



PRESERVATION OF
AGRICULTURAL
LANDS SOCIETY
NIAGARA, ONTARIO

Spring 2010

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PRESIDENT'S LETTER

Dear PALS' Supporter,

The recent death of the dedicated fruit land preservationist, Dr. Robert Capps Hoover, (see Tribute on page 2) has left a huge hole in our ranks, but we are not daunted. Inspired by his example, both in the early OMB hearings and later as we persuaded the Provincial Government of the day to work with us (and area fruit farmers, the Region and various Ministries) to develop our vision of an easement program to protect these unique lands in "*perpetuity*", we intend to overcome today's daunting obstacles. These range from a less than adequate and needlessly negative academic paper on easements by Dr. Wayne Caldwell, as reported in our Winter 09/10 newsletter, and the resultant turn-down of their use by then-Minister of Agriculture Leona Dombrowsky, due to Dr. Caldwell's views and the current economic crisis in Ontario.

Nevertheless, the former NDP Government was in the middle of a serious economic crisis/recession in the early 1990s, and still found \$20 million for the long term Tender Fruit Land Program, with a promise of \$20 million more if the farmer uptake was good (which at over 60% it certainly was). And, the current Government has been contemplating expenditures of billions of dollars for such things as nuclear plants over the last few years. Therefore, we find it not unreasonable for our Board to spend the next several months developing a visual and written promotional package to help the government see the wisdom of a very long term plan for the purchase of easements from fruit farmers. The costs for easements would be just a drop in the bucket compared with other government projects, could be phased over many years, and, would be an investment in the future of Niagara farming.

After all, the irreplaceable, minuscule, fruit land acreage of Niagara is the best land in Canada and the fruit grown here unequalled. Unlike the Holland Marsh (itself considered "*specialty crop land and on a flood plain*") and the hundreds of thousands of acres that the Caldwell report compared the fruit lands with, these Niagara lands are under extreme urban threat from a variety of urban uses- and even possible urban expansions should the government change.

Clearly, one cannot move the fruit land to other parts of the region, the province or the country and grow such wonderful fruit- or even to a few other small fruit growing areas where regular deep freezes prevail.

Niagara fruit lands are irreplaceable and Bob Hoover's dedicated work to bring about the use of easements for the "*permanent*" protection of this land for future generations was well placed. PALS Board members will continue to work towards his dream and we will keep you posted on our work and its hopefully rewarding results.

Val O'Donnell, President

You're All Invited To ...

**PALS 34TH ANNUAL GENERAL MEETING
WEDNESDAY APRIL 14TH at 6 p.m.**

**At the home of Joyce Hanlon
696 Lake St. Catharines (north of QEW towards the lake)**

SPEAKER : HEATHER HARDING
(From the Ontario Greenbelt Alliance and Environmental Defence)

POT LUCK DINNER AT 6:00 p.m. (1st course dishes preferred)

SPEAKER AT 7:30 p.m.

RSVP Gracia Janes at 905 468 2841 or e mail gracia.janes@bellnet.ca

ROBERT CAPPS HOOVER PhD

Tribute to a Leading Fruitland Preservationist, Robert Capps Hoover PhD 1920-2010 - by John Bacher

On January 22, 2010 at the St. Catharines General Hospital, Robert Hoover, a founding member of PALS, died at the age of 89. Since PALS' beginnings in 1976, Bob served as the first President and then as an active Board member, and volunteer. In this latter role Bob's dramatic appeals in the early days of PALS Blossom Walkathons, featuring his dog Barney, were both creative and extremely effective in raising funds for fruit land preservation.

Before moving to St. Catharines in 1970 from the United States, Bob Hoover already had impressive experience as a land use planner and university teacher, which he would use effectively in the cause of protecting the Niagara Fruit Belt. For instance, while serving as Planning Director of Newark New Jersey, he stood up to corrupt politicians by refusing to professionally sanction their schemes for the demolition of housing. This test stood Bob well as he faced up to the task of challenging powerful development groups who sought to pave over the unique Niagara Fruit Belt.

