

Meeting Environmental Advisory Committee December 8, 2021 6:00 p.m.

The following were in attendance:

- Staff: Cassandra Banting Janice Peyton
- Council: Councillor Mark Bagu Councillor Harry Wells
- Public George McKibbon Members: Jack Hellinga Katherine Klauck Norbert Gieger Tim Lamb Ryan Waines Kerry Royer
- Guest: Mike Audit, Parks Supervisor Gregary Ford, Niagara Coastal Community Collaborative Rod Tennyson, Resident, City of Port Colborne

As a COVID-19 precaution, city staff and the chair met in person at the Engineering and Operations Centre. The rest of the committee joined on Microsoft Teams.

1. Call to Order

George called the meeting to order at 6:00 p.m.

2. Adoption of the Agenda

Moved by Ryan Waines Seconded by Harry Wells

That the agenda dated December 8, 2021, be accepted as circulated. CARRIED.

3. Disclosures of Interest

Nil.

4. Approval / Review of Previous Meeting Minutes

Moved by Jack Hellinga Seconded by Katherine Klauck

That the minutes of October 13, 2021, be accepted as written. CARRIED.

5. <u>Guest M. Audit, Parks Supervisor, Re: Bee City initiative & Tree</u> <u>Planting</u>

Parks Supervisor Mike Audit gave an update on the Bee City Initiative. Mike advised he would like to include the support of EAC in his report to Council regarding Port Colborne officially becoming a Bee City. Mike and staff have worked on this initiative with the assistance of Kerry Royer and with Patty Moss.

Moved by Norbert Gieger Seconded by Tim Lamb

That the EAC support the Bee City initiative as presented by Parks Supervisor Mike Audit. CARRIED.

Committee members would like to recognize the efforts of Patty Moss, in educating the committee.

Moved by Jack Hellinga. Seconded by Ryan Waines

That the EAC send Patty a thank you note. CARRIED.

Mike also spoke to the committee about tree planting to offset carbon emissions. The tree planting goal for 2022 is to plant 400 trees. The trees will be native to Ontario, and they can be planted on private property. Mike is looking into a tree give-away event for Earth Day.

The EAC tree planting rebate program is available to residents. Information can be found on the city website. Kerry Royer advised that the City of St. Catharines Public Works department has been very successful with a tree give-away that utilizes the tree-o-code program.

George asked for an update on the tree planting by-law regarding planting on boulevards. Once the Urban Forest Management Plan is in place and approved by Council, there may be a possibility to plant certain varieties of trees on boulevards.

6. Guest Gregary Ford, Niagara Coastal Community Collaborative

Gregary Ford, Executive Director of Niagara Coastal Community Collaborative provided a PowerPoint presentation and responded to comments and questions of attendees. A copy of the presentation is attached to the minutes.

Gregary advised that the N.C.C.C. would like to collaborate with the EAC moving forward. The N.C.C.C. welcomes anyone who would like to be involved. Anyone interested can email <u>www.niagaracoastal.ca/vast</u>.

Members of the committee are interested in a collaborative opportunity with N.C.C.C. and Niagara College to investigate the possibility of growing beach grass. Gregary will reach out to Niagara College to inquire about support.

7. EAC Working Relationship with Public Works

George provided a report on EAC's working relationship with Public Works. A copy is attached to the minutes.

Discussion took place as to how the committee will inter-relate with other City departments and with Council. George has reached out to Planner David Schulz in the past and they have a good working relationship. Cassandra will now have a standing agenda item on the monthly Public Works Management Team meetings to ask if anyone has anything to forward to the EAC. Mark and Harry will speak with Cassandra and Director Kalimootoo regarding Council direction. George and Jack will prepare an annual state of the environment report to Council at the beginning of every year. Kerry suggested meeting late in the year with Managers of each department to discuss items that may require EAC input. Tim suggested the Climate Emergency be discussed at Council, which would require EAC involvement.

8. Items Arising from Previous Minutes

a) Land Use Compatibility

The subcommittee report on Land Use Compatibility was received and discussed. A copy is attached to the minutes.

George advised he has talked to Planner David Schulz with respect to the PC Quarry and the blasting advisory and he also asked David for soil testing reports from Vale. David agreed that the reports will be made public and will be available for viewing.

Moved by Jack Hellinga

Seconded by Harry Wells

That the EAC report on Land Use Compatibility be forwarded to Municipal Planners at the City and Region and to the JART Committee. CARRIED.

b) Electric Vehicles

Norbert and George provided a report on Getting EV Ready. A copy is attached to the minutes.

