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Rob Bradford
Executive Director

The Job of Rebuilding Ontario's Civil Infrastructure has Only Begun

With the Ontario economy slowly rebounding from the most severe beating it has taken in decades, Job One at ORBA and like-minded organizations is going to be reminding governments why they invest in infrastructure in the first place.

Certainly ORBA led the parade in promoting infrastructure investment as a primary tool for digging out of the recession. Who wouldn't when it has resulted in billions of dollars into the civil construction sector that otherwise would likely not have existed. But in promoting that economic strategy over the past few years, we have also recognized that is a slippery slope. If you do the job too well, the risk is that governments will lose sight of the broader importance of public infrastructure – economic growth and development in the future being one of the most important motivators.

To some degree the predictable is upon us. Governments facing unbridled deficits are going to be very tempted to declare the infrastructure job done and put down the shovels so that precious tax dollars can be directed to the imperatives of health care and education which continue to grow at rates far outstripping Ontario's ability to fund them in a sustainable manner.

The McGuinty government, while maintaining a strong commitment

to its infrastructure programs in the 2010-2011 fiscal year in its March budget, was disturbingly quiet about the future of such programs. The Premier told ORBA members at their convention in February that he was not prepared to “put on the brakes” yet, but his words were linked directly to the government's recession stimulus strategies. What one would prefer to hear is that Ontario will continue full steam ahead with developing its civil infrastructure because we are still billions of dollars behind in even bringing our aging roads, bridges and water systems up to acceptable standards, let alone putting in place the infrastructure that will fuel the provincial economy when the recession is fully behind us.

Similarly, the federal government jumped onto the recession stimulus bandwagon in a big way with billions of dollars for Canadian municipalities where the need for sustainable infrastructure funding is a critical one. Underline the word “sustainable” because you will be seeing a lot more of it from ORBA from now on. Good job to Mr. Harper and Mr. Baird on the stimulus funding (although March 2011 spending deadlines remain unrealistic in many cases).

But what comes next? According to some, the municipal infrastructure deficit in Canada exceeds \$100 billion. That kind of challenge requires a strategy and a commitment to

adequate and sustainable funding over a long period of time. The federal government ended many years of neglecting its responsibilities to municipal infrastructure with dedication of a portion of the gas tax to them. That was done with long-term visions of economic development and public safety and is exactly the type of sustainable funding commitment that now needs to be the basis of federal strategies going forward.

Our message to Queen's Park and Ottawa begins with a very sincere “job well done...” with the economic stimulus funding, and concludes with an equally important “...now keep up the good work by providing an adequate, sustainable commitment to rebuilding our decaying municipal infrastructure assets.”

The job of rebuilding Canada's civil infrastructure is not done because the economic stimulus objective has been reached. The real job of addressing decades of underfunding and putting in place the infrastructure that will ensure our economic future has barely begun. ■



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Paul Quinless

New President Calls on ORBA Members to “Embrace Change”

As children, many of us played in sandboxes, moving trucks, digging holes and perhaps dreaming that one day the sand would be real bricks and mortar. New ORBA president, Paul Quinless, got the construction bug that way too, except his sandbox was his family's driveway when, as a young boy, digging it up and rebuilding it became his first construction project.

Whether the planets just happened to have aligned or it is just a stroke of ironic fortuity, Quinless brings to the ORBA leadership a broader global vision at the precise time that the Ontario road building industry is making the transition to the new construction world. He has been an active player in the new world of public-private partnerships, design-build projects and performance specifications that will become the norm in Ontario. He has seen the future and he believes his job as ORBA president is to help members to make the transition, understanding the futility of trying to protect the status quo.

“Our business is not the same business it was 10 years ago, and 10 years from now it will have been transformed again,” Quinless told ORBA members at the annual convention in February. “Technology has changed the way and speed at which we communicate. It has changed the way we measure and calculate quantities, and satellite-assisted technology now guides our equipment, enabling us to do our jobs better. Technology will continue to take us to places we haven't even imagined yet.

