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Developer: East Fonthill process "corrupted"

Presentation to Regional Council raises fresh concerns; Baty calls for forensic audit

BY DAVE BURKET and NATE SMELLE
The VOICE

A Niagara-on-the-Lake-based real estate developer has alleged that the Town of Pelham engaged in a "corrupted" process by its acquisition of land in East Fonthill, and a "potentially illegal" scheme to fund the transaction.

Rainer Hummel, a developer with some 30 years' experience in Niagara, and whose company is the fourth largest holder of East Fonthill acreage, asserts that the Town's 2014 deal to purchase land from the Allen Group, a GTA developer based in Toronto, cannot be explained rationally.

Speaking last Thursday evening in front of Niagara Regional Council, Hummel presented what he alleged was a timeline of transactions that suggested the Town sought to purchase land in 2014 from the Allen Group that the company did not actually own at the time. The Allen Group subsequently purchased the desired land in 2015—approximately eight acres—for about \$225,000 per acre. Within days, according to the timeline Hummel presented to Council, the Allen Group resold about three acres of the land to the Town of Pelham for \$928,000 per acre.

"That's more than any piece of property has ever been sold for in the regional municipality of Niagara," said Hummel.

"It looks to me nothing more than a backdoor way of bonusing a developer."

Bonusing, or offering municipal incentives to developers, is illegal in Ontario.

Hummel listed four other prop-



Rainer Hummel, right, waits to speak before Regional Council last Thursday while Pelham Mayor Dave Augustyn, left, makes one in a series of unsuccessful attempts to prevent Hummel's presentation from being heard. NATE SMELLE PHOTO

erties adjacent to or near the \$928,000-per-acre parcel, stating that his company bought the lots as recently as seven months ago for an average of about \$160,000 per acre. All were fully serviced lots.

The East Fonthill land purchased by the Town, he said, was "in the middle of nowhere," and lacked all services.

Furthermore, the funding mechanism used to buy the parcel was the product of a scheme that saw the creation of development charges credits, valued at some \$3 million dollars, to trade for the land, a practice that Hummel describes as "potentially illegal" and likened to printing money "in the basement."

Hummel asserts that in June 2016 his firm was approached by the Al-

len Group with an offer to buy excess development charges credits at a five-percent discount. When he sought clarification from Pelham Town Hall on an unrelated matter, he said that an offhand conversation about the development charges credits with CAO Darren Ottaway was not enlightening. According to Hummel, Ottaway asserted that, "There's special ways that we sought legal counsel, and, apparently, there is ways that you can do this, and our lawyer said that it was fine."

After Hummel raised his questions last summer, the Town halted the reselling by buying back credits remaining in Allen Group hands, asserting that accounting for them inside Town Hall had become a lo-

gistical problem.

Hummel's presentation to Council nearly wasn't heard. By employing parliamentary maneuvers, Mayor Augustyn repeatedly attempted to block Hummel from speaking, moves ultimately shut down by Regional Chair Alan Caslin on advice from the Clerk.

After the meeting, Augustyn said that the issues raised by Hummel had already been addressed by the Town.

"It's in our 335-page response and it was raised at the Audit Committee and it was answered," said Augustyn. "So we've debunked those myths already. All this stuff is just somebody trying to dress these

See ALLEGATIONS back page

Column Six

Pilgrim at Pelham Centre

As elementary school closes, a former student takes a last look

BY SAMUEL PICCOLO
Special to the VOICE

LET'S TAKE A WALK. It's early in the morning, at Pelham Centre School, and the building is a week from retirement. It doesn't look to be fading: its facade is as smart as ever, and you get a grim sense that the structure itself is the only one unaware of its own impending expiration. A pine has been allowed to grow up and cover the name, but there has been a school here since before the U.S. Constitution was signed, and it is unlikely anyone will mistake this place for anything else.

Now is the best time to visit. The new sun squeezes slants of light through gaps in the trees, projecting leafy patterns on the asphalt, and the parking lot is empty save for the cars of the most devoted teachers. The students are still in their buses, lapping the neighbourhoods picking up classmates. In a few minutes until they'll be deposited here, at first walking to the doors, then running after their friends,

See COLUMN SIX Page 8



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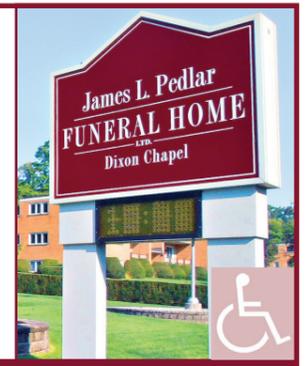


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ALLEGATIONS
continued from Page 1

same issues up in a different way and present it at a different venue, which is not the right venue. We've answered all these questions, and our auditor has answered all these questions. It's standard operating procedure with growing municipalities do these types of things."

Pelham's other Regional Councillor, Brian Baty, disagrees.

"The presentation made at Council contains dates, specific addresses, financial data and questions over lack of public documents that are cause for concern," Baty said.

"They are more clear than the 'whereas' clauses in Councillor Barrick's motion. Despite a 300-plus page document prepared by the Town and a 'Meeting of Experts' to rebut concerns, it is clear that the issue has not concluded. It is not the place of the Region to resolve this matter. It is time that the Mayor and Council initiate an independent forensic audit to support or refute these allegations and to make public all related support materials."

Also speaking after the meeting, Hummel asserted that the turnover rate among Town staff is a warning sign.

"How do you go through four or five planning directors, or senior planning people in five years? How do you

How do you go through four or five planning directors, or senior planning people, in five years?

go through four or five finance people? They're either fired or they quit. There's a reason for that. Where is the problem? The question always is, what's the common denominator? In Pelham, you see these strange transactions and then all of a sudden you see somebody being fired who's in finance and then you see a strange transaction and you see somebody quitting."

Through its Public Relations and Marketing Specialist, Marc MacDonald, the Town of Pelham released a statement last Friday, reading in its entirety:

"Town Council has taken these type of questions very seriously since they first arose at the end of March. Council, staff, industry, and legal experts have reviewed and addressed these same claims in public meetings, presentations, and in the compilation of our response documents. These documents serve as the Town's official response, and those with outstanding questions are encouraged to consult them. The Town's lawyers are reviewing Mr. Hummel's presentation to Regional

Council. Town Council will consider all next steps, including potential legal action."

