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Head, Clara, Maria - M. Reith

From: "FCM Membership" <membership@fcm.ca>
Date: March-26-15 3:00 PM
To: "Melinda Reith" <twpshcm@xplornet.com>
Subject: Your FCM membership - United Townships of Head, Clara & Maria

FEDERATION
OF CANADIAN
MUNICIPALITIESFEDERATION
CANADIENNE DES
MUNICIPALITÉS

24, rue Clarence Street, Ottawa, Ontario K1N 5P3
T. 613-907-6273 | F. 613-244-1500

Dear Head of Council and Council Members:

We are pleased to welcome back the United Townships of Head, Clara & Maria as a returning member of the Federation of Canadian Municipalities.

The County of Renfrew has renewed its annual membership in FCM for the 2015-16 fiscal year. In doing so, it has paid for the United Townships of Head, Clara & Maria's membership in FCM for the same period.

We want to ensure that your community gets full value from your FCM membership, so please take note of the many exclusive benefits you receive, including:

- Access FCM expert insight on federal policy matters;
- Receive timely and in depth analysis of federal announcements, budgets, and policies.
- Access domestic and international program expertise;
- Participate in FCM governance;
- Receive discounts on hotels, postal services and a range of other products and services offered by FCM's corporate partners;
- Benefit from significant savings on registration fees for FCM events and conferences; and
- Access to free postings of municipal job opportunities on FCM's website.

If you have any questions about these benefits, please contact Member Services at 613-907-6273 or membership@fcm.ca.

Again, thank you for being part of the FCM family and supporting our efforts to help build strong, sustainable cities and communities in a strong Canada.

Yours sincerely,

A handwritten signature in cursive script, reading 'Brad Woodside'.

Brad Woodside
FCM President

A handwritten signature in cursive script, reading 'Brock Carlton'.

Brock Carlton
Chief Executive Officer, FCM

[UNSUBSCRIBE](#)

31/03/2015

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Head, Clara, Maria - M. Reith

From: "AMO Communications" <communicate@amo.on.ca>
Date: March-30-15 11:12 AM
To: <twpshcm@xplornet.com>
Subject: AMO Policy Update

March 30, 2015

AMO Report to Member Municipalities Highlights of the March 2015 Board Meeting

To keep members informed, AMO provides updates on important issues considered at regular AMO Board of Directors' meetings. The March 27th meeting was the first Board of Directors meeting for the nine new members appointed to fill vacancies resulting from the municipal election. Check out www.amo.on.ca for your full AMO Board 2014-2016.

Highlights of the Board meeting include:

New AMO Secretary-Treasurer

Scott Wilson, CAO, County of Wellington and AMO Board member was appointed by the AMO Board of Director temporarily to fill the vacancy for the AMO Secretary-Treasurer until August 2015. A nomination process, as required by by-law, will occur seeking candidates to complete the term.

Ontario Climate Change Strategy – Meeting with the MOECC Minister

The Honourable Glen Murray, Minister of Environment and Climate Change (MOECC), attended the Board meeting to discuss the state of scientific knowledge on climate change and impacts of emerging weather patterns on Ontario's environment and economy. The Minister provided an overview of some of the issues the government is considering as it develops its strategy as well as the potential economic development opportunities that could be provided through technological innovation and productivity gains of moving to a low carbon economy in the province. The Minister committed to working with municipal governments as full partners and noted his appreciation of the framework adopted by the Board and looks forward to working with the [AMO's Climate Change Task Force on Ontario's Climate Change Strategy](#).

Contact: Craig Reid, Senior Advisor, e-mail: creid@amo.on.ca, Ext. 334.

What's Next Ontario? AMO's Fiscal Sustainability Project

Achieving fiscal sustainability is an overarching goal shared by all municipal governments. The AMO Board approved, as part of its 2015 strategic objectives, a special project involving some substantial research and policy development related to identifying what a future municipal fiscal sustainability framework could look like for the needs and diversity of over 400 municipalities. The project is named "What's next Ontario?" AMO members are asked to stay tuned and then participate in the conversation to develop a vision for how we can achieve a more predictable fiscal future.

Contact: Matthew Wilson, Senior Advisor, email: mwilson@amo.on.ca, Ext. 323.

