

# Summary Notes

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R.C. Harris Public Advisory Committee

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Meeting #04/09

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September 15, 2009

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**R.C. Harris Public Advisory Committee**  
Meeting # 4/09  
R.C. Harris Water Treatment Plant, Construction Trailer  
2701 Queen Street East, Toronto

Tuesday, September 15, 2009  
7:00 p.m.

**Summary Notes**

**ATTENDANCE**

***Public Advisory Committee:***

Julie McNeill – PAC co-chair  
Paul Dowsett – PAC  
David Lewis – PAC  
Henry Spencer – PAC  
Michael O’Sullivan – Humane Society of Canada  
Sylvia Asmann – Local resident  
Helen Philips – Local resident

***City of Toronto Staff:***

Ron Brilliant - Toronto Water - R.C. Harris Water Filtration Plant Manager  
Wayne Reeves – Toronto Parks, Forestry and Recreation

***Facilitator:***

Cheryl Dow - Public Consultation Unit

***Summary Notes:***

Jacie Kuker

***Regrets:***

Lorraine Mask  
Rob Sharples

## **PAC MEETING**

**Julie McNeill** called the meeting to order at 7:00 p.m.

### **1. INTRODUCTIONS**

All present at the meeting introduced themselves.

### **2. APPROVAL OF AGENDA**

The agenda for the meeting was approved. **Cheryl Dow** suggested that security concerns be added as in item to the agenda.

### **3. APPROVAL OF JUNE 4, 2009 SUMMARY NOTES**

The minutes from meeting #3/09 on June 2, 2009 were adopted without amendment.

### **4. PLANT UPDATES**

**Ron Brilliant** explained that some of the MCCs (motor control units) are being upgraded. The trailer required for this has been moved to the area between the buildings in order to avoid having trailers in other parts of the facility. This project should last 6 to 8 months, without very much impact on the heritage areas or outside spaces – other than the existing trailer. Plant staff are looking at moving one of the MCCs into the basement, because it is currently behind the elevator wall in the middle service building. By moving the MCC, they will be able to open the door to the elevator shaft making a new entrance into the elevator in the service building, which would allow for handicap access to the second floor.

**Ron Brilliant** explained that while work was being done inside the building, a few months ago they received some noise complaints. The equipment responsible for this noise has been moved to another location further away from Nursewood. The work that caused the noise is not a normal activity – it was work that had to be done to fix a problem. The problem was there before the strike and it is still there now; however **Ron Brilliant** said that he has not heard of any noise complaints since then. There might be another week of work before this problem is resolved. **Cheryl Dow** said that a flyer was dropped off to the residents on Nursewood Road to inform them that this work was going to be taking place and that there may be some noise.

## 4.1. Dog Issues

### 4.1.1. Leash Bylaw

**Ron Brilliant** explained that during the strike, there were fewer bylaw enforcement officers available to enforce the leash policy; therefore there were more dogs in the area off-leash. After the strike, they spoke with Animal Control about enforcing the by-laws in the leash area, and they have since been on site on a regular basis and they have issued some tickets.

### 4.1.2. Terrace

**Ron Brilliant** informed the group that a few months ago, there was an incident where a dog jumped over the wall of the terrace and unfortunately died. **Cheryl Dow** circulated copies of the communications between The Humane Society of Canada and Councilor Bussin.

**Michael O'Sullivan** from The Humane Society of Canada said that a number of years ago a dog broke his leg on the grounds of the facility and another was badly injured. These incidents received media attention; however there may have been others. The difficulty with the site is that dogs do not have particularly good depth perception or colour vision, so as some of them come down the hill and see the lake off in the distance, they may misjudge the actual distance.

**Michael O'Sullivan** said that after the first incident a number of years ago, a temporary fence was put up and everything was fine; however since the site was redone, the fence has not been replaced. The Humane Society of Canada tried to bring this issue to Councilor Bussin's attention, but they were unsuccessful – they were told because the strike was going on, nothing could be done.

**Michael O'Sullivan** explained that his reason for attending the PAC meeting is to find out what is going to be done about this issue on a more permanent basis.

