

Court reserves Hydro corridor decision

by Eric Elstone

The Ontario Supreme Court will take some time for a decision concerning legal issues brought on by Ontario Hydro's controversial proposed 500 kV transmission line through Halton Hills.

The three-judge panel of the Divisional Section of the supreme court reserved decision after hearing arguments in Osgoode Hall in Toronto Monday.

Halton Hills, the Interested Citizens' Group (ICG) and Ontario Hydro were before the court for a judicial review regarding the Ontario Municipal Board's (OMB) authority to hear matters in connection with Ontario Hydro.

The town and the ICG are challenging the OMB's right to listen to questions regarding the public utility Ontario Hydro. The OMB is not represented at court.

Ray Steele and Patrick Devine, lawyers representing the town and ICG respectively and Ontario Hydro's John Parkinson, all garbed in black, used their softest tones to gain the panel's ear for their arguments.

Strictly speaking, the judicial review is of January's OMB decision opening Halton Hills to the 500 kV corridor. The OMB told the town to rewrite its bylaw and fix its official plan to allow the utility to finish the 109-mile corridor which cuts on either side of the town.

On a broader scale the judges are having to determine how well three major pieces of Ontario law mesh. Which one—the OMB Act, the Planning Act or the Power Corporations Act—has more legal importance than the other?

However, the court may never touch those questions. First Mr. Justice Donald R. Steele, Mr. Justice John Holland and Mr. Justice R.S. Montgomery must decide if they are even going to consider the major questions, though, they did hear the arguments.

In Esqueping and south Erin Township some towers are erected, but there is no power line strung through Halton Hills. The Halton Hills section, the one before the court, is about 12 miles long. It's part of Ontario Hydro's scheme to bring power

from the Bruce nuclear station 109-miles to Milton where it's to join an existing east-west line and run into Toronto.

If the court finds the OMB lacks authority to hear cases regarding the provincial utility, says the ICG, then the public will miss a chance to participate in decision making.

"If I may be so bold to suggest, the conflict (with the three major pieces of overlapping law) we are going through regarding the planning procedures and the OMB hearing has been a charade," ICG lawyer Devine told the supreme court.

Ontario Hydro's lawyer Parkinson countered by saying if Devine's argument is "correct, there will be no public hearings." And that is not the case, he indicated.

"The thrust of the argument," said Parkinson, "is that Ontario Hydro is not bound to apply to the OMB because it has exclusive jurisdiction under the order-in-council to make planning decisions. It can, therefore, ignore a bylaw. If that is so, there is nothing in the Planning Act or the

OMB Act that precludes Ontario Hydro submitting to that jurisdiction."

Parkinson indicated Ontario Hydro has the right to submit itself to the planning process, even when it does not have to do so. For example, in a straight business decision, the public utility may decide to have some property zoned properly.

One of the arguments placed by Halton Hills' lawyer Steele is that there is a conflict—where one law leaves off and another starts—between some provincial legislation affecting the corridor.

Lawyer Steele argued the Planning Act is a general piece of legislation, and as such, is subject to special pieces of law such as the Power Corporations Act. That latter Act, he indicated, gives Ontario Hydro the right to build corridors. So, if the construction of corridors is the sole matter of Ontario Hydro, then it is outside the jurisdiction of the OMB.

Hydro's lawyer, on the other hand, informed the three-judge panel Queen's Park was thinking of possible conflicts when it was drawing up legislation and that is why

its lawmakers said the Planning Act shall prevail even over the Power Corporations Act.

Listening to the back-and-forth word play in the green carpeted and painted chamber were about a dozen Ontario Hydro officials sitting behind their lawyer. Behind Steele and Devine sat ICG members Reford Gardhouse, of Milton, and John Schneider of Acton.

The three hour and twenty minute review, not including the time for lunch, attracted a few other interested lawyers.

Even after the Supreme Court decision, the tussle between the ICG and Ontario Hydro appears to be healthy enough to continue elsewhere.

The ICG may be helping to package the corridor issue with the larger Ontario Hydro questions—nuclear energy, planning, nuclear safety—for the next provincial election. All these questions may again appear at Queen's Park.

In the meantime ICG spokesman John

Minns, of Glen Williams, said that if the group loses at Osgoode Hall the OMB still must order Halton Hills to put the rewritten bylaw and official plan on the books. Such an order, he said, is appealable to cabinet.

Also the Ontario Ombudsman is still checking the appropriateness of the Niagara Escarpment Commission issuing a development permit to Ontario Hydro for Lots 16 to 26 in Esqueping.

If the ICG and Halton Hills win at the Supreme Court, said Minns, there won't be any transmission towers here, and Ontario Hydro will not stand for that. Another order-in-council may have to be issued, or the Conservatives may try to pass a special piece of legislation through the provincial legislature.