Implementation of the Social Assistance Management System (SAMS)

After receiving a SAMS update, the Board directed that the AMO President follow-up with the Minister of Community and Social Services, the Honourable Helena Jaczek on the need for full financial compensation based on actual costs incurred until such time as the short and long-term problems within the system are resolved. While some progress has been made,

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efforts continue to stabilize the system across the province. Over the last month, the Ministry has enacted a series of new actions to address the problems including: site visits by the Deputy Minister; creation of a front-line users group; contracting a third part advisor to provide independent, expert advice; and, provided \$5 million in one-time funding to municipalities and DSSABs for costs incurred up until March 31, 2015. In a March 19th letter Richard Steele, the Ministry of Community and Social Services Assistant Deputy Minister, to Ontario Works administrators did say: "This additional \$5 million is in recognition of the tremendous efforts being made to implement SAMS and brings the cumulative amount of provincial funding provided to support the operational costs of SAMS implementation to \$15 million - \$5 million anticipated and provided prior to implementation and an additional \$10 million provided post-implementation. The funding is 100% provincial with no cost-sharing requirement for costs incurred up to March 31, 2015". It is unclear if the financial compensation is sufficient as the Ministry did not survey municipalities and DSSABs on the actual costs.

Contact: Michael Jacek, Senior Advisor, email: mjacek@amo.on.ca, ext. 329.

Municipal Paper on New Waste Diversion Legislation

New provincial waste diversion legislation is expected shortly. Staff is preparing a municipal discussion paper to outline municipal governments' perspective for the MOECC Minister and officials that can inform legislation development. The Board approved the finalization of the paper which is based on key principles that include environmental impacts, preserving limited disposal capacity, ensuring fair compensation for municipalities for services provided as well as any assets and associated costs that are stranded as a new system is implemented.

Contact: Dave Gordon, Senior Advisor, email: dgordon@amo.on.ca, ext. 371.

Self-Insured Long Term Disability

The Ministry of Finance (MOF) recently consulted stakeholders about exempting certain employers through regulation from being required to obtain third party insurance. After speaking with municipal staff and the Ontario Municipal Human Resources Association (OMHRA), AMO staff made a submission to MOF requesting that municipalities be exempted from the amendments to the *Insurance Act* with respect to long term disability benefits. We are awaiting a response.

Contact: Renatta Austin, Policy Advisor, email: raustin@amo.on.ca, ext. 367.

Fair and Open Tendering

Open tendering continues to be an issue for municipal governments as it increases municipal infrastructure costs. In March, AMO's President wrote a letter to Minister Flynn requesting that municipal governments be exempted from the "construction employer" provisions in the *Labour Relations Act*. While there is a process under the LRA, there have been no exemptions for municipalities to date.

Contact: Renatta Austin, Policy Advisor, email: raustin@amo.on.ca, ext. 367.

MEPCO Update

The AMO Board was updated on the work of the MEPCO Board and its mandate to deal with pension related matters. MEPCO made a submission to the Province on its proposed Ontario Retirement Pension Plan (ORPP) which is framework legislation before the House. MEPCO noted some potential impacts and is seeking clarification. At its recent meeting, George Cooke, OAC Board Chair, provided an update on the 2014 OMERS investment return of 10% (net), as well as recent organizational changes and the status of proposed membership growth initiatives. Mayor Rick Goldring, City of Burlington, a member of the AMO Board was appointed to the MEPCO Board.

Contact: Bruce McLeod, MEPCO Coordinator, email: bmcleod@amo.on.ca, ext. 350.

LAS Update

LAS, in conjunction with a Schedule 1 Chartered Bank, is launching a high interest savings account (HISA) for municipalities. By aggregating monies invested, all municipal government, regardless of size, will realize a higher rate of return than going on their own. The HISA will offer complete liquidity with no lock in provisions or withdrawal penalties. Net interest rates will be anywhere between 1.15% to 1.25% depending upon the bank prime rate and the total aggregated amount deposited.

Contact: Jason Hagan, LAS Program Manager, email: jhagan@amo.on.ca, ext. 320.

PLEASE NOTE: AMO Breaking News will be broadcast to the member municipality's council, administrator, and clerk. Recipients of the AMO broadcasts are free to redistribute the AMO broadcasts to other municipal staff as required. We have decided to not add other staff to these broadcast lists in order to ensure accuracy and efficiency in the management of our various broadcast lists.

DISCLAIMER: Any documents attached are final versions. AMO assumes no responsibility for any discrepancies that may have been transmitted with this electronic version. The printed versions of the documents stand as the official record.

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HIGHLIGHTS

Mr. Jeffrey Foss, Financial Services Officer, for the County of Renfrew presented an overview of Tax Policy decisions that County Council has to consider in 2015. Mr. Foss detailed the upcoming process that will involve the delivery of a report from the Tax Policy Working Group to the County Finance and Administration Committee. The recommendations in the report will then be discussed and if successful they will be sent on to County Council in April for their consideration. At April's County Council session these recommendations will then be voted upon to adopt tax policies and tax rates for County purposes for the current year.

