

MINUTES

PLANNING AND ENVIRONMENT COMMITTEE

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

CHAMPLAIN ROOM

23 MAY 2000

3:00 P.M.

PRESENT:

Chair: G. Hunter

Members: D. Beamish, B. Hill, P. Hume, J. Legendre, A. Munter, and R. van den Ham

Regrets: M. Bellemare and W. Stewart

CONFIRMATION OF MINUTES

That the Planning and Environment Committee confirm the Minutes of the Meeting of 9 May 2000.

CARRIED

ENVIRONMENTAL SERVICES ITEMS

1. CANADIAN ENVIRONMENTAL PROTECTION ACT
NATIONAL POLLUTANT RELEASE INVENTORY
PRIORITY SUBSTANCES LIST
LIST OF TOXIC SUBSTANCES

- Director, Water Environment Protection Division, Environment and Transportation Department report dated 19 Apr 2000

Mike Sheflin, Commissioner, Environment and Transportation Department, introduced Tim Marc, Manager, Planning and Environment Law, Regional Legal Department, André Proulx, Director, Water Division, Environment and Transportation Department (ETD) and Nancy

- Notes:
1. Underlining indicates a new or amended recommendation approved by Committee.
 2. Reports requiring Council consideration will be presented to Council on 14 June in Planning and Environment Committee Report Number 58.

Schepers, Director, Water Environment Protection Division, ETD, who provided the Committee with a brief overview of the staff report.

Mr. Marc explained the *Canadian Environmental Protection Act* (CEPA) contains a number of lists maintained by the Federal Government: *The National Pollutant Release Inventory* (NPRI), the *Priority Substances List* (PSL) and the *List of Toxic Substances* (LTS). He elaborated the NPRI is a list of substances and people who handle specified quantities of them are required to report annually to the Federal Ministry of the Environment (Environment Canada) with respect to the amount dealt with. The Ministry also compiles a Priority Substance List, that are to be reviewed on a priority basis as to whether or not they are toxic. Mr. Marc noted that once this review was complete, the result is a List of Toxic Substances, the contents of which were considered by the Federal Ministers of the Environment and of Health to be toxic. He said the Ministers have a broad regulatory authority for such substances. Mr. Marc noted a number of compounds the Region deals with are being considered for inclusion on the List of Toxic Substances.

Ms. Schepers added the report listed a number of materials on the NPRI list that staff have to report on, on an annual basis, because they are used by the Region, within the parameters specified in the legislation. She said a toxicity assessment was currently being undertaken to determine whether certain substances would be included in the List of Toxic Substances. Ms. Schepers expected the results of this assessment, to be released later in the year, would have an impact on the Region's operations.

Chair Hunter felt this would have legal implications, in that instead of the onus of proof being on the person who asserted they had suffered damage by the Region's use of the compound in question, the onus of proof would fall on the Region to show it had not been negligent nor had intentionally permitted the discharge of the substance.

Mr. Marc said there was no automatic connection between putting a substance on the List of Toxic Substances and the onus of proof shifting. However, he opined that a court would likely conclude that if the Federal Government had pronounced it to be toxic, a strict liability test would apply, and where that substance had ended up on somebody's property, the Region would have the burden of proving that it was not at fault.

Clarifying a point for the Committee Chair, Ms. Schepers explained that once the scientific analysis had been completed, there was a process of risk assessment that would deem a substance to be toxic, following which, it could be added to the list. Ms. Schepers noted the legislation could require a substance's virtual elimination, or a management plan. She explained a requirement for elimination would put the onus on the municipality to eliminate the use of certain substances. Ms. Schepers felt that salt and chlorine would fall into the area of

management plans, where the municipality would have to demonstrate how the material was used. She said this would require a change in how the Region operates so that a substance's use could be well accounted for.

Michael Teeter, speaking on behalf of the road salt industry, contradicted Ms. Schepers' view regarding the management plan process, as he felt that once a substance was declared toxic under CEPA, the damage was done, in that the liability would change before the management plan process could begin. He noted there would be opportunities to participate in discussions with the Federal Government about how the Region would manage a newly-designated toxic substance (i.e. road salt), but he said the decision to make it toxic was imminent.

Commenting on the staff report, Mr. Teeter disputed the report's implication that a decision had already been made to designate road salts and other substances toxic. He also pointed out the report seemed to indicate that Regional participation in the decision-making process was somehow inappropriate. He argued that all municipalities should participate because of the significant liability implications. The speaker said explicit scientific recommendations for or against toxicity would be published in *The Canada Gazette* in June and July of this year, although the final decision whether or not to designate road salts and other PSL substances toxic would be made by November. Mr. Teeter felt that government scientists would recommend toxicity in the case of road salts, however, he noted two Federal Ministers, David Anderson (Environment Canada) and Allan Rock (Health Canada), and possibly the full Federal Cabinet would be involved in deciding whether or not to agree with the scientists on this issue.

Mr. Teeter said the salt industry had retained scientists who refuted the views of their government counterparts, and noted the science was still unclear, and unequivocal in its findings. He said the industry would provide municipalities with evidence of its scientists' findings before the process was completed. He also noted Canada would be the first jurisdiction in the world to declare road salts toxic and he pointed out that road salt can be eaten, and is in fact considered an approved food.

The speaker felt a toxic designation would result in a radical change in the way business was done. He said it was necessary to have safe roadways in the winter months, noting truck traffic in Ontario was doubling every three years. Mr. Teeter said proper and judicious use of road salts was essential to maintain public safety, and further noted that although the Federal Government was making the law, the issue of road safety was a responsibility the province and municipalities shared. He outlined that alternatives to road salts are 40 times more expensive, and environmental impacts of their widespread use is unknown. Mr. Teeter stated that Health Canada is unconcerned about the health impacts despite its statutory obligations under CEPA,

and has not participated in the assessment. He added the national health agency had concluded its time and resources could be better expended in higher priority areas.