Everyone agreed that charging stations would be beneficial in attracting tourists and that timing is essential.

The suggestion was made to install a charging station at the Health and Wellness Centre and at the Cruise Ship Welcome Centre and that perhaps a car rental company would like to partner with the city. Bringing Tesla on board as a sponsor was also suggested.

Norbert and George will review and discuss the 5 points of actions Port Colborne can take to expedite the transition to electric vehicles with Planner David Schulz and will report back to the committee with recommendations to consider making to Council.

9. Soils By-Law – Cassandra Banting

Cassandra advised that she is working on a site alteration by-law and reviewing new excess soils regulations. Niagara Region would like to have a region-wide plan. Cassandra will be in touch with the Region and will bring the draft by-law to the committee some time in the new year for comments. Cassandra was asked to keep in mind the difference between MECP excess soils and municipal site alteration by-laws and the recommendations (found in prior EAC minutes) that the EAC has previously made on this topic.

10. Other Business

At the next meeting the committee will vote for Vice Chair.

11. Next Meeting /Adjournment

With no further business to discuss, the meeting was adjourned at 7:50 p.m. CARRIED.

The next EAC meeting will be on February 9th at 6 p.m.

Men Niagara Coastal

Our Mission

We optimize and expand local action to build a healthy and resilient Lake Erie coastal system that supports the community's economic, recreational, spiritual, and environmental needs.



Our Priorities

1. Nature Based Shorelines



2. Healthy Beaches



3. Habitat and Species



Our Initiatives









Knowledge Brokering & Collective Impact

2017

Community-based Water Quality Monitoring

2019

Visual Assessment Survey Tool (VAST) Nature-based Shoreline Solutions

2021



2021

Knowledge Brokering & Collective Impact



The 5 Conditions of Collective Impact

1 Common Agenda	 Common understanding of the problem Shared vision for change 	
2 Shared Measurement	 Collecting data and measuring results Focus on performance management Shared accountability 	
3 Mutually Reinforcing Activities	 Differentiated approaches Coordination through joint plan of action 	
4 Continuous Communication	 Consistent and open communication Focus on building trust 	
5 Backbone Support	 Separate organization(s) with staff Resources and skills to convene and coordinate participating organizations 	Mes Niagara Coastal



Community-based Water Quality Monitoring





Our Monitoring 2019–2021

- 8 Sites monitored
- 275 Volunteers
- 1166 hours
- 1018 Samples
- Shared data to 15,384 users on Swim Guide









Our Monitoring 2022+

- Continue monitoring
- Niagara College MOU
- Source tracking and DNA analysis
- Submerged structure investigations







Visual Assessment Survey Tool (VAST)







VAST Survey







Surveys: Nuisance Algae, Shoreline Erosion, Aesthetic Beach Quality

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Our Monitoring 2021

- 70+ sites monitored
- 50 trained volunteers
- 521 hours

nc Niagara College Canada

- 370 surveys
- 1800+ photos
- Data shared with 1,440 users









Reeb's Bay: July 25 -November 16. Photo Credit - VAST Citizen Scientists.





Nature-based Shoreline Restoration





Our Restoration 2021

- 7 sites planted
- 1500+ beach grass plugs transplanted
- 2,500m² of habitat restored
- 200m of sand fencing installed
- 34 volunteers
- 102 hours

nc Niagara College Canada











Our Restoration 2022+

- Likely fish habitat compensation Fort Erie
- Ongoing municipal drain restoration proposals

nc Niagara College Canada

• Shoreline resiliency projects







Get Involved

Help us promote resilient Great Lakes shorelines by taking a walk on the beach.

For more information contact: info@niagaracoastal.ca

Visit our website at: www.niagaracoastal.ca/vast

Follow us on social media <u>@niagaracoastal</u>

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EAC's Working Relationship with Public Works, December 9, 2021: A Report

Following our last meeting, Cassandra Banting and I met with Chris Kalimootoo, Director of Public Works. At that meeting we discussed the EAC terms of reference and our working relationship with the Department. Here are the points we agreed to for your information.

1. Cassandra Banting will act as our liaison with the Department of Public Works. This is a step further than required by the EAC terms of reference.

