

Ian G. Sinclair, B.E.S., M.A.E.S.

Regional Councillor, Ward 1

Town of Caledon

ian.sinclair@caledon.ca

2022-01-14

Mayor and Members of Council, Town of Caledon

Re: Changes required to the Council, Committee Rules of Procedure
Section 8.7, Public Meetings under BY-LAW NO. BL-2015-108

1. General Importance of Public Information Meetings [PIMs]:

PIMs are required under the Planning Act and highlight the importance of public participation;

- to provide the public with greater certainty regarding how they will be engaged in the planning process, and
- to provide municipalities with the opportunity to create locally-tailored public consultation policies.

Statements from Region of Peel draft public consultation policies 2021:

"Hearing from and bringing together a diversity of perspectives and lived experiences supports better decision-making, a sense of belonging and improved quality of life for everyone."

"The Region supports ongoing and sustained efforts to hear diverse perspectives and foster greater inclusion and equity through the Region's planning process, in an aim to create more liveable communities for all residents."

"The Region supports creating opportunities for meaningful consultation and engagement of people with various lived experiences and building and nurturing partnerships for ongoing dialogue and feedback from community members."

From: HIGH-LEVEL SUMMARY OF KEY DRAFT POLICY CHANGES 5.5-20 Peel 2041+ Regional Official Plan Review and Municipal Comprehensive Review: Draft Policies Update Appendix I; Chapter 7 Public Consultation & Indigenous Engagement

2. Importance of PIMs in municipal land use decision making:

A municipality should be able to demonstrate to the Ontario Municipal Board that in making its decision, council fully considered

- (i) the information and materials filed in support of an application;
- (ii) the information, issues and recommendations of municipal staff; and
- (iii) **the information provided and issues raised by members of the public.**

"If the Ontario Municipal Board is going to give weight to council's consideration of information and issues presented by the public at a public meeting, municipal staff and council may want to consider how to best record those submissions and responses made to them. A related issue will be how much weight should council give to public or non-professional opinions regarding an application."

[https://www.woodbull.ca/docs/default-source/publications/processing-official-plan-and-zoning-matters-\(gsp-wb\)](https://www.woodbull.ca/docs/default-source/publications/processing-official-plan-and-zoning-matters-(gsp-wb))

3. Record of meeting

PIMs held by Caledon Council have been commonly conducted with only a single spokesperson from a developer present to answer questions from the interested public. Unanswered questions are referred to a future posting on the Town's website pages for the application. It has become rare for a proponent to have a complete range of their consultants in attendance to answer questions. This disregard for the purpose of PIMs makes the accurate recording of a PIM to be forwarded to an appeal body problematic. Often Town staff simply record that some questions were posed by members of the public and the proponent responded with no content about the issues raised.

For example at the PIMs for 10795 and 10891 Highway 9, Glenn Schnarr Assoc. had two planners in the Meeting representing the developers and they did not answer any questions posed by residents and Councillors. The proponent's planners were unprepared. The Developer must address all resident's questions at the meeting with meaningful answers, not mumbled responses.

Town of Caledon Rules of Procedure Section 8.7 Public Meetings provides an opportunity for Council Members to pose questions of the developer and staff. The current practice of recording the discussion of a PIM is to simply state that some members of Council posed questions and responses [not answers] were provided. This is

ensorship of often insightful questions by Council members who have long memories and knowledge of their Ward and communities.

4. Planning Act: Consultation and Public Meetings

"17 (15) In the course of the preparation of a plan, the council shall ensure that,

- (d) at least one public meeting is held for the purpose of giving the public an opportunity to make representations in respect of the current proposed plan. 2006, c. 23, s. 9 (2)."

The legislation is clear that inviting and hearing representations from members of the public on a land use matter is the purpose of a PIM. A PIM is not a proponent driven meeting it is a Council driven meeting.

During the PIM on 12862 Dixie Rd. for the purpose of including the lands within the settlement boundary and redesignating the lands from Prime Agricultural Area and Environmental Policy Area to General Industrial and Environmental Policy Area to permit an e-commerce development consisting of warehousing, distribution centres and industrial uses in four industrial buildings totaling approximately 241,547.9 m² (2,600,000 ft²), the representative for the proponent was provided a considerably longer time to both present their case than interested members of the public were allowed to pose questions.

During the PIM on Blueland Farms for an Official Plan Amendment to amend the designation from Rural Area to Extractive Industrial Area B to permit a mineral aggregate extraction use (Category 1 Pit) below the water table as well as accessory uses, the proponent's owner failed to have the consultant planner's present facts and instead commandeered the meeting to put forth an world view according to aggregate producers and debated members of the public on various points unrelated to the proposed land use. The meeting is regarded by the interested members of the public in attendance as a "circus".

