

GREENSPACE ALLIANCE OF CANADA'S CAPITAL  
ALLIANCE POUR LES ESPACES VERTS DANS LA CAPITALE DU CANADA  
Friends of the Greenspace Alliance / Greenspace Watch

ANNUAL REPORT  
November 2010 to May 2012

This report gives an account of the Alliance's activities over an 18-month period. In summary:

- + A small group of braves has provided continuity through awards of costs related to a use of an ill-defined process and resultant re-incorporation. From April 2012 onwards, the Board was expanded to eight members.
- + Most of the effort has gone into the various appeal processes of Official Plan Amendment No. 76 (5-year review of the OP). With one exception (the [Endangered Species](#) hearing), something was gained in protection of the environment in every case. Even in the endangered species case we learned about the special regulations which the Province had begun to issue designed to protect the habitat of specific species.
- + Other activities included participation in the Greenbelt Master Plan review and various City of Ottawa issues. Most recently, the Alliance has taken leadership in a campaign to modify the City's approach to countering the Emerald Ash Borer.

### Our team

At the Friends' AGM of 18 November 2010, Amy Kempster again assumed the chair, along with Janice Seline as treasurer and Cheryl Doran and Sol Shuster as directors. In February Alicia Reckzin and Erwin Dreessen joined the Board. Jason Kania joined in March and promptly became our new web master. In April, Cheryl Doran's resignation was accepted with regret.

Former chair and good friend [George Wilson](#) passed away on April 13, 2011. After his stint as chair in 2007, George co-chaired the Poets' Pathway Committee. Earlier, while with the Sierra Club, George was very active in efforts to protect the Leitrim Wetland. Later he was very involved in the "Run, Walk for Clean Air," a fund raising activity the Alliance undertook with the Sierra Club and the Friends of the Farm for a number of years.

In light of the cost awards against the Friends of the Greenspace Alliance as a fall-out from the Fernbank appeals, the Alliance re-incorporated as Greenspace Watch. Letters Patent dated May 2, 2011 were received late June and the "first directors" of Greenspace Watch -- Amy, Sol and Erwin -- held their inaugural meeting in July. They appointed Alicia and Jason to the Board. Sol agreed to become Vice-Chair until a Quebec-based co-chair can be found and Erwin agreed to become interim Treasurer. Elina Elnione joined the Board in October. In April 2012, the Board appointed James O'Grady, Martin Callsen and Juan Pedro Unger as Directors. These appointments are in effect until the upcoming AGM, at which time they will be prepared to serve for the year following.

Erwin, JP and Barry George have continued to serve as Moderators of the Listserv. JP has continued to monitor email to the Alliance while Erwin regularly checks the Post Office Box.

A Greenspace Watch bank account with Alterna Savings requires two out three signatures for cheques, among Erwin, Amy and Jason. Greenspace Watch has been the recipient of donations, including proceeds from the annual Mother's Day plant sale at the Experimental Farm, stocked by donations from the gardens of Albert Dugal, Christel Woodward, Iola Price and Gert Dreessen, all efficiently coordinated by Janice Seline.

Amy, Sol and Erwin met with Graham Saul and Emily Diepenveen of Ecology Ottawa on March 8. A [report](#) was posted to the List two days later. We have common ground in resisting urban sprawl and support Ecology Ottawa's initiative to develop a Community Network in up to 100 neighbourhoods.

## Cost awards against the Friends

In January 2011 Dave Morrow inherited the task of representing the Alliance in the appeal to Divisional Court of an OMB decision to dismiss its appeal regarding the Fernbank lands, as well as subsequent cost awards. (The initial appeal had benefited from the services of student lawyer John Lindsay at EcoJustice, under Dave's supervision.) The appeal was dismissed. It had turned on the interpretation of the so-called "integration provision" in the Municipal Engineers' manual for environmental assessments (see next section). We thank Dave for doing what he could against impossible odds.