As a government responsible for maintaining transportation safety, Mr. Teeter warned the legal liabilities associated with a CEPA-toxic designation could be significant for the Region. He said such a designation would result in a change in the standard of liability, meaning it would be easier for people to bring suits against the municipality, and a rise in insurance costs.

Mr. Teeter felt the provinces and municipalities could manage this issue without the Federal Government's supervision, and its associated liability and cost implications. He felt existing Transportation Association of Canada guidelines could be implemented without heavy-handed regulation by federal agencies. He asked that the Region write the Federal Minister of the Environment regarding its concerns about possible implications for business, and to perhaps offer alternate options. Mr. Teeter suggested the Minister be asked to let the provinces and municipalities deal with the matter, through a Federal-Provincial harmonization accord, which he felt would result in an official standard of voluntary agreement. In closing, Mr. Teeter expressed his view that both the heavy hand of regulation and a change to the legal standard were unnecessary.

Clarifying a point for Councillor Munter as to whether the salt industry would be asking the Federal Cabinet to overrule its own scientists' findings and accept those in salt industry employ, Mr. Teeter explained that in any political decision-making process, Ministers have the right to determine what is in the public's best interest. He further noted that because the science is unclear, and because the implications are so significant for municipalities, he felt Ministers could easily decide that the best way to proceed would be through a harmonization accord, rather than heavy handed regulation to achieve the same result. Mr. Teeter suggested no one at the Federal level was talking about regulating or banning the use of road salts, but were looking to the provinces and municipalities to use the product more responsibly. The speaker said this could be achieved without the legal problems associated with the CEPA-toxic designation.

Councillor Munter questioned if the road salt industry was taking a "tobacco company" approach of arguing about whose science was right, or was it acknowledging the science, and arguing about the practical consequences of implementing it. Mr. Teeter said the industry acknowledged there were environmental impacts associated with the use of road salts. He said the industry felt the significance of these impacts was not as great as the of liability and other impacts which could result from such a designation. The speaker believed proper product management was a better approach.

Councillor Legendre referred to page three of the agenda, under the heading *List of Toxic Substances*, and noted the report stated that once a substance has been added to this list, the

legislation grants to the Federal Cabinet broad regulation-making authority, including powers to ban a substance outright or to regulate every aspect of its use. The Councillor felt the latter would be the case with road salt, and he asked if the industry would have a problem with this approach.

Mr. Teeter replied the industry felt this would be an unnecessary regulation and that a designation of toxicity would create legal issues. Responding to another question from the Councillor, Mr. Teeter noted that if some body had to have regulatory authority, a Federal-Provincial harmonization accord would allow regulation by the provinces. The speaker said such accords were not uncommon in the environmental area, noting the Federal Government does not administer many of the environmental laws but leaves this up to the provinces.

Councillor Legendre disagreed with this view. He stated that going from a regime where the authority was clear and nation-wide, to one that was more confusing and diffuse, would lead to a situation where responsibilities would be unclear. The Councillor noted the report spoke to the Region's use of a road weather information system and measures that would help minimize the amount of material to be applied to roads in order to achieve safe winter driving surfaces. He felt regulations would not greatly affect Ottawa-Carleton because the Region was already being careful about its use of such substances.

Mr. Sheflin agreed the Region was careful in its use of salt. He noted the Region had carried out tests on the Ottawa River approximately 15 years ago, where collected snow had been dumped into the river in an attempt to read the increase in salt content. He noted no increase had been detected from the natural background salt content of the river. The Commissioner felt that other than in specific circumstances such as well-water concentration and low-flow streams, which the Region monitors, the issue of road salt was not a problem, and he felt it was overkill to regulate the entire operation rather than have rules of management in place. He said such regulations could result in legal probation for failing to report in a timely manner, and noted the Region had, in the past, been reprimanded for such infractions. Mr. Sheflin felt these rules, when instituted, were very onerous.

Noting the speaker's suggestions that staff be asked to correspond with the Minister to express the Region's concerns on this issue, Chair Hunter asked for possible options for the Committee's consideration.

Commissioner Sheflin introduced Bill Beveridge, Director, Infrastructure Maintenance Division, Environment and Transportation Department, to give a brief outline on what the Region has done to date throughout the organization. Mr. Beveridge explained a monitoring program had commenced three years ago with the purchase of the Road Weather Information System (RWIS). He said the long-term objective was to be able to put the Region in a position where

at the end of the winter season, a document could be produced which could account for every aspect of a de-icing chemical's use along any given stretch of Regional right-of-way. Mr. Beveridge said the purpose of the program was to put the municipality in a position where it could manage every gram of chemical used. He said the Region had made presentations across the country to the Transportation Association of Canada and the Ontario Good Roads Association, with the intention of increasing the awareness on this issue.

Chair Hunter asked Mr. Teeter if he was suggesting that road salt was not a toxic substance, should not be on a toxic substance list, and that the Minister should be told he would be making a mistake to include it as such. Mr. Teeter felt this was correct.

Responding to a question from the Chair as to whether or not staff could help in this regard, Ms. Schepers noted that once a draft report is issued, there is a 60 day review period during which comments of a scientific nature may be submitted. She said this was a very scientific analysis, noting the Region does not have internal scientific staff capable of undertaking such an analysis.

Ms. Schepers went on to explain such comments must be based solely on a scientific assessment of the substance, not on either its use or how it interacts with the environment in the method in which it is used. She said these latter aspects were getting into the issues of the levels of risk and whether the substance should be considered for either a total ban or pollution prevention and emergency response plans. Ms. Shepers said staff had tried to become part of an 18 member group that was established to approve the regulations, following the addition of the item to the list of substances. She informed Committee this would be a second opportunity for comment, and the Region was hoping to try this venue for municipal representation. She noted, however, the Department had been told the Provincial Government was the municipalities' voice. Ms. Schepers hoped to have an opportunity to have some influence at this point, based on the department's understanding of how the substances interact with the environment.