The meeting appeared to be in favour of the proponent over the views of interested members of the public, contrary to the statutory purpose of a PIM.

Resident question: Was this a meeting for the Public or a meeting for Armstrong and Tribal?

Resident statement: The developer was given most of the airtime while members of the public were rushed and interrupted.

The Purposes section of the Planning Act contain several action statements, in bold below, relevant to PIMs:

"1.1 The purposes of this Act are,

- (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- (b) to provide for a land use planning system led by provincial policy;
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- (d) **to provide for planning processes that are fair by making them open, accessible, timely and efficient;**
- (e) **to encourage co-operation and co-ordination among various interests;**
- (f) **to recognize the decision-making authority and accountability of municipal councils in planning.** 1994, c. 23, s. 4."

The function of a PIM is to hear from interested members of the public on land use matters where a change of use is proposed. Some residents hold long term knowledge of local social, economic, physical and ecological conditions not held firmly by all members of Council, Town staff or developer's consultants. Resident knowledge and concerns are important to consider by Council. Holding PIMs which have been adequately publicized, relevant material provided in an accessible form, easily accessible and well run are a key goal of Purpose 1.1 (e) of the Planning Act.

When interested members of the public leave a PIM or even hear of a PIM held, with impressions of a "circus" or poor form such as rushed and interrupted presentations, runs against Purpose 1.1 [e] of the Planning Act to encourage co-operation and co-ordination among a plurality of often competing interests.

Caledon Council has been holding PIMs which have the appearance of favouring a developer lead to an apprehension of bias by members of the public who may fear the accountability of Council to consider all views and make even handed decisions. Planning Act Purpose 1.1 [f].

Resident Statement: *"At the end of the meeting Councillor [REDACTED] told the public that delegates were putting out false information on social media. We are the taxpayers, Councillor [REDACTED] is an elected politician. She has no right to lecture the public on their social media posts, and certainly does not have the right to undermine public delegates. Councillor [REDACTED] is supposed to represent public interests."*

Resident Statement: *"Publicly stating that delegates 'don't understand the proposal' is, condescending and not factual. Delegates fully understood that no decision was being made this evening. However, we are concerned enough about the ongoing developer influence in Caledon, that we attended the public meetings."*

Caledon residents who take land use planning matters seriously, read background reports and attempt to participate in the PIMs, hold a clear apprehension of bias held by a majority of Council. An unsatisfactory relationship in a democracy.

5. PLANNING ACT: PART VII, GENERAL; Fair hearing versus a "closed mind"

Planning Act Section "61 Where, in passing a by-law under this Act, a council is required by this Act, by the provisions of an official plan or otherwise by law, to afford any person an opportunity to make representation in respect of the subject-matter of the by-law, the council shall afford such person a fair opportunity to make representation but throughout the course of passing the by-law the council shall be deemed to be performing a legislative and not a judicial function. R.S.O. 1990, c. P.13, s. 61."

When the consensus of interested members of the public leave a PIM using the terms "circus" or "poor form", "undermine public delegates" and "outrageous, condescending", there is a risk of demonstrating a "closed mind" to members of the public wherein nothing they say will have any bearing on their Council's decision on the matters before the PIM. These impressions run counter to the Planning Act Section 61, Fair Hearing which applies to all proceedings carried out by a municipality under the Planning Act.

6. Approval authorities and Tribunal to have regard to certain matters:

2.1 (1) When an approval authority or the Tribunal makes a decision under this Act that relates to a planning matter, it shall have regard to,

- (a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and

- (b) **any information and material that the municipal council or approval authority considered in making the decision described in clause (a).** 2015, c. 26, s. 13; 2017, c. 23, Sched. 3, s. 2 (1); 2019, c. 9, Sched. 12, s. 1 (1).

Same, Tribunal

(2) When the Tribunal makes a decision under this Act that relates to a planning matter that is appealed because of the failure of a municipal council or approval authority to make a decision, the **Tribunal shall have regard to any information and material that the municipal council or approval authority received in relation to the matter.** 2019, c. 9, Sched. 12, s. 1 (2).

Same

(3) For greater certainty, references to information and material in subsections (1) and (2) **include, without limitation, written and oral submissions from the public relating to the planning matter.** 2015, c. 26, s. 13.

Resident Statement: "I would like to file a formal complaint on the conduct of council this evening. The developer was given most of the airtime while members of the public were rushed and interrupted. There was no engagement with Councilors' asking questions of the delegates or attempting to discover answers other than Councillor Groves and Councillor Sinclair."

Resident Question: "What is the rationale for not allowing constituents to cover the same issues and topics? We attended to talk about prime farmlands, rezoning, lands need assessments and a massive sprawl warehouse etc."