The implied lawsuit threat is something that Hummel says he's heard before, asserting that a Town employee contacted him to say that they had been threatened with a suit if they spoke out.

"Why does somebody have to be sued for speaking?" he said.

"Whistleblowers, when they see something wrong they should have the ability to speak up. I mean I've paid the price for speaking up against Pelham. I've had every development application I've put forward turned down. So, there is a price to pay for it. But, you know what, I've been doing this a long time and I've got a lot of land, so if I put Pelham on hold for 10 years it's not going to change my life any."

Hummel expands on his experience with Pelham in an extended interview this week, starting on page 3.

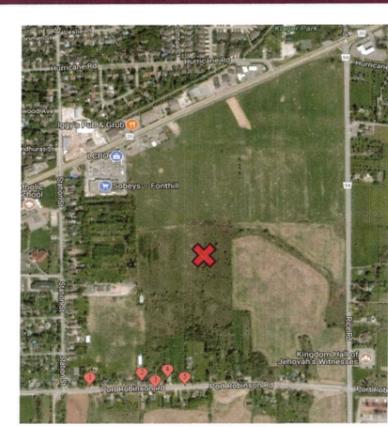
See also the sidebar, "Anatomy of a deal", page 17, for an analysis of the appraisal method used in East Fonthill.

ISSUE #2: QUESTIONABLE LAND PURCHASE
CREDITS AND LAND PURCHASE

March 31, 2014:	- Original Land Agreement with Developer
October 14, 2014:	- Former Pelham Director of Planning files complaint over non-transparent Land Deals
May 29, 2015:	- Developer purchases private land (Mamas property) on 100% financing for \$1.8 million in total
June 1, 2015:	- Land Agreement Amended (not available)
September 8, 2015:	- Revised Parkland Dedication Bylaw
December 31, 2015:	- Municipal Parkland Credit Scheme Signed by Developer and Town
UNKNOWN, 2016:	- Appraisal identifies Mamas property being worth \$1.1 million / acre
June, 2016	- Issue Date of \$3.6 million in Municipal Parkland Credits to purchase a portion of the "Mamas land" from the developer
June 30, 2016:	- Hummel Properties approached to purchase credits
September 12, 2016:	- Niagara Region approves \$36 million debenture for local Community Centre
UNKNOWN, 2016:	- Mamas land title transferred to the Town of Pelham from the developer
	- Pelham buys back \$3.0 million in remaining credits.

ISSUE #2: QUESTIONABLE LAND PURCHASE
OTHER PORT ROBINSON ROAD PROPERTIES

59 Port Robinson: (March 27, 2014)	\$140,000 / acre
107 Port Robinson: (November 28, 2014)	\$164,000 / acre
125 Port Robinson: (April 2, 2015)	\$146,000 / acre
Mamas Property: (December 31, 2015)	\$928,000 / acre
121 Port Robinson: (June 30, 2016)	\$275,000 / acre
131 Port Robinson: (November 17, 2016)	\$152,000 / acre



Two of eleven slides presented to Regional Council last Thursday by Rainer Hummel.

SUPPLIED GRAPHICS

The Conversation

A whistleblower blows

In extended interview covering a range of East Fonthill issues, Rainer Hummel drops the gloves and comes out swinging

BY DAVE BURKET
VOICE Publisher

ON THE DAY BEFORE THE START of the Canada Day long weekend, Rainer Hummel greets me in his headquarters' reception area with an offer of coffee, then goes off to punch buttons on a sophisticated machine to make it happen. The building is empty—staff sent home for an early start to the holiday. And what a building it is. Originally a century-old canning factory, Hummel bought out his partner's share in the St. David's structure to save it, to prove that there was unique beauty hidden under the everyday ugly.

Hummel's aircraft hangar-like office is separated from a corridor by a glass wall that extends several meters to an open ceiling. Exposed wood beams discreetly suggest that winter heating bills are no object. On Hummel's desk, five monitors are arrayed in an arc, Mission Control-style. Tasteful art hangs on the walls. Retro toys shine under halogen lighting in a glass display case. We sit at a conference table cluttered with reports and charts—many of them related to East Fonthill. Out in the corridor a regal animal the size of a small mountain lion keeps a wary eye on me through the glass wall. Later I learn he's an F2 Savannah cat, a cross between a wild African serval and a domestic cat, and his name is Mallee. Mallee knows a commoner when he sees one. Worse, *media*.

The 55-year-old Hummel's wealth, accumulated over decades of business ventures, is evident both in his office furnishings and his personality. His casual style and an open-necked shirt don't disguise someone accustomed to seeing orders followed, fools shown the door. If the line between confidence and arrogance is fuzzy, in Hummel both traits are woven together like 600 thread count linen. He holds nothing back on the problems he perceives in the East Fonthill project, and inside Pelham Town Hall.

The following has been edited for clarity and brevity, with some answers condensed or merged.

All right, so starting from the ground up here, you're not a resident of Pelham. You're not a councillor. You're not an elected official of any kind. What prompted you to want to appear before Regional Council to make your presentation?

Well, it's a combination of things going back a little over a year. And it originally started with my being approached by a representative of Fonthill Gardens [a subsidiary of the Allen Group, a GTA commercial developer] quite enthusiastically selling development charges and all the vari-

ous benefits that go with it. And I know the Act reasonably well, mainly because I fought against development charges escalating as quickly as they have.

This is the Municipal Act?

The Municipal Act, yeah. And I just said, "You can't do that." "Sure. We have them. We got development charges in exchange for property. And we have way, way more development charges than we can ever use, so we're selling them. And you get a five percent discount, and you get free security fees and free park fees." Again, I said, "You can't do that." And that got me to thinking, so the conversation just ended at that point, and then I asked a few friends in the building community, "You ever heard of this?" And they said, "Yeah, we bought some." "You did?" I said, "Do you not think there's something wrong with that?" "No, not really. I don't know. I saved myself a pile of money." But all right, so—and that's what led into other conversations, and I just kept asking questions. And then, a number of other things happened that really concerned me. One was the construction of Summersides Boulevard. The Town did a really good job buying two parcels, or expropriating, two parcels of land on Station Street. Now they maybe overpaid a little bit for them, but it was a very, very smart move. I have to give credit, they did a good job with that. But the rest I don't understand. The rest of the road, the development community would have to build and give to the Town, give them the land and give them the road [anyway].