Councillor van den Ham noted the speaker's view that he did not think it necessary, to have road salt declared toxic. The Councillor was concerned about potential implications this might have for the Region in terms of liability. Although he said he did not believe the Region should lobby on behalf of the salt industry, he believed there was a potential for concern with regard to the Region's use of salt, should it be declared toxic.

Commenting on both the regulatory and civil aspects of liability, Mr. Marc noted that if a substance was declared toxic, and if the Federal Government came out with regulations for its use, there would likely be some liability in the way of fines if these regulations were violated. Regarding civil liability, if a substance were declared toxic, Mr. Marc felt it likely a court would find a declaration of toxicity under Federal legislation as grounds for imposing strict liability.

This would mean that rather than the onus of proof being on the person who asserts they suffered damage by the Region's use of road salt, the onus would fall on the Region to show it had not been negligent nor had intentionally permitted the discharge of the substance. Mr. Marc felt there was a strong likelihood of increased civil liability for road salt and other compounds on the LTS.

Mr. Sheflin confirmed for Councillor Munter that the Region was leading the country in terms of the best use of environmental technology, as described by Mr. Beveridge. The Councillor then asked if there was any reason to believe the Government of Canada would ban the use of road salt. Staff indicated they had no reason to believe so. Councillor Munter then surmised that in all likelihood the Government of Canada, if it deemed this a toxic substance, would regulate its use and would set down guidelines for its use. He felt that since the Region was leading the country, the Federal standard would be lower than that currently used by the Region.

Mr. Marc agreed, but said the regulatory burden on the Region would increase. He then referenced a situation a number of years ago, where the Region had been late in reporting the amount of chloramines it uses annually. Mr. Marc noted the Federal Government had threatened criminal liability for the Region's failure to report. Mr. Marc warned this sort of regulatory enforcement could be expected if a substance was declared toxic.

Councillor Munter felt if the worst that could happen was to receive correspondence from the Federal Government threatening criminal action, it would be a simple matter of submitting information in a more timely fashion. He said he understood the road salt industry's position, but believed the issue at hand was the regulation of a chemical which was backed up by science in terms of its potential negative effects. The Councillor felt if the Region was using road salt inappropriately, this would be a different issue; however, he felt the Region would not be affected because of the good job it was doing.

Councillor Legendre underlined that it appeared the outcome of this process would be regulated use. He felt if road salt was a regulated use substance, a landowner would have to file a suit suggesting inappropriate *use* of the substance, as what would be regulated would not be the *substance* but its *use*.

Mr. Marc believed that in the case of road salt, if an individual believed they had suffered damage, the mere presence of salt on the property would open the potential for litigation. If salt were present and the owner could prove damage, the fact the Region had used it properly would not be enough. He elaborated that in order to meet a strict liability test, the Region would have to show there was no other means whatsoever to apply the salt other than in the manner which caused the damage to the property. He suggested this would be a difficult test to meet.

Councillor Legendre said he, unlike both his colleagues and staff, had greater faith in the committee of scientists that would be convened to study how *use* would be regulated. He referenced the Ottawa River salt test the Commissioner had spoken of earlier, and suggested there may have been a number of reasons an increase in salt level could not be measured. He suggested the amount added to the river may have been insufficient, and therefore, immeasurable, or that the background level was high because municipalities upstream used salt in higher concentrations than the Region and this could result in a higher background level.

The Councillor cautioned the Committee about embarking on science-related Motions, and referred to an incident in northern Ontario a number of years earlier involving a leak of polychlorinated biphenyls (PCB's) from a transformer being hauled by highway. He noted that despite scientific information to the contrary, the populace saw the spill as a great danger, resulting in extraordinary measures to remediate the perceived damage. He urged the Committee to put its faith in independent science working in the public interest, and not in science bought and paid for by a special interest.

Councillor Beamish questioned what the Region or the Federal and Provincial associations of municipalities were doing in this regard. He felt there was an opportunity outside the formal commenting process, to lobby the politicians that make the ultimate decision and he asked if those bodies were making any efforts towards lobbying.

Mr. Teeter said although he was representing the road salt industry, he was also a taxpayer of the Region and he felt it was Council's responsibility to represent the taxpayers. He opined there were some serious taxpayer related issues with respect to liability and he felt it was the Councillors' job to represent the taxpayers. Mr. Teeter noted other municipalities and the Ministry of Transport of Ontario have sent letters to the responsible Ministers, explaining how they manage road salt and questioning the necessity of designating road salt as toxic.

Andre Proulx, Director, Water Division advised he was a member of a Committee of the Canadian Water and Wastewater Association (CWWA) and indicated they have (for those substances that affect drinking water and wastewater receiving streams), made presentations to parliamentary committees. As well, they have also lobbied directly with the politicians to be involved with the management plan when these substances get on the list of toxic substances. He noted, however, they were advised by CEPA that they were viewed as no different than the private sector and were therefore not allowed a "voice" on the committee. Instead, they were told to work through their individual provinces. He said they had met the previous week with the Minister of the Environment and the Minister of Health and their staff and they made it very clear they will use a "common sense approach".

Mr. Proulx went on to say, staff (and the CWWA) will obtain a list of all of the Provincial representatives across Canada to lobby them and offer support where needed. He noted as well, there are some scientific experts in the municipal sector and the CWWA has a water quality subcommittee which will look at the science from the water/wastewater part of it. With respect to road salts, Mr. Proulx noted the Transportation Action Committee will be relied on.

Councillor Beamish stated this was something that affects all municipalities across the Country and he felt efforts would be better served joining together with the Associations of Municipalities (both Ontario and Canadian).

The Committee then approved the staff recommendations.