Canadian Cancer Society Delegation



Ms. Jean Maeves, a volunteer with the Canadian Cancer Society, presented Warden Peter Emon with a daffodil pin as part of the annual cancer awareness month observed each April. Ms.

Maeves accompanied by the Funding Coordinator, for the Canadian Cancer Society of Renfrew County, Mr. Dave Henderson both relayed powerful and personal messages about the impact cancer has on Canadians. Mr. Henderson said "On a 24 hour clock, every 3 minutes another Canadian is diagnosed with Cancer."

Bernadette McCann House Receives Donation

County of Renfrew Staff presented a donation to the Bernadette McCann House for Women in the amount of \$425. The funds were raised during a one day 'Denim Day' event, where staff donated \$5 each to wear jeans to work. Ms. Gwen Rutland said "I would like to thank the County of Renfrew staff, on behalf of the Bernadette McCann House. This money clearly enhances the kind of supports we are able to provide to our clients and their families."

COUNCIL INITIATIVES

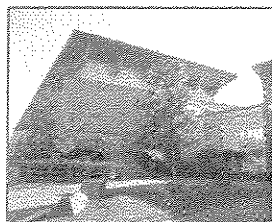
County Council Adopted By-law 22-15 A By-law to Amend By-law 63-03 Human Resources Corporate Policies and Procedures for the County of Renfrew.

County Council Adopted By-Law 23-15 A By-Law for the Execution of Contract No. PWO-2015-04 for the Supply & Delivery of three Tandem Trucks & Plow Units.

County Council Adopted By-law 24-15 A By-Law to Execute an Agreement with the Ontario's Highlands Tourism Organization for the Review and Summary of Environmental Reports Supplied by CPR (Canadian Pacific Railway).

County Council Adopted By-law 25-15 A By-Law to Enter into an Amended Agreement with the Champlain Local Health Integration Network for The Senior/Adult Day Programs.

County Council Adopted By-law 26-15 A By-Law to Enter into an Amended Agreement with the Ministry of Health and Long-Term Care for Community Paramedicine in the County of Renfrew.



For more information, contact:

9 International Drive

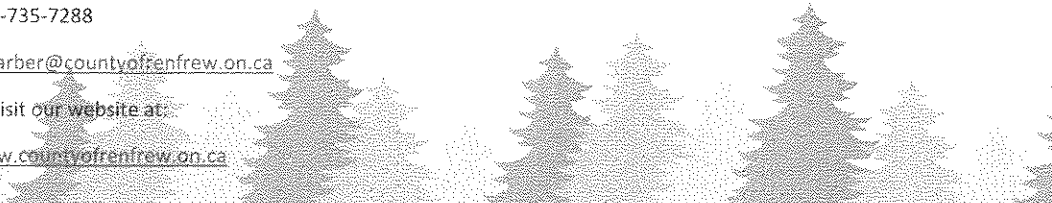
Pembroke, Ontario K8A 6W5

613-735-7288

mbarber@countyofrenfrew.on.ca

or visit our website at:

www.countyofrenfrew.on.ca



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Head, Clara, Maria - M. Reith

From: "Pettapiece, Randy" <randy.pettapiece@pc.ola.org>
Date: April-01-15 1:12 PM
To: "Pettapiece, Randy" <randy.pettapiece@pc.ola.org>
Attach: NR - Liability Reform - April 1, 2015.pdf
Subject: NR - Attorney General refuses to reopen joint and several liability



FOR IMMEDIATE RELEASE
April 1, 2015

Attorney General refuses to reopen joint and several liability

(Queen's Park) – Ontario's Attorney General today refused to take another look at joint and several liability and its effect on municipal insurance rates. In response to a question today from Perth-Wellington MPP Randy Pettapiece, Attorney General Madeleine Meilleur claimed the current system is "the fairest way" of dealing with a shortfall in damages.

"After considering the feedback we received from all stakeholders – from all stakeholders – Ontario has decided not to move forward with changes to the rules of joint and several liability at this time," Meilleur stated.

Government documents, however, disprove Meilleur's statement. According to documents Pettapiece received through a Freedom of Information request, the government's consultation was limited to four legal associations: The Ontario Bar Association, The Advocates' Society, The Ontario Trial Lawyers Association, and The County and District Law Presidents' Association.

Pettapiece blasted the government: "I've seen the Attorney General's files. They show you sought advice from trial lawyers. They show that you sought *no* advice from insurers, or municipalities, or taxpayers," Pettapiece charged.

Seemingly caught off guard, Meilleur accused Pettapiece of wanting to put the disabled on welfare.

"If your son has an accident, and he's totally disabled, you know, I will not be able to look into his eyes and say...we changed the rules and now you have to rely on welfare for your benefits," said Meilleur.

