

Council holds off decision on Brampton Brick proposal

By Bill Rea

Caledon council is holding off on taking any action on the latest Cheltenham Brickworks proposal.

Town staff had prepared a report for Tuesday's council meeting which basically summarized the situation. But after a lengthy discussion, including input from two delegations, council decided to refer the matter to another meeting.

Councillors indicated they wanted more information on the financial implications of the proposal, as well as who will likely own the property when the work is done.

Brampton Brick has been mining shale material from the site on Mississauga Road, north of King Street, for more than 20 years.

The original plan was to create ponds in the three pits after the company was finished mining the material. It has been announced, however, that the company is interested in importing fill from outside the area to create forested areas and wetlands there.

Council had been ready to receive a staff report earlier this year which indicated the company's proposal is an appropriate and desirable end use of the property, but backed off in the face of local opponents. There were arguments the staff report sounded more like an endorsement.

The latest staff report stated the company made a development permit application about three years ago to amend their rehabilitation plan to restore the first pit to its original landform, complete with wetlands, grassland, shrub habitat and a future woodland area. The report said that will require about 1.8 million cubic metres of fill being imported over five years.

The application has been made to the Niagara Escarpment Commission (NEC).

Local residents have been raising concerns with this proposal since August, when council passed a motion asking NEC to hold off on any action until staff had been able to report to them on the process, impacts and best end uses for the site.

Another staff report was referred back in January for clarification of a number of issues, including public notification and access to information; compliance with municipal agreements and Provincial requirements; and more review of the potential impacts for the proposal.

Despite the updated report, former councillor Al Frost, speaking on behalf of the Cheltenham Area Residents' Association (CARA), said they still weren't satisfied with any of the report's conclusions. Despite that, they weren't calling for any more delays because they didn't see any benefits, especially since the Town is just a commenting agency. He also didn't think it would pass when NEC is called upon to deal with it.

The NEC staff does not want to see this Biosphere Reserve turned onto a dumping zone, he said.

Frost also said CARA plans to delegate NEC when the issue goes before them, putting forth their own position.

As well, Frost called on the Town to look into best practices.

He pointed out the Township of Scugog and the Kawartha Lakes Conservation Authority hosted a Managing Large-Scale Fill Symposium in January, adding there was a lot of useful information discussed there that the Town should look at. In particular, he cited an agreement between the Township and a numbered company, stating the company would provide compensation to the municipality for legal, consulting, infrastructure or other costs, and that the Township would be paid \$1 for every cubic metre of fill imported.

He pointed out an arrangement like that could make \$1.8 million for Caledon through the filling of the first pit.

It is our belief that if the Town of Caledon moves forward with the report and if Brampton Brick are successful, the Town gets relatively nothing, Frost remarked.

Councillor Gord McClure was sympathetic to the concerns of CARA.

I wouldn't want to see all this fill coming in, he remarked, adding NEC has turned down farmers who sought to import a fraction of that amount of fill.

Councillor Richard Paterak, who sits on NEC, didn't think the Commission would support the application.

Frost told Councillor Nick deBoer there were some other factors involved in the Scugog situation. The property in question used to be an airstrip, so the federal government had jurisdiction. That was used as a loophole to allow the placement of fill, but Frost said the community took the feds to court and won, and that resulted in the agreement.

He also stressed CARA is opposed to the proposal, but if it were to go through, they should be able to work with NEC to find some benefit.

I think there's an opportunity there, he remarked. If we move forward with this too soon, those opportunities will be lost.

Frost added there will be some impact on the community if this goes through, observing it would be naive to think otherwise.

He pointed out most of Brampton is on the Peel Plain, and he said some form of regional park could use some undulating hills,

requiring fill. He added there have been cases in London, England, in which things have been accomplished through the moving of soils.

?Are you going to tell us they built Ireland?? deBoer joked.

Mayor Marolyn Morrison said she was familiar with what's been going on in Scogog, pointing out the Township is part of the Greater Toronto Countryside Mayors' Alliance (GTCMA), and they have been looking into some best practices that they have found. Councillor Allan Thompson said he favours the use of the right fill in the Cheltenham site, managed right. He said this idea would get rid of a blight that will be in the community for ever.