One of the PAC members pointed out that the area is a designated leash zone and dogs should be kept on leashes for their safety. **Michael O'Sullivan** said that in the event that a dog's owner does not put him on a leash, the dog does not deserve to die.

**Ron Brilliant** discussed the terrace area. He said that the site is an industrial site for water treatment, not a park. It is also a heritage site making it a unique area. The site is open to the public to come and look at the grounds and admire the buildings. The site is clearly designated as a leash zone for the protection of the employees of the site, the people using the site, as well as the animals that may come onto the site. The site currently meets all building codes.

**Ron Brilliant** explained that the current plan for the terrace area is for it to be rehabilitated as part the Building Envelope Rehabilitation Project that has just begun and is scheduled to take 180 weeks to complete. The terrace area is the area south of the main building where there are currently a few trailers and where employees or guests usually park. Underneath the building in this area, several different chemicals are being held. This area is going to be rehabilitated back to its original form from the 1930's, since it is currently not in very good shape. The chemical tanks will all be removed and the doors along the front wall will also be removed. The quarter of the building on the east side that was added during the 1950's is going to be removed, as it is no longer needed. The residue management facility underground has incorporated a new location for chemical storage. The section below the wall that is currently concrete will be removed and restored to its original condition as a landscaped area, and The Toronto Botanical Gardens be in charge of plant selection. The fountain area underneath will also be restored and in working order. **Ron Brilliant** passed around a photo of the area to show what it will look like after the work has been completed. The photo was from the R.C. Harris Filtration Plant: Heritage Inventory and Historical Analysis, p.24.

**A PAC member** explained to **Michael O'Sullivan** that PAC's primary objective is to preserve the heritage of the plant. The intention is to restore the plant rather than add new things to it. The PAC member said that the only way they could imagine effectively keeping dogs safe was to keep them on leashes.

**Michael O'Sullivan** asked what the group intends to do about the obvious hazard. He asked if there would be a permanent or temporary barrier (a couple of feet high), put in place to make sure that dogs don't jump over and harm themselves. One committee member suggested adding more signs to advise dog owners to keep their dogs on leash. **Ron Brilliant** said that this was something that could be done.

**Michael O'Sullivan** explained that his main concern is the safety of the animals, adding that the Humane Society of Canada wants to see something done about the site. The members of PAC explained that although this is an emotional issue, it does not have the mandate to advise on this. Ultimately, the committee is focused on restoring the site to its original state. **Cheryl Dow** added that the committee is an advisory committee. **Ron Brilliant** concluded the discussion stating that the treatment plant is an industrial site with many heavy vehicles and other hazards; therefore it is well posted that dogs must be leashed. The area is going to be rehabilitated according to building codes, but there is no plan for temporary or permanent fencing.

**Michael O'Sullivan** enquired as to how one would become a member of PAC and what steps must be taken to call a PAC meeting. **Cheryl Dow** said that she would send Michael O'Sullivan a copy of the committee's Terms of Reference as well as the minutes from this meeting.

**Action Item:**

***Cheryl Dow** to send a copy of the PAC's terms of reference and September, 2009 meeting minutes to Michael O'Sullivan.*

## **5. Building Envelop Rehabilitation (BER)**

**Ron Brilliant** said that work on the BER began in the last few days. As discussed at the last meeting, there had been some problems in the service building with leakage, so the contractors were asked to change the order of their work and begin there. The contractor was supposed to start in mid-July, but because of the strike, the work could not begin. The original plan was to start work on the security upgrades on the west side (Nursewood Rd), but this has now been postponed until the spring of 2010. The entire project is expected to take 180 weeks. At the next meeting, Ron will provide a more detailed outline of where and when work will be taking place on the site.

**Action Item:**

*At the next PAC meeting, Ron Brilliant will provide a more detailed outline of the where and when work will be taking place on the site.*

**Ron Brilliant** explained that the rehabilitation has started on the north side of the service building. The only security upgrade planned for the facility is on the Nursewood side; everything else will involve upgrading the facility brick, stone and windows. High security windows and doors will also be put in. About 90% of the work will be on the stone and brick, and a lot of this work will not be visible from the outside. A lot of the steel is corroded, so it has to be replaced. There will also be a lot of work done on the expansion joints. The smokestacks will eventually need to come down and be rebuilt.