That the Planning and Environment Committee recommend that Council approve:

- 1. that staff continue to explore opportunities to proactively and cost-effectively monitor and identify impacts of changes resulting from the *Canadian Environmental Protection Act (CEPA)* and its regulations as they are developed and implemented by the Federal Government;**
- 2. the forwarding of this report to the "New City" for consideration in making decisions regarding service delivery.**

CARRIED

2. APPLICATION TO TAKE WATER FROM TAY RIVER
 - Environment and Transportation Commissioner's report dated 03 May 2000
 - Response to Outstanding Inquiry No. P&E - 18 (00)

Nancy Schepers, Director, Water Environment Protection Division, provided a brief review of the item.

Chair Hunter noted the staff submission was sent to the Ministry of the Environment on 6 April 2000; he asked if staff had had any response. Ms. Schepers advised they had not.

Councillor Legendre indicated he would have liked to have seen a map included in the report, particularly as the Tay River is outside of the Region. He asked that in future, a map be provided in such reports.

Terry Denison and Ray McCarthy, appeared before the Committee on behalf of OMYA Canada Inc. Mr. Denison said he felt the Region was reacting to this water taking application in a rather hysterical fashion rather than basing their response on facts and common sense. He said Regional staff, in making their comments, were addressing policy issues without knowing a lot about the specific application. He indicated he would like the opportunity to meet with staff and the engineers who prepared the application for OMYA, to provide them with the information and assurances they require. He noted that extensive reports and information had been provided to a number of stakeholders in this matter, including the Rideau Valley Conservation Authority (RVCA).

Mr. Denison went on to explain the location of the Tay River, noting it is a regulated stream that flows out of Christie Lake along Highway 7 to Perth and then works its way into Big Rideau Lake. As well, Mr. Denison provided information about OMYA Canada Inc. and its operations. He said it is a company that crushes calcium carbonate, a marble (crystallized lime stone) that is obtained from a quarry near Tatlock in Lanark County and then sent to their crushing plant west of Perth at Glen Tay. Mr. Denison explained calcium carbonate is a product that is non-toxic and is ubiquitous in its usages; it is used in fine papers, plastics, “Tums” and in agricultural limes that are spread on fields.

The speaker noted OMYA presently draws water under a permit they have for taking water from ground water sources. The plant is steadily growing, and in doing their long term planning they felt the Tay River would be a better source of supply and made application under Section 34 of the Ontario Water Resources Act. Mr. Denison pointed out there are significant policies and requirements under this Act, for applicants such as OMYA to follow. As well, when the Ministry of the Environment grants a permit for taking water it is under constant review during the application process and forever after, while the permit is in place. The Ministry can choose to stop the water taking if it feels it is having an impact on other water users. Mr. Denison noted his client had undertaken as part of its application that it will agree to stop taking water at some point that is found to be the right point by the scientists. He said they expect, if the Ministry grants the permit to take water, there will be a number of conditions on it. OMYA will, for example, be installing flow gauges at the point of the water taking which will improve the records for water information on the Tay River.

Referring to reports in the newspapers that OMYA’s water taking would be the cause of the Tay River drying up, and all of the watershed above and below, Mr. Denison stated this was not true and in fact ludicrous. The amount of water being taken is a large number (1 million gallons per day) when taken in isolation, however, compared to the total volume of water involved, it is not a significant amount of water. He noted this amount would be equivalent to the water used by the Town of Perth.

Mr. Denison referenced a comment in the staff report with respect to the use of old water records and he stated this irritated him because although part of the data used included a period of 12 years of continuous flow that ended in 1927, all of the data that was available was used. Further, in the original inquiry from Councillor Stewart, there was a reference to the fact that during the summer months, 87% of the flow of the Rideau River at Ottawa was sourced from the Tay River. He said this was incorrect as the Tay River is only a small part (about 10% of the upper sub-basin) of the Rideau River system. He said he had confirmed this in discussions with the RVCA.

In concluding his remarks, Mr. Denison stated there is currently a study being undertaken of the Tay River watershed, to which is client has contributed a significant amount of money. The information gathered in this study will lead to better use and sharing of water on the Tay system and hopefully, studies like this will take place in other tributaries to the Rideau. He said he was available to discuss the matter with any of the Councillors or staff that wished to do so.

At Chair Hunter's request, Mary Trudeau, Manager, Surface Water Quality Branch, reviewed the points raised by staff in their letter to the Ministry of the Environment. She explained staff did not spend a great deal of time going into detail on this item, rather staff focussed on appealing to the Province to put some policies in place. She noted Provincial officials have stated and will state there is no water allocation policy in all of Canada. There are policies governing permits to take water but in terms of looking at overall allocations, including industrial needs, municipal drinking water, recreational needs and the ecosystem needs, the science and research is not in place to say exactly what is a fair allocation of water for human and ecosystem balance. By way of example, Ms. Trudeau noted if the water level decreases, the water heats up easier and holds less oxygen and this can have significant implications for the ecosystem balance in that system. She said the first point in the letter was simply stressing that if the allocation policy was going to be developed in an ad hoc manner on the basis of a permit to take water, then this is an issue of concern for the municipal level and for Canada in general.

Referencing the second point in the letter, Ms. Trudeau said there really was not a significant amount of information to be able to make allocation decisions, so the caution was to make those decisions in a conservative manner. She said it was not meant to imply that the application was not a good one but rather it was an appeal for a conservative approach on the part of the Ministry in reviewing the application.

Responding to questions from Councillor Munter with respect to the amount of water being requested, Mr. Denison stated it was not a large amount in the context of the application because this water would be used for industrial processes as well as for 145 regular full time employees at the plant and as many as 500 construction employees (the plant is undergoing a continuous construction process, expected to last the next five years). He said although the

plant would use the equivalent amount of water as Perth on a daily basis (i.e. 1 million gallons per day), it represented only 1% of the daily flow of the Tay River.