Minns doubted the success of special legislation because he said the Liberals and New Democratic Party would vote against it. The Conservatives rule a minority government.

The Acton Free Press

Teenage cyclist killed

A 22-year-old Nassagaweya man is charged with impaired driving following a collision that took the life of a 16-year-old cyclist Thursday.

Dead is Timothy Johnson of Concession 1, Nassagaweya.

According to Halton Regional Police, the youth was riding his bike home at approximately 10 p.m. on First Line near 17 Sideroad when the accident occurred.

Police said a half ton pickup truck driven by the Nassagaweya man was southbound on First Line and the driver failed to see the cyclist, also travelling southbound, as the truck passed over the crest of a hill.

Police said the youth was in the proper lane at the time of the accident.

The truck hit the teen-

ager, throwing him to the west side of the roadway.

First people at the scene included the boy's mother, Mrs. Paul Johnson of Moffat. Mrs. Johnson is a registered nurse at Milton District Hospital and with a neighbor, she administered first aid to her son.

Police said the youth was taken to Guelph General Hospital and later transferred to Hamilton General Hospital.

He died of a ruptured spleen and liver on the way to the Hamilton hospital.

Timothy was the son of Mr. and Mrs. R. Paul Johnson of Moffat. He is survived by sisters Mrs. Brian (Linda) Durdin of Oakville and Judy Johnson, at home.

probably could run it more efficiently.

Councillor Harry Levy felt the report should be pursued but only to find out if it is possible. "If it isn't it's a waste of time to go any further."

The mayor argued that the same thing is being done at Glen Ballpark. He suggested it is up to Cargill to come up with a proposal rather than have the town staff do the work. He pointed out if anyone feels the recreation department is not doing the job, the responsibility rests with council itself.

His suggestion was prompted by the 30 per cent increase in ice rental rates, and a reported \$70,000 deficit on the Acton arena last year.

The mayor said it was a waste of time to have a report, when the suggestion would only be turned down. He said there is no way a public facility would be turned over to private enterprise. He said there would be legal liabilities and raised the question of the future if the people went bankrupt.

Councillor George Malby argued the report would only see if it is possible, as the Acton residents requested.

Councillor Walter Biehn agreed it would be a waste of time. "If we were considering disbanding the whole recreation department maybe it would make sense, but with the present set-up the town is geared to administer the arena."

Councillor Roy Booth claimed matters discussed "in camera" are not supposed to be aired in open council.

Councillor Pat Patterson claimed the proponents of the plan are astute businessmen, who

privately owned in 1942 and 1943 and the owners "lost their shirt" with the town left to take it over.

The suggestion of a report from the clerk-administrator was deleted from the minutes.

Election to fill council seat

Acton residents will go the polls, probably at the end of September, to elect a municipal councillor to serve the unexpired term of the late Les Doby in Ward One.

The decision to hold an election was made at a closed meeting, following last week's council meeting. The meeting was reopened after all public and press had gone and the motion to hold the election was passed.

The successful candidate will serve for a year, until the October 1980 municipal election.

The time required between the passing of a bylaw, now being prepared according to the motion passed, at the meeting, is approximately 66 days, with nominations required within 45 days of the passing of the bylaw. Polling day must be within 21 days after nomination.

Cost of the election is estimated at \$3,000

and would use the same list of electors, with revisions, as used in the last election.

An election is not mandatory to fill the unexpired term of a councillor, appointments are permitted under the Municipal Act.

In a report from the mayor, the options in appointing a councillor showed one of the candidates for the same spot in the last election could be appointed; council could advertise for interested citizens to submit resumes; or a citizen could be appointed who did not seek office in the last election without advertising. In any of the appointment methods, council would make the decision.

Council was not unanimous in holding the discussion "in-camera". Councillors Harry Levy, Walter Biehn, Marilyn Serjeantson and Mike Armstrong opposed, but the remainder went along with the mayor's claim that personalities were going to be discussed

Two confirmed for by-election

There will be at least two candidates running in the municipal by-elections in September vying for the seat left vacant after the recent death of Councillor Les Doby.

Dave Whiting and Terry Grubbe have both confirmed their candidacy for the seat while Roy Goodwin is another possible, for the September vote.

Mr. Whiting said that he will spend more money on his campaign this time around and take a harder run. In the election of November of 1978 Mr. Whiting ran fourth in a bid for one of two council seats behind Mr. Doby, Ross Kretchel and Pat McKenzie.

Terry Grubbe, the only other declared candidate, said that she has served Acton for three years and is now ready to work at a new level for her community. Mrs. Grubbe is currently head of the Acton Community Services Centre.

