town Clerk be authorized to introduce a nuisance by-law to declare gypsy moth a nuisance pest as attached to this report.

Alternative 1 b)

If a Gypsy Moth Control program is approved, Council may consider the imposition of a *mandatory* cost recovery program for affected homeowners to help offset some of the cost requiring the enactment of a fee by-law. The estimated cost to the 250 benefitting property owners would be approximately \$216 (plus HST) per property. This estimation is based on the following formula:

$$\frac{(Total\ Cost) - (Town's\ Portion)}{Number\ of\ Benefitting\ Properties}$$

$$=$$

$$\frac{\$79,000.00 - \$25,000.00}{250}$$

$$=$$

$$\$216$$

Alternative 1 c)

If a Gypsy Moth Control program is approved, Council may consider providing full program funding for Urban Area spraying from the Levy with *no attempt* to recover costs from benefitting private property owners.

Alternative 2

Council may decide to implement a Gypsy Moth Control program to aerial spray only municipally owned lands and unopened road allowances identified through the survey to be at severe infestation levels. The maximum total area to be sprayed would be dependent on the existing operation budget allocation of \$25,000.00 for the program co-ordination and aerial spraying.

Alternative 3

Council may direct staff to “do nothing” and allow nature to run its course. This alternative is not recommended based on the following impacts:

Environmental

- Reduced Tree vigor
- Tree crown dieback and mortality

- Further reduction of the Urban Canopy
- Reduced shade, dry soils
- Effects on air quality, sound reduction, heat sink effects, etc.
- Increased pesticide contamination due to uncontrolled private application

Human Health

- Allergic reactions to hairs, wing scales including rashes and skin irritations, respiratory tract irritations, eye irritations
- Psychological reactions
- Hazard trees, dead branches and tree falls
- Increased exposure to chemical pesticides

Economic Impacts – Costs to Property Owners

- Pesticide treatments privately undertaken
- Cleanup of insect body parts
- Pruning dead branches; dead tree removal and replacement
- Rural property owners have organized their own cooperative spray program

Economic Impacts – Costs to the Municipality

- Increased tree inspections
- Increased staff response to citizen concerns
- Tree pruning and maintenance
- Tree removal and replacement
- Reduced use of infested parklands and recreational trails

The potential impact on other Forestry programs could be significant if staff is directed to take a “do nothing” approach. This would result in an increased backlog of work orders for City owned trees if this pest is not controlled and allowed to spread. There is the potential for hundreds of dead and/or hazardous trees requiring attention, creating other budget pressures.

The Challenge:



HWM implement an Aerial Tree Spray program to protect the urban forest as well as municipal properties in the Town of Pelham from the Gypsy Moth Infestation.

HMW introduce a nuisance by-law to declare gypsy moth a nuisance pest.

Our Recommended Solution:

BE IT RESOLVED THAT Council receive the report, 2019 Town of Pelham Gypsy Moth Outbreak; and

- 1. That staff be directed to implement a Gypsy Moth Control program an Aerial Tree Spray program involving the aerial spray of the biological control agent Btk to include both Town and privately owned trees within the identified affected areas to control the larval stage of the European gypsy moth which causes defoliation of trees;**
- 2. That an Implementation and Communication Plan be developed, providing defined treatment areas, measures to mitigate public concern, communication and cost recovery plans;**
- 3. That staff coordinate a process whereby a portion of the cost for aerial spray may be received from affected property owners to help offset the cost of the control measures;**
- 4. That the appropriate nuisance by-law to declare gypsy moth a nuisance pest be passed and enacted.**

Rationale:

Through the infestation surveys completed by Trees Unlimited it was found that infestations within the Town of Pelham have reached severe outbreak levels which will lead to defoliation and tree loss. Town staff have received over one hundred reports of gypsy moth infestation and requests for spraying from citizens concerned about the health of their trees and the enjoyment of their properties.

Measure of Success:

Success would be achieved if a Gypsy Moth Control program be successfully implemented with no risk to public health that effectively reduces the gypsy moth population and reduces defoliation of the tree canopy.