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- Public Works holds monthly meetings at which time they discuss projects underway. Cassandra Banting will be notified of projects that may be of interest to EAC and reporting to EAC may occur.
- 3. Public Works will be clear about which advice the Committee offers can be used and which advice cannot and where Public Works cannot use EAC advice they will give reasons to EAC.
- Where other City Departments are involved, we will need to speak to those Departments. Where inter-departmental committees are involved, we will be advised to the extent Public Works is involved.
- 5. Public Works will send the draft excess fill bylaw to EAC for comment. This is a topic which is of interest to EAC.
- To the extent that is possible Public Works will provide draft materials to EAC for comment so Public Works can advise Council that EAC comments have been obtained and where possible used.
- 7. Committee research work is the responsibility of EAC members and not the responsibility of Public Works liaison staff.

Report to EAC: Land Use Compatibility

December 9, 2021 Environmental Advisory Committee

Since the EAC's last meeting the Province announced it wasn't going to revise the Ministry of the Environment, Conservation and Parks (MECP) D Series Land Use Compatibility Guidelines. MECP staff are still working on the file. There were many submissions on the draft. While there was unanimous agreement revision and updating was needed, little agreement existed about whether the draft's approach was the best approach. Many conflicting views were expressed. Revision wasn't going to be a simple process: especially where some industry and environmental interests hold directly opposing viewpoints.

After next June's Provincial election, we expect a revised land use compatibility guideline will be re-submitted for comment or a revised draft approved. The Province will not go back to the former D Series Guidelines for the following reasons:

- The D Series Guidelines were drafted when MECP staff working on environmental approvals and planning advice to Municipal Affairs worked in the same building. By the mid 90s, Municipal Affairs was using a one window approach to plan review and began delegating *Planning Act* approvals to regional municipalities like Niagara. Once *Planning Act* review was separated from MECP environmental approvals, a more complete compatibility guideline is needed: the existing D Series doesn't provide sufficient direction.
- 2. Most of the regulations and policies sited in the D Series Guidelines have been replaced with new regulations and policies.
- 3. Key technical terms in the D Series Guidelines are undefined and some terms have been replaced with different terminology in environmental approvals.
- 4. There was virtually unanimous agreement among reviewers of the draft guideline that the D Series Guidelines needed to be updated.

Given the positive responses municipal planners had to EAC's recommendation to forward the fly rock advisory to the JART and regional and municipal planners, an interpretive report highlighting why we need better land use compatibility assessment may be useful.

IBI Group's Land Use Compatibility Study for PCQ's expansion application provides a short synopsis of how noise, air and blasting concerns are addressed in the quarry applications¹. It highlights land use compatibility issues facing everyone but, the IBI Study is incomplete.

This report sets out what is required to assess land use compatibility. It puts IBI's analysis into context with the D Series Guidelines and the Draft Guidelines proposed to replace it. Where

¹ IBI Group, Land Use Compatibility/Sensitive Land Use Study: Port Colborne Quarries Inc., Pit 3 Extension, January 8, 2021.

needed we offer comments setting out what we think is a more complete approach and what is needed. We will leave it to others to choose what elements to apply to industrial and sensitive uses generally.

Here are the topics which we propose need to be considered so as to perfect PCQ's land use compatibility analysis:

- The deference the Province provides the aggregate industry over other industries,
- Aggregate extraction isn't a land use: the decision on re-zoning is the only decision the municipality has,
- How evolving regulatory standards and adverse effects are addressed, and
- Measuring compatible separation distances between extraction and sensitive uses.

Deference: The application of the D Series Land Use Compatibility Guidelines privileges the aggregate industry over industry generally. To the extent the land use compatibility guidelines apply, that application is by joint review with by the Ministry of Norther Development, Mines, Natural Resources and Forestry (MNDMNRF) and MECP with one exception: the municipal zoning decision. Port Colborne only gets one opportunity to evaluate the objective merits of PCQ's application and that is in the municipal zoning decision.

In the following application, we adjust the IBI compatibility analysis to compensate for that deference and apply the compatibility analyses as if PCQ were an industrial land use.

Aggregate extraction isn't a land use: In the past the courts concluded aggregate extraction isn't a land use. The Province of Ontario amended the *Planning Act* by introducing Section 34 (2) which states: "*Pits and Quarries.* – *The making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purposes of paragraph 1 of subsection 1.*"² 34 (1) provides municipalities with the ability to restrict the use of land through zoning.

Where the aggregate industry is concerned, municipalities exercise that control through the initial re-zoning of the land for extraction. Land use compatibility is one test required for rezoning. Otherwise, there is no municipal control of PCQ under the *Planning Act* after the zoning is approved. Where other industry is concerned, other *Planning Act* measures apply such as site plan control.