That's mandated under the Municipal Act.

Yeah, absolutely. On the site of a development, the developer must build the road, give the Town the land, construct it to a specification that's dictated by documents from the province. It's called an "urban section"—a standard section of hollow road is built with sewers and water and all the rest. If the Town wants something different, we still have to build it but they have to pay the



Hummel Properties headquarters, in St. David's.

VOICE PHOTO



Rainer Hummel. SUPPLIED PHOTO

difference between urban section and whatever they want. All of a sudden, the Town has all this land for this massive road, which is one thing I started questioning, but then they started building the road. And that's when the developer in me came up and said, "Hold on a second. First, how can you build this multi-million dollar road that you don't have to build, the developer has to build? Second, how do you know what connects to it? I own the property that abuts it. Other developers own property that abuts it. You have no idea what our plan is going to be. You have no idea how many houses we're putting in, how big the sewer has to be, how big the water line has to be." At the end of the day, this bus is driven by town council on behalf of the taxpayer and if they want to drive that bus into a wall, is it anybody else's problem to tell them to stop? Summersides Boulevard is a train wreck. No one in their right mind, no one in their right mind would build something like that.

And this is important because the road will—if those connections aren't made when the road is first built—the road will have to be basically ripped up—

Completely torn up. —to add the connections later.

Completely torn up. From my way of thinking, unless they magically invented a new way of land development, that entire road will have to be completely ripped up. So that tells me it's built only for one reason, a political reason. Because there's no engineering, no planning reason that you would ever

If you talk to any builder, developer, they'll all give you the same answer, "You don't rock the boat because, all of the sudden, your projects will get stalled or your files will get lost."

build that road. I think it was built because it was a political promise made at the last election that, "I'm going to have this done. So come hell or high water, this is going to get done regardless of what the cost is to the taxpayer." The prudent, judicious use of tax dollars is one of the primary responsibilities of our elected officials. You want to build monuments to your ego and build ice pads and community centers that nobody can afford—if people are dumb enough to vote for them, then that's fine. That's what the people voted for, that's what you're going to get. [Mayor Augustyn] promised that and he's delivering on what he promised. I don't have a problem with that. Do I think it makes financial sense? No, but that's beside the point, that's what people wanted. But this, I don't believe the people are prepared to pay two-and-a-half million dollars for something that doesn't need to be bought or doesn't need to be paid for.

Let's back up a little bit. Did you go to the Town after you were approached with the development charge credits, the offer to buy them, did you approach the Town to ask what was happening?

Not directly. I was in a conversation over another matter with the municipality. It was a planning-related issue. It involved the CAO, the director of planning, and some junior planners, and some of my staff, and we were trying to find some solutions. In the course of that conversation, the CAO sat beside me and I asked him, just off-hand during part of the conversation, "I don't understand this. How

does this work? I've never heard of that before and I don't even think you can do that," and he turned the page. He just changed the subject.

He didn't respond in any substantive way?

He kind of said, "Well, no. There's special ways that we sought legal counsel and, apparently, there is ways that you can do this, and our lawyer said that it was fine." Now I know the Town's lawyer, and I know him because he's also Niagara-on-the-Lake's lawyer and I've known him for 25 years. Very conservative.

This is Callum Shedden.

Callum Shedden. I know Callum to be a lawyer, municipal lawyer, who doesn't care what the staff think and he doesn't care what the council thinks. He only cares what's good for the taxpayer, the Callum I know, his concern is what's right for the taxpayer. So I thought to myself, there's no way that this is Callum Shedden. It just didn't add up. And I made a few inquiries and apparently there was a different lawyer used for that, and I don't—I don't know who he is. I don't know anything about him, but apparently the Town used a different lawyer for their background information on that.

That does not necessarily explain why you've continued to push with your objections to the point that you wanted to appear at Regional Council. Anyone looking at this has to ask, what are your motivations? Do you have something personal—a personal grudge against the Mayor or Town Council?

I don't. I don't know the Mayor at all. I don't know

the guy and don't care. I don't know a single councillor. If one walked up to me, I couldn't tell you if they were one or weren't. I've just basically sat back and let these guys play developer with taxpayer's money designing this thing. And I've said all along this is the stupidest thing I've ever seen. But, you know what? It's not my job to educate these guys. If they want to be dumb with taxpayer's money, that's not my problem. But that's not the issue. What happened was, I was asking questions about this. I was asking questions about this with builders, the business community, the Niagara Home Builders Association. If you talk to any builder, developer, they'll all give you the same answer, "You don't rock the boat because, all of the sudden, your projects will get stalled or your files will get lost."

You're talking about Pelham specifically?

No, any municipality. It's not just Pelham. If you, as a builder, you start rocking the boat, your projects aren't going to move along too quick. And it's very easy to do because nobody's paperwork is 100%. A town can find a hundred reasons why not to do something and only two why to do it. So we all know that. But I was asking a lot of questions behind the scenes, and I was certainly having several conversations with the representative of the Allen Group about other related things. But I was getting back to, "I don't understand a whole lot of the stuff that's gone on here." And then what ended up happening was one of my projects was ready to move

CONVERSATION*continued from Page 3*

forward, a smaller one, and all of a sudden it was fraught with problems, problems I would've never had otherwise, never had before. And also I'm being turned down for the simplest, simplest things that simply don't get turned down, approved five times in the last week and all of the sudden my name's on the application and I'm turned down. So I file an Ontario Municipal Board appeal, then I file another Ontario Municipal Board appeal. Now I'm going to be, in another week or two, or a month, we'll be filing our third OMB appeal. So I'm stalled, so—

And you think this is because you've rocked the boat?

Yeah, I think this is— I mean, this is my assessment. I may be completely wrong, what do I know? But it's just odd that all of a sudden— this is not our first rodeo. Our company's been doing this a long time. We're reasonably good at it.

How long have you been in business?