Following his question, Pettapiece was blunt: "For her to say something like that is ridiculous and insulting. I think she was upset for being caught not telling the whole truth about who she consulted."

In February 2014, Pettapiece introduced a private member's motion calling on the government to reform the joint and several liability model. His motion won statements of support from the Association of Municipalities of Ontario (AMO), the Insurance Bureau of Canada, insurance brokers, and over 210

municipalities across Ontario.

The motion passed with strong support from all parties in the legislature. However, at the August 2014 AMO conference, the government announced it would not move forward despite years of promises.

On February 19, 2015, Pettapiece introduced a new motion calling on the government to reform the joint and several liability model. He received very positive feedback on the new motion from municipal leaders at the recent Ontario Good Roads Association/Rural Ontario Municipal Association combined conference.

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Video of Question: <http://pettapiece.ca/?p=3166>

Ministry of the Attorney General's FOI Response: <http://pettapiece.ca/?p=3170>

Randy Pettapiece, MPP | 416-325-3400 | www.pettapiece.ca



Head, Clara, Maria - M. Reith

From: "Accessibility Directorate of Ontario" <accessibility@ontario.ca>
Date: March-25-15 5:07 PM
To: "Jim Gibson" <twpshcm@XPLORNET.COM>
Attach: 2015 Reporting Requirements.pdf; Exigences en matière de rapport de 2015.pdf
Subject: 2015 Reporting Requirements: What Municipalities Need to Know \ Exigences en matière de rapport de 2015 : Ce que les municipalités doivent savoir

La version française suit le texte anglais. French text follows.

**Ministry of Economic
Development, Employment
and Infrastructure**

**Ministry of Research
and Innovation**

Director's Office

Outreach and Strategic
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Accessibility Directorate
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6th floor, Suite 601a
 777 Bay Street
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 Telephone: 416-314-7289
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 Télécopieur : 416 325-9620
 Courriel: Alfred.Spencer@ontario.ca



Reference number: P1507

March 25, 2015

Dear Jim Gibson,

This is being sent as a reminder of the Accessibility for Ontarians with Disabilities Act (AODA), 2005 compliance requirements for 2015, a reporting year for our province's public sector.

As a head of council, you play an important role in ensuring that your municipality has complied with and reported on its compliance with the AODA. Your municipality's accessibility compliance report is now ready to complete and submit. **The deadline for reporting is December 31, 2015** but we suggest that your municipality completes their report as soon as possible to ensure it is entered successfully and on time.

The attached deck will provide you with:

- An overview of the act and its accessibility regulations.
- Links and contact information to resources developed to support local businesses.
- An overview of regulations and compliance requirements municipalities should consider.
- An overview of the reporting process for municipalities.

If you have any additional questions, please contact the AODA Contact Centre (ServiceOntario) at:

Phone: 416-849-8276 or Toll-free 1-866-515-2025

TTY: 416-325-3408 or Toll-free 1-800-268-7095

Fax: 416-325-3407

E-mail: AODA.assistance@ontario.ca

Regards,

Alfred Spencer
Director of Outreach and Strategic Initiatives Branch
Accessibility Directorate of Ontario

**Ministry of Economic
Development, Employment
and Infrastructure**

**Ministry of Research
and Innovation**

Director's Office

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**Ministère du Développement
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(6)

Head, Clara, Maria - M. Reith

From: "Energy East" <energyeast@transcanada.com>
Date: April-02-15 10:36 AM
To: "Undisclosed recipients:"
Attach: EE4721-TCPL-PR-LT-0746.pdf; Press Release - Cacouna Decision.pdf
Subject: Energy East Pipeline Project (the "Project") Québec Scope and Filing of Updated and Supplemental Report No. 2

Dear Sir/Madam

On Thursday, April 2, 2015, Energy East Pipeline Ltd. ("Energy East") announced that it is altering the Québec scope of its Project. This is the result of an ongoing commitment to consult and collaborate with stakeholders along the Project route. The press release for this announcement is attached for your reference.

Additionally, Energy East filed updated and supplemental information with the National Energy Board ("NEB") with respect to the Project application, which was filed with the NEB on October 30, 2014. In the application, Energy East committed to provide updated and supplemental information, as appropriate, throughout the regulatory review process. This update includes information about the Project's engagement program and activities from September 1, 2014 to December 31, 2014 (Supplemental Report No. 2). Future filings with the NEB will provide updates regarding ongoing engagement activities for the Project.

The application and subsequent supplemental reports are available on the NEB website at www.neb-one.gc.ca, under "Quick Links." The NEB website also provides information about the regulatory process, including next steps. The update and supplemental information will be available on the Energy East websites in both English and French at <http://www.energyeastpipeline.com> and <http://www.oleoducenergieest.com>, respectively.