Caledon residents have expressed clear opposition to the Council's conduct of PIMs which are required under various sections of the Planning Act and should provide essential input for appeal Tribunals.

Residents often articulate perspectives on the same topic or issue from personal knowledge and experience, each enriching the discussion of a proposed land use change. Arbitrarily limiting questions and observations on a topic to one speaker is contrary to the statutory purpose of public consultation. See the Region of Peel principle of public consultation cited below.

7. Proposed new Region of Peel Official Plan, Chapter 7 Public Consultation & Indigenous Engagement

New Preamble Public involvement is a vital part of the planning process and decision making. Consultation occurs across a spectrum, with varying levels of engagement, and the following can be employed at various stages in the planning process. **Hearing from**

and bringing together a diversity of perspectives and lived experiences supports better decision-making, a sense of belonging and improved quality of life for everyone. Segments of Peel's diverse communities face complex challenges including varying degrees of access to housing, food, transit, community spaces and services. The need to apply an accessible and inclusive lens is not a point in time exercise and not limited to specific planning matters. **The Region supports ongoing and sustained efforts to hear diverse perspectives and foster greater inclusion and equity through the Region's planning process, in an aim to create more liveable communities for all residents.**

HIGH-LEVEL SUMMARY OF KEY DRAFT POLICY CHANGES 5.5-20 Peel 2041+ Regional Official Plan Review and Municipal Comprehensive Review: Draft Policies Update Appendix I,

The Region supports creating opportunities for meaningful consultation and engagement of people with various lived experiences and building and nurturing partnerships for ongoing dialogue and feedback from community members.

Another important aspect of consultation is the rights of Indigenous communities. Aboriginal and treaty rights are recognized and affirmed by Section 35 of the Constitution Act. Consultation requirements with Indigenous communities differ from public consultation and arise because of Section 35 of the Constitution Act. Municipalities are required to engage with Indigenous communities under circumstances legislated by the Province in the Planning Act, Provincial Policy Statement, Environmental Assessment Act and Ontario Heritage Act. The Region aims to maintain an ongoing respectful relationship with Indigenous communities throughout the planning process.

Revised Policy Provide opportunities for public engagement and consultation on regional issues to ensure informed, purposeful and meaningful involvement.

Revised Policy Support the Region's long-term commitment to ensure engagement of diverse populations, by examining opportunities for more effective and inclusive consultations.

New Policy Conduct research on equity and inclusivity related to public engagement and consultation, land use policy and infrastructure distribution to inform decision making in the planning process.

New Policy Engage with Indigenous communities and consider their interests on land use planning matters at a Regional and local municipal level when protecting and

managing cultural heritage resources or archaeological resources in their territory that may affect Section 35 Aboriginal and treaty rights.

New Policy Encourage opportunities to build relationships and knowledge sharing with interested Indigenous communities in the planning and infrastructure development processes.

New Policy Develop internal guidelines or training for matters requiring engagement with Indigenous communities, informed by Indigenous community protocols that may exist.

8. **Changes required to the Council, Committee Rules of Procedure** Section 8.7
Public *Meetings under* BY-LAW NO. BL-2015-108

- a. Provide a clear preamble statement of the importance of PIMs [see Section 1 above]
- b. Include the three points in Section 2 above dealing with the Local Planning Appeal Tribunal [LPAT] considerations of how land use decisions were made by a Council.
- c. Provide direction that Clerks are to provide public notice of a PIM and support for the conduct of the PIM while Legal staff are to prepare the record of the meeting. The record of a PIM become important inputs to LPAT and therefore legal documents, see Section 6 above.
- d. Include explicit direction that questions posed by members of Council and answers [not mumbled responses] from proponents and staff be recorded accurately.
- e. Include the Planning Act Section 1.1 Purposes [d], [e] and [f] for clarification of the function and role of Council in making land use decisions through PIMs.
- f. Include Section 61 of the Planning Act in its entirety in the reformed Rule of Procedure Section 8.7 PIMs.
- g. Include a new section within 8.7 Rules of Procedure to deal with Indigenous engagement and consultation. See Section 7 above.

- h. That the website section for planning applications include the PIM minutes and once approved or denied, is immediately updated with the associated planning report and motion. A minimum of 2 weeks' notice for PIMS, this means that the supporting documentation is available for Residents to review well in time before meetings, 1 week is insufficient.
- i. Ensure appropriate signage is available on the site for passing by residents to be made aware that there is a Development application at least two weeks prior to the PIM.
- j. In Section 8.7, provide direction to publish public meetings online on the Town social media accounts, Facebook, Twitter and Instagram. Rationale is that, *"I don't receive a paper, though I do sign up for email notifications."*