In a proceeding before a court assessor on April 11, 2011, the Fernbank developers were awarded \$4,475 in costs against FGA. This is in addition to two other awards related to the same case, of \$3,500 and \$5,000, for a total of \$12,975. An offer to pay what was in FGA's bank account (\$1,627 – 12.5 cents on the dollar) has remained unanswered. On March 27, 2012, the old Board of Friends of the Greenspace Alliance met and decided to write its creditors once more, offering to pay out the balance in its bank account. No response was received by the requested deadline. The amount is now invested in a GIC, with Amy and Erwin having power over the account. Dave Morrow has advised that there is no limitation statute to the enforcement of a court order but if more than 6 years have elapsed after the judgement that gave rise to the debt, leave of the court is required to get a writ.

## Provincial policies

As it happens, while the OMB and Divisional Court appeals regarding Fernbank unravelled, the Municipal Engineers Association, which is the guardian of the manual by which environmental assessments of municipal projects are done, was in the process of reviewing specifically the so-called "integration provision" which was at issue in the Friends' appeals. In February 2011 the Alliance wrote, [responding to an Environmental Bill of Rights \(EBR\) posting](#), about the amendment to the MEA process involving the Integration Provision, drawing on its experience with the Fernbank appeals. Our voice and that of others seemed to have been heard because in its proposals for changes to the provision in July, the continuing right of appeal for Part II Orders under the Environmental Assessment Act was made explicit, hence is the process to use rather than an OMB appeal in cases such as ours.

## Appeals of Official Plan Amendment 76 to the OMB

Involvement in the ongoing appeals of the Official Plan amendments resulting from the 5-year review

have been the most significant activity of the Alliance over the review period -- a constant item on the agenda of our monthly meetings.

### *Flewellyn Special Study Area, Environmental Issues and Quarry Lands*

A hearing took place over eight days between June 14 and June 30 (24 issues under appeal). Ken McRae and the Alliance (Amy and Erwin) worked in complementary fashion and the City also fairly defended Council's decision against several proposals by Cavanagh (the only developer active in this hearing). A Decision was issued on July 21 which left, however, certain wording to be finalized. In the end, Cavanagh sought a one-day hearing (held April 13, 2012) to get direction from the Board on three points remaining in dispute -- none involving Flewellyn. A final Decision and Order was issued on April 26, 2012. Watch for a future story on the Greenspace Alliance web site. In short, regarding the Flewellyn area, it was a stand-off. Close watch remains in order.

Despite the delay in finalization of the OMB Decision, the City proceeded with drafting terms of reference for the first of three studies mandated by the Board's decision, namely on cumulative effects. A wetland re-evaluation and an aggregates study are to follow. Ken McRae gave excellent feedback on the draft Terms, as did Amy for the Alliance. Ken has deep historical knowledge of the Goulbourn Wetlands area.

The long delay in finalization of the OPA 76 Amendments considered in the "Flewellyn" hearing made making environmental arguments more complex because major policies in support of environmental protection were held up. Chief among those are flood plain policies that conform to the 2005 Provincial Policy Statement, and policies in section 2.4.2 - Natural Features and Functions, that define the components of Ottawa's Natural Heritage System and set out how they will be protected. All these policies are now law in Ottawa.

### *Cultural Heritage and Design Guidelines*

To seize an opportunity to "push back" a little against developers, a [proposed request for Participant status](#) at the "Cultural Heritage and Design Guidelines" hearing (8 issues) was sent to the City and other Parties. Included in the request were Outlines of Witness Statements by Paul Renaud and Bob Abell. The request indicated that comments would be made about five items that were on the table at this hearing which was to start on Monday, August 15. The City gave every indication of being supportive of our intervention.

As with every hearing, discussions went on between the City and the developer appellants. Three days before the hearing, they reached agreement on recommendations to the Board -- some involving wording changes to certain clauses, some involving significant re-writes, one case of a new policy in OPA 76 being withdrawn, and many instances of appeals having been dropped. As a result, a 2-week hearing was reduced to one day, during which the City's lawyer took the City's witness through a long list of recommended changes and had him declare that it was good planning.

(We wondered on what authority such deals with appellants are made. In contrast, some (though not all) of the terms of settlement of the Alliance's appeal of OPA 76 items for the Airport hearing went to Planning Committee and Council for approval first -- see below. When queried, City counsel referred to a [motion passed by Council](#) on July 13 which made any deals reached by staff subject only to "the concurrence of the Mayor, the Chair, Planning Committee, and the Vice-Chair, Planning Committee." It

looks like we're moving forever closer to Executive Committee decision making.)

