

## Greenspace Alliance of Canada's Capital News Release

P.O. Box 55085, 240 Sparks Street, Ottawa, Ontario K1P 1A1

E-mail: [admin@greenspace-alliance.ca](mailto:admin@greenspace-alliance.ca) Web site: [www.greenspace-alliance.ca](http://www.greenspace-alliance.ca)

### **City of Ottawa should protect public interest groups against legal costs**

For immediate release

December 16, 2008

The Greenspace Alliance of Canada's Capital calls on the citizens of Ottawa to urge their city councillors to support a motion by Councillors Rick Chiarelli and Alex Cullen that aims to protect community groups and ordinary citizens from having to pay for the municipality's legal costs when they act in good faith and in the public interest.

In an unprecedented move, the City of Ottawa has recently asked a judicial review panel to require that its legal costs be paid by the Alliance. These costs arose in relation to an unsuccessful legal challenge before the Ontario Divisional Court. The challenge was part of the Alliance's efforts, over the past decade, to protect Leirtrim Wetland.

The City is demanding \$5,120. On December 10, the Court agreed with the City's demand and decided that the developers of Findlay Creek Village -- companies associated with Tartan, Tamarack and Taggart -- should be paid \$25,000.

"Such a cost award to the City, along with that for the developers, will devastate the Alliance," said chair Cheryl Doran. "Over the years, this organization has made significant contributions to the debate on conservation of protected areas, environmental values and the quality of life in this city and region. One former Deputy City Manager referred to a member of our group as his 'environmental conscience'. I can't believe that the City would now join with the developers in an action that would result in our inability to continue this work."

The City of Ottawa has a policy of encouraging public participation in decision making that is "respectful of the public's right to be involved". This must include an obligation to ensure that everyone can take part in a legal process without fear of counteraction. The threat of legal costs is a serious deterrent to public participation, as public interest groups do not usually have the same financial resources as do municipalities and developers.

Adds Archie Campbell, President of the Federation of Citizens' Associations of Ottawa-Carleton: "I have no doubt that the potential for cost awards will very likely put a chill on any group or individual who may wish to challenge a City decision regarding the environment or any other public interest issue."

Councillors Rick Chiarelli and Alex Cullen have given Notice of Motion and will be presenting their proposal at Corporate Services Committee on January 6, 2009. If approved, it would stop City lawyers from filing claims for costs against community

groups when they appear at tribunals such as the Ontario Municipal Board, courts, etc.

The Greenspace Alliance is calling on all citizens of Ottawa and community groups to contact their councillors before January 6 and urge them to support this motion, in order to protect public interest litigants who are acting in good faith.

- 30 -

For further information, please contact **Cheryl Doran** at **613-290-9968**.

For further background, please visit [www.greenspace-alliance.ca](http://www.greenspace-alliance.ca)

Text of the Chiarelli-Cullen Motion:

Moved by Councillor Rick Chiarelli  
Seconded by Councillor Alex Cullen

WHEREAS residents, community groups and resident organizations contribute significantly to public policy development at the City by offering advice and by putting aspects of Council decisions to the test;

AND WHEREAS community and resident public interest organizations contribute to the community agenda in a range of subject areas from the environment to accessibility to business issues to health protection to development issues;

AND WHEREAS this contribution is valuable to the community irrespective of whether the opinion advocated is ultimately shared by the majority of Council;

AND WHEREAS Council wishes to encourage participation in and by such community and resident public interest organizations and, in fact, gives out awards every year to members of the community for their participation in such activities;

AND WHEREAS occasionally, disputes and disagreements over matters of principle require decisions by third party tribunals, some of which are established specifically to deal with that very kind of dispute;

AND WHEREAS many such tribunals and boards exist to invite participation by individuals, residents and community public interest organizations;

AND WHEREAS it is important to guard City tax dollars against claims and legal proceedings that are frivolous, vexatious or of oblique motive;

AND WHEREAS in instances where the City's position is upheld in hearings, legal and/or other proceedings in front of tribunals, the City operates under a set of unclear practices with respect to whether the City will apply to tribunals to have cost awards charged against the community and resident public interest groups to be paid over to the City;

AND WHEREAS a practice of seeking cost awards could serve as a deterrent to residents considering participating in such organizations or as individuals in the same democratic processes;

AND WHEREAS the City's Public Consultation policy includes the following provision for periodically refreshing that policy:

*Facilitating & Building Capacity for a Collaborative Community* – Strengthening links between the City and the community on public participation initiatives and building capacity in the community for citizen engagement on issues that affect them through a corporate Public Participation Community of Practice.

BE IT RESOLVED THAT Council clarify its policy on seeking cost awards after successfully defending its positions against community and resident public interest groups;

AND THAT the clarification be structured such that, in such disputes in front of tribunals, the City will not seek cost awards from community or resident public interest groups unless the presiding judge or tribunal or Chair of proceedings indicates that the case advanced by the community or resident public interest group is either frivolous, vexatious or of oblique motive.

END