Sincerely,
Energy East Stakeholder Relations

We respect your right to choose which electronic messages you receive. To stop receiving this message and similar communications from TransCanada PipeLines Limited please reply to this message with the subject "UNSUBSCRIBE". This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you. Nous respectons votre droit de choisir quels messages électroniques vous désirez recevoir. Pour ne plus recevoir ce message et les communications similaires, de la part de TransCanada PipeLines Limited, veuillez répondre à ce message en inscrivant dans l'objet « SE DÉSINSCRIRE ». Ce message électronique et tous les documents joints sont destinés exclusivement au(x) destinataire(s) mentionné(s). Cette communication de TransCanada peut contenir des renseignements privilégiés, confidentiels ou par ailleurs protégés contre la divulgation; ils ne doivent pas être divulgués, copiés, communiqués ou distribués sans autorisation. Si vous avez reçu ce message par erreur, veuillez en avvertir immédiatement l'expéditeur et détruire le message original. Merci

07/04/2015

TransCanada Alters Québec Scope of Energy East Pipeline Project Decision a Result of Continued Conversations with Communities and Stakeholders

MONTREAL, Québec – **April 2, 2015** – TransCanada Corporation (TSX, NYSE: TRP) (TransCanada) today announced it is altering the scope of the Energy East pipeline project in Québec as part of its continued commitment to stakeholder consultation, environmental stewardship and community safety. Part of that altered scope includes the decision not to build a marine and associated tank terminals at Cacouna, Québec. Potential alternative terminal options in Québec are being reviewed. Québec and New Brunswick refineries would continue to be connected directly to Energy East.

"This decision is the result of the recommended change in status of the Beluga whales to endangered and ongoing discussions we have had with communities and key stakeholders," said Russ Girling, TransCanada's president and chief executive officer. "We have listened and our decision reflects that. Our goal has been to strike a balance between TransCanada's commitment to minimizing environmental impacts and the imperative to build modern infrastructure to safely transport the energy Canadians need and consume every day."

One of the key learnings from discussions with stakeholders was related to emergency response plans, which are developed with local agencies along the pipeline route. Typically, these detailed plans are finalized and provided to the National Energy Board (NEB) in the latter part of the regulatory process. The Energy East team has heard how significant these documents are to communities and other stakeholders. In response, the development and submission of these emergency response plans will be brought to the NEB earlier in its process.

"We want Canadians to know that we have and will continue to listen," concluded Girling. "The Energy East pipeline will be designed and operated with a singular focus on safety – that is what Canadians expect and that is what TransCanada will deliver. We all recognize that oil is essential in our daily lives. We need it to operate our vehicles, fuel airplanes, produce smart phones, manufacture heart valves and make the thousands of products we rely on every day. We must ensure the oil is transported safely and reliably and pipelines are the best way to do that."

Girling highlights Energy East represents the opportunity to establish a reliable supply of primarily Western Canadian crude oil for refineries in Québec and New Brunswick. In addition, the project will support 14,000 direct and indirect full-time jobs across Canada during development and construction, and generate more than \$7 billion in additional tax revenues in the first 20 years of operation for local, provincial and federal governments, along with billions of dollars in economic activity across the country.

TransCanada will be advising the NEB that the company will not be proceeding with a marine terminal in Cacouna and is evaluating other options. Any amendments to the applications for Energy East reflecting the outcome of that evaluation are expected to be filed with the NEB in the fourth quarter of 2015. The result of this alteration to the project scope and further refinement of the project schedule is expected to result in an in service date of 2020.

The 1.1 million barrels per day (bbl/d) Energy East project has secured approximately one million bbl/d of firm, long-term contracts. The \$12 billion project is an important element of TransCanada's \$46 billion of commercially secured growth projects. Over the remainder of the decade, subject to required approvals, this industry-leading portfolio of contracted energy infrastructure projects is expected to generate significant growth in earnings, cash flow and dividends.

For more information about the pipeline project, visit the project websites at:
www.energyeastpipeline.com or www.oleoducenergieest.com

With more than 60 years' experience, TransCanada is a leader in the responsible development and reliable operation of North American energy infrastructure including natural gas and liquids pipelines, power generation and gas storage facilities. TransCanada operates a network of natural gas pipelines that extends more than 68,000 kilometres (42,100 miles), tapping into virtually all major gas supply basins in North America. TransCanada is one of the continent's largest providers of gas storage and related services with more than 368 billion cubic feet of storage capacity. A growing independent power producer, TransCanada owns or has interests in over 11,800 megawatts of power generation in Canada and the United States. TransCanada is developing one of North America's largest oil delivery systems. TransCanada's common shares trade on the Toronto and New York stock exchanges under the symbol TRP. For more information visit: www.transcanada.com or check us out on Twitter @TransCanada or <http://blog.transcanada.com>.