As it turned out, all the appeals involving items that we would intervene on at the hearing evaporated. One item was "settled" by adopting somewhat weaker terms than in OPA 76, but it happened to be the one item for which we did not have a witness. Even if we had had one, it is extremely doubtful that our intervention could have moved the Member to modify the consensus achieved.

We will never know to what extent, if any, our "threatened" intervention helped in the developers dropping some of their appeals.

One of the amendments gives more specific scope to a direction about a site alteration by-law that was already in the 2003 Plan. During the "Flewellyn" hearing it was revealed that staff is finally acting on this direction! Paul Renaud's testimony would have included tabling a [chart](#) of 16 similar such by-laws in Ontario municipalities.

Bob Abell's testimony, which would have suggested certain further improvements such as recognizing the importance of waterways in Ottawa's geological past (the receding Champlain Sea) and their significance for Paleo archaeology, can now serve as a marker for the 2014 round of review of the Official Plan.

#### *Airport and Employment issues*

An "Airport Lands and Employment" hearing (9 issues) was held on September 19. It concluded in 1 1/4 hour instead of weeks, because all appeals were withdrawn. The Greenspace Alliance's appeal was settled following a meeting in July with City and Airport officials, attended by Amy, Sol and Erwin. (Some of the proposed terms of settlement were sent for approval by Planning Committee on August 15 and Council on August 24.) The [settlement](#) comprised five points:

- 1- the City's Official Plan was amended to include a commitment to hold consultations with the community and stakeholders before giving input to the Airport Authority on its concept land use plans;
- 2- in a letter by Planning and Development General Manager John Moser, the City has committed further to hold such consultations at both the terms of reference stage and the draft final report stage;
- 3- lands leased by the Airport Authority were more correctly described in the Official Plan;
- 4- the City committed to come forward before the end of the year with a clarification of the meaning of "organic soils" in the Official plan and/or the Slope Stability Guidelines; and
- 5- the Airport Authority released its [Wildlife Management Plan](#).

While we can be pleased with this outcome, a large potential loophole remains: Policy 3 of Section 3.10.1 states that development proposals on airport lands may be considered on a case-by-case basis in advance of these concept land use plans if site-specific issues are adequately addressed and the proposed uses are consistent with the Authority's Land-Use Plan and the Greenbelt Master Plan.

We thank Dr. G. Clarke Topp for his expert advice regarding the meaning of "organic soils."

#### *Country Lot Estates and Village Development*

A hearing started on October 24. Although initially 17 issues were on the table, by the time of the hearing the [only remaining point of contention](#) was the validity of a 5-year moratorium on new Country

Lot Estate developments which was contested by Cavanagh. The Alliance had been accepted as a Party to this hearing. Amy, assisted by Elina, made opening and closing statements and cross-examined witnesses in support of the City's position. Her [Opening Statement](#) demonstrated that the Provincial Policy Statement, while not outright prohibiting CLEs, was clearly very averse to it.

The decision, issued on November 25, concluded that the City had the ability to impose a moratorium and that doing so had planning merit. Cavanagh has asked leave to appeal this decision to Divisional Court. The Alliance wrote to the court saying it did not wish to participate in the appeal process.

### *Urban Boundary Expansion*

This is the mother of all OPA 76 hearings, with the final chapter yet to be played out, in July 2012.

Phase 1 of the urban boundary hearings dealt with "how much" acreage should be added to the urban area. Amy made a Participant statement on March 7, 2011. The statement recalled our interventions in [November 2008](#) and [June 2009](#), and made some comments on the validity of the City's population and housing projections but essentially accepted them. It noted, however, that provincial policy does not require the provision of housing by type of dwelling -- contrary to the position adopted by the OMB in its 2005 decision on "Del-Brookfield-Westpark. " In our view that does not constitute good planning. We also agreed that a City policy that would allow urban expansion only when intensification targets have been met finds support in the Provincial Policy Statement. Finally the statement noted that "while the need for compact communities may need to be balanced with the need for green space, this can be achieved by good design and innovative efforts. As well, we find the increasing size of houses given the decreasing average number of occupants a trend which should be discouraged by planning policy based on environmental concerns."