Bob's greatest accomplishment in Niagara was to be an important expert witnesses at three hearings of the OMB between 1977 and 1980. First, Bob was the leading strategist at two OMB hearings that had the remarkable impact of reducing the urban boundaries of Niagara Falls and Thorold. The first round saw the OMB rule against the development of a Leon's Warehouse outlet south of Lake Gibson. This was followed up in early 1978 by a two month hearing where PALS was successful in having almost all the land under dispute - a 1,350 acre grape area south of Lake Gibson in Thorold - protected from urban development. This ruling also protected St. Catharines' drinking water supply in Lake Gibson and the cold water streams of the Short Hills Provincial Park.

Later, in the Fall of 1978 Bob was again the leading expert in an almost two year OMB hearing on the northern Niagara urban boundaries impacting on the Niagara Fruit Belt. For these extensive and tasking efforts, involving exhaustive preparation of evidence, gruelling cross examination by several opposing lawyers for the 5 fruit land municipalities of St. Catharines, Grimsby, Pelham, Niagara-on-the-Lake and Lincoln, and sometimes citations of his academic works in hostile contexts, he received no pay.

He was also subjected to frequent abuse in the media, such as the time he was blasted in a long editorial in the St. Catharines Standard, (after attending a regional Council meeting where he was chastised by

Councillors for not revealing his occupation - Are you or have you ever been a full time farmer?) accusing him of "intellectual dishonesty". Regardless, each one of the principles that Bob fought for so hard at the hearings i.e. the need for redirection of growth away from the fruit lands, intensification of growth within urban boundaries and permanent boundaries where cites and towns abut fruit lands are now, 20 years later, established in the Ontario Greenbelt and the Places to Grow Act.

While most famous in the confrontational setting of the 1978 to 80 OMB hearings, Bob Hoover was a pioneering advocate of conservation easements, to make zoning politically acceptable to the fruit farmers who are impacted by them. He played a major role in persuading the NDP provincial government to adopt this planning instrument, which was subsequently wrecked by the Common Sense revolution of Mike Harris.

Bob was the same age as another of PALS' early founders, his friend, the late Mel Swart, a long time member of the Provincial Legislature and fruit land preservationist advocate. Like Mel, Bob was able to speak out strongly and wisely for farmland preservation into his late eighties. We will miss him mightily!

ACROSS NIAGARA

PALS Battles Motorway Proposals In Fort Erie and Niagara Falls

One of PALS main thrusts of work in the past six months has been assisting opponents of major motor race way amusement parks in and around the Sodom and Bowen road interchanges in the southern stretch of the Queen Elizabeth Highway. Although saved from such sprawling uses by the designation of these lands as "Good General Agricultural Land" when the Niagara Regional Official Plan was approved in 1981, (due to the hard work of PALS and particularly its founder Bob Hoover) these lands are now threatened by a blight of motor race way development.

This area in the south eastern part of Niagara is one of Canada's most biologically diverse areas of habitat, with a great concentration of rare Carolinian forests. The sprawling motorways, may pose a threat to this important ecosystem, as there are rare Pin Oak Swamp Forests here, and the proposals will eventually necessitate side roads along the southern stretch of the QEW.

PALS reasons for opposing motorways, are best expressed in our letter of objection to the OMB regarding the removal of the Good General Agricultural designation, required for the approval of the proposed Fort Erie motorway.

(Quotes from letter of appeal to the Region of Niagara, March 16th, 2010)

".....In requesting these appeals to the OMB,

PALS is motivated by the desire to retain the Good General Agricultural designation on the 827 acres of farmland in Fort Erie that compromise the lands that are the subject of our appeals. This designation will be replaced in favour of a “*Special Policy Area*”, in order to facilitate the construction of a facility known as the Canadian Motor Raceway, along with extensive ancillary services, which include retail outlets, light industrial development and a campground.....

At the outset, PALS wishes to stress that the prime motivation for our appeals is that we believe the extensive area of farmland that is the subject of the Amendments, is protected under Provincial Policy, as stated both in the comprehensive policy statement under the Planning Act, and the more stringent, Growth Management Plan, regulations under the Growth Management Act. The root of the error made by the Regional Planning Department report PWA 121-2009, December 9th, 2009, to Council, on this matter, is to understate the protection the subject lands receive under this land use planning framework.