**Ron Brilliant** described the type of brick that has been selected to replace the brick currently on the building. Ron explained that a lot of the bricks are in bad shape. Charles Hazel, the heritage consultant working on the project, will be doing the work with the bricks. The roofs that have not already been done will be done and the steel windows will be replaced with a transparent security glazing. If the project is completed as planned, the work should last another 50 years with proper maintenance.

Upgrades to the front gates and the stairs will begin in the spring of 2010.

## 5.1. Lighting Upgrades

**Ron Brilliant** said that they would not be doing a lighting upgrade in the parking area as part of the current contract. The upgrades for the parking lot lighting will occur later, outside the current contract. The committee had agreed that the lighting on the ground pointing up at the building was a good idea. Over the next while, plant staff will experiment with this lighting to figure out what will work best – however this will have to wait until the restoration of the building is completed so that the construction work is out of the way.

**Ron Brilliant** provided an update on the lighting. He explained that they are going to put in two lighting systems including one at the main entrance and the other at the steps that lead down from the driveway. Once the designs are completed, the committee will be able to choose which of 2 or 3 options they prefer. The designers have suggested 12 to 14 foot tall lights with a style that would fit with the rest of the site. The new lights will be pointed down.

## 5.2. Security

**Sylvia Asmann** said that there have been crowds of extremely loud youth congregating almost every night from about 9:00 p.m. until 3:00 a.m., on the east side of the building. The youth are going under the fence and having bonfires on the beach, getting drunk and making a lot of noise. Sylvia has had to keep her windows closed all summer because of this. She has called the police at Division 41, but their priority has been the shootings further north. She has also called Division 55. When the police do show up, the youth hide and then return. Overall, this summer has been the worst she has ever experienced and has not been able to sleep most nights. She is at the point where she is considering moving out of the area.

**Ron Brilliant** said that there is a lot of security on site every night, and on a regular basis the security guards have had to escort people off the property. He added that during the strike, there was security on-site 24 hours a day. **Sylvia** said that she has never seen anybody be escorted off the property. She also mentioned that there has been a lot of broken glass in the area, which is a concern for children, dogs and bikes using the area during the daytime. She is worried that with all the reckless behaviour, someone is going to get hurt. **Sylvia** added that at the beginning of this summer, she contacted the head of security for the site to alert him about what goes on in the area.

**Helen Philips** said that the graffiti should also be a concern because once the building has been refurbished, it will likely be another target for graffiti and vandalism.

**David Lewis** asked where the kids were coming in, because residents along Nursewood Road have a neighbourhood watch system to try to prevent this type of thing from happening. **Sylvia Asmann** said that they come through along the property line on the east side.

**Ron Brilliant** recognized that it is important to ensure that security is patrolling all the area of the site. **David Lewis** agreed that the security was mostly on the west side during the strike.

**Sylvia** explained that the youth are congregating on the stairs in the area where the loading dock is located, on the east side of the building. They have pushed down the chain-link fence that divides the plant grounds from the beach. If there was some sort of deterrent, such as lights, security or police, perhaps this could be prevented. **Sylvia Asmann** asked if security cameras are picking up this activity. **Ron Brilliant** said that there are security cameras in the area.

**Julie McNeill** said that a couple of years ago she attended a local community meeting where the City Councilor, Brian Ashton explained the summer campaign for policing youth. She suggested contacting Brian Ashton to find out what current summer youth/police policies are used and to let him know that this is an area where a lot of partying is going on.

**Ron Brilliant** said that he would talk to the security staff to make sure that they are checking the area more than once per night, but the police need to be more involved. The police keep records of complaints they receive and if they get a lot of calls about the area, they will send more cars.

**Action Item:**

*Ron Brilliant will talk to the security staff to make sure they are checking the area more than once per night.*

**Sylvia Asmann** asked if she could have a phone number for the plant's security staff so that she could alert them when things get really bad. **Ron Brilliant** said that he would see what he could do about that and will contact Sylvia once he has an answer.

**Helen Philips** asked if there was a way to work closely with the police on this. **Ron Brilliant** said that the Toronto Security Group is able to respond more quickly because the police have a lot of other things to deal with. In the past couple of weeks, he has seen at least 5 or 6 incident reports of people being escorted off the property by security.

