

June 24, 2008

Submission to Planning and Environment Committee

Terms of Reference for the Third Party Review: Carp River Restoration Plan

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Mr. Chair and members of Committee: My name is Darlene Conway. I am a professional engineer and I work for the City but I am here today to provide my personal comments regarding the Terms of Reference.

In two separate submissions – one an “alternative terms of reference,” and the other a response to the May 12, 2008 MVC memo regarding “Floodway/Flood Fringe Implementation,” I have documented my concerns and suggestions, specifically:

- i) that the ToR should include a thorough review of how provincial floodplain policy was applied to this project. To exclude this task is to avoid examining a root cause of the controversy and delays that have plagued the restoration plan. In my response to the May 12 MVC memo, I have tried to underline the floodplain policy confusion that has unfolded with this project. This is perhaps best illustrated by the recent OMB decision regarding the Taggart subdivision in Half Moon Bay: RVCA would not permit the creation of 7 lots in the floodplain while MVC is supporting the creation of several hundred lots in the floodplain: if nothing else, this lack of consistency within the same municipal jurisdiction warrants a thorough review, not just for this project but for future applications as well;
- ii) that the ToR require the third party reviewer to undertake independent consultations with all interested parties including the Auditor General and the Part II Order requesters. The staff response that the positions of all stakeholders were documented and assessed through the EA process is beside the point: the purpose of these consultations has nothing to do with the EA process but would assist the third party reviewer get up to speed on a complex project as quickly as possible based upon independent discussions with all parties. This task would, without a doubt, expedite the overall assignment; and

- iii) that a precautionary interim development plan be prepared that goes beyond the piece-meal approaches that are currently proposed, conservatively assessing what, if any, development can be allowed to proceed in the interim without increasing flood risk or liability to the City.

The ToR before you were not adjusted to reflect any of these items, however, I was somewhat heartened to read in the staff report that my alternative ToR will be reviewed in the context of the MOE comments, rather than being dismissed outright as all other comments provided by the public were. That such substantive comments were so readily dismissed reveals, I think, a resistance to face what has become increasingly obvious: that the Carp River Restoration Plan as currently conceived is fundamentally flawed and requires retrenching, not just cosmetic revisions. Why else would there be such dependence on the 2006 Class EA studies to dismiss the comments provided by the public? –these flawed studies, after all, are the *reason* a third party review is being undertaken in the first place.

This project has a history of disinterested advice being dismissed – and this has needlessly delayed development. If substantive issues are not addressed or resolved, then citizens will exercise their right to appeal mechanisms and professionals will speak out. And based upon the ToR before you today, this pattern of not heeding such advice is repeated. A few examples:

- i) The Fernbank lands: Councillor Wilkinson, appearing on Talk Ottawa some weeks ago, noted the third party review was an opportunity to include the Fernbank lands in a developed condition in the updated modeling - and I agree. But the staff report indicates this would delay the project by several years. Not at all – in fact, including this fairly simple task would likely expedite the development of both the Kanata West and Fernbank lands.
- ii) Model calibration: The recent audit concluded that flood levels could be underestimated by as much as 1 meter in some locations, compared to what is

documented in the Class EAs. And yet this finding is dismissed and an adaptive management approach is proposed: let development proceed and we'll figure things out along the way. Would such an approach be acceptable to design road widenings if we didn't have enough traffic data? Or how about a treatment plant expansion if we didn't have sufficient sanitary flow data? Likewise, adaptive management is not an approach to be applied to the delineation of regulatory floodlines or the setting of basement elevations.

- iii) Municipal drain status: There is compelling evidence that the Carp River could be a municipal drain. Again, Councillor Wilkinson added to this evidence on Talk Ottawa, recalling when she was first elected, some funds dating back to 1915, earmarked for the Carp municipal drain. And yet the position is maintained that the Carp has no legal status as a municipal drain. Why, given all the controversy associated with this project and the evidence available, why not make the effort to confirm, once and for all, one way or the other, the status of the Carp River as a municipal drain? Not to do so risks even more delays in future should another riparian landowner undertake that process.

I will finish by noting a unique aspect of the engineering profession. According to PEO, engineering is the *only* profession where the primary responsibility is to the third party - not the client, not the employer, but the public. This overriding consideration subordinates the engineer's responsibility to his or her client or employer. That, in a nutshell, is why you have two staff engineers taking time off today to convey their concerns about this project. Beyond all the policy and technical details before you, I hope this situation will have some bearing on your deliberation of these Terms of Reference that are inadequate to the problems at hand and require substantial revision.