Milestones:

N/A

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. XXXX (2019)

Being a by-law respecting the gypsy moth

WHEREAS, the Council of the Town of Pelham (“Council”) deems it necessary to take steps to limit the impact of gypsy moth infestation on trees within the Town’s Urban Boundary, so as to help preserve its tree assets and to reduce the consequences to the well-being of the public due to the loss of trees;

AND WHEREAS, section 128 of the Municipality Act, 2001, S.O. 2001, c.25, as amended (“the Municipal Act”), permits a local municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or come become, or cause a public nuisances;

AND WHEREAS, section 10(1) of the Municipal Act authorizes a municipality to provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS, section 10(2) of the Municipal Act authorizes a municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality;

AND WHEREAS, Council has considered the research and surveying conducted by staff and an external consultant on the levels and effects of the gypsy moth infestation in certain areas within the Town;

AND WHEREAS, Council is of the opinion that the level of gypsy moth infestations in certain areas within the Town constitutes a matter of public nuisance or could become a public nuisance;

NOW THEREFORE THE MUNICIPAL COUCIL OF THE
CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. The gypsy moth infestations in areas identified by the Director of Public Works as severe in nature and deemed a matter of public nuisance in the Town of Pelham.
2. The Director of Public Works is authorized to implement an aerial spray program using the biological control agent *Bacillus thuringiensis* subspecies *kurstaki* (Btk) In and around the proposed spray areas identified in the Public Works Report “2019 Town of Pelham Gypsy Moth Infestation” where the Director is satisfied that the established criteria for the aerial spray program are met.
3. The Director of Public Works is authorized to implement a gypsy moth control aerial spray program using the biological control agent *Bacillus thuringiensis* subspecies *kurstaki* (Btk) in and around Public Street Trees within the road allowances and trees on private lands within the Town found within the areas identified in the Public Works Report “2019 Town of Pelham Gypsy Moth Infestation” where surveys have been carried out by the Director confirming that the treatment threshold has been exceeded and the Director is satisfied that the established criteria for the aerial spray program are met.

4. This By-law shall come into force and effect on the date of its enactment.

ENACTED and PASSED this xx day of xxxxx, 2019

MAYOR M. JUNKIN

TOWN CLERK NANCY J. BOZZATO

2019 Pelham Gypsy Moth Egg Mass Surveys

#	Location	Severity	Notes
1	Hurleston Park	low	<ul style="list-style-type: none"> - Park is very small (<1 ac.) All trees are young - no EM's. - In ravine behind park there are approximately 10 trees with >10 EM/tree. This area may actually be in Thorold. - Since 2009, dumping along hydro-corridor & ATV activity have increased. - Invasive Species: tartarian honeysuckle and European buckthorn.
2	Gordon L. Klager Park	low	<ul style="list-style-type: none"> - Mainly open ball field & playground. - Ditch off property on east side has large trees being effected by proximity to black walnut. - This park backs on the same ravine as Hurleston Park. No EM observed in ravine. - 3 EM located on path (1) and a neighboring house's black walnut (2). - Invasive Species: European buckthorn.
3	Marlene Stewart Streit Park	low to moderate	<ul style="list-style-type: none"> - Perimeter is forested. Tree sp.: Be, By, Bw, Op, Aw, Wi, Cm, Hs, Pw, Cb, Ob, Msu, Tp, Cw, Ew, Wb, Or. - Sloped hillside behind pool has an avg 15 EM/tree on preferred sps. - 1 Ag with 20-50 EMs - Old EMs on a few willow
4	Canboro Road & Concord Street	severe	<ul style="list-style-type: none"> - Forested valley surrounded by homes. Tree sp.: Or, Ow, Sa, Tt, Yb, Pw, Cb, Be, Hb, Aw, Id. - Most species have 100-1000 EM/tree with an average of approx 150 EM/tree. :less preferred species have >50 EM/tree. - Crab apples in the parking lot of Lookout Village have >100 Em/tree.
5	Peace Park	nil	<ul style="list-style-type: none"> - Isolated shade & decorative trees. 1 old EM found.
6	Hillcrest Park West	severe	<ul style="list-style-type: none"> - Park is completely forested. Tree sp.: Pw, Id, Aw, Msu, Be, Op, Ow, Cb, Ob, Or - Most species have 100-1000 EM/tree with an average of approx 150 EM/tree. Sporadic on less preferred species. - Egg masses are small likely due to high populations since 2017.
	Hillcrest park East	severe	<ul style="list-style-type: none"> - Oaks have 100-750 EM/tree with less preferred species having 20-30 EM/tree.
	Pancake Lane south to Beechnut Court	severe	<ul style="list-style-type: none"> - Over-storey dominated by large red oaks. - Oaks have 20-500+ EM/tree with less preferred species having 10-20 EM/tree. Berkwood Place oaks were amongst the highest.
7	Woodstream Park	low to moderate	<ul style="list-style-type: none"> - Large open grass area. Trees sp.: Cb, Wb, Ew, Ms, Sw, Cd, Aw/Ag, Or, Pw, Msu, Ob, Cw, Mulberry. - 10 EMs on 2 Or through park. - 20 EMs focused on Cb along trail/bush. - Since 2009, increased dumping along adjacent boundaries . - Invasive Species - European buckthorn & tartarian honeysuckle.