PALS’ view of the significance and protection provided by Provincial Policy is found in a study looking into this issue, co-ordinated by the Ministry of Municipal Affairs and Housing. (MMAH). It noted that, these lands are “*predominately Class 2 soils and part of a large contiguous prime agricultural area designated in the Niagara Region and Fort Erie Official Plans.*” (MMAH, 2010) The MMAH position is an excellent statement of why the subject lands are protected by Provincial Policy, and why, given an adequate land supply for such a facility elsewhere in the Niagara Region, the Regional and Fort Erie Amendments should be denied. **Provincial Policy, as MMAH correctly states, is to protect large blocks of Class One to Three Agricultural land, and this is what the subject lands are.**

It should be stressed that in their review, MMAH was aware of and did not accept, the characterization of the subject lands by the Regional Planning Department as predominately Class Three..... Regional Niagara Planning rationale in this case undermines planning rationale for the protection of all the farmland in the Niagara Region outside the Greenbelt, which is subject to the regulations of the Growth Plan. The report, for instance, disparages the “*use of the land for common field crops.*” This type of agriculture is typical of the best lands in Niagara, outside of the Greenbelt.

The Regional Niagara report also ignores how the subject lands are important to the agricultural economy of the southern half of Niagara, especially the area east of the Welland Canal and south of the Niagara River. It states correctly that its loss would not “*have major impact on the available supply of quality agricultural land in the Niagara Region.*” This is certainly true when Niagara as a whole is considered, with its Greenbelt lands being dominated by grapes, intensive horticulture and tender fruit. It is **not** true however, when the supply of land for

southern Niagara, dependent on combinations of pasture and common field crops, is considered.

..... it should be stressed that by being designated as “*Good General Agricultural*”, the subject lands are considered to be among the best in the southern half of Niagara. Shortly after the formation of the Niagara Region, these lands were carefully identified to be protected from the supposedly rural recreational use that the speedway pretends to be.The most disturbing of all the comments used in the Regional planning a report to justify Amendment 3-009, is the assertion that agricultural protection considerations should be discounted since, “*Nearly 35% (16.5 hectares 288 acres) of the site is occupied by natural heritage features such as woodlands, wetlands, and watercourses.*” **These comments ignore the Niagara Region’s own policies to protect natural areas in the rural countryside. As very recently developed through Amendment 40 to the Niagara Regional Official plan, these policies recognize that natural habitat should be encouraged to take up at least 30 per cent of the rural area, in order to protect bio-diversity and watersheds.** The subject lands and their vicinity are one of the few areas in which this has actually been achieved in Niagara. This has been produced largely by the patient ecological restoration work of many farmers, some of whom, have been the most vocal critics of the motorway which is to be facilitated through the Regional and fort Erie amendments.

.....Currently in the vicinity of the lands impacted by the Regional and Fort Erie Amendments, Fort Erie has an excellent urban boundary to protect farmers such as Mr. Jukosky. The urban boundary near his farm is located about over a mile to the south, through lands that are predominately forested. **To the west, an urban boundary is formed by the Queen Elizabeth Highway, a firm barrier against trespass and vandalism. This problem of the removal of a stable and adequately buffered urban boundary is nowhere addressed in any of the municipal planning reports.**

... It should be recognized that the subject lands are intended to be on full urban services, based on expansions of piped services that would require a crossing of the Queen Elizabeth Expressway. **Consequently, the proposed expansion constitutes an urban boundary expansion.** The term “*Special Policy Area*”, which would eliminate the current Good General Agricultural designation, is intended to obscure this basic reality. This also is a devise to provide a loophole from the application of the Growth Plan, which imposes strict tests for any urban boundary expansion, even in cases where the subject lands are not prime agricultural lands defined by the PPS.