Councillor van den Ham thanked the delegation for putting this issue in the proper perspective, noting when one hears that the million gallons per day is only 1% of the flow, this puts it in perspective. He said when he initially heard a million gallons per day, he agreed with Councillor Stewart's inquiry that further information was needed. Mr. Denison noted the Links of Tay golf course takes a significant amount of water from the Tay, almost as much as OMYA's application and suggested when the importance of a golf course is weighed against an industry that employs four or five hundred people, this should be part of the equation as well.

The Councillor then asked what the status of OMYA's application was. Mr. Denison replied the application had been through a public consultation process over the previous couple of months and, as a result, hundreds of comments were received. These have been answered by the engineers (Simmering and Associates) and himself and were provided to the Ministry of the Environment who are evaluating them. It is expected a decision will be made about OMYA's application within the next couple of weeks. Councillor van den Ham indicated he was satisfied with this matter.

Councillor Munter complimented staff on their letter to the Ministry of the Environment and expressed his belief that it was a reasonable submission for the Region to make.

Lois K. Smith, advised she had studied the Rideau Valley Conservation Authority reports, as well as the Ottawa Airport weather records for rainfall for the last 100 years. She said she found it very interesting that the flow records used were taken during high rainfall times. Miss Smith said she was very pleased that staff recommended caution in their letter to the Ministry.

Miss Smith advised she would soon be finished her detailed analysis of the rainfall and would provide copies of same to Regional staff, the Ministry of the Environment, Mr. Denison and other interested parties. She indicated her report was being done on a scientific basis and was not just hysteria.

The Committee then received the staff report.

That the Planning and Environment Committee receive this report for information.

RECEIVED

PLANNING ITEMS

3. UPPER POOLE CREEK SUBWATERSHED STUDY
 - Planning and Development Approvals Commissioner's report dated 8 May 2000
 - Executive Summary, Upper Poole Creek Subwatershed Study issued separately

Leanne McGovern - FoTenn Consultants appeared before the Committee on behalf of the owners of Westwood Subdivision in Stittsville. She referred to her letter, provided to members of the Committee and held on file with the Regional Clerk, which outlined her clients concerns with respect to the Fernbank Wetland. She said they were in the process of preparing an Environmental Impact Statement (EIS) as part of the submission package for draft approval of the balance of their lands and they felt it was more appropriate to continue to have the buffer determined through that process, taking into account vegetation and wildlife, rather than an arbitrary 30 metre buffer.

At Chair Hunter's request, Susan Murphy, Planner, Policy and Infrastructure Planning Division, advised the Fernbank Creek Wetland was within the Upper Poole Creek Subwatershed area. She noted one of the goals of the study was to look to future development lands within Goulbourn adjacent to Upper Poole Creek Wetland and Fernbank Wetland and provide recommendations and guidelines to assist approval agencies with future applications adjacent to these two wetlands. During the course of the study, Upper Poole Creek Wetland and Fernbank Wetland were reassessed by the Ministry of Natural Resources and through that exercise, it was determined that Fernbank Wetland was no longer deemed Provincially significant rather it was downgraded to locally significant. The consultant was trying to give guidelines in terms of if the wetland were to stay as it is was originally designated and in that case, a 30 metre buffer would be adequate to protect the wetland, in the event of development. However, as it is now being downgraded to locally significant, an EIS would be the appropriate mechanism to determine what wetland could be preserved within the development and arrive at an appropriate buffer.

Ms. Murphy went on to say, in terms of addressing the concerns expressed by Ms. McGovern in her letter, staff would recommend the letter go on file. A volume of public comments received (including Ms. McGovern's letter) will be compiled by staff and the issue of the change in designation from Provincially to locally significant and the buffer would be addressed in the upcoming Regional Official Plan Amendment (ROPA) anticipated this fall.

Ms. Murphy confirmed for Councillor Hume that the 30 meter buffer was based on Fernbank Wetlands being Provincially Significant. When the Province downgrades it to locally significant, staff would be satisfied with a development buffer based on an EIS.

Ms. McGovern confirmed this was exactly what her client wanted, however, the wording in the study does not set this out clearly. She indicated she was in agreement with staff's proposal, as long as her letter went on file and this discussion became part of the public record. Miss McGovern stated her client's concern was that they did not want to come forward with their application and find the 30 metre buffer was set. Ms. Murphy pointed out the ROPA has to precede the subdivision application and that will be another opportunity to ensure the request is dealt with properly.

Councillor Legendre stated he was upset when he saw the change in wetland status for Fernbank. Reading the relevant portion of the staff report, the Councillor stated it would appear the wetland is no longer protected. He said he thought the Region valued wetlands whether they were Provincially or locally significant. As well, he pointed out on page 21 of the staff report it states the aquatic strategy will focus on low-cost options rather than focusing on protecting environment. He expressed his disappointment with the tone of the report.

In response, Ms. Murphy noted the staff report began by identifying the five main issues, (not in any particular order of priority) and the fifth was the change in wetland status for Fernbank from Provincially to locally significant. They then addressed the management strategies and finally, the implementation strategies. She pointed out on page 22, in the Implementation Section, staff set out what they planned to do as a result of the change in designation for Fernbank. Because it has gone from Provincially to locally significant, there is a policy in the Official Plan that dictates that the designation must be removed and a ROPA must be initiated. Ms. Murphy advised staff will be coming forward with options in terms of how to address Fernbank Wetland's change in status and will likely recommend a policy that specifically requires an Environmental Impact Statement.

Councillor Legendre questioned if a wetland of local significance had any value to the Region's administration. Ms. Murphy stated the subwatershed study recognizes that Fernbank Wetland is moving from Provincial to local significance but it is saying that the properties and attributes of the wetland should be looked at and it should not lose its importance as a local attribute and amenity in the area. She said this will be the direction staff will be taking for the ROPA.