“More and more contractors will be working as partners rather than competitors. Warranties will become longer and more common. Growing environmental concerns will bring drastic changes to the way we manage our work,” he predicts.

“We have a tendency in this industry to shy away from change but we must embrace it,” Quinless says, getting to the crux of the philosophy that will set the tone for his leadership over the next year. “With change comes opportunity for those who aren't afraid to accept it. Other parts of the world are miles ahead of us with some of the changes we will see in the coming years and we will be left behind unless we choose to be leaders and embrace global best practices.”

What first strikes you about Quinless is his straightforward, professional manner. He has a way of getting to the point quickly, though never at the expense of thorough analysis and logical deduction. He processes information quickly and can move from one subject to the next so seamlessly that the over-used label of “multi-tasking” might even be an understatement in his case. He values input and seeks consensus, but does not compromise on the necessity of arriving at timely decisions and moving forward with commitment.

U.K. beginnings

The 2010 ORBA president was born in England and raised in Dublin, Ireland, where he graduated from the Dublin Institute of Technology specializing in construction

studies. Early along on his way to a distinguished career in construction, Quinless's first job was in a toy factory in Leeds, England; his second, in a tea packaging plant, again in Leeds. All this was background for what was to come. He soon found himself where he wanted to be - in the construction industry starting out with a well-known Irish house builder and product manufacturer.

However, the taste for adventure was strong and the lure of Canada was growing and with his wife Teresa's support and urging they made the decision to come here for what was to be a few years - now 30 and counting. His first glimpse of his future in the colonies was in the oil fields of Western Canada with JK Campbell, a pipeline contractor specializing in the oil field industry. After that it was the BTY Group, a quantity surveying firm specializing in cost planning of public infrastructure - mostly hospitals in Alberta.

While MBA's aren't as unusual as they used to be in the construction industry, Quinless's resumé reveals a scholarly background in construction that few in Canada could match. After five years gaining practical experience in Alberta, he returned to the U.K. to obtain his Masters degree in construction from Brunel University, as well as a diploma in business administration from Aston University. He also studied and wrote the examinations to become a Chartered Quantity Surveyor (CQS) and Chartered Project Manager.

Finished with his post-graduate studies, Quinless joined George Wimpey in the U.K. and then returned to Canada, but soon another opportunity knocked and he went to EllisDon Ltd. to work on a range of hospital projects. Two years later he was back with George Wimpey, taking on a series of senior management responsibilities including the establishment of TWD as a road maintenance company and establishing the first PPP and design/build entity for hospitals. When Carillion Canada Limited acquired Wimpey, he spearheaded many initiatives including the introduction of Carillion in Alberta - now its largest road maintenance company with 30 per cent of the market and growing. In Ontario TWD is a prominent player in the road maintenance business, responsible for almost half of the total provincial highways road maintenance market.

Recently Quinless's corporate responsibilities have grown with Carillion's acquisition of Vanbots Construction and the merging of Carillion's municipal and heavy civil engineering businesses into a fully integrated approach - now combined as Transportation and Civil Infrastructure and Land & Housing businesses. As senior vice-president at Carillion, his enlarged portfolio is national in scope - maintaining, expanding and revitalizing Carillion's various business units across the country.

Quinless is a Fellow of the Royal Institution of Chartered Surveyors and volunteers as an assessor for individuals seeking entry into the association. He joined the ORBA Board of Directors in 2002 and has served several years as chair of the Maintenance Contractors Council. He says he feels strongly about giving back to an industry that has given him so much and he looks forward to the opportunity of advancing the interests of road builders in his role as ORBA president this year.

Paul and Teresa have two children. Their daughter Sinead is a third

year psychology major at McMaster University, and son Conor is studying life sciences at the University of Toronto with aspirations of being a dentist. These days Paul's business life is played out in airports and boardrooms across Canada and overseas, but when he does manage a few precious moments for a personal life, he and Teresa like to travel internationally discovering new cultures, history, food and customs.