On June 3, 2011 the OMB decided that 850 ha should be added to Ottawa's urban area, not just 230 ha as Council had decided in June 2009. The reaction in the community to a tribunal overriding a democratic decision of this kind could be described as shock. (For a follow-up, see e.g. Joanne Chianello in the Ottawa Citizen: "[Urban boundary issues put democracy to test; Council faces constant OMB land quandary](#)" - 14 July 2011.)

Until seven months later, everyone understood that decision to mean that, in addition to 163 ha in the Fernbank area (which were declared urban at the same time as OPA76 but were always identified as part of the 850 ha staff had recommended), another 620 ha (above the 230) had to be determined. However, in the middle of the next phase of this set of hearings, Member Jackson, co-author of the June 3 decision, expressed a different view, considering the 163 over and done with and their Order to be for 850 additional hectares.

Earlier, before this bolt of lightning had hit City Hall, [staff had issued an invitation](#) for any new information regarding the parcels it had recommended all along. Erwin prepared a [submission on behalf of the Greenbelt Coalition](#), providing information about Areas 8 and 9 in the Leitrim area. These comments were complementary to one from Paul Renaud for the [Coalition to Protect the South March Highlands](#) that argued that "much of Area 1 and all of Area 2 [in Kanata North] must be excluded from the urban boundary if the city is to remain in conformance with the Provincial Policy Statement." Staff ended up recommending just one change from its earlier reports, splitting a parcel in Kanata north/south instead of east/west. Council concurred on October 12, 2011.

The Board decided to split Phase 2 into two parts. Phase 2A, which began on January 30, 2012, dealt

with critiques of the methodology the City used to identify candidate areas for urbanization. Part 2B would hear evidence and argument about specific parcels.

Concerned about the preservation of wildlife corridors in the South March Highlands area, the Alliance worked with Martin Callsen, President of SMH-CRC on a [witness statement](#) that offered policy evidence about the importance of corridors (linkages) as part of our natural heritage. A 1999 subwatershed study for Shirley's Brook provided specific evidence that could be brought to bear in Phase 2B. [Four issues set forth by the Alliance](#) were accepted for the hearing.

Early in the year a meeting with City staff revealed that all but one of the linkages identified in the subwatershed study had been obliterated by development. (This happened despite a City policy requiring implementation of the recommendations of accepted subwatershed studies "where it has the ability to do so" -- section 2.4.3, Policy 4.) The Alliance, in agreement with SMH-CRC, decided to withdraw from Phase 2A in exchange for a [settlement](#) that included a firm undertaking that natural linkages in and around the city would be identified and mapped before completion of the 2014 Official Plan review. This undertaking offers an opportunity to work with the National Capital Commission and Nature Conservancy of Canada who have identified similar needs. The NCC has committed to linkage studies in the context of its Greenbelt Master Plan review. The Other NCC wishes to complete a study of the Ottawa Valley -- the Quebec side is done, they want to work on the Ontario side.

The Alliance, with the help of a few volunteers, continued to monitor the rest of the hearing and was invited to make further comments with regard to the suddenly controversial interpretation of the Phase 1 Decision. The hearing ended on February 22, after 13 days. Moments later, Erwin was informed that the City will seek a clarification or review of the Panel's apparent interpretation of its Phase 1 Decision that the Ordered 850 ha is on top of 163 ha in the Fernbank area. This is what we had asked the City to do in our [letter of February 17](#).

On March 28, City Council adopted a motion empowering Legal Services to seek confirmation that the 850 ha of urban land decided in Phase 1 include 163 ha in the Fernbank area. Its counsel decided to attempt clarification of whether we're looking for 850 ha or for 1013 by way of a motion at a Pre-Hearing Conference on May 17-18. The motion was for a Partial Order that would declare those parcels to be inside the urban boundary about which there is consensus -- including Fernbank's 163 ha. Much of the pre-hearing conference was devoted to the 850 vs. 1013 confusion. As of the time of writing we are awaiting the Board's decision on the City's motion.