**Action Items:**

*Ron Brilliant will look into possible ways to resolve this situation:*

- 1) Possibly adding more lights to the area.*
- 2) Having security patrol the east end as well as the rest of the facility.*

3) Find out from security if it would be possible to have a line of communication between the residents and the security guards.

### 5.3. Construction concerns

**Helen Philips** said that the construction work (diesel engines and clanking equipment) has been beginning in the driveway along Queen Street around 6:00 a.m. **Ron Brilliant** said that work should not be starting before 7:00 a.m. on weekdays and 9:00 am on weekends. He added that the contractor should not be doing weekend work unless something out of the ordinary happens that needs to be taken care of. He said that he would like to know if this happens. Also, if the work were starting before 7:00 am, he would like residents to let Cheryl Dow know about this.

**Helen Philips** asked whether the fence along Queen Street was going to be removed, because it does not seem to be serving a purpose. **Ron Brilliant** said that the fence is there to make sure people don't walk off the stone wall – not to keep people off the property. There will be a black safety railing going up on the north side where the garden is. The fence should have been taken care of months ago but the workers who were supposed to do it have been busy with other projects. The railing is now on site, so it should happen in the next 4 weeks, but there is no guarantee. Once the railing is in place, the fence will come down.

## 6. HERITAGE INVENTORY UPDATE

**Ron Brilliant** told the committee that Wayne Reeves has come up with some excellent ideas about the Heritage Inventory. **Wayne Reeves** explained that he was responsible for creating the RC Harris Filtration Plant Heritage Inventory and Historical Analysis book that was put together in May 1997. **Ron Brilliant** said that the book is a very valuable reference tool for determining how to approach the work that needs to be done on the site.

**Wayne Reeves** said that he would like to be involved in documenting the changes that have taken place over the past 12 years. This would include the industrial process changes pertaining to operational use and residue management, the documentation of existing heritage features and the summary of alterations to the property. The strategy is to revise the book rather than start from scratch, by updating it to include the heritage conservation work done from 1997 to 2009. Because of developments in computers and printing since 1997, there will be an opportunity to use more advanced printing techniques. He will also now be able to store the project in a more easily accessible format.

**Ron Brilliant** reminded the group that Julie McNeill and Jim Tulk expressed interest in helping with the project. **Paul Dowsett** expressed interest in helping with the project as well.

**Julie McNeill** pointed out that because people aren't allowed in the building, it is difficult for them to appreciate the uniqueness of the site. **Wayne Reeves** suggested updating the website so that people could take a virtual tour of the buildings as they are not permitted in the buildings. **Cheryl Dow** offered to help with anything that the committee would want to do with the book once it is revised; such as having an event to celebrate the release or putting it up on the website. Perhaps the website could include before and after photographs to show the changes the plant has undergone. **Wayne Reeves** said that there are original drawings of the site, which might be interesting to share with the public.

**David Lewis** asked if there was a way to get to the next level of heritage recognition. **Wayne Reeves** explained that the next level of heritage designation would be "Historic Site." It would be possible to get this next level of recognition with the proper documentation.

**Wayne Reeves** asked **Cheryl Dow** to make digital (pdf) copies of the current book which could be put on the website. **Wayne Reeves** will also go through the old PAC minutes to search for further documentation of the changes that have taken place over the past 12 years.

**Action Item:**

*Cheryl Dow to make digital PDF copy of current Heritage Inventory.*

Julie McNeill, Wayne Reeves and Paul Dowsett will meet as a subcommittee to work on the Heritage Inventory, sometime before the next PAC meeting.

## **7. NEW BUSINESS**

**Ron Brilliant** shared information about the initial rehabilitation of the old passenger elevator. Originally, it had looked as though the details of the elevator had been lost; therefore, they planned to duplicate the original. However, as they took away the layers, they eventually found the original brass elevator and removed the paint – it now looks phenomenal. They have had to meet the current elevator codes to reinstall this elevator.

## **8. NEXT MEETING AND AGENDA ITEMS**

The next PAC meeting was set for Wednesday November 18<sup>th</sup> at 7:00pm.