Telcon Datvox I started when I was 20 years old. I've been there for 35 years, and we have just over a hundred, a hundred and five, employees there. There's 17 companies in our portfolio. So one of our companies, Humboldt Properties, does land development. We've been doing that since 1988, and we've done projects throughout the Niagara region and Hamilton, and we own a fair bit of land here in St. David's, in Fonthill, in Pelham. And we've owned this for a long time. We've been involved probably 10, 12 years ago in acquiring land in Pelham when the new secondary plan came out. And it's been a very frustrated process, simply because what it's taken Pelham 12 years to do, every municipality can do in two. They've just frittered away time and money, and it's—

What are the delays?

Micro-management. It is absolute micro-management. Not letting people do their jobs. That's why you have this massive turnover of staff in this community because there's constant interference in the process, because people are building monuments to their own egos with other people's money.

Who's interfering?

The Mayor interferes and certain councils interfere, but the Mayor— no one can do anything without the nod of the Mayor. So if somebody breaks the tip of their pencil, they sit there and wait for the Mayor to come in. It's absurd. [So] all of a sudden, we couldn't get anything done. And the director of planning at the Town of Pelham—the Town's very, very fortunate to have Barb Wiens as the Director of Planning. You're very lucky to have her. She was a huge loss to us in Niagara-On-The-Lake. She's a very, very solid, very honest, honest planner. I don't think she'll last there. We've always had a working relationship to come up with great solutions. She came up with a brilliant one on my project that solved everything and wrote a report,

a planning impact analysis, that was, frankly, brilliant, and presented to council. It was turned down cold with absolutely no reasoning that made any kind of sense whatsoever. It was a brilliant, brilliant solution that their staff came up with and, I think, this Ms. Hanna, Julie Hanna, who's now apparently left the Town, she was part of the creativity behind that together with the director, and it got turned down. It makes no sense. That's when I said, "All right. Now somebody's playing games with me." So I let it be known, "Are you picking a fight with me?" And—

How did you let it be known?

I told the planning staff, "Are we going to war here? Is this what this is about? Does somebody want to pick a fight with me? Because ask around, you really don't want to do that because I don't back down. I'm not a builder who's afraid. I've been doing this for 30 years. I'm conservative, I'm careful with my money, I—

And what was their answer?

It got turned down. Should it have been turned down? Don't know, probably not, certainly not from a planning principle it shouldn't have been.

That's what planning staff were telling you?

Yeah. It wasn't the director of planning but I'm not going to say who. But yeah, it shouldn't have been turned down. And there is an email that said, "The Mayor came down and told us not to do it this way. That's not what he wants. Change it." And in professional credentials, when you have an opinion and you believe in something, that's what you write down. And when a politician walks in and says, "That's no longer your opinion, this is," professional people, certainly those with higher levels of integrity, say, "No. Not going to do that." And in this particular case, this was an

What it's taken Pelham 12 years to do, every municipality can do in two

individual who probably felt a considerable amount of pressure and correctly sent our staff an email and said, "Sorry, but we've been told we're not allowed to do it this way." And that's when I knew.

Is that person still working at the Town?

Recently left. By the way, a brilliant young planner, going places.

So, moving along a little here, your main bone of contention at Regional Council was the valuation placed on property acquired by the Town from the Allen Group, \$928,000 an acre. The appraisal that we've seen, after getting it through [a Freedom of Information request], was a little over \$1 million an acre, and this was bumped back by the peer reviewer who, at this point, has declined to be identified. This raised red flags for you.

Huge, huge red flags. At first, I didn't believe the number — it was so high — and I think I shared that with a number of people. I think the number is ridiculous. I couldn't actually believe it until it was actually confirmed. And that was confirmed very recently, like in the last four weeks. And that's when I said, "That's enough. I've heard enough now. I want to know, who do I see about this?" And my initial reaction was the Ombudsman of Ontario, which I did contact to determine—and it's really not necessarily their jurisdiction. I know

See CONVERSATION Page 12

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CONVERSATION

continued from Page 7

from a debenture that was done for the town of Niagara-on-the-Lake—I think we have a three-and-a-half-million dollar debenture—it was underwritten by the Region. The Region, in a sense, co-signed the loan. And that's when I thought to myself, "Well, the Region is the one who co-signed this loan." So I called up the Region and said, "You

guys co-signed this loan." "No, we actually borrowed the money on behalf of Pelham. We borrowed. We borrowed on behalf of Niagara-on-the-Lake, all the other municipalities. So it's our loan." And that's when I'm like, "Okay. You borrowed the money, do you know what it was spent on?" And so I queried several members of Regional Council. "Do you guys even know what this money was spent on?" "Yeah, it was spent

on the community center." "No, it wasn't. Part of it was, but part of it wasn't." I said, "I'm telling you that they had to pay this money back somehow." I looked at [Pelham's] statements. My accounting staff did, and said they didn't have any money. They had half a million dollars.

When you say, "Pay it back somehow," you're referring to the buyback of development charges credits that had been traded for the land valued at \$928,000 an acre.

Yeah, when the [development] community was out buying these development charges, people started raising the red flag. And I'm not the only one frankly. The Niagara Home Builders Association, "Wait a minute. You can't do this." So it wasn't just me. There were other people in the building community and development community. So it wasn't just me, but it was me who had a bee in his bonnet because all of a sudden I'm the so-called whistleblower, and all of a sudden everything I'm doing is being turned down. So yeah. Was I motivated by something? No question. Absolutely I'm motivated by something. You attack me. You drop the gloves. We're going toe-to-toe. It's that simple. It's that simple.

So the actual valuation—you've seen the appraisal. There is something called an "extraordinary assumption" that is an integral part of the number. Have you seen something like this before?

I have actually. Extraordinary assumptions can be put into appraisals, and the reason is an appraiser is a professional. So they have professional liability errors and omissions insurance. If they're going to make a statement about something, and it is outside of what they normally would see, and they're not certain what their appraisal is being used for, they will include the clause "extraordinary assumptions." And in this case, the extraordinary assumption was that the entire property is completely developed, serviced, individual lots. That's what it's worth. And—

So just to be clear, the assumption here is that, instead of empty land—

In the middle of nowhere, these are now individual lots that have already been supplied hydro, water—

Sewer, roads, streetlights. Sewer, everything, cable TV, whatever.

They're construction-permit-ready.

Ready to be handed over to a developer to build houses.