The Niagara Region undertook a study conducted with detailed public consultation and the benefit of a report prepared by Dillon Consultants. This concluded that since the Niagara Region had a 43 year supply of

residential land, and an even greater supply of land in other categories, that no urban boundary expansions were required. This clearly indicates that this proposal, which is designed to accommodate a raceway and parking facilities with a 150 acre footprint, does not justify an urban boundary expansion., and it can be included within the urban boundaries of Fort Erie.
.....

There are a number of environmental benefits from the 827 acres continuing to be designated as Good General Agricultural Land. All of these are ignored in the municipal reports that were relied upon by the Niagara Regional and Fort Erie Councillors who approved the Fort Erie and Regional Niagara Amendments .

One of the most important reasons to maintain existing urban boundaries and to protect remaining agriculturally-zoned land from urban expansion is watershed protection. Such benefits are especially important on the subject lands which comprise the entire headwaters of Miller Creek. This Creek is a recognized Class One Provincial Fish Habitat. It provides habitat for endangered species, including the Grass Pickerel and Wood Turtle. If the headwaters of this creek are urbanized, the increased pollution and stream flashiness resulting will negatively impact on the survival of these species

Urban Sprawl Tied Up By Niagara Region Debate With Province on Growth Management Plan

Both the Ministry of Municipal Affairs and Housing and PALS have appealed the Niagara Region's proposed amendment to its Official Plan that is supposed to bring the Plan into conformity with the Provincial Growth Management Plan. A first pre-hearing conference on this issue was held by the OMB in February and not surprisingly , there was a large posse of lawyers in attendance who represented various landowners who did not originally pay the \$125 fee usually required to become parties to OMB hearings under the Planning Act. These lawyers indicated that the landowners they represented feared that West Lincoln, Niagara Falls and the Niagara Region might make a settlement with the Province that would leave their lands outside of the urban area boundaries for the next five years. They want to become parties to the hearing to prevent such a decision which could postpone their ability to re-zone agriculturally designated land for urban development.

In addition to landowners, more municipalities have become parties to the Growth Plan. While originally, just West Lincoln was formally involved - having appealed the Region's amendment even though the Region had caved in to its demands for a "notwithstanding" clause for urban boundary expansions- now Niagara Falls and Fort Erie have become parties to the hearing. They are doing so in order to support the Niagara Region against efforts by the Province and PALS to restrict urban boundary expansions.

The OMB is scheduled to have a second pre-hearing conference on May 20th at the Niagara Regional Council Chambers. Here the Board is expected to rule on the numbers of new landowners that can become parties to the OMB hearing on Niagara's conformity to the Growth Plan. The number of parties could grow even larger if it becomes more widely known that any landowner who is seeking an urban boundary expansion in the next five years will be denied . In fact this issue is growing in importance and will perhaps equal that of the 1978-80 urban boundary hearings. We hope it doesn't last as long and that only those who responded within the allotted legal time to appeal will be recognized as parties.

PALS Researcher John Bacher Honoured For Role in Protecting Rare Swamp Oak Ecosystems

Based on his work in protecting the threatened and rare Pin Oak Swamp Forests of Niagara Falls and Fort Erie, PALS researcher, John Bacher was awarded the Ontario Heritage Trust's Community Recognition Award. He was nominated by the Niagara Falls Nature Club and Niagara Falls City Councillor, Janice Wing, who has been a lone voice on that Council in protecting this threatened and rare ecosystem from urban sprawl.

Few understand how Pin Oak forests are ecologically significant and highly threatened ecosystems. John has worked to protect Pin Oak swamps threatened by both the proposed Thundering Waters development in Niagara Falls, and a proposal to extend part of the Canadian Motor Speedway complex across part of the Provincially Significant Frenchman's Creek Wetland Complex.

The vernal pools usually associated with Pin Oak Swamps are important for many animals, especially for breeding. Many species, such as frogs, toads, turtles, and salamanders spend a majority of their life in nearby wetlands but migrate to breed or feed in vernal pools. Fingernail clams and air-breathing snails live their entire life in vernal pools. They must burrow beneath leaves and mud when the pool dries up until the winter returns. Fairy shrimp produce eggs that remain in the dry pool after the adult's death and hatch after the pool refills. These isolated forest stands are often completely surrounded by agriculture, old fields and urban development, and thereby provide critical habitat for cavity nesting species, and those needing good interior forest cover, including neo-tropical migrants such as the scarlet tanager.