## **9. ADJOURNMENT**

**Julie McNeill** adjourned the meeting at 8:50pm.

# HUMANE SOCIETY of CANADA

Protecting Animals and the Earth

25<sup>th</sup> June 2009

Councillor Sandra Bussin  
Toronto City Hall  
100 Queen St W  
Suite B28  
Toronto ON M5H 2N2

**Re: Request for Immediate Protective Fencing for the Public Safety  
Hazard at RC Harris Plant**

Dear Councillor Bussin,

I am writing to you in my capacity as Chairman & CEO of The Humane Society of Canada and on behalf of the millions of Torontonians who share our views about the protection of animals. This letter reinforces our previous communication one week ago dated 18<sup>th</sup> June 2008 (attached for your reference) as Attachment Ia and your response Attachment Ib.

While we appreciate your recent e mail that indicates you have asked City staff to report back to you, it is simply too little too late.

As of 8:30 AM this morning, there is still no protective fencing in place at the RC Harris Filtration Plant to offset the public safety hazard at this taxpayer funded operation (photos for your reference) as Attachment IIa and IIb.

The purpose of our letter is to put the City on notice that the direct consequences of the City's failure to act have already demonstrated in the past that family pets are seriously injured and killed while at the same time adults and children are put at risk because of the demonstrated public safety hazard at the RC Harris Filtration Plant. This creates unconscionable heart ache for families and leaves the City open to class action civil lawsuits – as well as criminal liability under federal law.

Upon conviction, violations of federal criminal law to protect animals from unnecessary pain, suffering or injury are punishable by fines and terms of imprisonment and other sanctions.

City civil servants and elected officials are required to be fully cognizant of all laws which govern their conduct and the discharge of their public trust.

The law does not recognize labour disruption as a failure to act, nor should it. Further, the City has been well aware of this longstanding problem for months and even years.

AUG 12 2009

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Victoria BC V8V 4Y9

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Vancouver BC V6B 2E2

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Edmonton AB T5K 0L5

407-1500, 14th St. SW  
Calgary AB T3C 1C9

460-4246 Alberta St.  
Regina SK S4S 3R9

Box 151  
162-2025 Corydon Ave.  
Winnipeg MB R3P 0N5

313-1673 Richmond St.  
London ON N6G 2N3

409-120 Carlton St.  
Toronto ON M5A 4K2

201-293 Division St.  
Kingston ON K7K 3Z7

408-3551 Boul St-Charles  
Kirkland QC H9H 3C4

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Moncton NB E1A 1X6

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Humane Society of Canada for  
the Protection of Animals and  
the Environment is a Registered  
Canadian Charitable Organization  
(BN 13730 3343 RR0001)



More specifically, we refer you to Canada's *Criminal Code* and have included it as Attachment III which includes the specific sections for your reference.

Upon conviction those found guilty are liable to imprisonment for a term of not more than five years; or to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both. Those convicted receive a criminal record and they can also be prohibited from owning or working with animals.

The federal Criminal Code protection for animals supersedes any provincial or local bylaw to the contrary.

We are asking you to have the City immediately restore this protective fencing today. If the City cannot follow the law like everyone else, they can accept all of the attendant consequences that follow from their failure to act. If the City is not prepared to act to protect its own citizens and their family pets then The Humane Society of Canada will raise the necessary funds to build a fence.

Awaiting your reply, I remain, yours sincerely,



Michael O'Sullivan  
Chairman & CEO

cc Mayor Miller and Members of Council

# HUMANE SOCIETY of CANADA

Protecting Animals and the Earth

18<sup>th</sup> June 2009

Councillor Sandra Bussin  
City Hall  
100 Queen St W  
Suite B28  
Toronto ON M5H 2N2

**Re: Request for Immediate Protective Fencing for the Public Safety Hazard at RC Harrison Plant**

Dear Councillor Bussin,

I am writing to you on behalf of the millions of Torontonians, who share our views about the protection of people and animals, to ask for your help in having the City immediately restore the protective fencing that was designed to offset the public safety hazard at the RC Harrison water filtration plant that endangers children, adults and animals.

