



Citizens Opposed to Paving the Escarpment

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COPE MEMBER UPDATE

There has been a flurry of activity recently, as the Government prepares to take its Summer Recess and a September election is a possibility. This “Update” provides a brief summary of recent events.

1. Environmental Assessment Terms of Reference

The narrowly scoped EA Terms of Reference were submitted by the Minister of Transportation to the Minister of the Environment in May. The deadline for public input to the Minister of the Environment was June 20, 2003. Dave Eckersley of COPE prepared a thoughtful and comprehensive submission on behalf of COPE that was delivered to the Minister of the Environment on June 20. The full report and the appendices may be viewed elsewhere on the COPE website.

Suffice it to say that COPE agreed with the positions taken by the City of Burlington, CONE and other groups in calling for the Minister of the Environment to reject the narrowly scoped Terms of Reference and to insist that the job, including the Needs Assessment for the Mid-Peninsula Highway, be done properly and with meaningful public input.

As COPE has repeatedly stated, the process used by the MTO to obtain public input was a total sham – a waste of time – as those of you attended the PIC meetings will attest. The Minister of Transportation essentially ignored the input provided by COPE and many other groups and individuals.

The Minister of the Environment now has 90 days to decide what to do with the proposed EA Terms of Reference and the considerable public input he has received from COPE and others. We will all be watching. **{ PLEASE SEE BELOW FOR AN UPDATE – THE TERMS OF REFERENCE HAVE SINCE BEEN WITHDRAWN BY THE TRANSPORTION MINISTER}.**

2. Bill 25 – An Environmental Disaster

The Eves government recently tabled a proposed piece of legislation – Bill 25, the so-called “Smart Transportation Act, 2003.” COPE’s input on the legislation was submitted on June 20:

“COPE strongly recommends that the new Minister of the Environment advise the Cabinet to withdraw this ill-conceived, draconian and cynical piece of legislation immediately. COPE represents well over 1,100 citizens from Halton to Fort Erie who are united in their opposition to the Government’s current plans to build a Mid-Peninsula Highway without meaningful public input (the process to date has been anything but meaningful) and without a full Environmental Assessment, as required by the *Environmental Assessment Act*.

Under the guise of Smart Growth, this proposed legislation would give the Minister of Transportation unprecedented and unreasonable powers to act unilaterally in the planning of infrastructure corridors. The proposed Bill 25 eliminates the application of the *Environmental Assessment Act* from decisions as to whether a new transportation corridor is needed, and from consideration of alternative routes for the corridor. All rights of the public and municipalities to participate in these decisions under the EAA would be eliminated.

The report from the City of Burlington (DI-11/03, June 13, 2003), sent to you separately, describes in detail the reasons for our opposition to Bill 25. We agree with the Burlington report completely. Removing much-needed safeguards and the democratic checks and balances afforded by the EAA and other legislation may be expedient, but it is not SMART and is not acceptable.

Many of our members are long-time Tories. We don’t believe that being a Tory and an Environmentalist are mutually exclusive concepts, despite this Government’s sad record on the Environment to date. Recent attempts by Minister Klees to seek all party agreement to fast-track this Bill without debate prove how out of touch and cynical this Government can be.

Please listen to us – Kill Bill 25 – let it die a natural death on the Order Paper, never to be resurrected by this Government or the one that succeeds it.”

BULLETIN: While this Bill was not passed before the Legislature broke for the summer, it has since (in July) been re-posted on the Environmental Commissioner of Ontario’s website, indicating that the Government is fully prepared to proceed to try to pass this Bill.

Given that passage would represent an environmental disaster for the province, it is up to all of us, and is vitally important for the environment, to elect candidates in the upcoming election who will balance development initiatives with very real

environmental concerns and who will ensure that this unfortunate legislation never sees the light of day again.

3. Legal Action taken by City of Burlington and Halton Region

You have probably read in the media that the City of Burlington and Halton Region have initiated a request for Judicial Review of the Terms of Reference for the Environmental Assessment. COPE has been working closely with the City of Burlington on this issue and strongly supports the action. COPE congratulates our Regional Council and the Mayor and Burlington Council for the excellent leadership it has shown in taking real action on the concerns of thousands. **{ PLEASE SEE BELOW FOR AN UPDATE – THE WITHDRAWAL OF THE TERMS OF REFERENCE HAS CAUSED THE CITY AND THE REGION TO PUT THEIR LEGAL ACTION ON HOLD FOR NOW. }**

We believe that there is an excellent legal case, this view has been recently supported and reinforced by an Ontario Divisional Court ruling that appears to prohibit the Government from initiating a “scoped” or “fast track” Environmental Assessment under the Environmental Assessment Act.

We are hopeful that the Government will see the error of its ways and go back to the drawing board, start using Smart Growth principles and plan for the development and infrastructure needs of southern Ontario on a comprehensive, systematic basis, with a high priority for environmental concerns in Halton as well as Niagara. We should expect nothing less from our Government.

4. Over 200,000 COPE posters distributed

COPE distributed posters to over 400,000 residents from Milton and Burlington through to Niagara in the last month. The poster, which you may have seen, points out that the Tory election platform promises (on the same page no less) to build the Mid-Peninsula Highway **and** to protect “our environmental treasure, the Niagara Escarpment.” COPE pointed out, in clear language, that this is impossible. The poster also called on the Government to take its own Smart Growth principles seriously.

