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# TAC site plan approved as final efforts to stall it fail

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New Tecumseth council voted 6-3 in favour of a three year site plan agreement that requires the Tottenham Airfield Corporation (TAC) to post a \$750,000 security bond, repay the Town \$140,000 in costs incurred to date, implements a 50 cents per cubic metre dumping fee and limits the trips to 190 trucks per day, with a total limit of 1,140 per week.

Councillors Michael Beattie, Donna Jebb, and Richard Norcross voted against the deal because their amendment to prohibit work on Saturdays did not succeed. (Ward 8 councillor Chris Ross was absent from the meeting).

The [agreement, the first of its kind in New Tecumseth, goes into effect May 1.](#)

There were final efforts last night to stall the agreement from Carmella Marshall, of Ontario Soil Regulation Task Force, and lawyer Michael Fleischmann, representing Tecumseth Pines.

Ms. Marshall said they found more than 50 points of concern that needed to be addressed before entering into the site plan.

"We respect all the work that's gone into it, but with all due respect, and sorry to sound negative, in terms of protecting the environment, and the citizens, we feel it is a weak agreement, and it needs a lot of work, and some places, a complete re-write," she said. "It's fair to say, there's quite a bit of lack of confidence, even an erosion of trust there."

She reiterated "this council has heard time and time again, the noise and dust are issues. These residents have asked that for example, there be no dumping on Saturdays. Don't believe that's unreasonable for a community that almost likely have all their grand kids come up on the weekend."

However, the key concern was the three year term, whose renewal is to be on the same conditions. Ms. Marshall suggested instead an annual renewal, "where you can make the proper adjustments is something that's very important."

"I'm imploring this council, this evening, not to approve this agreement."

Mr. Fleischmann drew on his seven years insurance law experience to illustrate why the Town shouldn't

feel it's protected by its inclusion on TAC's pollution liability policy.

The \$5 million policy is expected to provide coverage if contaminants migrate off the TAC property. But Mr. Fleischmann said the problem with that is the insurance company would investigate, and because phase 1 of the airport expansion was not under similar controls as the new deal provides for, the burden of proof becomes a greater obstacle.

"In this place, we had the use for many years before the insurance policy's inception, and that use has been thousands of truck loads of processed soil have been accepted before the commencement of the insurance policy term. So the concern would be those truck loads of soil, whether they're contaminated or not constitutes that initial pollution incident; it occurred before the policy term commenced," he said. "In such a case, the Town would have the burden of proving that the site was in fact clean .... So, in this case, you don't have the environmental assessment at this juncture, you don't have the bore hole results. You don't have the baseline of this environment of this land and the extent of contamination in the soil if any - maybe it doesn't exist. But you won't be able to prove to the insurance company, so coverage is going to be denied on that basis. I'm telling you there are concerns about whether the pollution liability policy of the airfield is going to come to protect the Town in case pollution migrates off site. The critical point is why your residents should take on the risk? What do they receive in exchange? Insurance gets premium dollars, but they do get trucks, and noise and dust you've been hearing about."

Mr. Fleischmann also asked why a provision for bore hole testing to gauge the level of contamination was not included in the agreement.

"How do you expect the community to trust this operator, to trust this site agreement, and even to trust council if they are not even entitled to know the base line level of contamination that presently exists at this site."

Town solicitor Jay Feehely said the insurance policy, and the site plan agreement would deal with Phase 2, and that the three year term was their best estimate as to when the work would be completed.

"Fundamentally, we have to recognize that the law has given us the right to regulate, not prohibit. The last thing I want to do is negotiate this agreement every six months or a year, because when you negotiate, it could go the other way as well. I know it sounds good in a year, renegotiate, we may not get it. In fact, if the bargaining gets tough, we don't have an agreement anymore, we have a fight," said Mr. Feehely. "If we have an agreement, we can start to regulate and the agreement is made to regulate Phase 2. And we're going to have tools if we have an agreement. If we don't have an agreement, we're going to have to fight, and we're going in kind of naked, and we're going to be spending all of our money. If we have an agreement, we're going to be spending their money. We're going to have securities, we're going to have the money coming in for previous cost, and we've got tools in this agreement."

Councillor Shira Harrison McIntyre, whose ward 7 includes the Tottenham airfield, said she was satisfied

that the site plan was the best they could hope for under the circumstances.

"I feel it's our duty to put in place the controls, and I feel this site agreement looks at those. All my concerns are addressed in it," said Ms. Harrison McIntyre. "At the beginning, when I first was learning about all these things, Table 1 soil was the gold standard. Since then, the science based information that we've received back from (the Town's consultant) WSP, has told us, Table 2 soil is permissible, is allowable, and does protect human health and the environment. So, in that way, that's been a shift for me. And I feel that, all the concerns that I had are in place, all the controls are in place, so moving forward, we can implement the testing we need to do, we're getting some compensation so we can have the oversight, we can monitor it and have control. I think that's so much better than what we had before, which was none of this."

"For my own personal sake," said added, "I'd like to have no airport in Ward 7 or for New Tecumseth at all, because it's a major headache for everybody, for the residents, but unfortunately that is not within the power of the municipality. All we can do is control it. By delaying the decision, by delaying the implementation, we are not delaying the project from occurring, we are basically delaying the ability to control the site."

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