And actually the way the appraisal's written, it says the day before the building permit is issued. That's how it's written. So—

Why is that important?

So the appraisal in this case appears to me to be more an appraisal being done for the purposes of a builder paying his park dedication fee to the Town, not what the land is worth. I've seen this before, but not used for this purpose.

"This purpose" being?

Park land. Park dedications are actually done completely differently. A park dedication appraisal is done the day before the development is approved, so it's still raw land. There's nothing on it, and then you have to deduct the cost of the development to that point, the paperwork. That gets deducted. So let's say a

Absolutely I'm motivated by something. You attack me. You drop the gloves. We're going toe-to-toe. It's that simple.

piece of park land is worth—the day before the development's approved, it's worth \$200,000 an acre. Now you deduct the cost of bringing it to that stage, which is about \$30,000 an acre. And then, believe it or not, you deduct the developer's profit. The developer's profit on a project like this is about 15%. So then you take another \$30,000 off. So now you come to \$140,000. That's the value of the land for the park dedication purposes, and that's what we pay on. They've reversed this.

So this appraisal completely throws that out the window?

It's total and utter nonsense.

From a layman's perspective—and that's very much what I am. For our readers who look at this and say, "Wait a minute. This is an appraisal based on a situation that doesn't exist. It's as if we said, 'Come in and appraise our house, but assume that we've added a story. We've added a pool. We've added a tennis court, and we have a helicopter landing pad in the back. Now tell us what our house is worth.'" Isn't that what's happened here?

Actually, yes, in one way, you could us that analogy. The accurate analogy is: I have a pile of plastic, and I have a pile of steel. These things, all manufactured, are a new Mercedes. What's the value of a new Mercedes? \$140,000. But I have a pile of \$300 worth of glass, \$500

worth of plastic, and \$900 worth of steel. That's what I have. They're not a Mercedes. All those components could be made into one, but they're not. It's just a pile of junk, and until you make the Mercedes, there's no value to it. The Town paid for a complete, ready-to-drive-down-the-street Mercedes, and all they got was a pile of junk. A pile of plastic, steel and glass. That's the analogy.

In front of Regional Council, you theorized that the only reason you could come up with that the deal was done this way was as, I think you phrased it, as a "backdoor bonus" to the developer. Could you clarify that, expand on that a little bit?

Well, bonusing is where a municipality wants to entice a particular individual, a company, to come to their community. It's called bonusing. It's illegal. Bonusing is, "I want GM to come to Niagara-on-the-Lake. I don't want them to build in Niagara Falls. I'm going to offer them free property taxes for 10 years." That's bonusing. "I'm going to offer to build them a road. I'm going to give them \$100,000 towards their first foundation." That's bonusing. Ontario doesn't allow that so communities don't pit against one another, and it's a good law. Its been around the books for decades. It's not legal. And the reason I speculate bonus-

See CONVERSATION Page 14

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CONVERSATION

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ing, is because of who the developer is. It's the Allen Group. They're great people. They're a great development company. David Allen is a man of—I don't know him personally, but his reputation has no blemishes. He has a tremendous amount of integrity. A very close friend of mine is a close friend of his, and when he tells me this is an absolute gentleman, I believe it. David Allen would never do something like that untoward. He just wouldn't. He doesn't need to.

Then how do you explain what's transpired here?

If, politically, somebody is motivated to have something happen and a businessman says, "It doesn't make sense to me at this point in time," and then somebody makes it make sense—

In other words, you're talking about an offer too good to refuse.

An offer too good to refuse. And every business person, developer, does nothing illegal for cutting the best deal you can. If you can out-negotiate the idiot on the other side, you win. They lose. There's nothing illegal, there's nothing wrong with that. If it was me in David Allen's shoes, I'd have done the same thing. I would have cut that deal in two seconds flat. My job is to get as much as I can for myself and my shareholders. If you've got a council that's too stupid or too blind to understand what they're doing, and you take advantage of them, there's nothing wrong with that. There's absolutely nothing wrong with that—

From a business perspective, you're saying. Morally, maybe it's not so hot.

Even morally. Their responsibility is to take care of business on behalf of the taxpayer. If they want to

build a monument to their ego and want to use the taxpayer's money to do it, and you could take advantage of that, it's not your problem. It is not your problem to be the moral compass of the elected officials. It isn't.

Even at the risk of being the recipient of a bonus that's not permitted under provincial law?

It is not illegal for me to take it. It's illegal to offer it. That's what the law says. If somebody wants to build me a road to my new factory, I'm not going to say no. A municipality wants to upgrade its infrastructure—which is what's happened here. The municipality decided to upgrade its infrastructure.

I think a lot of people will be shocked to learn that it's illegal to offer but not illegal to accept.

Yep, it's true. The laws are funny in that respect. Because the businessman is simply cutting the best deal he can for his company. And a municipality has to operate in the best interest of the taxpayer. And that means they have rules and regulations that they have to follow. That rule and regulation doesn't apply to the developer. We can cut the best—we're private enterprise, we can cut the best deal we can. And if the municipality is, I'm going to use a word, unfortunately, that doesn't necessarily apply, but stupid enough to make a deal like that, I have a 100% right to take advantage of it.

In front of council, you said this was either the most corrupted process you'd ever seen, or the stupidest.

Yeah, one of the two. And that the question actually I'd like to ask the Mayor, which is it? Because there's no other explanation. This is either the stupidest process I've ever seen someone go through or the most corrupted process I've ever seen someone through.

Have you attempted to contact the Mayor directly? Or has he reached out to you?

No.
How about David Allen, from the Allen Group?

I did receive a telephone call from a representative from the Allen Group about a month ago, asking me what the hell I thought I was doing, and would I please back down? And I said no.

Any other contact since then?

No, I expect to hear from their lawyers, but I haven't said—I've vetted this through my attorneys, and I haven't said anything, in my opinion, that constitutes anything other than the facts, so bring it on. Third point was the math. So when the Town went to borrow the money or asked the Region to borrow the money on their behalf, the Region obviously want to know, "Well, what's your budget? And in that, the Town chose \$12 million coming from the development charges, and when I saw that—it didn't hit me at first, until I thought, \$12 million? I recall Pelham's development charges being like, thirteen or fourteen hundred dollars for recreation. How the hell can they get to \$12 million?"