Chair Hunter noted these statements reflected policies that were currently in the Region's Official Plan. Mr. Tunnacliffe added the 1997 ROP had, for the first time, established a Schedule "K", which identified many of the features which had previously been looked upon as being of local significance.

Addressing Councillor Legendre's comments regarding the low cost aspect of the aquatic strategy, Ms. Murphy explained much work had been done to establish existing creek conditions and what the constraints were, in terms of improving or maintaining creek habitats.

She said an onerous exercise had been undertaken to look at a number of different options in terms of what could be done to maintain Poole Creek as a vital Regional watercourse. Ms. Murphy stated at the end of the exercise, measures of a more biological nature, and “common sense” solutions of trying to create shade and repairing cover along the watercourse, were recommended and endorsed. She said these and similar findings resulted in good recommendations at a relatively low cost.

Councillor Legendre explained he had thought the language of the report to be restrictive, in terms of what staff could study. Noting the report indicated the creek had already been heavily impacted, the Councillor asked if the goals of the study were to stop further impacts and to keep the creek viable, and if so, whether the present report would do this. He further pointed out that elsewhere in the report, there were references to wanting to maintain environmental aspects while allowing development. Councillor Legendre noted these goals were conflicting, opining that when they do conflict, development usually wins. He then questioned whether Committee had before it an environmental report or one that favoured development.

Ms. Murphy explained the goals of the study had been established with public input. She noted there had been a choice between trying to remediate the creek to a state it would have been in 30 years ago, which would have been expensive and unrealistic, or to try to stop the degradation, improve it, and make it something worthwhile. She confirmed that the report would do this, and was an environmental report. Councillor Legendre said he was heartened by these comments.

Councillor van den Ham noted the report recommendation asked that the Subwatershed Study be used as a technical document to *guide* environmental planning. He further noted the report stated that the development guidelines were prepared to *govern* future development. The Councillor asked staff for comment, as he felt the word *guide* was somewhat flexible, whereas *govern* was more restrictive.

Ms. Murphy explained the strategy contained a number of components: development guidelines, and aquatic, terrestrial, and monitoring strategies. In terms of the latter three, more work was needed to define what exact costs would be, who the funding partners would be, etc. She said in this regard, the study was guiding staff to work further on developing these three strategies. Ms. Murphy further noted the development guidelines were stronger and more defined. She said as there were only two subdivisions left in this area, developers would be given clear-cut guidelines in terms of how the Region would approve the developments. She offered in this instance, a portion of the strategy was to govern, while the majority of it was to guide.

Councillor van den Ham hoped the right word would cover the right portion. He also hoped the report contained an element of common sense to allow for flexibility, such as in terms of the

request regarding a 30 metre buffer. Ms. Murphy confirmed that the development guidelines contain options to allow for such flexibility.

There being no further discussion, the Committee then considered the staff recommendation.

That the Planning and Environment Committee recommend that Council endorse the Upper Poole Creek Subwatershed Study (April 2000) as the technical document to guide environmental planning and management decisions within the study area.

CARRIED

4. CORE AREA CONCEPT OF CANADA'S CAPITAL NATIONAL CAPITAL COMMISSION
- Planning and Development Approvals Commissioner's report dated 5 May 2000

Nick Tunnacliffe, Commissioner, Planning and Development Approvals Department (P&DAD), introduced report author Sylvie Grenier, Planner, Policy Planning Branch, P&DAD, to respond to any questions the Committee might have.

Councillor Munter noted a review of the staff report seemed to indicate the development approvals, which would be required from both upper and lower tier governments, would include demolition permits, rezoning approvals, site plan approvals, potential subdivision approvals and an Official Plan amendment. He asked if all of these would be required if the National Capital Commission (NCC) were to proceed with its plans, specifically with regard to Sparks Street.

Nick Tunnacliffe, Commissioner, Planning and Development Approvals Department, replied that not all of the listed approvals would be required for all projects. The Commissioner said he was unsure whether a plan of subdivision would be needed on the Sparks Street proposal, as he did not know how the NCC proposed to develop the block. He noted elements of the Heritage Act might also come into play.

Councillor Legendre felt although the report was clear, he did not agree with all of it. He particularly took issue with a staff comment on page 29 of the agenda which stated, "...the new War Museum deserves a better location than the former Rockcliffe Airbase." He said he was astounded by this remark, as he felt sure staff were aware of efforts to try to develop a cluster of museums in the area. He asked on what basis the Regional Official Plan (ROP) would state that this was desired.

Ms. Grenier explained the Regional Official Plan (ROP) contained a section that said the central area should be a vibrant area with a concentration of institutions and recreational facilities. The idea being that when people came to the core, they could visit several institutions, including museums. Ms. Grenier said putting these on the former Rockcliffe Airbase would not help achieve this, as transportation would become an issue, and the site in question could not easily be accessed by the walking public. She pointed out that the north end of the LeBreton Flats was zoned for such institutions.

Speaking to the benefits of the former Rockcliffe Airbase site for a museum cluster, Councillor Legendre said extensive planning had gone into the selection of the site for the new War Museum's proposed location, noting a decision had already been made in this regard and could no longer be influenced by Committee and Council. He said the Aviation Museum would have the airport access it needed, and he felt the War Museum would benefit from access to nearby water, to allow for exhibits that would not be possible in a downtown location. Councillor Legendre asked for clarification about the section in the ROP that spoke of the core rather than the urban area, as the former Rockcliffe Airbase site was within the urban area.