ORBA's new president is not only a well-respected and seasoned construction executive. He is a man with the vision and commitment to lead the Association in times of unprecedented change that will challenge all of the 'traditional' construction axioms and change the face of the industry. ■



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Around Queen's Park

What's Next?



by Karen Renkema,
ORBA Director of
Government Relations

“Once our stimulus-related infrastructure projects near completion, we will slow the pace of planning and construction of some of the government’s capital projects.” – Hon. Dwight Duncan, Ontario Minister of Finance – Budget Speech, March 25, 2010.

This was a comment not easily missed by municipalities and contractors alike in the Province’s 2010 budget. And by now, many of you probably know that the “slow pace of planning and construction” referred to above, on infrastructure projects across Ontario, primarily affected transit

projects in the GTA. However, the question remains – How slow will the pace get, post March 31, 2011?

We know that this year will be a busy one. Not only has the MTO again provided our industry with a record budget for maintenance and construction on provincial roads (\$2.035 billion), it was also clear that a majority of those Infrastructure Stimulus Projects have yet to get out the gate as there was a significant amount of ISF (Infrastructure Stimulus Fund) money that was not spent last year. It could very well be a record-breaking year for the number of projects undertaken by the industry in a limited time frame. In addition, another \$138.7 million in “new” funding for provincial highways was announced just recently by the Prime Minister and the Premier. This additional funding was a result of our partners at MTO having projects ready to go (kudos to them for being on the ball), and the federal government having additional stimulus money to spend.

But, we can’t ignore the obvious – what’s next? As a transportation infrastructure industry we have benefitted from the five-year highway plans that the Ministry of Transportation provides on an annual basis. These five-year plans have allowed for enhanced business planning and allocation of resources. Many of you may have noticed that MTO has not published an updated Northern or Southern Five-Year plan since the 2008-2012 plan. This is concerning. Not because we don’t see the results of MTO’s hard work in getting a budget of \$2.035 billion, but instead

because we sense that there is no overall plan for infrastructure, post March 31, 2011.

You may recall the five-year RENEW Ontario Infrastructure plan that was introduced in 2005 by the McGuinty Government. This was a robust plan, and by all accounts, the \$30 billion that was initially announced was spent – both on institutional building and highway construction. The 2005 announcement date coincides directly to when the MTO first published the Northern and Southern Highway Plans. Recently a Queen’s Park “magazine” reporter questioned staff at the Ministry of Energy and Infrastructure on the McGuinty Government’s Infrastructure Plans. It was clear that the five-year RENEW Ontario Plan was complete, and that the government is currently spending money on infrastructure under a temporary two-year plan (Infrastructure Stimulus Fund). However, there was no mention of the future. Putting two and two together, it becomes quite obvious why we may not have seen any five-year highway plans for over a year - because the government lacks a long-term infrastructure funding plan from which the MTO can base its Northern and Southern Highway Plans.

A glimpse of good news though, as the 2010 Budget did mention the need for a 10-Year Infrastructure Plan. There are no details available as of yet, but just recently we met with The Hon. Brad Duguid, Minister of Energy and Infrastructure, who committed to working with the industry over the next year in order to develop

a 10-year plan. This was part of the McGuinty government's election policy platform in 2007; the platform that would shape their priorities until the next provincial election in 2011. We look forward to working with Minister Duguid over the next year to help provide advice and shape a plan that will act as a tool for our businesses as we strategically plan for the allocation of resources for both provincial and municipal projects. We also trust that this comprehensive 10-year plan will serve as a basis for the Ministry of Transportation to again provide five-year highway plans.

On a side note, we commend the McGuinty government for their commitment over the past five years to infrastructure. As seen in this magazine, we recently enjoyed the presence of Premier McGuinty at our 2010 convention, and had the opportunity to meet the new Minister of Transportation, the Hon. Kathleen Wynne. By the time this magazine is published, ORBA will have had a more formal meeting with Minister Wynne, and will have had an opportunity to congratulate her for the largest MTO capital budget yet, while ascertaining her priorities for the next couple of years.

