



LPAT Day 11 – June 6, 2019

Day 11 is done. Who would have thought there could be more surprises? Just when you start nodding off, there's a new moment of drama and legal repartee. Is there any other form of entertainment that would keep us indoors when a glorious day beckons?

IMPORTANT HOUSEKEEPING UPDATES:

1. *****FRIDAY IS OFF TOMORROW!**
2. **Hearing times are 9:30 to 4:45** unless otherwise advised.
3. There will be **no Hearings on Fridays June 14 and 28.**
4. The **agenda for Thursday** is at the end of this report.
5. [Sign in on our roster here.](#) **Note: This is a new link with the first two weeks of June listed.**
6. **NEW!! Most participants will present their statements on Monday, June 17. Mark your calendars so you can come to support them.**

Session Content (This is not a detailed report – just a very simplistic record of activity because of the complexity of the issues, technical analyses and regulatory requirements. Any inaccuracies or opinions are Linda Sword's, not CRC's!!)

The day began with a full seminar on **ground penetrating radar by geo-physicist Peter Giamou**. He was engaged by JDCL to review a study by CRC expert Steve Watson who had undertaken a short, preliminary GPR survey of the DeGrandis Pond (extent moderated by CRC budget) in order to determine the slope of the bedrock and to determine if there were fractures. Mr. Giamou did not address the Hidden Quarry proposal at all. He was there to undermine Steve Watson's as yet unrepresented testimony, methodology, analysis, graphics and even, by inference, his ethics. We were numb with his relentless attack; his morale-penetrating radar had hit its mark. But then, as always, Chris Barnett stood up and carefully put humpty together again, found some perspective and rendered Mr. Giamou's absolutes a little less almighty, although his opinion stood unchanged.

Our blood pressure was just settling when JDCL's lawyer, David White, presented a new (yes, for the second time) Site Plan, dated June 5 – the day before! Early in the Hearing, Chair Tousaw had not accepted a new May Site Plan since the deadline for evidence had been April 29. Both David Germain, Halton Region, and C Barnett argued strongly against receiving them, particularly because they had been changed as a result of cross-examinations which uncovered errors or omissions, or negotiations with Wellington County. C. Barnett said that some of the changes were substantive, including new bedrock levels (key to decisions on noise, air quality, berm height, etc.). He would need to update all CRC witnesses who had prepared statements based on the deadline. Where did the changes come from? Who determined the new information? "This is back-filling...fixing errors along the way." The witnesses have come and gone – and can't be cross-examined on these new changes...and, all this after 7 years of preparation time. Why should we have confidence in this company? Everything is uncertain. In spite of these strong arguments, Chair Tousaw ruled to accept the revised Site Plan, and any other new ones that come along, so that he has all the current information. To us this felt more like mediation than adjudication...we trust there is a good reason for this decision.

JDCL's Land Use Planner, Anne Guiot, specializing in Site Plans, was about to begin her testimony when D. Germain of Halton Region stood to ask about her last 25-30 years of experience which included Board membership on the Ontario Stone, Sand and Gravel Association, and a list of clients who are exclusively aggregate companies. While he did not want to deny her the right to testify, he wanted the Tribunal to know that JDCL Counsel had indicated that they would be questioning his witnesses who had worked regularly with municipal governments. He wanted to flag this in order to keep a level playing field. Chair Tousaw asked Ms. Guiot if she agreed that she was present to serve the Tribunal, not her client. She indicated that was the case.

MS. Guiot then began her testimony which was first, a review of the changes in the Site Plan; second, a review of JDCL's response to the accepted Issues List; and third, a review of correspondence with government agencies which had stated their acceptance of the JDCL plan. She described that Compliance Assessment Reports aggregate companies are required to complete annually for MNRF – showing that they have met all Site Plan and ARA prescribed conditions. Either the company completes it, or has it done by a third party. This self-evaluation stands in for Ministry inspections which cannot take place on a regular basis because of a shortage of inspectors. This gap in Ministry enforcement has always been a CRC concern.

Chris Barnett began his cross-examination saying he needed time to review the new Site Plans. In order to assess the changes, he requires all correspondence, meeting notes, minutes, etc that provided to Ms. Guiot the changes for the Site Plan over recent weeks because she is not a technical expert. Because Ms Guiot is under cross-examination, she may not confer with anyone before the Monday morning resumption of the cross examination. Never a dull moment!

What's on the agenda for Monday?

Cross-examination of Anne Guiot on the revised Site Plan, followed by Michael Wynia on Environmental Planning.