Mr. Tunnacliffe explained the ROP identifies museums as major community facilities, which are permitted as a right in the central area, whereas, if they move outside of the central area, they would require a Regional Official Plan Amendment (ROPA) and a public process. The Commissioner said he had met with François Lapointe, Director of Planning, NCC, and with Jack Granatstein, Director and CEO, Canadian War Museum, to explain this about a year ago during the formative time of determining where the War Museum should go. Mr. Tunnacliffe said the next stage was the public process around the War Museum's new location, whereas if the central area had been chosen, the public process would not be needed, as it is already permitted in the ROP.

As the ward Councillor for the area encompassing the War Museum's new site, Councillor Legendre expressed extreme consternation that he had not been kept apprised of the processes involving the selection of the new site, and was dismayed that Regional staff had not been supportive of efforts to promote this site during these processes.

Chair Hunter noted there was still opportunity for Councillor Legendre to amend the Region's response to the NCC, and suggested the Councillor draft a Motion to this effect. The Chair shared some of Councillor Legendre's concerns as he felt it made little sense to propose that major facilities such museums be built in areas where increased housing density and livability were desired. He felt the coming and going of visitor traffic would give little in the way of vibrancy to the area. Chair Hunter said he believed the staff recommendation ran contrary to other policies the Planning and Development Approvals Department had been working towards.

The Committee then heard from the following public delegations.

Lois K. Smith explained she agreed with some of the report's points but not with others, and said her comments would be more fully expounded upon in a forthcoming letter. Regarding the matter of proposed plans for Sparks Street, she said she supported the Region's reluctance to move heritage buildings in order to accommodate the proposed widening of the Metcalfe Street corridor. She felt the buildings should be left where they were, and said she would so recommend to the NCC.

François Lapointe, Director of Planning, NCC, read from a prepared statement which was the NCC's initial response to the staff report (on file with the Regional Clerk). The NCC response touched on the following key areas:

- Realignment of the Queen Elizabeth Driveway;
- Road connection to Gatineau Park;
- Chaudières and Victoria Islands;
- Sparks Street Revitalization, in terms of both heritage, parking and public plaza;
- Area north of Sparks Street;
- LeBreton Flats; and
- Bank Street extension.

With regard to the War Museum, Mr. Lapointe agreed with Councillor Legendre that the LeBreton Flats site was likely inappropriate for its needs, particularly with regard to its spatial and program requirements. He noted, however, that this site has been designed for national institutions and he felt future opportunities could bring other museums or such to the area, whose space requirements would be met by the LeBreton site. Mr. Lapointe also confirmed for Councillor Munter that the NCC was still committed to submitting itself to the municipal planning approval process.

Councillor Munter noted there were concerns at the municipal level, especially about the NCC's Sparks Street plans. He asked what course the NCC would take if its application for an Official Plan Amendment or rezoning were rejected by the new City Council.

Mr. Lapointe said the NCC understood the municipal process to be a continuum where interests could be debated on several fronts. He believed that if a party were refused its request, there were other recourses, including an appeal to the Ontario Municipal Board (OMB). He noted that when the NCC committed itself to abiding by the municipal process, it would look at the full process.

Councillor Munter felt the Committee was in an awkward position, as its response to the NCC proposal was, at this point, simply an *opinion*. He said the Committee was compelled by law to consider any application filed, but noted no such application had been filed with either the Region or the City. However, he stated that regarding concerns over Sparks Street, the NCC could consider the Committee's opinion a fair warning for when its role changed from an opinion giving body to that of an approval authority.

Mr. Lapointe said he understood this, but reminded the Committee that this was still a *concept*. He said that as the NCC moved towards a decision and follow up with the new City of Ottawa, the Commission would have to live by its commitment to the municipal process, which would require more substantial and detailed studies. He also pointed out however, that at this point, the NCC was the only organization with a concrete proposal for the core's revitalization.

Responding to comments from Councillor Munter, Mr. Lapointe explained his presence at the meeting had been to clarify the NCC's presentation made approximately a month earlier, in light of the recommended staff response. The Councillor expressed the hope that, presuming the staff report was adopted, the NCC would in good faith consider the Region's comments and give them due consideration in the development of its plans. Mr. Lapointe said the NCC would do so.

Councillor Munter then asked if the Region could do anything to help the NCC find a funding source to deal with the LeBreton Flats soil remediation, and if the \$40 million allocated for the proposed Sparks Street revitalization could be used to this end.

The speaker said the NCC, as a federal organization, would initially look to the Federal Government for funding. As to the suggestion of diverting \$40 million from the Sparks Street plan, Mr. Lapointe replied Sparks Street was a priority area given its proximity to Parliament Hill.

Councillor Legendre submitted the following Motion:

That, under the section "Opportunities not to be missed", the second bullet be deleted from the RMOC's response to the NCC's Core Area Concept of Canada's Capital.

Councillor Legendre asked the Committee to support his Motion. He noted the decision to locate the War Museum at its chosen site had been part of an extensive public consultation process, and had community support. He felt the development of a museum "cluster" including the War Museum, Aviation Museum and, potentially, the Museum of Science and Technology, made sense, both with respect to the synergy that existed between the various museums, and in

terms of location. The Councillor felt adjacency to the river was particularly important in terms of bringing larger exhibits to the site.

Councillor Munter agreed the wording of the staff report was a bit inflammatory (i.e. “a better location than the former Rockcliffe Airbase”), however, he felt the thinking behind the statement was correct. He felt it made enormous sense, particularly for a capital city, to locate institutions (e.g. museums, art galleries, etc.) centrally, not far from the city core. However, as the decision has been made about the location of the War Museum, he felt the argument was purely academic and indicated he would support Councillor Legendre’s amendment.

Councillor Beamish stated he would like to suggest a friendly amendment to Councillor Legendre’s motion, as he felt there was some value in encouraging visitor destinations to locate in the central core. He suggested that the two middle sentences be removed from the paragraph to read “The NCC should be taking advantage of every opportunity to concentrate visitor destinations in the Core Area. The Ottawa River frontage on LeBreton Flats is being reserved for National institutions such as this.” He felt this would both satisfy the Councillor and serve staff’s intent.

