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DEPUTATION TO NORFOLK COUNTY COUNCIL May 2, 2006

My name is Gary Nichols and I represent Nichols Gravel Limited and 834641 Ontario Limited.

I have 3 areas of concern regarding Purchasing Policy as it relates to the Purchase of Aggregate. I shall describe each concern separately.

Concern #1: Low bids have not been honoured for Quotations and Tenders.

We have confirmed that Norfolk County does not honour the low bids in respect to the yearly Quotation for Aggregate.

In past practice small quantities of Granular A gravel have been purchased from our pits each spring to dress up roads in the area of least haulage cost in relation to pit price bids in the Quotation.

We further confirm that **no** gravel was purchased for this purpose in 2006. A Freedom of Information request revealed Granular A purchases from Norfolk Quarries in 2004 at \$99,991.00 and \$82,921.00 in 2005.

In comparison purchases of Granular A from Nichols Gravel Companies was \$5,398.00 in 2004 and \$3,773.00 in 2005.

On April 25 this year my son Dwayne noticed a County truck hauling Granular A limestone to Windham West ¼ Line south of Road 2 south of the Brant County boundary, and at that point called Mr. Hamilton to inquire why the County was hauling limestone 15 to 35 miles when in fact our Company had the low bid and our pit was about 5 miles from the job.

Mr. Hamilton responded that they preferred limestone and could use whatever they wanted to use. Dwayne explained that we also have limestone in stock at all of our pits.

This total disregard to Purchasing Policy and the accepted practice of honouring the low bid immediately explained why we were eliminated from the competition.

A check of gravel roads in old Windham Township revealed that almost every road had recently received a fresh coat of Limestone "A".

This is not a new problem. This is simply an extension of the discriminatory Purchasing Practices inflicted upon our Companies to exclude Nichols gravel, which has been carried over from the old Regional Government.

This is further confirmed by the fact that there has been no shoulder gravel maintenance in the past 8 year in the area of Delhi and old Windham on Roads 4, 9, 37, and 16 excepting the garbage concrete waste and a few loads of Granular A in 2004 and 2005.

This failure to maintain the shoulders has resulted in places where instead of the 3% shoulder grade slope from the pavement edge as required in Norfolk paving contracts, there are spots that drop off to 5 to 20% grade creating a public safety hazard especially in winter driving conditions. **See Pictures.**

We take exception to any discriminatory bias which restricts competition contrary to Section 45 of the Combines Act and which is enforced at the public expense through the waste and misappropriation of tax dollars.

Comparable actions such as this by officers of a Public Corporation have been previously addressed under Criminal Code Section 122 for Breach of Trust.

See confirmation of Quotation bids 2004 and 2005 with advisement to conditions of purchase from Judy Boughner and our calculation comparison for supply to Delhi Public Works yard from Norfolk Quarries and Nichols Gravel Limited.

That concludes Concern #1.

Concern #2: Award of Winter Sand Contract 2005/2006 to Livingston Excavating.

On August 9 2005 I attended the bid opening for supply of Winter Sand 2005/2006 season and was surprised to find that Livingston Excavating had submitted bids, when I had been advised that this company had not received the M.N.R. Licence to operate a pit. When I questioned Judy Boughner in this respect, she responded that her information was that the Livingston Licence was being processed.

On August 11, 2005 Norfolk County designated the various contract awards to various suppliers and awarded a conditional contract to Livingston Excavating conditional upon Livingston receiving the M.N.R. Licence prior to the County projected haulage date.

After reviewing Norfolk County Purchasing Policy we find no provisions for award of conditional contracts. The Quotation stated under #3 Scope: The scope of this Quotation is to determine the unit cost for Winter Sand for Norfolk County 2005/2006 winter season from Aggregate Producers within a reasonable haul distance of the various domes within Norfolk County.

In our opinion Livingston Excavating at the Quotation close August 9, 2005 having not yet received the M.N.R. Licence was not an Aggregate Producer and should not have bid on this Quotation, and further to that the County should not have awarded a conditional contract as this supplier was not a bonafide Aggregate Producer until he received the M.N.R. Licence on October 19, 2005. **See M.N.R. letter of confirmation.** We have also confirmed that the mileage calculations from Livingston Pit to some of the domes are from 1 to 4 kilometers less than they should be.

It has been further confirmed by Weights and Measures Canada that Norfolk County purchased sand from Livingston Excavating with tonnages calculated on an illegal weighing device, not approved for trade by Weights and Measures Canada, with bulk daily total calculations instead of individual weigh bills for each load.

