PRESIDENT’S LETTER

Dear PALS Supporters,

This Summer PALS has pressed ahead with important land use issues on many fronts. These have included, continued OMB discussions regarding Niagara Region’s overly ambitious growth and population plans; a letter opposing the Ministry of Natural Resources “swiss cheese” approach to protection of the Fonthill Kame fruit lands and natural areas in its most recent ANSI reconfiguration proposal; and, preparation for an up coming OMB aimed at stemming the persistent efforts of Club Italia in northwest Niagara Falls to skip over boundaries onto grape land and natural areas, despite huge servicing problems e.g. recent flooding of over 400 homes in this area, directly abutting and around the municipal pumping station, and a lack of proper planning studies to prove their case.

At the same time, our Niagara Tender Fruit Land ‘Team’, i.e. Corwin Cambray, and Gary Davidson, 2 expert municipal planners with a combined 60 + years of experience, farmer and tender fruit distributor Arnie Lepp, researcher John Bacher, and Board Members Gracia Janes and myself, will be meeting the new Minister of Rural Affairs, Jeff Leal, on September 25th. The ‘Team’ feels that time is getting short, what with the possibility of any change of government with an election, the upcoming 2015 review of the Greenbelt Plan, current opposing pressures of those who wish to develop, and, as we reported in the Spring newsletter, the groundswell of anti-greenbelt feeling among some farmers.

We have an excellent package to present, that includes our colourful background document ‘219 Years of Niagara Fruitland History’, now on our website (google The Preservation of Agricultural Society and you’ll find our link near the top of the list. Then go to position papers, #9) and I’m sure you will enjoy this colourful educational lesson on 219 years of history and geography, plus some persuasive arguments for the use of easements/restrictive covenants to protect the fruit lands in perpetuity. We also have the backing, as always of Environment Minister Jim Bradley and a very strong letter of support from the Regional Chair’s Agricultural Task Force.

Meanwhile, wish us luck, and don’t forget to renew your membership, make a donation to help us fund our work, and/or take a chance to win a beautiful heritage Mennonite quilt (see picture below.)

Val O’Donnell

p.s. Thanks to Liisa and Leo Harju for their hospitality to our walkers and supporters who helped raise $2,000 at our blossom Walk through the spring blooms of Pelham

Here’s a photo of our 2013 Heritage Mennonite hand crafted quilt.

The pattern is the same as last year’s quilt, but with varied colours of pink, burgundy and shades of green, against a cream background.

2nd prize is a Robert Bateman print of Seagulls.

Tickets cost $2 each, 3 for $5 and $15 per book of 10. (note slight reduction for a book from 2012 price of $17)
The ongoing April 1st 2013 native occupation of the 193 hectare Springwater Provincial Park in Springwater Township, Simcoe County, was a dramatic response to a Provincial down grade of this wonderful park’s status from “operational” to “non-operational”. These First Nations leaders, led by Elizabeth Brass Elson of the Beausoleil First Nation, have taken a dramatic stand which illustrates how the conservationist achievements of the past are being put at risk today. Their action presents a beacon of hope to those who care for the predominately agricultural landscape of Southern Ontario, appropriately afforested to secure ecological balance by Edmund Zavitz, the “Father of Modern Forestry”.

What the change of status for this park means, is that the gate to the park is locked and vehicles cannot enter. The magnificent picnic pavilion, which in the past was used as a showcase for the wonders of a recreational forest in a former blow sand desert, would have become the parks equivalent of a ghost town if not for the occupation. There is no longer any maintenance of the 12 kilometres of wheelchair accessible trails, 11 of which are designed to facilitate cross country skiing; garbage collection in the park has ceased; and, all the comfort stations have been closed.

One of the basic motivational reasons for the occupation has been the fate of other down graded Provincial Parks, which are now effectively unregulated and empty Crown Land, in heavily populated southern Ontario, where intensive park patrols and maintenance have been removed. In such circumstances Crown Lands have been vandalized by criminal elements such as motorcycle gangs. This can be especially damaging in a forest planted on top of re-claimed desert sand and vulnerable to being ripped up by off road vehicles. It is quite reasonable to expect that in such circumstances, situations can arise to encourage the sale of degraded park land.

Most of the 200 “non-operational parks” in Ontario are in the north, where pressures for vandalism are less severe because of the much lower population density. In this regard, it is astonishing that of the 10 provincial parks originally proposed to be closed by the Provincial government in 2012, Springwater was the only southern park that was closed and while the Province backed down on its proposal to make four northern parks “non-operational”, it refused to alter its stance in this case.