Phase 2B is to start on July 3. Stay tuned. And the next "comprehensive review" of the Official Plan is just around the corner -- actually it has begun. Rural meetings have taken place for some time and on April 26, Mayor Watson and Planning Committee Chair Peter Hume called a Planning Summit to officially kick off the review.

## Planning Summit

Word leaked out in late March that the Mayor's Planning Summit would be held on April 26, 2012. Many Alliance members registered but some were not selected (it was an opaque process). A vigorous discussion took place on the List with contributions to potential speaking points. In all, [some 40 points were summarized in a document](#) posted a few days before the Summit. Over half of the points fell under the rubric "Governance and City-wide issues." Key among those were consultation issues (the main point FCA would make in an [April 26 media release](#)), guidelines for the Committees of Adjustment and more transparency, and the working of democracy at City Hall. Among topics that could come up in the morning Roundtables, the call for no spot zoning and respect for Community

Design Plans were key. In the afternoon Roundtables as well, CDPs would be discussed.

A [post-Summit report to the List](#) summarized the multiple announcements made by Watson and Hume and the messages by guest speakers Pamela Blais and Jeffrey Tumlin. The report noted that the talk was all about buildings, roads and other infrastructure. The number of times that the word environment was mentioned could be counted on one hand.

## South March Highlands and KNL development

A public meeting on March 26, 2012 was well attended, including by several Alliance supporters. Further KNL development (Phases 9, 7 and 8) is on hold until the City has completed its Phase 2 investigation of watercourses downstream of the proposed development (Shirley's Brook and Watts Creek). A Conservation Plan for the Blanding's Turtles population is being developed but remains incomplete without monitoring and enforcement.

## NCC Lands

### *Greenbelt Master Plan review*

Members of the Greenspace Alliance continued to play a very active role as members of the Greenbelt Coalition of Canada's Capital Region as well as representatives on the NCC's Public Advisory Committee. The review of the 1996 Greenbelt Master Plan, which began in the 2008, continued with the presentation by the NCC of three concept plans for review by the public. Although there were many good elements in each of the plans, the Coalition members were dismayed by the timid approach by the NCC to the expansion of the Greenbelt, which did not include the South March Highlands and the Carp Hills. This was communicated to the NCC, pointing out the lack of a long term plan in line with the approved Greenbelt Vision statement.

The Greenbelt Coalition's Agriculture Working Group met to update the Agriculture-related section of the Coalition's September 2010 Position Paper. The Canadian Organic Growers Association (COG) has asked to join the Coalition. In addition, George Bushell from the Gloucester Allotment Gardens has joined as a Resource Person. A delegation also met with NCC officials and was given a PowerPoint presentation on its Agriculture Strategy, also seen by the NCC Board of Directors. While those attending were impressed with the new strategy, as with many other elements of the NCC's proposal (e.g. on Partnerships), actions to date do not appear to match their words.

The last round of NCC consultations, expected to be completed in May and June, were postponed until the fall of 2012.

### *Plan for Canada's Capital -- "Horizon 2067"*

As part of reviewing its overarching Plan for Canada's Capital, the NCC held workshops across the country on the theme of "Horizon 2067. The local workshops, on February 21 and 22, were well attended, including by Alliance supporters. Liberation of the Chaudière Falls and creation of an Aboriginal Centre on Victoria Island were heard persistently as priorities in both sessions, as was mention of the need to embrace the South March Highlands.

## Chelsea

In October 2011, the Alliance wrote to Chelsea Council in support of the Hendrick's Farm proposal which includes the development of an organic farm and the protection of greenspace (parks, trails) on up to 56 % of the 110 acres of land.

## Other City of Ottawa matters

### *Cell Towers*

Juan Pedro alerted the List to an item before Council on the process of allowing cell towers. In response, the Alliance [wrote to Council on March 14, 2012](#), advising that it should not abandon its authority regarding land use for the erection of cell towers.