Frost told Councillor Doug Beffort the importation of fill is an issue all over the Greater Toronto Area (GTA). He stressed this is not an issue of who should take responsibility, more than an issue of being consistent.

Morrison pointed out GTCMA realized there would be a problem with getting higher levels of government involved, namely that it could lead to a lack of enforcement.

Lawyer Ron Webb, representing Brampton Brick, said the Town would be able to negotiate with the company at the appropriate time for the provisions in the new development permit, adding it would provide the necessary regulatory control over the fill coming in.

He also stated a report, dated May 2011, contained comments from consultants indicating the matter has been researched and constitutes good planning.

He also pointed out fill is being produced all over, and that will continue. There are development plans in Caledon that will see some 1.76 million cubic metres produced. ?That fill has to go somewhere,? he said.

Webb said the company has tried to work with the residents of Cheltenham and Terra Cotta, adding staff has indicated they are satisfied this process has been open, clear and transparent.

?The facts bear out that statement,? he declared.

As well, Webb said the amount of fill available will more than take up the available space in the pits, meaning there will be fill available for farmers who want it. He added fill quality standards are set by the Ministry of the Environment (MOE).

Webb also commented that amending the development agreements will include provisions for testing the fill to make sure it's of appropriate quality. The company will pick up the cost for that, he added.

Councillor Richard Whitehead brought up the issue of who will own the site when all the fill is in.

Webb said the company would still own the land, but there would be the possibility for a more appropriate owner in the long-term.

Whitehead commented an arrangement like this would never work if the lands were not in public ownership, adding Brampton Brick should be willing to hand over the site to a public body, either a conservation authority or the municipality.

He also said there has to be clear word on who will have control over this.

?I have no faith, whatsoever, none, with the MOE of the MNR?(Ministry of Natural Resources),? Whitehead said.

Webb told him they were seeking the first step Tuesday. The second step would involve negotiations between the company and Town to amend the development agreement. That would be the time to talk about the issues Whitehead was raising.

?All of those details are yet to be negotiated,? he remarked.,

Whitehead countered the problem was Webb was advocating approval of the proposal, and then the details could be discussed. He said they need to be discussed in advance.

?I think it could be done either way, and the Town would be fully protected,? Webb commented.

He also said it will be top soil and sub-soil going into the pits, but Paterak said he had been told there's too much of a market for top soil to just stick it in a hole.

Webb told deBoer there are 72 truckloads of shale leaving the site every day, meaning 144 truck trips in and out. There would be more trucks bringing in the fill if this is approved.

DeBoer wondered if it would be possible to have Brampton Brick trucks deliver the fill, rather than independent drivers who get paid by the load.

Webb said the company would be willing to consider any ideas, although he wasn't sure what kind of controls could be imposed on the trucks bringing in the fill.

As well, deBoer argued municipalities should deal with their own fill, and he said this property should only take Caledon fill.

Webb said such matters could be discussed, although he said it would take longer to fill the pit if only Caledon fill is allowed. He added the intent has always been to use fill from Peel; mostly from Brampton and Caledon.

Whitehead also raised the idea of financial implications, pointing out the staff report said there were none. He argued there are, adding they need to be known.

?The report is not as complete as it could be,? he said.

Paterak pointed out the fill is not going to go away.

?I see this as an opportunity to dispose of subsoil and return a piece of escarpment landscape to what is was originally,? he commented, adding this proposal might be better than a deep body of stagnant water that could take years to fill.

McClure voiced his opposition to the proposal.

?I was elected to protect the residents of Ward 2 from something like this,? he remarked.

DeBoer wondered if City of Brampton officials had been consulted on this, commenting it might be time to come up with a more wide-ranging solution.

Director of Development Approval and Planning Policy Mary Hall said they had not thought about working on an agreement with the City.

?This is a new frontier we're dealing with,? she remarked, adding she couldn't say how much of a priority this would be for Brampton.

Whitehead suggested the matter be deferred for two weeks, until the next council meeting. But Beffort wanted to see something like the Scugog symposium set up, pointing out there aren't a lot of time pressures on this. Whitehead said the report needed rewording, and that could be done in two weeks.