That's a fixed fee, it doesn't depend on the value of the house or the property?

It's a fixed amount, and so that's when I looked it up, and I realized I was actually wrong. That the amount was—. The amount was originally—let's just go to their own bylaw. Where did I have that? Sorry, here it is. So you can see here, the Parks and Recreation in 2004 was \$1,250 per home being built. In 2008 it went to \$1,600. And then, recently, they changed how they deal with it and they call it something different. So when they changed the schedule in 2014—

We're looking at by-

law 3527, 2014 schedule of Town-wide development charges.

Right. So when they changed in 2014, they separated out outdoor recreation from indoor recreation. Before, the two were combined and it was \$1,400. It went from \$1,400 to \$2,609 plus \$1,011. So it went to \$3,600 from \$1,400. So the Town already doubled the amount that they charge for recreational services and they—you've got to give them credit how they did it—they split it out. But indoor recreational services, they can collect \$1,011 per house. That's it. That's to build arenas and community centers and washrooms and structures that have indoor facilities.

Can't be used to buy land?

Can't use it to buy land. That's park dedication. That's something entirely different. It's not on this. It's not part of the development charges. Development charges, by law, cannot be used to buy park land. The Act is very clear. So the Town showed in its budget \$12 million to build their recreational facility. At \$1,000 per unit you have to build twelve thousand homes in Pelham in order to get to \$12 million. You can't get there. If you built on every square inch, every square inch of Pelham, you can build 3,300 homes. By their own numbers.

That's the projected—what's the term, maximum**build-out? In 2030, something like that?**

2041. In 2041, the maximum build-out is 3,300 [more] homes. That's \$3 million. They said they have \$12 million. Where? You're \$9 million short. So either they have to take this number and multiply it exponentially, which has never been approved, which has never been part of a public process. Never has the building community seen that. So you're budgeting for something that doesn't exist. Then the other thing that I question, they show \$15 million in land that they can sell. I'd love to know where this is, because their own audited statements say they have \$12 million-worth of real estate to sell. And then this mythical budget or this budget they presented to Regional Council, it showed \$15 million. And I guess my question there is simply, why would you not tell the Regional Councillors making a decision to borrow money on your behalf, the truth?

Why do you doubt that the \$15 million figure is correct? Or are you doubting that both figures may not be accurate?

I just bought land for \$160,000 an acre six months ago. It closed in November of 2016, seven months ago. And I paid \$160,000 an acre. So I would like to know where this piece of land is. I'd like to know how big it is. And I'll give you a

rough idea of what I think it's worth. I could ask my appraisers what they think it's worth. I've got a funny feeling it isn't \$12 million, although that's what the audit statements say. And if that's what they say, fine. But they listed it as \$15 million, \$3 million higher. So between the \$9 million missing in the development charges, and the \$3 million overvalue in the land, you're \$12 million behind the eight ball on a \$36 million build. Can't get there. Somewhere, they have to go back, and they've now borrowed \$33 million as of last night. In my opinion, you're \$12 million short. You already have the highest per-capita debt in the Region, higher than the top two municipalities combined. And now you pretty much know you have to add more debt because you can't finish building the thing you've got under construction, because you spent part of the money and you overestimated your budget.

The loan was also a factor in your coming forward?

It's one of the reasons I wanted to be on the agenda last night. One thing was because of the Audit Committee meeting that happened a month ago, where the Mayor of Pelham presented certain things that I found somewhat questionable. I hope I answered some of those last night. And then, I had also heard

See CONVERSATION Page 18

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CONVERSATION continued from Page 14

that Pelham was going in to borrow another \$12 million last night. Second draw. They borrow \$21 million and their second draw was \$12 million. And that needed Council approval last night. And so I thought, "Well, if you're going to go borrow another \$12 million, are you telling the truth this time?" So I don't know. We'll see once the paperwork on that comes out.

The vote to approve that passed. Did you hope that your presentation would make a difference?

They have to approve it. The Regional Council doesn't have a choice because the Town's already spending the money. They owe contractors. I'm pretty sure Pelham could sue the Region if they didn't approve it because the first draw was approved. You were given an overall budget. So if I'm Mr. Pelham, I'm saying, "Mr. Region, you approved \$36 million. We drew down \$21 million of that. We're under construction. We're spending and, all of a sudden, we need the next draw, the next \$12 million, and you say, 'No.' What do we do? Leave this hulk of a building half-built?" So I'm not disappointed because I expected it to be approved. What I think you have to look at is the vote. Not everybody voted to approve it because I think some flags were raised. I think, because some of the questions that were asked of me afterwards, like, "We

didn't know this. We didn't know this. And we're concerned now." A particular councillor came out to talk to me right after I walked out of the Council chambers and he said, "Wow, we just kind of automatically assume everyone's telling the truth

understand it, how does the public understand it?" I had text messages sent to me like, "What the heck? Why didn't you say something earlier?" I said, "Well, I've kind of been saying stuff for awhile."

Where do you hope that this goes?

Well, the problem is, I think the Town's spending money the taxpayer doesn't have. My serious concern is in the next five, eight years, the Town is going to be facing a significant tax increase. What I would hope comes out of this is that the entire East Fonthill secondary plan gets another look because this is not the only thing that's wrong. I'm telling you there's a lot of things wrong here. I'm not talking from a community perspective because communities don't necessarily look at bottom-line dollars and cents — they probably shouldn't — but when I look at this strictly from a business model perspective, this model's broken. This is not sustainable. What Pelham is building in East Pelham, in East Fonthill, is an absolutely unsustainable, financially unsustainable community. The taxpayer cannot cover the cost of this thing. Even though the developers are going to build it and we're going to hand it over to them — if they stop building it on their own, that is. But the maintenance of this, what they're creating, is not sustainable.

Well, I think that's a topic for a future conversation. I appreciate your time.

Thank you.