Throughout north eastern North America the threats to rare Pin Oak forests are numerous. They include development pressure, alteration to the natural hydrology, and reduced protection regulations for isolated wetlands. More research is needed to fill information gaps about these ecological communities, such as the role of the underlying bedrock, such as its acidic or alkaline features.

What is generally not known is that although Pin Oak swamps are common in the southern part of Niagara Falls and Fort Erie, that they are a rare ecosystem both in Canada and the north eastern United States. On both sides of the border, they are concentrated within several miles of the Niagara River. Pin Oak dominated forests are not only rare in Canada, but in New York State as well, where it is confined to the eastern shore of Lake Erie and the southern Niagara River, except in its deep south in the lower Hudson Valley. This rare forest type is threatened on both sides of the border. In the United States, the most extensive areas occur on Grand Island, New York, and most, according to Patricia Eckel, a scientist associated with the Missouri Botanical Gardens, **“are in imminent danger of development as a real-estate boom is occurring on the island.”**

Eckel warns of the threat to the rare Pin Oak Swamp communities on both sides of the border. She finds that Niagara Falls New York at this time is undergoing a strange type of underground movement that involves peninsular Niagara in Ontario as well. It is almost as if government agencies are conspiring to ignore the native biota due to some grandiose scheme to develop all of western New York and adjacent Ontario lands. ■

ACROSS THE PROVINCE

Markham Debates Stopping Urban Boundary Expansions.

Currently, much of the City of Markham’s agriculturally zoned land, some 20 square kilometres, or 5,000 acres, is located in what is commonly referred to as the “*White Belt*.” This area is in between the City’s current urban zoning limit, and the protected area of the Greenbelt, which in this case is set by the previous limits defined by the agricultural protections of the Oak Ridges Moraine Plan. In between this “*white*” area as defined on zoning maps, are little fingers of newer Greenbelt land. These became part of the Greenbelt Plan’s “*Protected Countryside*”, in order to protect the stream valleys of various tributaries of the Rouge River, which originate in the Oak Ridges Moraine.

Not surprisingly, the intellectual force behind closing the door on Markham’s urban expansions has come from Jim Robb, who has played a major role in the protection of the Rouge watershed for the past thirty years. Much like Jean Grandoni, through her exposes of high e. coli counts in Niagara Falls where urban sprawl has impacted recharge areas, Robb has demonstrated how urbanization is the leading cause of increases in stream pollution today in southern Ontario.

Robb explains how, “*As the urban envelope expands, E. Coli and chloride levels exceed provincial standards*”. Citing the annual report cards on the Rouge recently conducted by the Toronto and Region Conservation Authority, Robb

notes further urbanization will increase periodic floods and summer dryness in the Rouge. Over 500 flood-vulnerable areas within Markham would become vulnerable to flooding every two years, if the White Belt lands in the municipality were paved over. Markham’s challenges regarding protecting the Rouge will be augmented with the increase in the frequency and severity of storm events due to global warming.

Farmers would have been less provoked by the suggestion of the need to freeze Markham’s urban boundary, had it not been for the description of this action as the creation of a “*Food Belt*.” Because of economic pressures, much of the land in question is used as golf courses, and horse farms, rather than growing crops for food production. The image of being forced to grow food, has proved a lightning rod for many farmers and rural landowners.

While a decision on the “*Food Belt*”, is not expected until April), it has been a divisive issue. A public meeting was held recently which involved 1,000 people. Although there were hundreds of supporters of the Food Belt, many farmers spoke out against the change. Farmers came to the Markham City Council meeting from great distances to denounce the Food Belt. Many of these travelled in buses from Eastern Ontario.

One consequence of the bitter controversy over the “*Food Belt*”, is that Markham environmentalists have taken a new interest in conservation easements. One way that these could be financed through the Planning Act, is a mechanism called “*Bonusing*”, which in the United States, is termed “*Transfer of Development Rights*.” Under this developers could pay for the farm easement, as a cost of obtaining a higher density for their developments in Markham inside the current urban boundary.

