



CRC Newsletter, May 10, 2016

Summary of Ontario Municipal Board 3rd Pre-Hearing Conference

Thursday, May 5 at 10:30 am/ Guelph Eramosa Township Council Chamber

Here is a brief report on the third and final OMB Pre-Hearing Conference prepared by Linda Sword. These notes are not official. Formal minutes will be prepared by the OMB.

Please note the many references to Participants. CRC will be in contact with all Participants in the near future to discuss and coordinate submissions.

The Hearing itself begins on **Tuesday, September 27**. It will last up to 8 weeks.

First some key points, followed by more detail.

1. There was an overflow crowd of CRC supporters.
2. The OMB Chair was Blair Taylor.
3. Both CRC lawyers were present – Chris Barnett and Laura Bisset.
4. The lawyer for James Dick Construction Limited indicated that JDCL and Guelph Eramosa Township representatives had been discussing the resolution of issues, and that JDCL's goal is to address all of GET's concerns before the September hearing.
5. There have been no requests for mediation.
6. The Conference addressed the pre-Hearing schedule including the following deadlines:
 - a. May 13 – Electronic posting of all JDCL submissions
 - b. May 20
 - i. revised draft consolidated issues list from all objecting Parties;
 - ii. revised draft procedural order
 - iii. revised list of Participants to include list of recognized objectors missing from Participant list.
 - iv. Final JDCL Haul Route Study
 - v. Statement from Greg Sweetnam
 - c. June 30 – all witness statements, including Participant summary of evidence.
 - d. July 14 – Responses to JDCL Haul Route Study
 - e. July 29 – JDCL Reply to comments on Haul Route Study
 - f. August – meeting of experts dates to be determined leading to agreed statement of facts among Parties
 - g. August 31 – visual evidence to be submitted

Now some details!

The Chair began by requesting an update on various items relating to the case.

1. Status of Mediation:

- a. David White, legal counsel for JDCL, reported that there had been no requests for mediation, although extensive conversations were being held between JDCL and GET representatives to discuss resolution of outstanding issues. He indicated that it was a work in progress, but that they had made extensive progress. JDCL's goal is to address all of GET's concerns before the September Hearing.
- b. David White also reported that he had met with Halton Region/Halton Hills lawyer, Jeffrey Wilker and that in the case of Halton there was a lot of work to do and no meeting of minds on resolution of issues and that no further meeting was planned.
- c. He further reported that he had spoken with Chris Barnett, lawyer for CRC, and that CRC was organizing its case and not discussing mediation.

2. **Procedural Order** – David White reported:

- a. CRC's lawyer, Laura Bisset, had prepared a draft procedural order (Exhibit 1) which will take a few more days to be finalized with input from all Parties. The order would address the following:
 - i. Exchange dates of information between Parties;
 - ii. Response and Reply Schedule between expert witnesses;
 - iii. Visual Evidence
 - iv. Statement of Facts
 - v. Base date: Witness Statements due June 30, 2016.
- b. Draft witness lists to be exchanged:
 - i. GET and Halton Hills are complete;
 - ii. CRC to be finalized by May 30.
- c. Issues List has been consolidated by GET lawyer Eileen Costello.
- d. Participants have been identified. (Chris Barnett reported that some official objectors to the licence application had not yet been included in Participant list. He will provide additional names to the Board.)
- e. Participants – It was recommended that all Participant statements be scheduled for one specific time in the Hearing – and that the schedule extend the Hearing into evening to accommodate Participant work obligations, etc.

After David White's summary, additional comments were made by the other Parties.

- f. GET's lawyer Eileen Costello indicated that she had received additional information from JDCL. She was making every effort to scope and narrow the issues with the objective of making the Hearing fair and efficient.
- g. Halton Region/Halton Hills lawyer Jeffrey Wilker reiterated that the meeting with JDCL showed that the two Parties were apart and not able to discuss mediation. He indicated that he, personally, would be ready to mediate, but that his client was not. There has been a staggered exchange of reports between these two Parties, and Halton/HH await the revised haul route study which is very important to them.
- h. CRC's lawyer spoke to the issue of Participants at the Hearing:
 - i. He stated that the Participant role would include:
 - 1. Swearing (affirming)
 - 2. Witness statement

3. Cross examination

- ii. He reiterated that the June 30 Participant submissions would clarify to the Board and other Parties the issue/s which would be addressed.
- iii. He indicated that not every one of the more than 70 people who signed up as Participants would wish to speak – They may simply wish to be fully informed of the Hearing process.
- iv. CRC will help coordinate any Participants with whom they are in contact. He indicated that each ('CRC') Participant would address a single issue in order to prevent repetition and keep focus.
- v. He reiterated the need for a specific time for Participant testimony – and suggested some could be afternoon, others evening.
- vi. He stated that it is very important for Participants to communicate their concerns, but that that the process should be as efficient as possible.
- vii. He indicated that there would be an expert witness list from CRC by May 31, but that it might change a little even after that.

3. Chairman's (Blair Taylor) Remarks

- a. He noted that the consolidated issues list had some areas of concern for him – notably the lack of focus in some items. For example, in his opinion, Planning Matters Item 54: "Is the proposal consistent with the Provincial Policy Statement (2014)?" is too broad – needs more specific references. He wanted a fair and transparent process, not a "trial by ambush" if specific issues were not flagged before the Hearing. The lawyers will work on refining the issues list with the Chair's concern in mind.
- b. He asked for precision on the objector/participant list – which C. Barnett did.
- c. Regarding Participants:
 - i. He clarified if a Participant statement was not received by June 30, that Participant would not be heard;
 - ii. he recommended a cap of 15 minutes on Participant statements;
 - iii. he recommended listing the Participant schedule on the Township website. (CRC Note: CRC will also make sure all this information is available);
 - iv. Legal responses:
 - 1. Reference vagueness in issues list:
 - a. Chris Barnett agreed that specifics are necessary, but that the OMB decision would have to be consistent, in any case, with all the sections in relevant policy statements. There are statutory tests the application must meet. These issues can't fall away because there is no specific witness.
 - b. Jeffrey Wilker agreed with C. Barnett adding that he would want to be free to cross-examine without limitations on issues of policy. The Chair acknowledged this but indicated that the policy questions on the issues list would need to show where the evidence was going. (The Chair indicated that he understood both Barnett's and Wilker's positions.)

- c. GET's lawyer, Eileen Costello, recommended reserving a larger space for Participant segments – Chair Taylor said there is always an ebb and flow of audience...so no decision.
- d. Jeffrey Wilker pointed out that both Halton Region and Halton Hills are objectors and should therefore be on the Participant list. (CRC Note: In this case Milton should also be added, since the Town is an official objector.)

The meeting ended at noon.