8	Pelham Arena	nil	<ul style="list-style-type: none"> - Mainly open grass area & playground - All trees are very young & include: Msu, Pw, Mm. No EM's.
9	Central Fonthill - Oak Lane	Severe	<ul style="list-style-type: none"> - 10-1000+ EM/tree with oaks averaging 150-1000 EM/tree. - Oaks had moderate to severe defoliation in 2018. Trees are struggling & need protecting.
10	Kunda Park	low to severe	<ul style="list-style-type: none"> - On Stella Street from John Street south to Merritt Road - an average of 20+ EM/tree. Few oaks have <50 EM/tree. Trees are struggling & need protecting.
11	Pelham Corners Park	low	<ul style="list-style-type: none"> - Long narrow park, bordered on both sides by residential back yards - Tree sp.: mainly Be with Or, Aw/Ag, Msu, By, Wi, Mm, Sw, Ob, Pw, Bw, Ew, Cb, Cd - Few EMs scattered in upland hardwood stands (Be, Cb, Or). An average of 10 EM/tree. Numerous old EMs. - Since 2009, increased amounts of dumping & encroachments - Invasive Species - European buckthorn, corkscrew willow & tartarian honeysuckle.
12	Harold Black Park	nil to low	<ul style="list-style-type: none"> - Front portion is mainly open with ball fields and scattered trees - 4 to 5 old & new EMs on lindens along south edge. Few old EMs on. - Rear of property has a wetlands & forested area. Tree sp.: Cw, Ms, Mm, Cb, Id, Wi, Wb, Pw, Fr, Ag/Aw, Ew, Hs, Bd, Su, Gray & Red Osier Dogwood. No EM's found.
13	Centennial Park	low	<ul style="list-style-type: none"> - Very large open area with tennis courts and sports fields. Rear of property has a forested area at the south end. Tree sp.: Ms, Locust, Pw, Cd, Cb, By, Bw, Ow, Ps, Or, Su, Wi, Ew, Be, Msu. - Forested area contains a large vernal pool. - 0-10 EM/tree. Largest count on a Manitoba maple was 5 EMs. - Or had an average of 1-3 EM/tree.
14	Cherry Ridge Park	nil	<ul style="list-style-type: none"> - All grass & playground with few young trees. No Ems.
15	North Pelham Park	moderate	<ul style="list-style-type: none"> - Mainly ball diamonds and open grass. Trees sp. around perimeter: Cd, Pw, Wb. - Or and Cb next to the road and down the northeast property boundary to the corner had anywhere from 50-100+ EM/tree. - No EMs on less preferred sp..
	Comfort Maple	low to moderate	<ul style="list-style-type: none"> - 25-50 EM observed on the tree. Surrounding Msu have 0-10 EM/tree. Tree is threatened from EMs in surrounding forests.
16	Fonthill Cemetery	low to severe	<ul style="list-style-type: none"> - Trees sp. are mainly silver & red maples. 5 EMs on a Manitoba maple. - Adjacent street, Highland Ave, has a number of large oaks with 50-100 EM/tree.
17	Hillside Cemetery	light to moderate	<ul style="list-style-type: none"> - Observed an average of 5+ EM/tree throughout cemetery. - Large Cb and oaks along east boundary have <50 EM/tree.