### *Urban Natural Areas study*

Jason is finalizing a statistical analysis of the current status of the areas that were included in Ottawa's 2005 and 2006 Urban Natural Areas evaluations.

### *View from Poet's Hill*

In February 2012 Kay James and Iola Price brought news that the owner of 222 Beechwood Avenue wished to build a highrise which skirts the protected viewshed from Poet's Hill and the Tommy Douglas Pavillion at Beechwood Cemetery. As a member of the Poet's Hill Committee in 2006, the Alliance had been instrumental in getting this view protected in the CDP; it later was formalized in zoning and Official Plan amendments. This development proposal took an unreasonably literal interpretation of the protection as it would be very much in the foreground and just missing the view cone. In short, it seemed like the view would be badly compromised. Councillor Fleury called a well-attended public meeting on March 7. Beechwood Cemetery CEO Roger Boulton and Board Chair Grete Hale met with the Mayor's office later. The outcome is pending.

### *Development Charges*

Along with a resolution on GHGs approved in November 2011, Amy wrote to Premier McGuinty as well as Mayor Jim Watson, asking that the 10% "discount" for transit be removed from the capital cost calculation for development charges.

### *EIS Guidelines*

In March 2012, Elina and Erwin prepared detailed [comments to staff](#) on a draft second edition of Ottawa's Environmental Impact Statement Guidelines. They were complementary to comments sent in by Donna DuBreuil of the Ottawa-Carleton Wildlife Centre. One of the Alliance's more general comments was that the Guidelines "make it glaringly obvious that the City is in dire need of: a) a tree preservation by-law for rural areas; and b) a soil alteration by-law." A report is expected to go to Planning Committee in the near future.

### *Lobbying registry*

A November 2011 report from the Ottawa's Legal Services about the proposed lobbying registry alarmed community groups as it appeared they would need to register as lobbyists while developers would not need to register their discussions with staff. The Alliance joined FCA to protest these proposals.

### *Heritage trees*

In January 2012, the Alliance lent its support to a by-law on Heritage Trees (or an amendment to the Distinctive Trees by-law), championed by Daniel Buckles, as discussed at an FCA meeting and supported by the Ottawa Forests and Greenspace Advisory Committee. The Champlain Oaks are being put forward as candidates for registration under such a by-law.

### *Section 37 benefits*

Also in January, a draft FCA position on a "Section 37 policy" (proposals to codify community benefits when a developer obtains upzoning) was reviewed and supported.

### *Emerald Ash Borer campaign*

Much of the monthly meeting of April 2012, which included several guests, was devoted to discussion of a strategy to effect change in the City's approach to the infestation of EAB. The objectives of the strategy were generally agreed upon: (A) lobby the City to declare an immediate moratorium on all Ash tree cutting on City property, except when public safety is a factor; and (B) get the City to change its strategy and save as many Ash trees as possible by bringing to bear the most current pest management research to bear on the problem. It was noted that the treatment season ends in August/September, so the timeframe to achieve change is tight. Donna Dubreuil (Ottawa-Carleton Wildlife Centre) emphasized that the economics of the argument for change are very strong and will resonate with Councillors.

Since then a working group has been formed including Albert, Ann Coffey, Louisa Coates, Meg Sears, Paul Tulloch and Roufa Therrien, under the leadership of Sol and Donna. Emails have been sent to Mayor Watson and Councillors, background papers are being prepared and several community meetings are being organized.

### *Listserv and web site*

In February 2011 Erwin, supported by the other Moderators and the then Web Master (Ron Rancourt), proposed changes to the promotion and administration of the GA list serve, which the Board accepted. Some of these proposals remain to be implemented.

The number of subscribers to the List remained stable at between 80 and 90, which is remarkable as subscribing has not been made easily accessible for years. Ability to subscribe via the web site will shortly be restored. Postings have tended to be numerous, averaging between two and four a day.

Content creation on the web site has been erratic, wholly dependent on Erwin's available time, except for the [Links page](#) which he has kept up to date and now contains 142 references of which 44 are local autonomous voluntary organizations. Other content providers have been few, except for an occasional posting by Lorne Peterson in the [Living in the Land forum](#).

To all who helped us fight the good fight, our heartfelt thanks!