FORWARD LOOKING INFORMATION

This publication contains certain information that is forward-looking and is subject to important risks and uncertainties (such statements are usually accompanied by words such as "anticipate", "expect", "believe", "may", "will", "should", "estimate", "intend" or other similar words). Forward-looking statements in this document are intended to provide TransCanada security holders and potential investors with information regarding TransCanada and its subsidiaries, including management's assessment of TransCanada's and its subsidiaries' future plans and financial outlook. All forward-looking statements reflect TransCanada's beliefs and assumptions based on information available at the time the statements were made and as such are not guarantees of future performance. Readers are cautioned not to place undue reliance on this forward-looking information, which is given as of the date it is expressed in this news release, and not to use future-oriented information or financial outlooks for anything other than their intended purpose. TransCanada undertakes no obligation to update or revise any forward-looking information except as required by law. For additional information on the assumptions made, and the risks and uncertainties which could cause actual results to differ from the anticipated results, refer to the Quarterly Report to Shareholders dated February 13, 2015 and 2014 Annual Report filed under TransCanada's profile on SEDAR at www.sedar.com and with the U.S. Securities and Exchange Commission at www.sec.gov.

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TransCanada Media Enquiries:

Tim Duboyce
514.982.8403 (office), 514.378.5670 (cell) or 1.800.608.7859

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April 2, 2015

450 – 1st Street S.W.
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Dear Sir/Madam

Re: Energy East Pipeline Project (the "Project") Québec Scope and Filing of Updated and Supplemental Report No. 2

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The application and subsequent supplemental reports are available on the NEB website at www.neb-one.gc.ca, under "Quick Links." The NEB website also provides information about the regulatory process, including next steps. The update and supplemental information will be available on the Energy East websites in both English and French at <http://www.energyeastpipeline.com> and <http://www.oleoducenergieest.com>, respectively.

Sincerely,

Energy East Stakeholder Relations

LEGAL MATTERS

POINTS OF INTEREST FOR MUNICIPAL LEADERS AND ADMINISTRATORS

MUNICIPALITIES PRESCRIBED A LOW-SODIUM DIET

A recent case makes meeting the duty to maintain roads in the winter more challenging. In Lambton, a local farmer sued the municipality for damage to their farm caused by road salt applied to a nearby road. The farmer alleged damage to crops, diminution of property value and stigma due to salt contamination. The County argued that salting serves a "social utility" and that it is required by legislation to maintain roads for the benefit of all, including the farmer. The court agreed with the farmer.

These types of claims started in 1987 when the Ontario Court of Appeal found that where the application of salt on a road impacts a farmer's property that constitutes a nuisance. In Lambton, the Court followed the 1987 decision and found that elevated concentrations of sodium and chloride in the soil were a direct result of the application of salt on the adjacent road by the County which caused damage to the farm and diminished its value.

The farmer's injury was found to be a cost of highway maintenance that the farmer should not be required to bear in the circumstances, at least without compensation. Neither the social utility of salt application nor the lack of negligence on the County's part excused liability; the damage

DIET continued next page >

ROAD KILL

A blocked culvert underneath a road owned and maintained by the Ministry of Transportation (MTO) caused a road to washout. The washout caused a heavy volume of flood water and road material to flow into a small watercourse and downstream to nearby rivers & lakes, resulting in damage to fish habitat and water that was rendered harmful to fish. The MTO was charged by the federal Department of Fisheries and Oceans (DFO) under the Fisheries Act. The MTO was convicted on one charge of causing serious harm to fish and one charge of permitting the deposit of a deleterious substance in water frequented by fish. Mitigation efforts by the MTO did not amount to due diligence.

The MTO argued that once constructed, the road and culvert infrastructure could not be considered 'carrying on a work or undertaking' for the purpose of the Fisheries Act. The court disagreed and found that the road was a 'work or

undertaking' for which the MTO remained liable even after the construction was complete.

The case was upheld on appeal, confirming that the road authority has a responsibility to maintain the road infrastructure once it is constructed. Part of maintenance is to maintain the road so that it does not fail and, in failing, harm or destroy fish habitat.

This is a decision with potentially serious consequences for municipalities. Road authorities have a continuing obligation to ensure that their roads do not inadvertently breach the Fisheries Act in the future, post-construction, regardless of the passage of time. It further underscores the need for a comprehensive program of road system inspection and maintenance in order to avoid damage altogether as well as to ensure you've done enough to cross the due diligence threshold. ■

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caused to the farmer's land was a significant harm which amounted to an unreasonable interference. Lambton could not rely on a defence of statutory authority (inevitable harm) based on the Minimum Maintenance Standards because the Court found that it could have used alternatives to salt. The Court awarded \$45,000.00 in damages for 15 years of crop loss from 1998 to 2013 and \$56,000.00 for the diminution of land value.