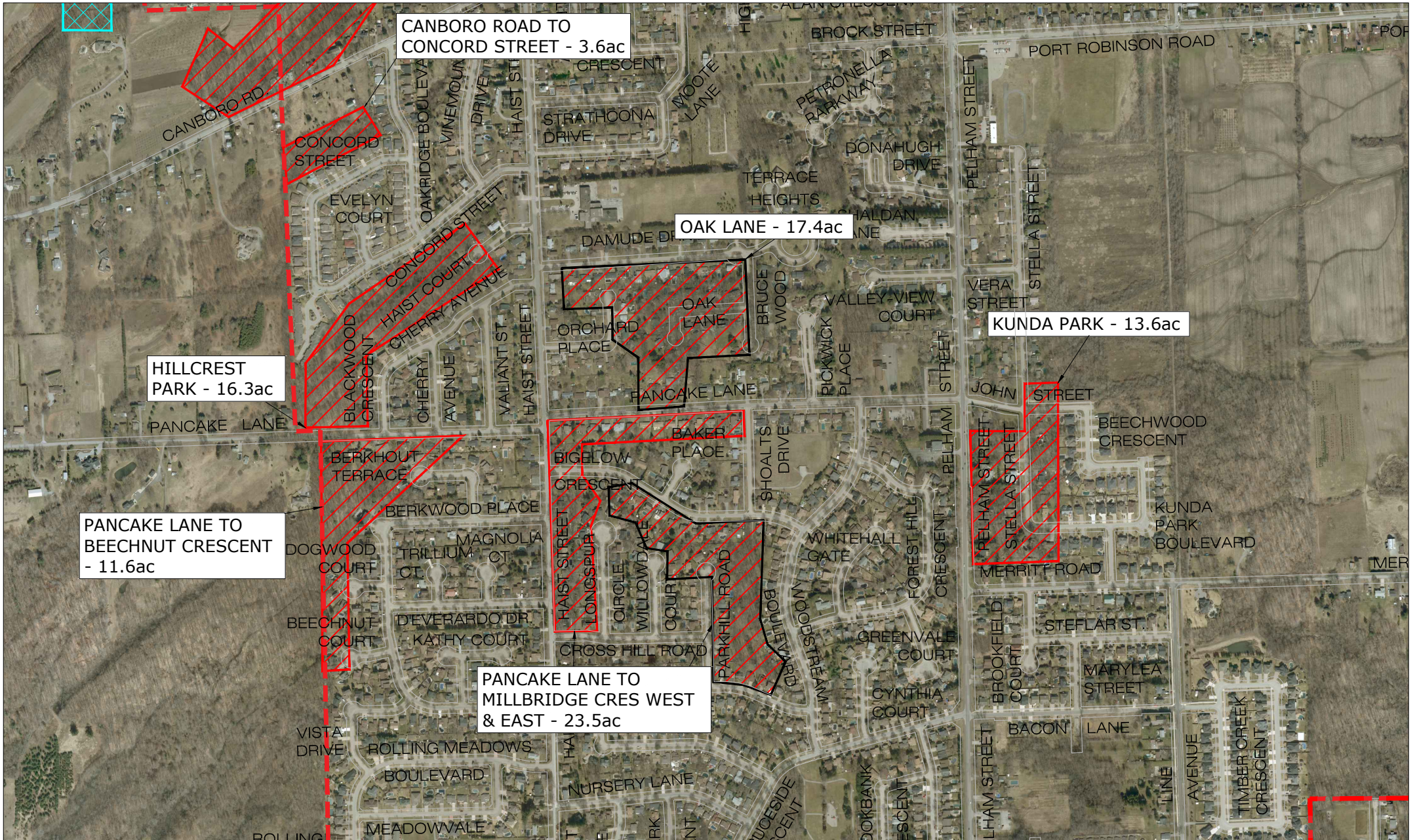


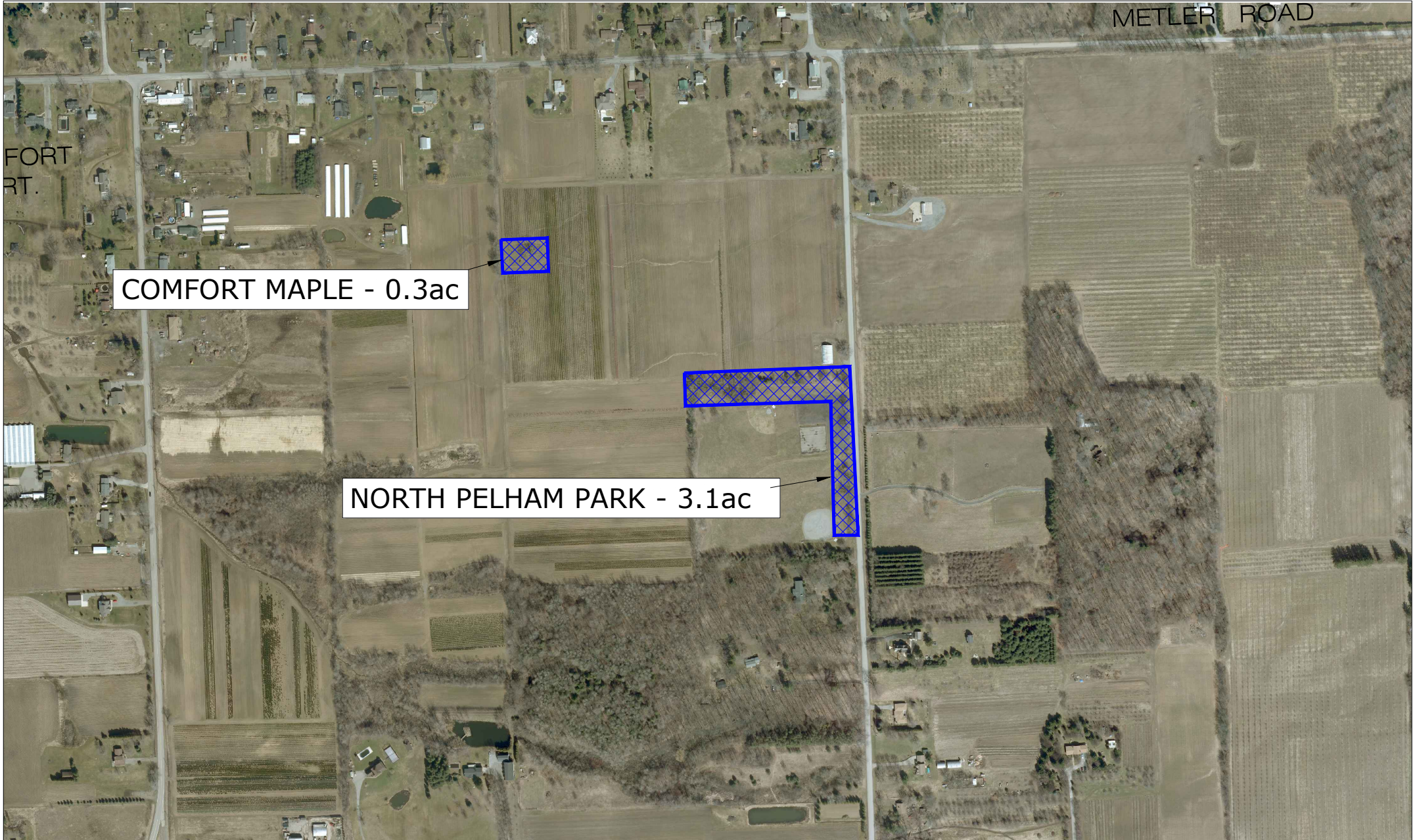
MARLENE STEWART
AVENUE
STREIT PARK - 11.7ac

TIMMSDALE PARK - 6.8ac

HWY 20 TO CANBORO
ROAD- 14.1ac

CANBORO ROAD TO
CONCORD STREET - 3.6ac





METLER ROAD

FORT RT.

COMFORT MAPLE - 0.3ac

NORTH PELHAM PARK - 3.1ac

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #5000(2019)

Being a by-law to adopt, ratify and confirm the actions of the Council at its special meeting held on the 23rd day of April 2019.

WHEREAS Section 5 (3) of the Municipal Act, S.O. 2001, Chapter M.25, as amended, provides that, except if otherwise authorized, the powers of Council shall be exercised by by-law;

AND WHEREAS it is deemed desirable and expedient that the actions of the Council as herein set forth be adopted, ratified and confirmed by by-law;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (1) (a) The actions of the Council at its meeting held on the 23rd day of April, 2019, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
(b) The above-mentioned actions shall not include:
 - (I) any actions required by law to be taken by resolution, or
 - (II) any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
- (2) The Mayor and proper officials of the Corporation of the Town of Pelham are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
- (3) Unless otherwise provided, the Mayor and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of the Corporation of the Town of Pelham to all documents necessary to give effect to the above-mentioned actions.
- (4) THAT this by-law shall come into force on the day upon which it is passed.

READ, ENACTED, SIGNED AND SEALED

THIS 23rd DAY OF April, 2019 A.D.

