

20 June 2008

## OPEN LETTER TO COUNCIL

*Carp River Coalition raises concerns about the independent review of Carp River Restoration and Kanata West Development plans*

The Carp River Coalition recommends:

1. **A decision on the Terms of Reference for the review must be deferred** until the suggestions made by the Ministry of Environment have been incorporated. Knowing that the Terms of Reference meet the requirements of the Ministry of Environment will give some assurance to the citizens of Ottawa that the most important questions will be addressed.
2. **There is an urgent need for greater independence in setting up these terms of reference as well as in oversight of the review itself.** Council should be advised of the findings of the review through a channel that is independent of City management. We propose that the Auditor General perform this task.
3. **Serious consideration should be given to replacing the Terms of Reference prepared by senior management with those prepared by Darlene Conway.** Her proposed Terms are not only more logical and coherent, they also respond to all of the suggestions made by the Ministry of Environment, including a review of consistency with Provincial flood plain policy.

### Background

The Carp River Coalition is concerned that the Terms of Reference for the independent review are not sufficiently comprehensive to ensure that all of the important questions are answered with regards to restoration of the Carp River and development in Kanata West.

The planned review does not include an investigation of whether or not building in the flood plain is appropriate. This is a central question for the Kanata West development given that the plans for the development include building hundreds of houses in the floodplain. It must be addressed independent from City management and the developers.

The review fails to include consideration of whether or not there are conservative conditions under which interim development outside the flood plain could safely proceed in absence of valid data. City staff's proposal instead is to use a piece-meal approach in deciding whether or not interim development can proceed. This approach is not sufficiently cautious, given the lack of valid data to evaluate development impacts on flood levels.

The terms of reference prepared by senior management are inferior, in our opinion, to those prepared by Darlene Conway. In particular:

- a) Ms. Conway includes a taking stock of positions of all stakeholders, which is critical to ensuring that the Third Party review “clears the air”. One-on-one interviews are called for with city project staff; the Auditor General and his engineering consultant, technical agency staff (the Conservation Authority and three provincial Ministries), the Part II Order Requesters, the KWOG consultants, and KWOG Ltd. No such taking stock is included in the terms of reference prepared by senior management.
- b) Also absent from senior management’s terms of reference is addressing the fundamental policy issue: Is defining a “fringe” and filling it appropriate here? The Audit report raised significant points in this regard but this discussion doesn’t make it here beyond the FAQs on the City’s web site.
- c) A key question – what the scope should be of a Restoration Plan for the Carp River – is not asked by senior management. In contrast, Ms. Conway’s Terms of Reference include a review of the applicable legislation. A 1909 Ontario Court of Appeal decision confirmed that the “sufficient outlet” for the then proposed drain is below the Village of Carp. It is the position of the Carp River Coalition that any restoration work that stops at Richardson Sideroad will in time (and perhaps in a short time) prove to be insufficient to address flooding issues on the Carp.

Most discouraging is the fact that these terms of reference, which were prepared by senior management at the City, are essentially unchanged even after receiving substantive comments from the public, the Ministry of Environment, and two City engineers (namely Ted Cooper and Darlene Conway) who are arguably the most familiar with the project. City management failed to respond to important concerns about the terms of reference and has left important gaps in the terms of reference they are bringing forward.

Senior management’s work on the Carp River Restoration has already come under heavy criticism earlier this year in the Auditor General’s report. Management again has done an insufficient job of drafting terms of reference for a review of its own record. Senior management clearly has a potential conflict of interest when evaluating the findings of the review of what is essentially their own work.

We propose that the Auditor General be responsible for recommending the final Terms of Reference and for managing and receiving the results of the review and presenting to Council the findings of the review. To assist the Auditor General in this task, we suggest that Ted Cooper and/or Darlene Conway be seconded to the AG’s Office.

The Carp River Coalition comprises members of the Greenspace Alliance of Canada’s Capital, Ottawa Riverkeeper, Friends of the Carp River, and the Ottawa Group of the Sierra Club of Canada.

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