The award for decreased property value is concerning. Loss of property value was found despite the fact that the farmer did not mitigate his damages and the land was not irreparably damaged – meaning that it might still be remediated.

A case decided approximately 1 month later in Napanee highlights the extremely difficult position municipalities are in. In Napanee the court found the municipality negligent for a car accident on a snowy road because the municipality's use of a 3:1 sand/salt mixture was insufficient and the road ought to have been salted. A robust and routinely reviewed risk management program is key to balancing the risks of accidents compared to the potential for property damage. ■

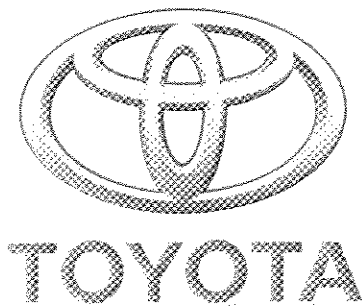
ENFORCEMENT OF A SUBDIVISION AGREEMENT IS DISCRETIONARY

Municipalities do not have a duty to litigate for someone else's benefit where a subdivision agreement is breached.

Dawson claimed his neighbours dumped soil on his and their property in 2004, contrary to the subdivision agreement governing the properties. Dawson attended a Laurentian Valley council meeting in 2006 where he complained about the dumping, and was advised the matter was being reviewed. In January 2007, Dawson received internal documents from the Township, including letters to the neighbours confirming that they had breached the subdivision agreement. In 2009, the municipality decided not to take action against the neighbours given the costs of litigation and the evidence available.

The Court held that Dawson had in his possession in January 2007 all of the information on which he relied in his statement of claim against the Township. The action against the Township was dismissed for being outside of the limitation period.

More importantly, the Court held that even if the claim had been brought in time, the municipality did not owe a duty to Dawson to pursue proceedings against his neighbours; it had considered the matter and "behaved reasonably" in deciding not to commence a proceeding. The lesson here is that enforcement of a Subdivision Agreement is a matter of contract between the Municipality and the Developer/successor landowners. One successor landowner cannot compel the municipality to enforce its own Subdivision Agreement against another successor landowner; the decision to enforce is entirely at the discretion of the municipality. ■



EXPROPRIATION IS NOT A BONUS

Oxford County expropriated land and subsequently sold it to Toyota in order to facilitate the development of an auto plant. The expropriated landowner challenged the expropriation for a number of reasons, including that the expropriation and later sale to Toyota conferred a "bonus" on Toyota, contrary to section 106 of the Municipal Act. The owner argued that but for the expropriation he could have negotiated a higher price because his continued refusal to sell to Toyota would have increased the purchase price. The expropriation and subsequent sale "robbed" him of the ability to obtain the higher price.

The Court of Appeal confirmed that the expropriation and the subsequent sale were two separate transactions. Even if the sale were a bonus, that could not invalidate the expropriation. In fact, the sale was not a bonus as the municipality sold for the same value as it paid under the expropriation. Arguments that the pending Toyota plant increased land values were not applicable in the circumstances of an expropriation as the Act requires that value be calculated without reference to the purpose for which the land will be used after expropriation.

Equally important, the Court of Appeal confirmed that the expropriation was initiated for a proper municipal purpose. This ruling confirms that expropriating land to facilitate economic development is a valid municipal purpose, even where the lands are not ultimately retained by the municipality. ■

LEAKING LANDFILLS

Strand Theatre (ST) sued the City of Prince Albert Saskatchewan, alleging that leachate from a nearby landfill had contaminated its property.

The basis for the claim was a Phase II Environmental Site Assessment (Phase II) carried out in connection with a potential sale of ST's property. The Phase II concluded the property had been impacted by leachate migration, the purchase fell through and ST sued the City.

The City retained its own experts, one to review the ST report (who completely discredited the report) and one to complete a Phase II of its own, which concluded that although the former landfill had an influence on the groundwater quality the results (compared to Ontario MOE non-potable groundwater criteria) were well below the standards for Commercial/Industrial development.

The Court of Appeal confirmed the trial decision that in order to establish nuisance, ST had to prove that the City was interfering, in a substantial and unreasonable manner with the use and enjoyment of its property. A number of findings of fact were fatal to the plaintiff's claim: (i) there was no evidence that leachate was migrating from the landfill site to ST's property, thus there could be no interference, (ii) if leachate was migrating, the concentrations were "miniscule" and did not substantially or unreasonably affect the plaintiff's property, and (iii) if leachate was migrating, it did not affect the plaintiff's use and enjoyment of the property, since the trial judge heard evidence that the prospective purchaser withdrew its offer to purchase for reasons unrelated to the Phase II report.