MAYOR MARVIN JUNKIN

TOWN CLERK, NANCY J. BOZZATO

For Dec. , 2020 Lambton Shores Council Meeting

Presentation on the Gypsy Moth to Lambton Shores Council for Dec.1 meeting (not allowed to make this public presentation)

It has been nearly six months since the topic of the Gypsy Moth infestation in parts of our municipality has been brought to Lambton Shores Council. Tonight, you will be discussing CAO's Report (06-2020) and considering its recommendations. Before you make a decision on those recommendations, we citizens would like to introduce new material that we hope will assist you in making a decision that is truly in the best interests of this municipality and particularly those properties most adversely impacted by Gypsy Moths. The model for a way forward is offered by the municipality of Pelham, near Niagara, and its geography and demography are highly similar to ours, yet the scope of their considerations were very different from what's been put forward to our Councillors to date. We aim to rectify this. How, we argue, could you make a different decision, if you are not given access to different information on which to base that action?

As Kevin Williams' report states, and perhaps this is background for many of you who have kept up with this unfolding saga, the Gypsy Moth is an invasive species; it's neither natural nor native. It has no known predators, and when there are severe outbreaks, as Port Franks endured in spring of 2020, these pests wreak havoc on human and environmental health.

The biodiversity of this rare oak savanna Carolinian forest is widely recognized by environmentalists as being special and in need of restorative efforts. The province has identified several species at risk who depend on our tree canopy for their survival.

Energy costs to homeowners are reduced by the tempering effect that tree cover has during both cold and warm seasons. Real estate professionals know the value of a well treed property. Significant tree loss from Gypsy Moth defoliation will result in diminished property values, and therefore adversely impact those assessed property values. Property owners will seek re-assessment from MPAC. The municipal treasury will feel the effect when this happens.

Trees enhance the quality of our lives by bringing the beauty of our natural environment and the wildlife that depends upon it into our settlement areas. They serve as a reminder of our place in the material world and of our need to protect this environment from our very own existence. Many people make an emotional connection with trees and see them as markers of history. Trees have sentimental value.

There is legislation that frames—or ought to frame—Councillors' discussion:

The Ontario Municipal Act Section 224 mandates the role of council "to represent the public and to consider the well-being and interests of the municipality".

You are the eyes and ears of a municipality. You are elected by us ratepayers from specific wards to make sound, reasonable decisions that benefit not only those who elected you, but also the municipality as a whole. The Gypsy Moth threatens the entire municipality. Any property with trees is at risk. Much like COVID-19, the Gypsy Moth does not discriminate between public and private property. Property owners pay taxes for fire prevention and protection services supplied by the municipality. It would not

be reasonable to expect an individual property owner to put out a fire on their own – such actions would endanger other properties around them if their efforts were inadequate.

Some years ago, the municipality extended water services to the rural areas of the municipality. As in the case with fire prevention and protection services, individual homeowners were not allowed to opt out of the program regardless of whether their existing wells met Ministry of the Environment standards. These municipal services are in place to ensure the safety and protection of human and environmental health. **The Gypsy Moth is the new fire.**

As well, Section 270 of the Municipal Act clearly directs that “A municipality **shall** adopt and maintain policies with respect to the following matters ... The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality”. It does not say *maybe*, or *if you’d like to do this, or if it doesn’t cost any money or staff time*. The word “shall” is a directive and it’s one that has been interpreted by courts in the sense in which we offer here.

Nowhere in this section of the Act is it suggested that the protection and enhancement of the tree canopy and natural vegetation pertains **only** to public property. It calls on you as councillors to adopt and maintain policies that protect and enhance the tree canopy (and as a side note, when our spokesperson requested from the LS clerk evidence of any such policies, none were forthcoming). That is what we are asking for: A policy that is intended to protect and enhance the tree canopy of the oak savanna Carolinian forest being devastated by the Gypsy Moth. With respect, I tell you that any suggestion that this section of the Act promotes the protection of public property only, to the detriment of private property, is tantamount to dereliction of duty.

Both the Provincial Policy Statement (PPS) 2020 and the Lambton Shores Official Plan promote strong, sustainable and resilient communities through clean and healthy environments and robust competitive economies. According to the PPS 2020, “Strong communities, a clean and healthy environment and a strong economy are inextricably linked” (Part IV). The Lambton Shores Official Plan makes no less than six references to the ‘national significance’ of the Carolinian forest and the natural environment of the area in the Introduction to the document alone.