I'm telling you there's a lot of things wrong here

and we just vote yes. We don't even question these things." He said, "We have to start questioning these things. We just can't automatically approve it. We're going to do a better job." And I've heard from others, a couple that I really never had any contact with or even know, and they said they had absolutely no idea how this worked or how this was done. They said, even parts of what I presented, they said, it's still confusing to them. They don't completely understand the printing of development charges and then how that actually works. So they were quite shocked by this. And I guess my comment back is, "Well, if you, the people that we entrust for your stewardship over these things, don't



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Region requests Town to commission audit

Call for clarity bolstered by \$50,000 offer to underwrite cost

BY VOICE STAFF

The ongoing conflict between the Town of Pelham and those seeking to investigate its finances continued on Monday at a meeting of the Niagara Regional Council's Audit Committee. The committee, comprised of Regional councillors—including Mayor Augustyn—met for over two hours, most of which was spent discussing allegations made by developer Rainer Hummel regarding Town financial practices.

Town solicitor Callum Shedden first took to the podium to summarize a motion passed at the last meeting of Pelham Town Council. The motion stated that the Town would no longer participate in the Region's review process because Niagara Region lacks jurisdiction over municipal finances. Shedden acknowledged that Hummel was

present, but said that Hummel was "in the wrong room at the wrong meeting. He should be at the Town, where there is jurisdiction."

Echoing the motion passed at Pelham Council's meeting, Shedden said that the Town would no longer "spend the time and money" required to defend itself. Part of that time and money has, no doubt, accrued to Shedden and his law partners.

When asked by Councillor David Barrick why development charge credits were issued when the parkland was bought, Shedden declined to answer, saying that his retainer for the day was merely to report Pelham's motion to the Audit Committee. Barrick was not pleased.

Barrick then asked Shedden which funds were repurposed to fund the IOUs offered as development charge credits. Shedden replied that



Mayor Augustyn at Monday's Audit Committee meeting in St. Catharines. YOUTUBE SCREENCAP

"the answers are there—you just have to look for them."

Councillor Bart Maves began to speak to the history of his concerns regarding Pelham's community centre financing. As Maves spoke, Augustyn said something that

was barely audible. Maves stopped and addressed the Chair.

"[Augustyn and I] have sat near each other for a long time, and he knows that if there's one pet peeve I have it's nattering. He always has

to natter," Maves said.

"Stop nattering," said Committee Chair Tony Quirk.

"I apologize," said Augustyn.

"The member apologizes

See **AUDIT** back page

Column Sixto

Finding Sixto "Sugarman" Rodriguez

BY SAMUEL PICCOLO
The VOICE

IN FEBRUARY 2015 there was an immense snow storm. Pelham woke up to the better part of 30 centimetres of snow—school was cancelled, plows were outmatched, and I spent most of the morning helping my father dig out our driveway and sidewalk. Typically, unexpected time off is spiritually uplifting, but on this particular day I was supposed to attend a concert in Toronto, and so I was less than enthused by the dumping.

Early that morning I received a phone call from the friend with whom I was supposed to go to the show. The night before, his car had broken down, and he seemed more interested in staying in bed than in finding another method of transportation.

I was in something of a quandary. Getting to Toronto in that weather was in itself daunting enough, but another problem was that he had purchased the tickets, and technically he was the one who was required to pick them up at the box office. In the end, we decided that if I took his credit card and driver's license, the resemblance would probably be sufficient to fool the ticket attendant. And by the afternoon the snow had stopped and driv-

See **COLUMN SIX** Page 17

Another round of Town meetings on Haist parkland plans

BY SAMUEL PICCOLO
The VOICE

The Town's efforts to arrive at a development plan for the current Pelham Arena site continued last Wednesday, with two meetings held at Pelham Fire Hall #1. The afternoon event ran from 4-6 PM, while the evening session, which was better attended, went from 6:30-8:30 PM. To begin the evening meeting, the urban planning firm hired by the Town, the Planning Partnership, outlined the process as it has occurred so far in front of 50 or so

residents.

In June, the firm held public sessions in the Pelham Arena, where planners were present and developed sketches as input was given from Town residents. The Planning Partnership then distilled these sketches into five distinct plans, each containing some configuration of single-detached homes, town homes, and/or apartment complexes. These plans, said the Planning Partnership's Donna Hinde, were then included in an online survey in July in which residents were encouraged to participate. Hinde

specified that the survey had received 120 responses.

The contention began here.

"Only 120?" said Paul Bryant, a resident, "Out of 17,000?"

Hinde bristled, saying that 120 was actually a lot relative to how these surveys typically pan out. A few others in the crowd backed up Bryant, saying that they couldn't access the survey.

Joe Bouchard chimed-in from the back of the room.

"Considering how many people are here tonight, I'm surprised that there were even 120."

The rest of the room muttered for a minute before Hinde brought their attention back to the presentation. She continued to speak, but when she got to mentioning Haist Street, she mistakenly pronounced it "Heist," as in robbery or rip-off.

"Excuse me," said David Shatford, a Fenwick resident sitting in the back. "It's 'Haist,' not 'Heist.' Just so you know."

"Thank you," Hinde said tersely.

She pointed back the screen, and began outlining the five "explora-

See **ARENA** Page 6



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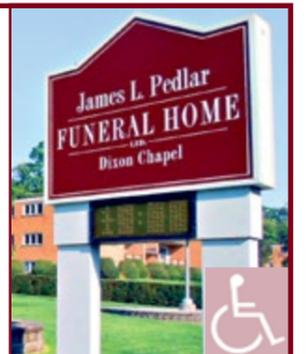
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COMMERCIAL PROPERTY! - 1450 PELHAM ST., FONTHILL



\$1500/MONTH
Prime downtown location for your business. Great exposure. Building has been given a face lift and unit is at street level. Unit has own washroom, other businesses include a ladies clothing store, investment office, barber shop and 2 residential units. Space is approx 980 sq ft and available October 1st. Tenant pays own gas and hydro (by separate metre), as well as 20% of water bill. Call for details.

326 KING ST., WELLAND \$239,000



Large commercial building, over 4,500 sq/ft plus a full basement. This two story building has many uses. Tons of potential here with lots of incentives from the City of Welland. Available for immediate possession if needed. Call the Listing Agent for details or visit the website www.326king.com

COMMERCIAL PROPERTY! - 200 FITCH ST., WELLAND



VARIOUS UNITS AVAILABLE FROM 2,000 sq/ft - 13,000 sq/ft. \$8/SQFT BASE RENT + \$6 TMI
Fantastic location for your business. Great exposure in Northwest Welland. Long standing strip mall. Commercial space available in busy plaza. Perfect location for medical offices, retail outlets, hair salons, nail salon, barber, etc. Unit has rear access door for unloading stock. Owner willing to provide three months free as an incentive (base rent only). Call for details.