More specifically, a number of years ago, we brought this matter to your attention when we learned that two dogs had sustained broken legs by going over the wall. We were grateful when the City acknowledged this public safety hazard and took preventative measures to correct it.

For this reason, we were astonished to learn today that the protective fencing has been removed and that as recently as early April of this year, a family visiting the plant lost their four year Golden Retriever "Jackson" when he went over the wall and fell twenty feet onto hard concrete to his death. The mother reported that she only just managed to grab her three year old daughter as she reached the wall.

Plant manager, *Ron Brilliant*, reportedly expressed sympathy for the family, but pointed out that the plant grounds are not an off leash area. What kind of a back handed cavalier remark is that, from a civil servant to a family which included a three year old little girl, who had watched their pet suffer and die?

Does this civil servant, entrusted with plant and grounds safety, really believe that, after the City responded to a public safety hazard by setting up protective fencing, the public would remain safe after he ordered the fencing removed?

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185-911 Yates St.  
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Humane Society of Canada for the Protection of Animals and the Environment is a Registered Canadian Charitable Organization (BN 13730 3343 RR0001)



18<sup>th</sup> June 2009  
Councillor Sandra Bussin  
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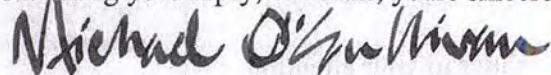
Unbelievable as it may seem, even as we write this letter, some two months after the latest incident, the City has still not restored the protective barrier. Reportedly, plant manager, *Ron Brilliant*, while giving no reason for the fence's removal in the first place, has indicated future plans, to replace the concrete with plantings, might help anyone unlucky enough to fall over to survive the fall.

We suspect that *Mr. Brilliant* is not willing to put his own theory to the test anytime soon, by offering us a personal demonstration and stepping off the wall to fall twenty feet.

Tax payers are not interested in *Mr. Brilliant's* hollow words of sympathy or his ridiculous theories. Instead, they are demanding that he discharge his public trust and duties, for which he is well paid, with care and consideration for adults, children and their family pets. We also want to know why he ordered the removal of this protective fencing exposing everyone to a demonstrable public safety hazard as well as exposing the City to potential legal liability.

We are asking you to have the City immediately restore this protective fencing today, and if the City cannot find it in their budget to protect its own citizens and their family pets then The Humane Society of Canada will raise the necessary funds to build a fence.

Awaiting your reply, I remain, yours sincerely,



Michael O'Sullivan  
Chairman & CEO

cc: Mayor Miller and Members of Council

25<sup>th</sup> June 2009

Sandra Bussin

**Attachment Ib - Request for Immediate Protective Fencing for the Public Safety Hazard at RC Harris Plant**

FYI to Mr. O'Sullivan:

SANDRA BUSSIN  
Council Speaker -  
Toronto City Council  
City Councillor -  
Beaches - East York - Ward 32  
100 Queen St. West, Suite B28  
Toronto ON M5H 2N2  
EMAIL: [councillor\\_bussin@toronto.ca](mailto:councillor_bussin@toronto.ca)  
PHONE: 416-392-1376  
FAX: 416-392-7444

>>> Sandra Bussin 06/23/09 >>>  
Hello Mr. Butts and Ron Brilliant,

Please provide update to Councillor Bussin.

NOTE: This message is cc'd to Executive Assistant for Councillor Ashton per Ms. Czuk's request. Betty, feel free to have Councillor Ashton contact Councillor Bussin directly.

Best regards,  
Trish for

>>>06/19/09>>>>>

Mr. Butts, Deputy City Manager, Please see request from Councillor Bussin:

Staff for Sandra Bussin  
SB/tn  
>>>

**From:** "Sandra\_Bussin" <[Sbussin@](mailto:Sbussin@)>  
**To:** "City Councillor Sandra t Bussin" <[sbussin@toronto.ca](mailto:sbussin@toronto.ca)>  
**Date:** 6/19/09 10:37 AM  
**Subject:** Re: Fwd: Re: Request for Immediate Protective Fencing for thePublic SafetyHazard at RC Harrison Plant