There are also severe development pressures around Springwater Provincial Park. As I noted in the Spring newsletter I viewed these quite vividly a few weeks before the park closure. Immediately across a road from the park there was a sign on a piece of private land announcing the new development of Black Creek Estates, which had also been afforested into White and Red Pine by the Provincial Government. It is 261 acres in extent, more than half the size of the provincial park. The sign indicated that the zoning was to be changed from environmental protection to residential and it is designated for 101 units, all of which is in direct violation of the Provincial Growth Plan. Development on this scale would require sewers, where there currently are none, a problem resolved through a “pre-servicing agreement.” This illustrates the concern of Midhurst Ratepayers Association which is battling sprawl in the area, for fear that development here would pollute Willow Creek and the Minessing Wetlands.

The proposal for a subdivision in a forest next to a Provincial park is just one element in the massive urban sprawl proposed in the Midhurst Secondary Plan. This threatens both the park and other areas of land afforested by the provincial government’s conservationist actions over many years and now being poorly managed as Crown Lands. The Plan proposes urban development on 1,700 acres of agricultural land, which would boost the population of the village of Midhurst from 3,500 to nearly 28,000. The Provincial Government did appeal this document to the Ontario Municipal Board, (OMB), however, it did not show up at the hearing this summer, and the Midhurst Ratepayers Association was defeated by the Township of Springwater, Simcoe County and developers.

The First Nations occupation of Springwater Park and the hammer blow of the OMB against the Midhurst Ratepayers Association this summer, reveal the biggest problem with land use planning in Ontario. This is the non-enforcement of the Growth Plan, which was brought in simultaneously in 2005, when the Greenbelt was proclaimed by the Province.

The basic reason behind the Growth Plan is to prevent leap frogging beyond the areas that are supposed to be protected from sprawl by the Greenbelt. It applies to southern Niagara Waterloo Region and Simcoe County. Last month the Provincial Government brought in a slightly amended version of the Growth Plan, which drew the ire of some environmentalists and the Ontario Federation of Agriculture who felt the Plan was being diluted. However, from the viewpoint of those such as PALS, who are...
engaged in the struggle to protect agriculturally and environmentally zoned land from sprawl, the towering barrier to these ends, has been the non-enforcement of existing growth plan policies.

For instance, a cornerstone of the Growth Plan was supposed to be confinement of any urban expansion to the urban centre of Barrie. There was an Amendment One to the Growth Plan introduced, but this was only to provide more room for the Town of Alliston. The Province, in violation of the Growth Plan’s provisions, through the blunt instrument of a Ministerial Zoning Order, then rammed through an urban expansion in Bradford to facilitate box stores along an expressway.

As mentioned before, the Province, to its credit, did launch an appeal of the Midhurst Secondary Plan. However, in a black day for land use planning it withdrew part of its appeal to permit the construction of 5,000 new homes. As a result some 300 hectares are now eligible for urban expansion. In response, the Midhurst Ratepayers Association made an appeal to the OMB, and hired the former director of planning for Simcoe County, Ian Bender, (a former St. Catharines City planner, who PALS had often worked with ), as their expert witness.

Bender’s testimony to the OMB vividly illustrates how Midhurst’s carefully restored landscape of farmland and forests are at risk from sprawl. He indicated that until now "development has generally expanded the settlement area to its limits as defined by the adjacent highway and surrounding agricultural and environmental lands.” He also testified how the proposed boundary expansion would far exceed the allocations that the Province has established for the area under the Growth Plan.

In making its decision dismissing the Midhurst Ratepayers Association appeal the OMB did not dispute any of Bender’s conclusions regarding the violation of the Growth Plan, but threw his strong evidence out on procedural grounds.

The Midhurst fiasco shows the inherit weakness of the assumptions behind the Growth Plan. This is the folly of relying on the OMB to regulate local municipal planning in the countryside. The only way that these landscapes can be protected is through provincially developed planning as shown by the Niagara Escarpment Plan, the Oak Ridges Moraine Protection Act, and now, the Greenbelt Act. The Growth Plan’s reliance on the OMB is simply a fog under which behind-the-scenes the machinations of developers are hidden.

The basic reason why all of the currently agriculturally and environmentally zoned lands that are supposed to be protected by the Growth Plan should be incorporated into the much stronger Greenbelt, emerged unexpectedly in 2009 comments by Victor Doyle, a planner with the Ministry of Municipal Affairs and Housing, and what happened as a result. In his role commenting on proposed zoning and official plan changes under the Growth Plan, Doyle made the following comment: “South Simcoe County, long known as the ‘jewel in the crown’ is completely ill-suited for major urbanization on the Lake Simcoe and Nottawasaga Basins that are small and slow moving receiving bodies which simply cannot sustain the environmental impacts associated with what is a Greater Toronto Area scale of subdivision.” Shortly after these comments were penned Doyle was shuffled away from supervising land use planning in Simcoe County.
context of the trial evidence…the issue of one of weight and not admissibility.”