You asked for constructive suggestions, Dan Sageman—there is a remedy; Mayor Bill Weber also asked our spokesperson, Romayne Smith Fullerton, to make constructive suggestions:

Our research team supports the action taken by the Town of Pelham in 2019—whose material has not yet been introduced to LS Council. We respectfully submit that Pelham, when faced with the same Gypsy Moth infestation as we now face, made vastly different and much more effective responses based on the facts. Pelham’s response is highly akin to action taken by other Ontario municipalities such as Hamilton, Mississauga and Sarnia (whose mayor, Mike Bradley, has already shared with your LS staff and mayor the reasons why he—a sceptic of ‘intrusion’ on public lands—changed his mind and whose municipality did a targeted spray in spring of 2020). Please ask him, or his staff, if you’d be interested in this information; it’s highly relevant.

At a Special Meeting of Pelham’s Council on April 23, 2019 the Public Works report created to deal with the Gypsy Moth infestation outlined the following impacts if the Town took a “do nothing approach” to managing the Gypsy Moth threat:

Environmental:

- Reduced tree vigor
- Tree crown dieback and mortality
- Further reduction of the urban canopy
- Reduced shade, dry soils
- Effects on air quality, sound reduction, heat sink effects etc.
- Increased pesticide contamination due to uncontrolled private application

Human Health:

- Allergic reactions to hairs, wing scales including rashes and skin irritations, respiratory tract irritations, eye irritations
- Psychological reactions
- Hazard trees, dead branches, and tree falls
- Increased exposure to chemicals

Economic Costs to Property Owners:

- Pesticide treatments privately undertaken
- Cleanup of insect body parts
- Pruning dead branches; dead tree removal and replacement
- Rural property owners have organized their own cooperative spray program

There are also direct Economic Impacts to the Municipality:

- Increased tree inspections
- Increased staff response to citizen concerns
- Tree pruning and maintenance
- Tree removal and replacement
- Reduced use of infested parklands and recreational trails

The potential on other Forestry programs could be significant if staff is directed to take a “do nothing” approach. This would result in a backlog of work orders for City owned trees if this pest is not controlled and allowed to spread. There is the potential for hundreds of dead and/or hazardous trees requiring attention, creating other budget pressures.”

The Town of Pelham Council passed the following resolution at that meeting:

1. That staff be directed to implement a Gypsy Moth Control program an (sic) Aerial Spray program involving the aerial spray of the biological control agent Btk to include both Town and privately owned trees within the identified affected areas to control the larval stage of the European gypsy moth which causes the defoliation of trees;
2. That an Implementation and Communication Plan be developed, providing defined treatment areas, measures to mitigate public concern, communication and cost recovery plans;
3. That staff coordinate a process whereby a portion of the cost for the aerial spray be received from affected property owners to help offset the co0st of the control measures;
4. That the appropriate nuisance by-law to declare gypsy moth a nuisance pest be passed and

enacted.

Section 128 of the Ontario Municipal Act allows municipalities to declare public nuisances and clearly states that “The opinion of council under this section, if arrived at in good faith, is not subject to review by any court”.

We ask that this Lambton Shores Council consider and adopt the **common sense approach** taken by the Town of Pelham in 2019 to manage the menace of the Gypsy Moth. From recent published newspaper articles and personal emails we are aware that the Lambton Shores mayor has made his opposition to the use of a mass spraying of Btk over private property well known. We ask that the mayor’s personal opinion not unduly influence the rest of Council for this body to fairly and objectively consider the adoption of the Pelham solution. We are requesting that an aerial spray of Btk be applied to the most impacted areas of the municipality in May 2021: Thedford, Port Franks and North Bosanquet. We are also asking the municipality to lobby the provincial government to implement a similar spray program over the Pinery Provincial Park at the same time.

In closing, we citizens remind you that each member of Council took an oath of office to do what is in the best interests of this municipality, regardless of wards you represent, or who voted for you. You represent all of us, and this is not an obligation to be taken lightly. Many of you have acknowledged publicly that there is a number—a substantial majority in fact—who beg you to do as they request and create a municipally led targeted spray program at **taxpayers’ expense**.

Just as has been done with the COVID-19 threat, we humbly ask that you embrace a similar perspective that reflects the spirit of being in this “together”; this year, it might have devastated Port Franks and some other area. Next year, it’s coming for Thedford, or Forest, or all corners of Lambton Shores. We stand with you’ please stand with us. It’s what community ought to mean. Individual property owners do not have the resources to get this pest under control without a concerted effort of leadership and collaboration by the municipality.

Thank you. We would be happy to answer any questions you may have, or to provide further information.