NPCA
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Forster said that on the previous Friday, two more employees at the NPCA, the manager of planning and the former acting CAO, "mutually resigned." Forster implied that they were in fact terminated.

St. Catharines MPP Jim Bradley echoed Forster's calls for provincial attention to the NPCA. Bradley asserted that the those who are publicly critical of the NPCA find themselves bullied and hounded, citing former NPCA board member Bill Hodgson, who was first censured and then subsequently resigned. Bradley also suggested that Pelham's Mayor Augustyn, widely perceived to be a Liberal, was also the subject of bullying by regional Tories.

Niagara West - Glanbrook MPP Sam Oosterhoff voiced his support for Forster's request for accountability, though he cautioned Bradley against involving political parties. "I think that we do have to be careful about politicizing this as a Tory-versus-Liberal or a Tory-versus-NDP situation. I have called for [accountability] in the NPCA as well."

Oosterhoff said that he would like to see the Auditor General or an independent auditor take up this file.

Forster concluded debate on the matter by imploring Minister of Natural Resources Kathryn McGarry to take action and appoint an independent auditor to investigate the NPCA. "I think the minister has the power to appoint a supervisor to come in," she said. "If she doesn't, she should do it anyway. Something has to be done about this situation."

Vanderhoek, for his part, was likewise troubled by the discussion of workplace abuses, though he was hopeful that the addition of a Human Resource department to the NPCA would help address the problems.

"They didn't have an HR department until a few years ago," he said. "And now that the employees have some unionization, hopefully the issues were just toes being stepped on during a transition period."

Nevertheless, Vanderhoek maintains that the NPCA faces some structural problems. It receives its funding partially from levies placed on towns in Niagara, yet its board is made up of mayors and local councillors in those very areas that are to be levied, creating what Vanderhoek calls a clear conflict of interest. He was unconvinced that this structure was re-deemable. The NPCA may soon face the task of convincing an auditor, too.

AUDIT
continued from Page 1

all the time," said Maves.

The developer Rainer Hummel then took the podium. His initial presentation was brief, and concluded with his holding up what he said was a cheque for \$50,000 to pay for a third-party audit of Pelham's books.

"I'm glad I don't have a ten-minute limit," Maves said, launching into a long list of questions, most of which concerned the presentation that Pelham CAO Darren Ottaway made at the last Pelham Council meeting, a copy of which was included in Monday's Audit Committee agenda. Much of that presentation was "very denigrating" to Hummel, Maves said.

"There's truthiness in it," Hummel said of Ottaway's remarks, using the phrase popularized a decade ago by satirist Stephen Colbert to describe distortions based on half-truths.

But Hummel stipulated that his allegations were questions, and included the words "may" and "questionably" because the Town had not released documents that could confirm or refute his allegations.

"The truth is fun," said Maves. He asked Hummel whether he had any doubts over whether the development charge credits were issued.

"These were DC credits," Hummel said, declining the

cautious phrasing that his lawyers advised he use.

"I'd prefer to be sued at this point," he said, asserting that this would result in the production of documents previously unseen.

Maves moved on to the land that the Town bought, for which Hummel alleges far too much money was paid. The Town asserts that the land was appraised as parkland, and thus had to be appraised as fully serviced, something Hummel says should not have been done.

Councillor Tim Rigby asked why Hummel had not approached Pelham's Town Council directly.

"You certainly know when you're not wanted," said Hummel, and alluded to Council's harsh treatment of Regional Councillor Brian Baty when Baty called for an audit at a Council meeting earlier in the summer.

Augustyn took the moment to "extend an invitation" to Hummel, and to Regional councillors, saying that he hoped no one would feel unwelcome appearing in Pelham Town Hall. Onlookers, comprised mostly of Pelham residents, guffawed.

Finally, Barrick put forward a motion that received Hummel's comments and requested that the Town of Pelham commission an independent third-party audit of its books, in conjunction with both the Audit Committee and with Hummel.

Later, Barrick acknowledged that it would be up to

Pelham to determine whether such an audit would proceed. Since Hummel has offered to pay the cost, Barrick said, Pelham "really doesn't have a rationale to not accept it, and if they don't accept it, then why? Is there something to hide?"

Pelham residents in attendance were pleased with the committee's motion. Paul Bryant said that it was "good to see continued action on the matter," and hoped that the audit would be done with "appropriate timeliness."

But the morning's most interesting exchange came after the room had emptied. As Hummel prepared to leave, Augustyn approached and introduced himself. The two had never formally met.

"We were very confused, because we've answered all these questions," said Augustyn. "We've been very straightforward, so we'll be pleased to sit down with you at the appropriate time."

"I don't think you've answered them," said Hummel. "The questions...what part of that land is park dedication? Are hazard lines being given as park dedication?"

"They're not," Augustyn said. Hummel listed off more inquiries regarding Summersides Boulevard.

"So now you're adding questions," said Augustyn. "But that's fine."

"I've had those questions all along, but you get ten minutes to speak here," replied Hummel. "I could spend two hours on the questions."

"Well then we'll have to do that. And eat," said Augustyn.

"The very basic one is who pays \$920,000 for a piece of land that you could've bought the day before for a lot less," said Hummel.

"I don't know where you're getting the day before," said Augustyn.

The two argued over the facts for a minute. Hummel reeled off a litany of land purchases and mortgages that he said that he'd researched.

"When did you give the three million in development charges to the Allen Group?" Hummel asked.

"In September of 2015, we set up the system for purchasing the parkland," Augustyn said. "It's all here. By-law 3650."

Hummel shook his head. Augustyn relented.

"All right, then we'll sit down, I'll get staff in the room, and we'll go through it all with you. But we've answered all of the questions, as far as I'm concerned. I'm sorry you haven't seen them."

"I have seen them," said Hummel. "But that doesn't answer the question."

"Well you think it doesn't, and I think it does. So let's get to the bottom of it," said Augustyn. As the two parted they seemed to agree to meet again.

After Augustyn left the room, Hummel made an in-delicat observation. Then, realizing that he had made it to a reporter, requested that it be kept off the record.