Regulatory standards change with better science: Air standards under Ontario Regulation 419 change with time. The process by which these standards are set and revised involves not only Provincial ministries: it includes other Provincial ministries across the Country and Federal authorities and departments. Over the last 10 years since Ontario Regulation 419 (OR 419) was implemented; some standards changed and became more stringent. Air standards will change going forward during the lifetime of this quarry expansion. A very conservative approach to land use compatibility analysis is needed.

² Province of Ontario, The Planning Act, page 65.

The definition of adverse effects is set by the *Environmental Protection Act*. That inclusive definition is also adopted and applied by the Provincial Policy Statement 2020 under the *Planning Act*. When approvals are issued under the *Environmental Protection Act*, some members of the public and environmental elements may experience adverse effects even though the air, noise and odour standards are met.

For example, where benzene and benzo-a-pyrene are concerned, there are no safe levels of human exposure. In this instance where respirable dust is concerned, it is reasonable to assume that persons with asthma and COPD may be affected even if recommended and regulated standards are met. The Golder's analyses are measurements against standards, legal and recommended: Golders reports don't address health risk. Careful analyses and consideration of separation distances between aggregate extraction/industry is required to minimize adverse effects.

Both the D Series Guidelines and the draft Guideline which was withdrawn recommend that separation distances should be from property line to property line with the intervening uses being compatible with both the industry/aggregate extraction and sensitive uses. PCQ proposes to extract aggregate as close to the property lines of adjoining sensitive uses as possible. Private lands not owned by PCQ are proposed to be used to buffer/separate extraction from residences.

Planning decisions involve balancing the public interests involved in aggregate extraction and the rights of the private property owners whose lands will become buffers to address the extraction's adverse effects. If PCQ is to extract aggregate to their property boundary, reasonable permitted uses should also be available to the landowners whose lands now become a buffer. Land use compatibility analysis should set out clearly how the use of their lands can continue for the existing and permitted uses and any site alterations proposed for those uses. The noise, air and blasting analyses simply looks at the existing uses as represented by the existing residences. With respect that isn't enough. The required buffer should be within the PCQ boundary unless adequate mitigation can be put in place to ensure there is no adverse effect on all permitted uses in all permitted location on other properties.

Alternatively, that analysis needs to clearly set out those landowners will face substantial planning obstacles if existing or future owners apply for planning approvals for other sensitive uses in the future as extraction continues. That ability, available presently to owners, won't be available after PCQ's zoning approval is issued because Provincial, Regional and Port Colborne official plan policy precludes the encroachment of sensitive uses close to extraction operations. That prohibition exists until PCQ rehabilitates the extraction area and the Aggregate Resources license is revoked.

If the separation/buffer is not designed between property boundaries, the planning and analyses of noise, odour, air and dust need to be supplemented with other analyses such as

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maximum emission scenarios, cumulative effects analysis, ongoing compliance monitoring and agreements between PCQ and the municipality on how compliance is to be achieved.

How to measure land use compatibility separation distances from sensitive uses: Noise, air and blasting reports can be used to design separation distances from existing residential sensitive uses.

Where **noise** is concerned, NPC 300 applies. Where noise levels exceed the regulated standard, industry has to comply with the standard set by MECP's NPC 300.

For example, the existing residences on Miller Road are set back some distance from the proposed license area on the individual lots on which the homes are situated. No provision is made in the land use compatibility analysis for relocation of these residences on those lots or permitted accessory dwellings or home businesses or other permitted uses in the Port Colborne zoning bylaw. That is a requirement of the D Series Guidelines presently.

If an owner locates a sensitive use closer to the proposed expansion, an industry is obligated to reduce noise levels at source to maintain compliance with NPC 300 noise standards. The same may apply where air contaminants are concerned. No statements are offered as to how this is to be accomplished in the land use compatibility analysis.

One of MECP's underling rationale for updating the D Series Guidelines was a review of its compliance program. Where nuisance complaints arise from land use incompatibility, compliance matters may be referred to municipalities. Each municipality would have to devise bylaws and compliance enforcement under other legislation. It is imperative land use compatibility is properly established for existing uses and future uses as permitted in the zoning bylaw before PCQ's zoning approvals are finalized.

When the noise analyses are conducted, analysts make assumptions about each house. From the IBI land use compatibility analyses, it appears the numbers are close to the limits set by NPC 300.

Where air contaminants are concerned, some standards are exceeded, and the air analyses requires production reductions for conditions such as when extraction face approaches the property lines and/or sensitive receptors. Further a Best Management Practices Plan is required for fugitive emissions.

The separation buffer from the existing residences on Miller Road relies on the land between the homes and the PCQ extraction limits. No provision is made in the land use compatibility analyses for relocation of these residences on those lots or permitted accessory dwellings or home businesses or other permitted uses provided for in the Port Colborne Zoning By-law.