Allegations of both advocacy and institutional bias were also highlighted in Kusniercz V. Economical Mutual. In this decision Justice Lauwers permitted a Physician, Dr. Amesis to be qualified as a witness, despite the fact that he found him to be a “passionate advocate.”

In ignoring such evidence, the OMB decision shows it to be a rogue tribunal not accepting the direction of the courts on the important issue of the qualification of expert witnesses.

**Agricultural Zoning on Fort Erie Speedway Site Still in Place**

Despite the defeat of PALS at the Ontario Municipal Board the agricultural zoning on the 827 acre Fort Erie Raceway site is still in place. This means that the only work that can be done in connection with the development is the realignment of Miller Creek. This has been delayed however, because of archeological studies and finds.

The agricultural zoning stays in place until three farms adjacent to the 827 acre site are purchased by the Canadian Motor Speedway. This will remain until all the three farms are purchased by the developer. After this is done a Public Meeting will be held under the Planning Act to removed the Holding Zone created by the OMB decision. Then the Speedway can be approved by the Fort Erie Council.

**PALS Fights to Green the Black Belt**

The late Peter Grandoni, a dairy farmer and founding member of PALS, had a vivid phrase to describe lands in Niagara Falls which were arbitrarily excluded from the Greenbelt. He called these lands the Black Belt. One particular area he had in mind was an approximately five hundred acre piece of land bordered by Mountain Road in Niagara Falls, immediately south of the Greenbelt.

The Niagara Falls Black Belt has some of the best soil and climate for grape growing. It has an excellent microclimate and its soil is Class One Oneida Sandy Clay Loam. It is proposed to be urbanized by two amendments to the Niagara Regional Policy Plan. One of these Amendment 196 has been appealed to the OMB by PALS and Peter’s sister Jean Grandoni.

In addition to being excellent Grape land these threatened Black Belt lands contain three Carolinian forests, some of which have extensive wetlands that support rare Buttonbush communities. The urbanization if approved would impact the Beaverdams Creek, the headwater for an important component of the provincially significant wetlands of the Welland Canal Turning Basin.

Threatened species with breeding habitat in this area are the Tufted Titmouse and the Wood Thrush, which require intact forests in rural areas. Other threatened species here include the Barn Owl and the Grey Fox. The proposed urban expansion would in effect eliminate a route for wildlife movement between the Niagara Escarpment and the Welland River, where currently the mix of forests and farmlands between these two predominately forested areas provide an excellent corridor.

With a loss of prime grape land and important natural areas to urbanization, a cement wall will, in effect, stretch from the Welland Canal to the Niagara River. However, in our battle to protect these lands PALS is hopeful of success, as we have a strong Ministry of Municipal Affairs and Housing letter opposing this development (although no Ministry objection to the OMB) and we are joined by two developers, Warren Woods and Thundering Waters, who recognize that development should be contained within existing urban boundaries.

**Growth Plan Update**

PALS continues its work with the province on our joint appeal of the Niagara Regional Council’s amendment to secure conformity to the Niagara Regional Growth Plan. As a result of this work attempts by the Niagara Regional Council to create distinctive submarket areas, in order to attempt to justify urban expansions, have been defeated. Any urban expansion that is not "grandfathered" before the Growth Plan came into force will have to be justified on a single regional need basis. This will be difficult to accomplish since the Niagara Region has a 43 year housing supply.

The Region and the Township of West Lincoln had to accept that there will be no increase in the urban area of Smithville. Provisions for 60 more hectares of residential land will have to come from other urban designations such as employment lands. PALS is the only party in this process to support the Province, which is being fought by municipalities, the Niagara Region and numerous developers, one of whose lawyers is a former member of the Provincial Legislature, Ron Kantor.
Dear Minister Orazietti,

The Preservation of Agricultural Lands Society (PALS) writes to you as the Minister of Natural Resources in support of the views of the Town of Pelham and the Region of Niagara that “the entire morphology of the Fonthill Kame-Delta (should) be protected,” as an Earth Science Area of Natural and Scientific Interest (ANSI.) This opinion is “supported by”, or “aligned with”, comments to your Ministry from the Niagara Peninsula Conservation Authority and the Niagara Escarpment Commission.

While PALS recognizes and appreciates the fact that the latest 2013 Ministry ANSI boundary proposal will now protect important acres that were removed in the 2011 MNR ANSI proposal, we are most concerned that a very large part of the Kame, will still be unprotected. Of even greater concern to PALS, much of the proposed area to be removed is the most vulnerable to development pressure in the form of proposals for aggregate extraction.

As we noted in an earlier letter to your Ministry, “PALS has long had an interest in the protection of the Fonthill Kame because the slope conditions here, which create excellent air drainage, are the prime reason for why the area is extremely good for tender fruit production, especially sour cherries.”