Mr. McKenzie stated in a telephone interview that he was "not interested" in running in the by-election. "There has been so much happening since the last election," said the former regional councillor. "I am enjoying retirement," said McKenzie. "There are younger people to carry the load." He went down to defeat in the last election by about four votes.

Roy Goodwin is a possible for the by-election seat but will wait and see what develops before declaring. Mr. Goodwin is strongly opposed to the by-election feeling that "if council has the power to appoint, they should and save the cost of the election."

Mr. Goodwin ran unsuccessfully for the regional seat in the November election, second to winner Ed Wood.

Another name mentioned as an electoral candidate was that of former Progressive Conservative candidate Gary Dawkins. Mr. Dawkins stated he won't consider running at this time because of other commitments he must finish first. Mr. Dawkins did however confirm that he has thought about running at some time.



Terry Grubbe



Dave Whiting

Polling date on Jewish Holy Day

A tentative date for the by-election to fill the Acton council seat, made vacant by the death of the late Les Doby, falls on October 1, which is the Jewish Yom Kippur, and the proposed advance polling date, would then fall on the Jewish New Year.

Nomination dates would start September 10.

The dates, not yet set by bylaw, were suggested by Clerk-Administrator Ken Richardson, at the close of Monday night's council meeting, but the Jewish high holidays were not noted at that time.

No comment was made by councillors, who seemed to be unaware of the Jewish religious holidays.



Three instructors from Canoe Ontario were at Prospect Park last Wednesday afternoon and evening giving demonstrations on different canoeing and paddling techniques. Seen here, the trio was putting on a small skit on boating safety. Sheena Nykolaiasyn (left) played the part of Patti Perfect in the skit and tells her canoe mate Peigi Lynn, about lifejackets and canoeing. More of the 'Paddlecade' on page B1.

Photo by ROBIN INSCOPE

Special meeting Credibility barb in rate vote

Representatives from the Acton BIA and the Chamber of Commerce meet tonight (Wednesday) with Staff Sergeant John Barratt of Halton Regional Police to discuss local problems.

The meeting will give the BIA and the Chamber members chances to discuss the problems of people loitering in shopping district of town, and the general policing of the area.

Grant licence for pool hall

Halton Hills council approved a licence for a pool hall operated by David Black at 11 Main Street North, Acton, at their meeting this week.

Clerk Administrator Ken Richardson pointed

out all clearances have been received from the various authorities.

Councillor Ed Wood explained the equipment is there and the pool hall is ready to open. He said this pool hall will offer an alternative spot in town.

Mayor Pete Pomeroy accused Councillors Marilyn Serjeantson and Harry Levy of "lack of credibility", when in the final passing of the 30 per cent increase in ice rental rates they opposed the move.

Serjeantson said she felt the hike was too much.

The mayor said the night the increase was passed it went through without a dissenting vote. He recalled there had been two closed sessions with arena users but Serjeantson chose not to

attend. "It's very strange at this time when back in front of the press and public the vote is changed. It reflects on your credibility."

Levy reminded all councillors the mayor was in a position to bring recommendations to the closed meetings but did not, but only to open council. He said he had done a lot of thinking about the increase, and decided it was better split equally over two years, since council had already decided there would be no hike next year.

Levy claimed some members of council had not looked into the affect of families with several children. "I object to the mayor's reference to credibility, if that is so he must be included."

Councillor Roy Booth claimed matters discussed "in camera" are not supposed to be aired in open council.

Hydro commissioners may face ward municipal elections in '80

Date for appointments to a temporary joint Acton-Esqueping-Georgetown hydro commission has yet to be set, but Halton Hills Mayor Peter Pomeroy hopes to beat the deadline.

The temporary hydro-electric commission must start no later than April 1, 1980, according to recently passed provincial law. "I expect the first commission to start operating soon," Mayor Pomeroy said in a telephone interview Friday.

The five-man temporary body will keep local hydro-electric matters under control until the next municipal elections in the fall of 1980.

The first Halton Hills Hydro-Electric Commission will be formed then—by appointment, by ward election or by election across Halton Hills.

Mayor Pomeroy indicated there is a good chance for new members to that five-man commission to be elected by ward George-

town commissioner Bill Smith said councillors he has spoken to concerning the permanent body, also indicated they are in favor of election by ward.

New provincial law calls for election across the municipality, but it also allows for the town to pass a bylaw reducing the election area to wards. A provision for appointment by municipal council was also included.

The ward question was one which local commissioners tried to press on the people

drawing up the bill. However, it was not included, Mayor Pomeroy said.

Both Georgetown commissioner Smith and Acton Hydro-Electric Commission chairman Will McEachern have said they favor election by wards, the same as councillors.

For ward elections to be set in motion Halton Hills council must pass a by-law spelling that out prior to next Dominion Day. If council wants to appoint commissioners

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