Don't assume that just because your landfill is leaking (they all do) that you have to foot the bill of every neighbour. ☒



FRUSTRATION AND THE GREEN ENERGY ACT

Municipal by-laws are not applicable to provincially approved renewable energy projects where the by-law frustrates the purpose of the provincial approval. East Durham Wind Inc. (EDW) took a municipality to court over two by-laws it alleged prevented it from proceeding with construction of a wind energy project. EDW had obtained a Renewable Energy Approval ("REA")—but needed municipal "entrance permits" and "oversize/overweight haulage permits" to convey large/heavy project materials by truck along public highways.

EDW applied for entrance permits on two separate occasions, both of which were rejected. EDW submitted 8 applications for oversize/overweight haulage permits, which were also rejected. The municipality took the position that it required a security for potential damage to the roads, which the parties had been unsuccessfully negotiating, before the applications could be considered.

At trial EDW argued the municipality's policy/by-law regulating each permit conflicted with the REA such that the REA's purpose was frustrated. A by-law can be struck down for: (1) operational conflict with a provincial permit, or (2) frustration of the purpose of a provincial legislative instrument. Since the REA did not impose standards for entrances or the size/weight of trucks/loads, there could be no operational conflict preventing compliance with both the by-law and the REA. The Court's analysis focused on the second-prong: frustration.

The purpose of the Green Energy Act is to encourage and facilitate the development of renewable energy projects in Ontario. Further, the purpose of the REA was to authorize the construction and operation of EDW's project. The Court found that EDW's project had been duly authorized by the province and the municipality's by-laws effectively prevented construction, such that the purpose of the REA was frustrated. The by-laws were held inoperable to the extent that they conflicted with the REA.

The key lesson for municipalities is that you cannot do indirectly what you are prohibited from doing directly. Where the Green Energy Act shuts municipalities out of the decision-making process, artificial means of re-asserting regulatory control of the project won't be upheld. ☒

WHO'S WHO ...



TONY FLEMING
PARTNER



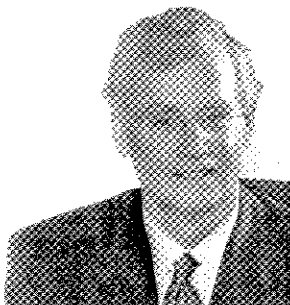
Tony Fleming is a partner in the Municipal and Land Use Planning and Development Groups. The Law Society of Upper Canada has recognized Tony as a Certified Specialist in Municipal Law. Tony provides advice to municipalities and private sector clients on all aspects of land use planning and development as well as environmental law.

Prior to joining Cunningham Swan, Tony was Senior Legal Counsel with the City of Kingston and practised with private law firms in Toronto. Tony appears regularly before the Ontario Municipal Board, the Assessment Review Board and the Environmental Review Tribunal. He has also defended large and small corporations and municipalities against Ministry of the Environment and other regulatory orders, investigations and prosecutions.

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TIM WILKIN
COUNSEL



Tim Wilkin is counsel with our Municipal and Land Use Planning and Development Groups. Tim has over 30 years experience in municipal, planning, development and environmental law.

Municipalities and private clients throughout Eastern Ontario regularly consult Tim on a wide range of issues concerning municipal government, planning, development and environmental law matters. Tim also appears frequently on behalf of the firm's clients before the Ontario Municipal Board and other administrative boards and tribunals. He has also acted as a special prosecutor for several municipalities in respect of municipal election finance irregularities.

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SAVE THE DATE

The South East Ontario Municipal Seminar is back!

Cunningham Swan will be holding two seminars early-mid October, dates to be announced.

The seminars will be held in Eganville and Kingston.

We hope that two alternative venues will allow even more municipalities to send someone for this informative free event.

Invitations will be sent out in early September. If you want to reserve space, please send an email to kjames@cswan.com.

Similarly, if you have any preferred topics for discussion, please send an email to kjames@cswan.com with the subject line "seminar topics"



DAVID MUNDAY



David Munday is an associate in our Municipal and Planning and Development Groups.

David joined Cunningham Swan in 2009 as an articling student and, following his Call to the Bar, returned to the Firm as an Associate lawyer in July 2010.

David assists municipalities and private clients with planning and development issues and handles real estate transactions and tax sales for our municipal clients. David also provides advice and opinions on all aspects of the Municipal Act and other legislation that impacts municipalities.

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