Without an analysis of other sensitive use configurations on existing lots and a full consideration of permitted uses, this isn't a conservative analysis. If landowners make changes

on their lots or add other permitted uses, the noise and air analyses' conclusions may be invalidated. Once an industry is built or extraction commences it will be difficult if not impossible to achieve land use compatibility and compliance with existing standards.

Alternatively, approval of PCQ's rezoning will preclude future *Planning Act* applications for other sensitive uses residential owners within set distances of PCQ may wish to make. PPS 2020 and official plan policy is clear, sensitive uses are precluded from encroachment close to licensed aggregate operations and heavy industry.

Where **blasting** is concerned, EAC addressed this by forwarding the Ontario Professional Planners Institute advisory.

Our understanding of the PCQ air and noise studies is the applicant seeks approval with the requirement that extraction activities will be implemented compliant with air and noise standards. That approach is used by industry: noise and air standards are assumed to be met by a plant which has yet to be built. When constructed MECP can require the plant to redo their air analyses to demonstrate the plant as built meets the standard. If not, the plant is non-compliant. Will this be an irrevocable commitment in the ARA site plan or re-zoning?

Here are other apparent problems that hinder an accurate assessment of land use compatibility:

- Neither the air or noise analyses provide isopleth mapping of air contaminants of concern or noise levels beyond the quarry property. That mapping can be readily provided but it isn't there. Both analyses rely on the lands not owned by PCQ to separate the residences from the proposed expansion. Without that mapping, we cannot ascertain what uses can reasonably be made of the separating lands not owned by PCQ.
- 2. The processing and washing facilities in Pit 1 should be considered a new use and assessed as such for the purposes of the Pit 3 expansion application. Part of that re-evaluation should reconsider whether the existing noise context in NPC 300 needs to be changed. Absent the Pit 3 expansion, those facilities would be closed and removed.
- 3. The air analysis uses a cumulative and worst-case scenario analyses. The noise analysis doesn't. Comparing the air and noise analyses is like comparing apples with oranges where land use compatibility is concerned.
- 4. Taken together with the blasting report, alternative pit expansion plans are being compared: one with the processing and washing stations and road access in the former Pit 1 and others with those facilities and access eventually located in Pit 3. All the analyses need to be based on one concept or at least each site development should be analyzed for comparative purposes. Worst-case scenarios and cumulative effects analyses of noise and air need to incorporate both scenarios.

Recommendation: that EAC forward these comments to municipal planners at the City and Region and to the JART Committee.

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Getting EV Ready

December 8, 2021

As directed by EAC at our last meeting, Norbert Gieger and George McKibbon are reviewing ways Port Colborne can become more EV ready. We reviewed many publications and news articles. Measures are needed to enable Port Colborne residents to make this technology transfer.

EV technology is coming very quickly. Presently this transition is driven by technology companies (e.g., Tesla) and retailers (e.g., Tom Hortons and A and W). Installing public Port Colborne EV stations here and there is helpful: but we believe more can be done.

New York State's Planning Federation provides technical assistance and training for members of municipal planning and zoning boards in New York State. Their publication entitled "Creating EV-Ready Towns and Cities" A Guide to Planning and Policy Tools" offers helpful suggestions on how to enable this transformation in Port Colborne.

Here are helpful actions Port Colborne can take to expedite this transition:

- 1. Zoning: use the zoning bylaw to help deploy charging stations throughout the municipality. By setting new standards for the application of this technology with permitted uses, we can establish how many stations and where they are needed.
- 2. Parking: use the parking requirements in the zoning bylaw to establish how many and where EV stations should be on streets and municipal parking. Consideration should be given to preferred parking.
- 3. Building standards: we presume that there are building standards in place given there are two charging stations already in Port Colborne. Some further investigation and the making available of information on these standards to the general public can assist technology transfer and innovation.
- 4. Administrative process: making this information more readily available in the planning and building departments.
- 5. Private and public partnerships: electrification is not only changing the way we travel, it is changing the ways in which "stuff" is delivered. Partnerships with courier companies and others retailer (e.g., Amazon) who use Personal Delivery Devices may uncover better ways to help new technology introduction and minimize negative impacts.

Subject to EAC's review of these potential actions Port Colborne may initiate, we seek:

- 1. EAC's authorization for Norbert and George to review and discuss these actions with David Schulz, Port Colborne Planning Department, and
- 2. To come back with recommendations for EAC to consider making to Council.

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