The Government’s response was to attempt to rush through Bill 25 (see “2” above), to ensure that there would be no further legal opposition to its development and highway building agenda.

A few individuals have criticised COPE for being partisan. While we have been critical of the Eves’ government approach to the Mid-Peninsula Highway issue, we are definitely NOT a partisan group. Our members have supported all parties in the past, many of them the Tories. But we do expect to be governed with honest,

meaningful processes for public input, within the law, and with Smart Growth principles that would protect our few remaining environmental treasures like the Oak Ridges Moraine and the Niagara Escarpment. We don't think that this request is too much to expect of any government. COPE will be working hard to help to elect candidates of any party who will agree with our common-sense positions.

The Tory campaign platform calls for building the Mid-Peninsula Highway and for protecting the Niagara Escarpment – ON THE SAME PAGE. As we have pointed out repeatedly, they can't do BOTH. It is time to take protection of the Niagara Escarpment seriously – protecting it means protecting it – NOT PAVING IT!!

5. COPE's Poll of Public Opinion on the MPH

COPE commissioned an Oracle Poll of all 11 provincial ridings from Halton through Niagara/Fort Erie in April. The poll of 1,200 voting age residents 18 years of age or older, which is statistically valid in all 11 ridings, showed that a vast majority (**91.8%**) feel strongly about protecting the Niagara Escarpment. Over **87%** call for a full environmental assessment of the impacts of the Mid-Peninsula Highway, including an assessment of the need for the highway and a full examination of all alternatives to a highway.

COPE will be using the poll information as it meets with all candidates in all 11 ridings affected by the MPH over the next three months.

More information on the poll can be found elsewhere on the COPE website – look under Important Issues and Information.

6. Fund-raising Update

Thanks so much to the members who have renewed their COPE membership and donated so generously to the cause. Preparing media releases, writing reports, consulting appropriate experts, mailing to members, maintaining our great web-site, conducting a poll, paying for the phone line, postage and mailbox, and distributing educational information and posters is a costly endeavour.

COPE is still substantially in debt and would appreciate further membership renewals and donations. Please see our web-site for details, or return the form sent to you in May or call us and we'll be glad to send you a donation form.

Many thanks for the strong support!!!

7. Last-Minute Update on the Withdrawal of the Terms of Reference by the Minister of Transportation

Ontario Minister of Transportation Frank Klees announced on June 27, 2003, that the Environmental Assessment (EA) Terms of Reference for the Mid-Peninsula Highway that was submitted in May 2003 to the Ontario Ministry of the Environment would be withdrawn and amended.

The Minister further agreed to requests from COPE and other stakeholders for improvements to the MPH planning process including the following:

- setting out a “Special Study Area” for the Niagara Escarpment;
- committing to locating interchanges and transit hubs outside the Niagara Escarpment Plan area;
- acknowledging other planning initiatives underway that will affect the EA, such as the Transit Opportunities Study and the development of a Goods Movement Strategy for Central Ontario;
- making further commitments to consult extensively with the Niagara Escarpment Commission, Ministry of Natural Resources, local municipalities, and other stakeholders to ensure that the requirements of the Niagara Escarpment Plan and other relevant policies are heeded.

While the news is somewhat hopeful, and represents a virtually unprecedented step for this "full steam ahead" provincial government, it should be treated as a partial win at the very most. The following are only some of the reasons that we should be wary of the latest actions by the MTO and the Minister:

1. The Transport Minister has offered more of what he refers to as “extensive consultation.”

It should be noted that the half-hearted and mostly undocumented PIC meetings run over the last year or so were also considered by the Government to constitute “extensive consultation.” What has changed that will make the ‘consultation’ meaningful?

2. “The changes we intend to make to the EA Terms of Reference will establish a Special Study Area around the Niagara Escarpment, reinforcing our commitment to a best-practice approach to existing and potential new crossings.”¹

While it sounds like a nice idea to create a ‘special study area’ -- it's not necessary -- Ontario law already protects the Escarpment. All that is required is that the province respect their own existing laws around the Escarpment in particular and the environment in general. We await details as to what this term means and how the area will be defined.

3. “We will be resubmitting the environmental assessment’s terms of reference at a later date once the amendments have been incorporated and additional consultation with key stakeholders and municipalities is completed...the ministry remains **committed to moving ahead** with this important initiative,” Mr. Klees stated in his letter to the Environment Minister.

Until we see evidence that the Ministry is prepared to do a genuine analysis of need, alternatives, costs, benefits, and consequences for the environment, the escarpment, and human health that incorporates available expertise and is unbiased, we will not lower our guard.

It is imperative that we remember that the Minister's latest action is only a delay and does not represent a withdrawal of the project. The highway is still planned to traverse the Escarpment, most likely in North Burlington.

While this may be a long battle, it's important that we continue to fight. We've made great strides so far, and have covered more ground in just over one year than many activist groups cover over years and years of activity. Let's maintain our momentum and get the Mid-Pen off the table, off the map, and off the Escarpment.

signed,

The COPE Co-ordinating Committee:

Dave Bailey; Nora Burnside; Dave Eckersley; Helene Dutka; Isabelle Harmer; Brendan Kelly; Sue McMaster; Jim Sherlock; Martin Stevens, Aline Tso; Bob Williams.

ⁱ MTO Press Release, June 27. 2003.