ORBA continues to work on your behalf around Queen's Park, meeting with both MPP's and staff, formally and informally. Many of our members have also recently supported MPPs and provincial parties by way of financial donations at political events. Although attending political fundraising events may not be on the top of the "to-do" list for many contractors, it is an important part of the political process, and it does allow for relationships to be built with the various parties. Over the next year, as our priority will be working with all parties to construct a sustainable infrastructure investment plan, ORBA encourages members to continue meeting with your local MPPs and delivering the message that infrastructure investment is just that – "an investment" – it is not only a tool to use for stimulating

the economy when times are rough. An individual business person's voice goes a long way in reinforcing this message locally.

And finally, ORBA's involvement with the provincial government reaches far beyond advocating for infrastructure. We have made inroads with the MTO and the MOE on environmental issues. Recently, because of our work with other construction associations, the WSIB has taken major steps in recognizing the uniqueness of the

construction industry and the communication between the industry and WSIB has improved dramatically. Recently we have been advocates in protecting members' interests on issues such as the MTO's Facility Audit; impoundment of commercial vehicles; and regulated changes to vehicle weights and dimensions. And finally, although a moving target daily, we are involved in negotiating a solution to ease the transition to the HST on MTO contracts. ■

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83rd Annual ORBA Convention

Ontario Premier Dalton McGuinty, headed up an impressive list of federal and provincial leaders who addressed members February 1 to 2 at the 83rd annual Ontario Road Builders' Association (ORBA) convention in Toronto. Speaking to an audience of almost 350 road builders, the Premier said despite fiscal challenges infrastructure remains a priority for the provincial government.

The same assurances were delivered by federal Transportation Minister, John Baird, at the convention. ORBA members also met the new Ontario transportation minister, Kathleen Wynne, for the first time at the convention. In office just two weeks, she told ORBA members she was too new in

the job to have many answers yet but is eager to learn about the industry through dialogue with the Association.

"Green Again" was the theme of the convention, continuing the focus from the 2009 convention and recognizing that environmental challenges are a current priority for both owners and contractors. Convention sessions on the theme included a look at contractor insurance coverage for environmental exposures, discussion of MTO's environmental policies and planning processes, a new environmentally friendly bridge building system from Bermingham Construction, "green" concrete and hot mix asphalt technical sessions and security monitoring equipment powered by solar and wind energy. ORBA also introduced a





new award to recognize excellence in environmental stewardship which will be presented at the 2011 convention.

Other speakers at the ORBA convention included Professor Larry Smith from the University of Waterloo who warned that the recovery from the recent recession in Ontario will be a "long, long" one. Charles Powell, an associate with the firm of Glaholt LLP, spoke to members about recent trends in tendering law. Also featured was Brad Greene, chair of the Canadian Construction Association, who updated members on what their national association has been doing on behalf of the industry. Of particular interest was discussion about hours of service regulation and economic stimulus funding.

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CONVENTION REVIEW

Strong sponsorship from ORBA associate members ensured the success of the 2010 convention. Nortrax Canada Inc. teamed up with Bomag, John Deere, John Deere Credit and NPK to once again sponsor the Contractor's Round-Up. The annual social highlight was held at the Bier Markt and over 400 turned out for the event.

Thanks also to Toromont CAT and Battlefield Equipment for teaming up to deliver an all-new format for the President's Dinner and Awards Evening. Complete with a Master of Ceremonies, spectacular entertainment and Hollywood-style awards presentations, the evening was a perfect conclusion to the convention.