On December 6, 2005 I met C.A.O. Allcock and delivered a bag of stones up to 1 1/2" in diameter picked up off of the road that was sanded next to the Walsh Sand Dome which was supplied by Livingston Excavating.

This indicated that Norfolk County had been provided with and had accepted Winter Sand which did not meet the Quotation specification as the largest stone allowed is 1/4 inch. Mr. Allcock response was that he would take the matters up with the staff.

In respect to the fact that fuel prices have increased 50 to 60% in the past 3 years, how does the County explain that their cost of trucking calculations have not been adjusted to reflect the increased cost. Is this magic or manipulation.

That concludes Concern #2.

Concern #3: The use of unrecycled concrete waste on shoulders of Roads 4 and 9.

We find this to be the most disturbing event of all, as this action produced an extreme hazard to the Public safety.

In the Fall of 2004 material was hauled from Delhi Ready Mix and placed on the shoulders of Road 4 from 911 # 95 to 911# 403 .

This material contained large chunks of concrete and when the County had problems to grade it, the material was hauled and buried in the shoulders of Windham E 1/4 Line between Concession Road 13 and Concession Road 14.

In the fall of 2005 the County again hauled this material to the shoulders of Road 9 east of Road 4, 911# 588 to 911# 746. When wet this material becomes a slippery slimy mess which could cause loss of vehicle control.

In my 46 years of business experience, this I believe to be the worst example of negligent misconduct and complete indifference to the Public safety by government managers.

I don't want to think of the liability claims that could result, if a young cyclist riding on these shoulders lost their balance and fell and their head came in contact with one the these large chunks of concrete. **See Pictures.**

Again our staff have placed the County in a very serious liability position through this manipulation to the use of substandard materials on our roadways. This action seems to have been motivated by the fact that the use of this material displaced the requirement to purchase approved aggregate shoulder gravel from Nichol Gravel, but at what risk and what possible ultimate cost.

This concludes Concern #3.

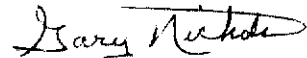
In Summary:

All 3 identified concerns indicate that both Mr. D hond't and Mr. Hamilton as Professional Engineers have failed to fulfil their obligation under the Professional Engineers Code of Conduct which requires that they must at all times act in the best Public Interest.

In that respect I request that Council investigate these matters and take immediate appropriate action.

Should Council fail to respond, I shall proceed to the Criminal Courts to file further charges in addition to criminal charges previously filed to Mr. D hond't and Mr. Hamilton.

That concludes my deputation and I thank Council for your attention and consideration of these matters.



The Regional
Municipality
of
HALDIMAND-NORFOLK



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OFFICE OF
THE CHIEF ADMINISTRATIVE OFFICER

Charles G. Douglas, C.M.A., A.M.C.T.

October 2, 1991

Mr. G. I. Nichols, President,
Nichols Gravel Limited,
P. O. Box 172,
Delhi, Ontario,
N4B 2W9

Dear Mr. Nichols:

Re: Quotation and Tendering Procedures

On September 26, 1991, Regional Council ratified the following resolution from the Engineering Committee:

"That the Quotation and Tendering Procedures set out in Regional By-law 206-89 be strictly followed."

As a result of a lengthy in-camera session I had with Committee, I have been directed to review Mr. Davies' purchasing practices and decide, as Chief Administrative Officer, whether the by-law is being followed.

It is my position that the by-law is not being followed for purchases over \$20,000, which precipitate the quotation process and I have asked Mr. Davies to prepare a report for me outlining his current practices and what changes would be required to the by-law to enable him to continue such practices.

This will be the subject of a further report by me to Engineering Committee and Council, at which point Council will have to make a decision as to whether they wish to amend the by-law substantially.

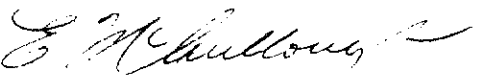
I have just recently been apprised of your problem concerning quotations for winter sand and I will be looking into this matter further. Unfortunately, I am leaving on vacation until the 15th of October, 1991.

TOLL FREE LINES FROM:

CAYUGA 772-3571 • DELHI 582-3620 • SIMCOE 426-0020 • WATERFORD 443-8913

I will be in touch with you when I return as I would like to meet with you concerning the issues you have raised.

Yours very truly,



for
Charles G. Douglas, C.M.A., A.M.C.T.,
Chief Administrative Officer.

CGD:em