



LPAT Day 20 – June 24, 2019

Day 20 is done. The subtleties of hydro-g don't hold a candle to the intricacies of planning! This is when you realize that you've been playing checkers while everyone else is playing 3-dimensional chess. After a gentle summer afternoon of strawberries and song, it was just a little bit challenging to re-enter the brittle legal arena – but quite a few of us did! And for an hour or so this morning we were joined by Mayor Rick Bonnette, who continues to pay attention!

IMPORTANT HOUSEKEEPING UPDATES:

1. **Hearing times are 9:30 to 4:45** unless otherwise advised.
2. There will be **no Hearing on Friday, June 28 or Monday, July 1.**
3. The **agenda for Tuesday** is at the end of this report.
4. **[Sign in on our roster here.](#) Note: This is a new link for the week of June 17 and 24.**

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!! These daily journals are all on the CRC website www.hiddenquarry.ca/OMB)

Halton Region's Planning Expert, Nick McDonald, had been introduced last Thursday and had provided the Chair with maps of Acton so he could familiarize himself with the town before hearing Mr. McDonald's testimony. This meant that he could begin to testify immediately this morning. He presented a very clear summary of the points he wanted to make, stating that his focus would be on two potential impacts of the proposal – Halton Region Natural Heritage and haul route traffic in Acton. The Tribunal must be satisfied that there will be no negative impacts on natural features and functions, and that impacts in adjacent areas would be minimized (Note: He said more than once that 'minimizing' implies that there will be impacts – a helpful confirmation for those of us who have always assumed impacts.) This cannot be shown in regard to the natural heritage system along the Brydson Creek and fishery with the proposal as it stands – Mr. McDonald cited Halton Region hydrogeology experts Woerns and Cowell's serious concerns about the many uncertainties. His opinion was that the precautionary principle must apply, and that a monitoring and adaptive management plan would have to be agreed upon before approval and included in the Site Plan. As for transportation, an MTO recommendation regarding improvements to the Y intersection in north Acton should be completed before approval, as should a haul route agreement with Halton Hills to cap traffic traveling east and west along Mill Street at 10% of all trucks as JDCL's haul route study had indicated. Approval before any of these actions would be premature.

He reviewed the implications for the application of the policies in each of the following: Provincial policy statement, Wellington County Official Plan, Halton Region Official Plan, Planning Act, Aggregate Resources Act. Each of these documents addresses the issues in its own way with its own emphasis. This is delicate territory where the weighing of the absence or presence of the word "shall" can change a decision (approximately 16 "shalls" in different documents apply here!); where the relative priority of provincial or county policies must be assigned; where sign-offs meet technical doubt; where priorities clash. One important thing Mr. McDonald emphasized was that just because there is aggregate mapped, it doesn't mean it must be extracted. This was comforting (?) later in the day when Mr. White, in cross-examination, in a move surely calculated to make our blood run cold, pointed out that the mapping done by Mr. McDonald for Halton Region (in a different context) had identified aggregate resources just south of Hwy. 7 across from the HQ site as 'unconstrained' by other land uses and available for extraction.

In many development cases, a draft plan is approved and fine-tuning follows. In the case of aggregate applications, there is no fixed structure for pre-approval back and forth – everything rests with the Tribunal. This is interesting for us on-lookers. We have observed what we felt could be mediation/negotiation during the Hearing, especially with the Site Plan on-the-hoof updates. We came to the Hearing with the understanding that the case would be determined on its merits based on the application as it stood at the date of submission to the Tribunal. While Mr. McDonald raised serious concerns about the application, he repeatedly indicated that with monitoring as recommended by Halton Region technical experts, or agreements with MTO or Halton Hills, could satisfy his concerns. To us this felt, once again, like JDCL might be handed the road map to approval in spite of the fact that the company was clearly ill-prepared. In fact, Mr. McDonald said the Tribunal might have two options – approval with conditions, or approval delayed...but this was just an opinion...

The cross examination was as painful as usual. Mr. White bogged us down in maps and more maps, definitions of traffic corridors, traffic arteries of various sizes, haul route agreement precedents (of which there are very few apparently), the approval of the CanWel distribution centre in north Acton...all of it geared to the big winning point – Highway 7 is a provincial highway – JDCL has the right to use it without the burden of agreements with Halton Hills or waiting for MTO. Mr. McDonald's ideas of pre-approval conditions and agreements were not really welcome.

What's on the agenda for Tuesday?

CRC is on the agenda! Starting Tuesday! We give our 'evidence-in-chief' until we run out of experts. So we begin with our two natural environment experts – Zack Harris and Karl Konze of Dougan and Associates.