**Send forward to Richard Butts requesting a plan. Ron Brilliant was quoted as saying shrubs will be planted.**

Sent from my BlackBerry device on the Rogers Wireless Network

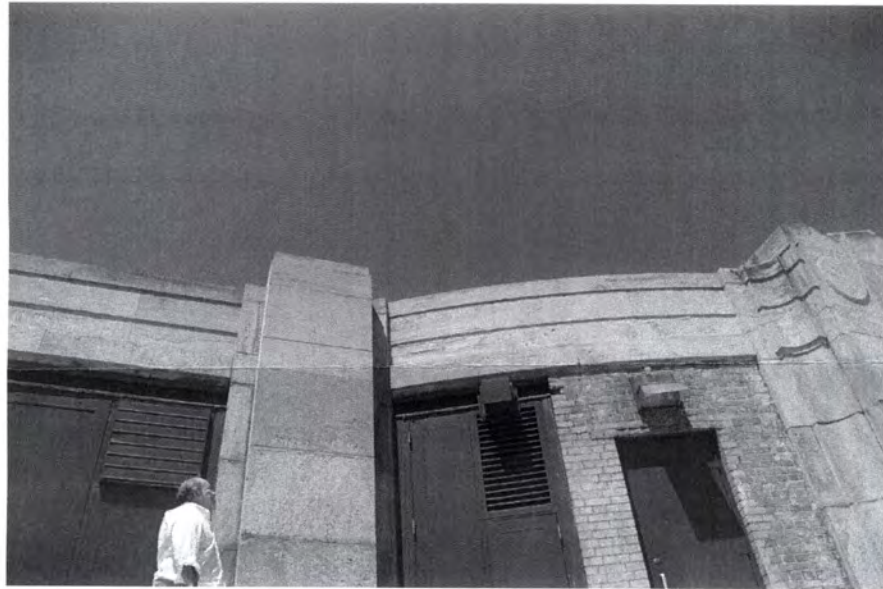


25<sup>th</sup> June 2009

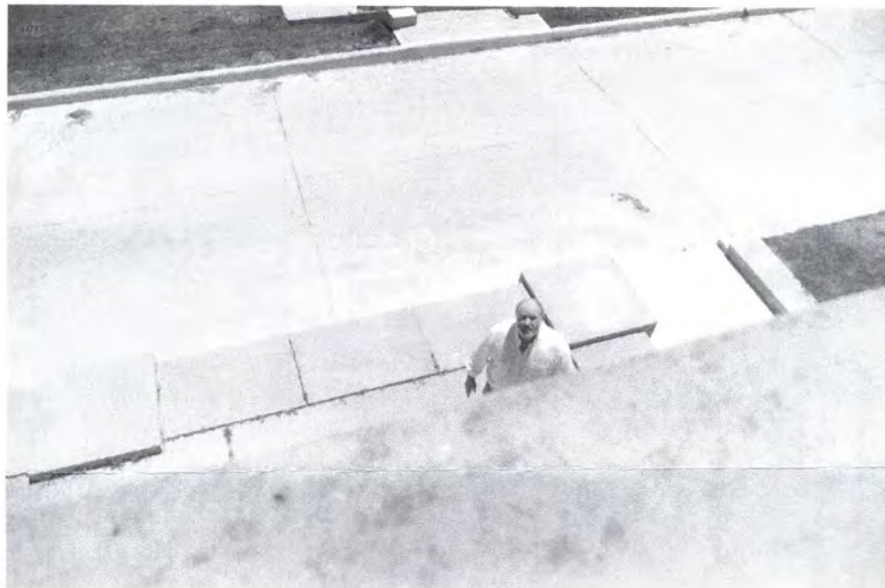
Sandra Bussin

**Attachment IIa & IIb - Request for Immediate Protective Fencing for the Public Safety  
Hazard at RC Harris Plant**

**IIa**



**IIb**



25<sup>th</sup> June 2009

Sandra Bussin

**Attachment III - Request for Immediate Protective Fencing for the Public Safety Hazard at  
RC Harris Plant**

**Criminal Code ( R.S., 1985, c. C-46**

**445.1** (1) Every one commits an offence who

(a) Wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;

Punishment

(2) Every one who commits an offence under subsection (1) is guilty of

(a) An indictable offence and liable to imprisonment for a term of not more than five years; or

(b) An offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.