QUOTABLES

Letter in support of PALS regarding the need for easements to protect Niagara fruit lands, by former Regional Niagara Commissioner of Planning, Corwin Cambray

“The Honourable Leona Dombrowsky
Minister of Agriculture, Food and Rural Affairs
77 Grenville Street, 11th Floor
Toronto M5S 1B3
November 27th, 2009

Dear Minister Dombrowsky,

I believe it is important for two reasons to offer a few central comments related to the report “Protecting Niagara Tender Fruit and Grape Lands” dated November , 2008, by Wayne J. Caldwell.

Firstly, the Niagara Tender Fruit and Grape area is unequalled in Canada for the intensity of trees , vines and production as well as the vital agricultural support businesses. Secondly, this unique orchard

and vineyard area sits in the eye of an urban blizzard of uses that continually tries to transform the area.

The report does provide a general overview of the preservation of agricultural land in Canada and the United States. The one main point that is identified is the difficulty of protecting agricultural lands near urban areas, as the Agricultural Land Preserve in British Columbia aptly illustrates. The addition of poorer quality land to replace the removal of prime agricultural land is NOT a substitute.

Unfortunately, the report (Protecting Niagara Tender Fruit and Grape Lands) barely deals with Niagara, largely avoiding both the relentless trend to urbanization and the future. In my thirty years plus of regional planning in Niagara, I have experienced many of these urban demands from severances, urban expansions, truck depots, golf courses and public uses, to urban infrastructures such as sewers, water lines, roads and transit. These uses either consume orchards and vineyards, or, enable their loss.

The Government is to be commended for the Greenbelt Act and Plan. The review of the Plan however is just five years away. The northern municipalities in Niagara, abutting the orchards and the vineyards, are running out of urban land thereby increasing the pressure for urban expansions as the review approach. Urban services are being emphasized in the northern part of Niagara instead of the southern part of Niagara where there is urban

land awaiting development. An obvious clash is building.

An objective of the Greenbelt Act is to “sustain the country side, rural and small towns and contribute to the economic viability of farming communities.” (5b) Objectives 5 c) and (d) go on to mention preserving agricultural land as a source of food and employment, and to recognize the central importance of the agricultural sector to the regional economy.

Easements provide the opportunity to preserve the land and contribute to farm viability. The easement program that I was directly involved in with the Province, agricultural organizations and PALS representatives in the early 1990s is needed more now today and tomorrow for the reasons of preservation and economic viability of farming communities.

The important issue of the Niagara Tender Fruit and Grape Land areas is a Government issue embracing several ministries including health, tourism, municipal affairs, environment and transportation as well as agriculture.

Let us invest in our unique agricultural areas for the public's benefit, both now and in the future. Standing on the sidelines will lead to an urban transformation as public and private actions push the orchards and vineyards down the urban road,

Yours truly,
Corwin T. Cambray MCIP, RPP “

**Come walk with us at our
PALS MAY 8TH BLOSSOM WALKABOUT
(AT 10 A.M. - 1746 Cream Street Fenwick!)**

Liisa and Leo Harju have once more kindly offered their indubitable hospitality for our Blossom Walkabout at their home at 1746 Cream Street in Fenwick. After what is always a pleasant yet invigorating walk through blossoms and natural areas, plans are afoot for another excellent lunch. If you are planning to walk please phone Liisa at 905 892 7871 to tell her what you can contribute food-wise. And, before you start out, see how many pledges you can get from your friends and family. Each year we have managed to raise close to \$2,000 from our efforts and this helps us a great deal with our important work to protect the fruit lands.



**FIRST CHANCE TO BUY TICKETS FOR
THE PALS 2010 MENNONITE QUILT**

This lovely hand - quilted gem, Country Love was crafted by Mary Kuepfer of St. Jacobs. Its colours are deep burgundy, green, white and various shades of pink, and rose. The back, of plain white, shows a wonderful pattern of fine stitching. At only \$1 per ticket, this is a good chance to not only support PALS work but to win a quilt worth \$800 + that will last a lifetime- plus.

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