There have been several studies and recommendations for the protection of the Fonthill Kame Delta - the most precautionary and far-sighted being those of former MNR staff member John Fraser in the late 1990s and Brock University geology Professor Dr. John Menzies in 2009 and 2011. Both urged your Ministry to expand the ANSI protections of this rare geologically and environmentally significant natural feature.

Although your Ministry staff have given good scientific reasons for their recommendations that the ANSI be enlarged in some places, the exclusion of other areas appears to have no scientific rationale. PALS is of the opinion that if these lands are left out of the ANSI boundaries, this will lead the way to expansions of aggregate extraction operations, which have the most potential of not only reducing the fruit land base, but also the ability of lands in the Kame area to grow tender fruit - unique crops that have been under threat from aggregate mining in this climatically favored area for some considerable time.

To conclude, PALS joins the Town of Pelham, the Regional Municipality of Niagara, the Escarpment Commission, the Niagara Conservation Authority, and many others, such as the Honourable Jim Bradley, Minister of Environment, in urging you to ensure that the entire morphology of the Fonthill Kame-Delta be drawn into the ANSI boundary. It is PALS view that only in this way will the totality of Pelham’s unique tender fruit land and the very special and interconnected natural area features of the Fonthill Kame be recognized and protected over the long term.

Val O’Donnell, President
315 Palatine Niagara-on-the-Lake On L0S 1J0
905 468 2058

c.c. Premier Kathleen Wynne, Minister of Agriculture and Food.
Dave Augustine, Mayor of Pelham
The “Fonthill Kame-Delta” is our rare, 75-metre-tall landmark that was formed by retreating glaciers 13,000 years ago. At 6 km long, 3 km wide, and nearly 1,000 hectares, the Kame boasts the highest point in the Niagara Region and the headwaters of the Twelve Mile Creek.

The Kame’s microclimatic and soil conditions create an ideal environment for tender fruit production including peaches, sweet and sour cherries, plums and pears.

The Kame is the “hill” in both Fonthill and Shorthills and the “ridge” in Ridgeville.

The MNR identified the Fonthill Kame as provincially significant in 1976 and as a Provincial ANSI in 1988. This ANSI designation restricts development for reasons of heritage, science or education.

In May 2009, the MNR recommended significantly reducing the ANSI’s coverage to “representative samples.” Pelham Council, Niagara Regional Council, Niagara Escarpment Commission, Niagara Peninsula Conservation Authority, scientific experts, dozens of Pelham residents, Tim Hudak, our MPP, and Minister Jim Bradley, St. Catharines MPP, voiced opposition to these changes.

As a result, in early 2010, Pelham received a strong commitment from Donna Cansfield, MPP, Minister of Natural Resources: “Please let me assure you that it is our intention to maintain and, where feasible, enhance the current ANSI boundary.”

Despite that assurance, in 2011, the Ministry proposed reducing the ANSI to “Swiss-cheese” by failing to protect huge portions of the Kame – especially those areas that are under direct threat of new or expanded development. Again we expressed our significant concerns to the Minister.

Last week, Ian Thornton from MNR informed Council about the 2013 proposed improvements to the ANSI boundaries. Mr. Thornton outlined how the MNR plans to expand the Fonthill Kame-Delta ANSI from 376 hectares to 412 hectares.

Both Pelham and Regional Councils acknowledged these 2013 boundary improvements but advised the MNR that we maintain our position that the Kame’s total morphology should be designated as ANSI. We asked the MNR to provide a rationale for not including all of the Kame under ANSI protection.

Since this appears to be the final review of the Fonthill Kame ANSI, I ask you to write to the current Minister, the Honorable David Orazietti, thanking him for expanding the ANSI and asking him to continue to honour the commitment to “… maintain and, where feasible, enhance the current ANSI boundary.”

Tribute to Dr. Robert Elgie

A wise conservationist and former veteran Ontario legislator and Cabinet Minister Dr. Robert Elgie died in June 2013. He was the founding Chair of the Ontario Greenbelt Council and in this capacity served for five years. Upon his passing Bernard Mausberg of the Greenbelt Foundation observed that, “his vision of the Greenbelt extended past boundaries and lines on a map. He broadened conversation around Greenbelt to include sustainability, a thriving agricultural and rural sector, natural spaces and their importance in species survival- he didn’t see in silos, but interconnectivity and sustainability.”

It is to be hoped that Elgie’s words will be remembered when the province considers the possibility of the public purchase of conservation easements on the unique Niagara Fruit Belt. He went to Guelph to hear Dr. Wayne Caldwell present his lengthy report which was presented as justification for opposition to such a program by the provincial government. He was not impressed by Caldwell words or report. He warned that those who rely upon zoning as the only instrument of good land use planning are blind to political realities which are dangerously brewing in the province. One of the best memorials that can be created to Dr. Elgie on his passing would be for Ontario Tender Fruit Lands Program, killed on the same day that cheques were to go to fruit growers, be revived.