Councillor Legendre stated he had considered removing the example in the paragraph, however, he said it was not just the odious example provided by staff, but also that staff failed to recognize the strategic thinking and planning that went into the decision to locate the War Museum at the Rockcliffe Airbase and that the rationale behind the decision, could apply to another museum as well. With respect to the distance from the city core, Councillor Legendre pointed out Rockcliffe Airbase is at most a fifteen minute bus ride from the core. He provided examples of other national capitals such as Washington, D.C. and London, England where it takes much longer to get around to their various national institutions.

Councillor Munter said as Councillor Legendre would not accept Councillor Beamish’s friendly amendment, he would move it, should Councillor Legendre’s motion fail.

Chair Hunter said he tended to agree with Councillor Legendre’s motion because, although this is a report concerning the core area, the way it is worded affects NCC operations and how the Region (and the new City) is run and planned. The Chair felt this suggestion would put the core area in a competitive position with the other areas for the placement of attractions and the spin-off that happens around those attractions. As well, he said he saw it as putting visitor attractions in competition with other identified uses for the core area, such as intensification of residential uses. He pointed out the War Museum and other such museums would be very large land users and could take up most of the land available in LeBreton Flats.

With respect to the NCC vision, the Chair went on to note of personal concern to him, (and not noted in the staff response), was that a couple of areas that have been suggested for redevelopment (e.g. Victoria Island) would appear to be a recreation of people places that already exist. For example, Elgin Street and the Market area are places that people already go to for vibrant night life. The NCC is suggesting that public funds be used to build a competitive area to take the same type of people away from existing locations. He felt the proposal for the base of Parliament Hill was another example of this, noting that Festival Plaza, Confederation Park and Major's Hill Park currently accommodate the type of activities the NCC is suggesting be moved to the Parliament Hill location. Chair Hunter stated he was quite disappointed there was not much new vision but rather a relocation of an existing vision.

The Committee then considered Councillor Legendre's motion.

Moved by J. Legendre

That the second bullet in the "Opportunities not to be missed" section be deleted from the RMOC's response to the National Capital Commission's Core Area Concept of Canada's Capital.

LOST

NAYS:D. Beamish, B. Hill and A. Munter....3

YEAS: J. Legendre and G. Hunter...2

Councillor Legendre's motion having lost, the Committee considered Councillor Munter's motion.

Moved by A. Munter

That the second bullet under "Opportunities not to be missed" be amended by deleting the second and third sentences so it would read:

"The NCC should be taking advantage of every opportunity to concentrate visitor destinations in the Core Area. The Ottawa River frontage on LeBreton Flats is being reserved for such National uses."

CARRIED

The Committee then approved the report as amended.

That the Planning and Environment Committee recommend that Council approve this report as the RMOC response to the National Capital Commission's *The Core Area Concept of Canada's Capital*, as amended by the following:

That the second bullet under "*Opportunities not to be missed*" be amended by deleting the second and third sentences so it would read:

"*The NCC should be taking advantage of every opportunity to concentrate visitor destinations in the Core Area. The Ottawa River frontage on LeBreton Flats is being reserved for such National uses.*"

CARRIED as amended

5. CITY OF GLOUCESTER OFFICIAL PLAN AMENDMENT 31 -
REQUEST BY URBANDALE CORPORATION FOR COMMERCIAL
USE AT THE NORTHEAST QUADRANT OF RIVER ROAD AND
ARMSTRONG ROAD IN THE SOUTH URBAN CENTRE
- Planning and Development Approvals Commissioner's report
dated 16 May 2000

Councillor Beamish submitted a Motion to ask for deferral of this item to the meeting of 27 June 2000, as he had been contacted by several members of the local community who had been caught unaware that the item had been placed on the current agenda.

Chair Hunter explained this item had originally been tentatively scheduled for the meeting of 13 June 2000. However, one of the persons with an interest in the issue, and an objector to the Gloucester decision, was unavailable for that date. Subsequently, a request had been made for an alternate date. He said staff then brought the item forward, which created problems for others. The Committee Chair then asked if there were any speakers who wished to address the issue of deferral.

Norman Swedco, representing Nick Sala, Sala Developments (Saldev), said he was aware there had been a number of requests for deferral. He noted his colleague, Mr. Sala's solicitor, was currently out of the country, and was more familiar with the several important issues that required resolution. Mr. Swedco said in the interest of democracy and the need for greater public input, he did not believe anyone would be prejudiced by a deferral.

Robert McLean, Honey Gables Community Association indicated his support for deferral.

Peter Burns, Urbandale Corporation, said although he would have preferred to proceed and he did not believe a four week delay would see any change in plans, he did not object to a deferral of this matter.

Councillor van den Ham said that he was unsure as to what a deferral would accomplish. He felt the facts were before Committee. Although he acknowledged a deferral would allow the Committee to hear the residents' specific concerns, he said he believed they had already had the opportunity to express these concerns to the City of Gloucester. He said it was the Committee's role as the upper-tier body to review this, and said he would therefore not support deferral.

There being no further comment, the Committee considered the Motion on deferral.

Moved by D. Beamish

That this item be deferred to the Planning and Environment Committee meeting of 27 June 2000.

CARRIED as amended
(P. Hume and R. van den Ham
dissented)

INFORMATION PREVIOUSLY DISTRIBUTED

1. Utility Savings
- Environment and Transportation Commissioner's memorandum
dated 27 Apr 2000

Councillor Legendre felt the memorandum was a good comment on the state of things in Ottawa-Carleton, and said he had personally relayed this message to the report author.

ADJOURNMENT

The meeting adjourned at 5:25 p.m.

Original signed by Dawn Whelan
COMMITTEE COORDINATOR

Original Signed by Gord Hunter
COMMITTEE CHAIR