In his inaugural address to members, new ORBA president, Paul Quinless, executive vice-president of Carillion Canada, delivered a strong message, calling on them to



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MODEL 20 ART & 25 ART

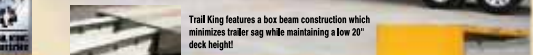


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“We have a tendency in this industry to shy away from change but we must embrace it,” said Quinless. “With change comes opportunity for those who aren’t afraid to accept it. Other parts of the world are miles ahead of us with some of the changes we will see in the coming years and we will be left behind unless we choose to be leaders and embrace global best practices.” He went on to talk about the changes taking place in the industry including new delivery models, longer warranties, advancing technology and changing owner expectations.

Read more on the new ORBA president’s address in this issue of *Road Builder*, along with summaries of presentations from industry and political guest speakers. ■



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New ORBA President

Challenges Industry to Embrace "Change"

“With change comes opportunity for those that aren’t afraid to accept it,” was the punch line of a dynamic inaugural address to ORBA members by new president Paul Quinless in February. Quinless pulled no punches in invoking the words of U.S. army chief of staff, General Eric Shineski, who warned that: “If you don’t like change, you’re going to like irrelevance even less.”

“My message tonight isn’t a new one,” Quinless told ORBA members. “Since our founding in 1927, change has been a constant theme. Change and the rate of change continue to be our biggest challenge today as road builders. The rate of change has increased at a pace our founding members could not have predicted.

“We have a tendency in this industry to shy away from change, but we must embrace it,” Quinless said. “With change comes opportunity for those who aren’t afraid to accept it.” He pointed to other parts of the world that are “miles ahead” of Ontario and warned that Ontario road builders “will be left behind unless we choose

to be leaders and embrace global best practices.”

“Our business is not the same business it was 10 years ago, and 10 years from now it will have been transformed again,” said the new ORBA president. “Technology has changed the way and speed at which we communicate. It has changed the way we measure and calculate quantities, and satellite-assisted technology now guides our equipment, enabling us to do our jobs better. Technology will continue to take us to places we haven’t even imagined yet.”

New contract delivery models are also bringing change, said Quinless. “Our clients are looking for best-value solutions. We will see design/build work becoming common and public-private partnerships will play a much greater role in how our clients procure work. We will be building to performance specifications and taking on all of the new responsibilities that go along with that. More and more we will be working as partners rather than competitors. Warranties will become longer and more common. Growing environmental concerns will bring

drastic changes to the way we manage our work.”

Looking to the year ahead, the ORBA president predicted healthy work volumes for members, with continued provincial commitment and considerable federal stimulus funding expected to buoy the municipal sector

ORBA priorities

“ORBA’s job going forward will be to keep governments focused on infrastructure even though there are going to be some tough fiscal decisions to be made,” Quinless said, in establishing the priority for ORBA’s work at Queen’s Park this year. “We must make it crystal clear that even as the economy begins to pick up again, the infrastructure job is not nearly done. We have an aging infrastructure that has been neglected for decades and massive infrastructure deficits to address. We cannot fall back from the growing commitment we have seen in the past several years to rebuild this valuable asset base.”

Quinless told members that specific ORBA priorities and objectives in 2010 will flow from the new five-year

Strategic Plan. One of the major themes running through the new plan is the need for ORBA to increase its involvement and effectiveness in the municipal contracting sector. "Members have made it clear that they would like us to be as effective on issues like contracts and tendering in the municipalities as we are in our work with the Ministry of Transportation."

Communications is another theme of the Strategic Plan, said the new president, and ORBA will improve the information flow and communication to members significantly with a complete rebuild of the ORBA website over the coming year.

"We will also be looking at our core services to members to ensure that we

are directing our resources to the priorities that members have identified," said Quinless, noting that in surveys that were part of the strategic planning process, members identified their top five priorities for the Association as infrastructure promotion, health and safety, environmental regulation and best practices, management education and promoting the industry to young people. "We will be reviewing all of our current programs and services in the context of these top five priorities and we will use the list as a guide in developing new services for ORBA members."

ORBA scholarships

Identifying one of his personal objectives for the coming year, Quinless told members he wishes to establish one or more ORBA scholarships for high school or college students. "I would like the scholarships to carry the names of individuals who have stood out as Ontario's road building leaders in order to inspire our next generation of road builders," he said. "I think this fits well with the industry promotion priority and it builds nicely on our financial support for McMaster University and Georgian College."

