

Town nixes facilitation over land uses

By Bill Rea

The Town is not going along with facilitation to deal with land use issues in Bolton.

Caledon councillors reached that conclusion Tuesday night, before a standing-room-only crowd after hearing from several delegations representing both sides of the issue.

They voted unanimously in favour of a lengthy motion put forth by Councillor Jennifer Innis, stating that the Minister of Municipal Affairs and Housing be advised that the Town would not take part in facilitation for a number of reasons. They included concerns that the Provincial facilitation process is not "open, transparent and public."

The motion also cited statements from the Minister that two Regional Official Plan amendments (ROPA) are available for facilitation. One, also known as ROPA 29, deals with the Mayfield West Phase 2 Employment Expansion Area. An appeal to that had been launched by Solmar Development Corp. But Solmar has since reached a settlement with the Mayfield West Phase 2 Landowners Group, so the appeal has been withdrawn. The other issue is known as ROPA 28, dealing with the Bolton Employment Expansion Area. One of the reasons cited in the motion for not going on with facilitation is Solmar has indicated support for ROPA 28, so facilitation is not needed.

Chris Barnett of DLA Piper, external counsel for the Town on this matter, explained the office of the Provincial Land and Development Facilitator helps the Province, municipalities, developers and other interested groups resolve issues impartially. The criteria for using facilitation includes if the matter is the result of implementing provisions in Provincial legislation.

Barnett stressed the facilitator has no statutory authority and can make no final decisions. Since ROPA 28 has been appealed, only the Ontario Municipal Board (OMB) can make binding decisions. As well, he said the process is voluntary and no party can be forced to take part. "You can't be made to be at the table," he told councillors.

He also said there are no rules when it comes to facilitation. The Town had expressed concerns the process is not open to the public. Historically, he said, that's been the case. But the rules are not fixed, so the possibility of an open process is there.

Barnett pointed out that Peel Regional Council last month passed a resolution favouring facilitation, subject to conditions, including that the Town decide to participate. There was also a provision that facilitation not deal with matters that have not yet been dealt with by Regional Council, including any boundary expansion for residential development in Bolton.

Bolton resident Skid Crease was representing Our Caledon Our Choice, calling it a broad-based citizens' group that was reformed this year. The group, he said, wants an open and democratic process, adding that the Bolton Residential Expansion Study (BRES) should not be part of facilitation.

Crease also stated that the Town has followed the appropriate process in these matters. He agreed not everyone will be happy, but added those who aren't can take the matter to OMB.

He called the request for facilitation an "unnecessary intrusion," adding Caledon residents expect a made-in-Caledon solution.

Crease also said if there are problems with ROPA 28 and BRES, they are not with the process, but with the costly challenges.

But Kim Seipt, treasurer of Your Voice for Bolton, said the group has valid concerns and favours facilitation.

"We believe Bolton is not being planned properly," she remarked, adding they don't support delinking the residential and employment growth components of the planning because they fear that will make the development of things like warehouses easier.

Lawyer Piper Morley said she was representing the owners of about 300 acres of planned employment land on the west side of Coleraine Drive, south of Healey Road, and she spoke in support of ROPA 28. Her clients are planning to develop millions of square feet of employment uses, and they fear that facilitations might delay things further.

Michael Melling, of the legal firm of Davies Howe Partners, representing Solmar, countered arguments that facilitation is a closed process.

He said in the late 1980s, litigation was the only way to settle planning disputes, and the only people who benefitted from that were lawyers. He said the Province told OMB at the time to start mediating and facilitating cases, and that's been very successful in dealing with disputes.

Melling agreed ROPA 28 is very important to the Town, but he stressed it's of Provincial interest too, as it's impacted by the GTA West Corridor. It's also of Regional interest as it's part of Peel's land use structure.

He also stressed that facilitation is voluntary, and participants can leave any time. The process is without prejudice, meaning anything one party says in facilitation can't be used against them at OMB.

"It is delusional to believe that litigation is an open process," Melling observed. "Litigation is an inherently secret process."

Former councillor Ian Sinclair commented that Peel's planning culture is unique in Ontario, as it's always been from the bottom up.

He added the three municipalities in Peel had their Official Plans in place before the Region approved its in 1996, and there were never any plans for the Region to take the lead role in planning.

Sinclair observed Brampton Mayor Linda Jeffrey and Mississauga Mayor Bonnie Crombie have both been active in calling for facilitation.

"They lost the plot," he declared.

Sinclair maintained his belief that facilitation would be a secret process, in which development interests would be seeking immediate rights to proceed. He also recalled last fall's municipal elections (Sinclair ran for Mayor), in which most candidates came out in favour of open and transparent decision making. As well, he argued facilitation would cause the Town to lose control of the process, and be insulting to the professionalism of municipal staff.

Councillor Annette Groves said she supported ROPA 28 in 2007, reflecting on the amount of study that had gone into it.

"We felt that those lands were a good fit," she remarked.

She added the massive Canadian Tire development at the northwest corner of Coleraine and Healey came later and the Ministerial Zoning Order (MZO) that advanced that was not part of an open process.

A letter from current Municipal Affairs and Housing Minister Ted McMeekin stated MZO won't be subject to facilitation, and neither will BRES. The appeal of ROPA 29 has been withdrawn, so Groves was wondering what there was left to facilitate.

She also pointed out that Caledon residents want to be part of the process, and she wasn't sure facilitation would permit that.

Councillor Rob Mezzapelli agreed there's not much left for facilitation.

He also pointed out ROPA 28 was approved years ago, with no objections until now.

"To me, we've gone through the exercise," he remarked.

Mezzapelli also observed the Town has a good track record of defending its positions at OMB, which means the planning process is a good one.