The new president also challenged members to distinguish themselves by making excellence an integral part of their businesses. "As our Association is the voice of the industry, it is our responsibility to develop and encourage standards of excellence in the road building business. We want owners to be able to know that when they are working with an ORBA contractor they are getting the best, but to do that we have to ensure that we are the best.

"There are exciting times ahead," Quinless said in concluding his first speech to ORBA members. "Let's work together to make change work for us and to take advantage of the opportunities that will present themselves." ■

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Premier McGuinty

Addresses ORBA Delegates

Ontario needs good roads and a safe, efficient road network, Ontario Premier Dalton McGuinty told delegates during a luncheon at the recent ORBA convention in Toronto.

"We not only have good roads but we have great road builders," he stated during a speech that received a standing ovation from delegates. "A safe and efficient road transportation network has never been more crucial to Ontario's prosperity and our quality of life, and this is true for our large cities as well as our small towns. Roads are the path to prosperity for people, communities and Ontario, because in a province as vast and diverse as ours, good roads connect people with opportunity. We need your ideas and input to make sure we are expanding, maintaining and renewing our provincial highway system. Together we can continue building the best province in the greatest country in the world."

People need to be productive by getting to work on time and products need to be moved in a timely manner, said McGuinty.

"We need to do whatever we can to stimulate the economy," he remarked. "We have \$17.3 billion planned for infrastructure investment for this coming year, which is more than we spent last year. We have to be careful how quickly we take the foot off the public dollar gas pedal. If banks are reluctant

to lend, and the private sector is not doing much spending and consumer confidence isn't where it should be, we've got to be very careful about moving too quickly in government to remove public dollars from the economy. We have to keep the economy moving forward."

Telling the delegates that they are in the business of roads, McGuinty stated that roads were what he wanted to talk about.

"We're grappling with a global recession the likes we haven't seen since our grandparents were young," he stated. "Roads are about getting our economy moving and that is what our economy needs. We need to continue to get better with research and development in regard to worker safety and environmental responsibility. You have been relentlessly optimistic and focused. Now is not a time for the faint of heart. Some days your jobs may seem thankless and the miracle of Ontario's transportation system may seem to be taken for granted, but it improves our quality of life. You and I have a shared obligation to protect this system that we've created and, to a large degree, inherited. When this recession releases us from its grip, we need infrastructure that is built and ready to move us forward."

He commented on a \$2.4-billion investment for expanding and rehabilitating roads and bridges in the province.

"This is the largest investment of its kind in the history of our province," he stated. "We need 21st century roads in keeping with our 21st century understanding and desire to protect our environment."

He also alluded to an agreement with Samsung regarding green energy that will see the creation of four renewable energy manufacturing plants in the province. He also commented on the HST, which comes into effect in July, saying that although it is not an easy thing to do, it will create jobs.

"We are doing what needs to be done," he remarked. "We all need to do whatever needs to be done to prepare our economy for the long run."

McGuinty also mentioned an Ontario summit group that surveyed young people who have left the province, asking them what it would take to get them to move back.

"One thing that they want is to be able to move around with ease," he said. "We need good roads."

At the conclusion of his speech, McGuinty was presented with a golden hard hat from ORBA, which is only the fourth one that has been given out in the past two decades. ■

New Transportation Minister

Addresses ORBA



Speaking to delegates at the recent 2010 ORBA Convention in her third week on the job as Ontario's Minister of Transportation, Kathleen Wynne said she usually likes to take questions but admitted she may not have answers yet.

"I hope to gain your trust and respect," Wynne said during her first official industry speech since becoming Minister of Transportation. "I am very excited to work with ORBA to strengthen and modernize our transportation system. I believe an essential skill needed with this job is to listen to people. You are the people I need to listen to. I will endeavour not to jump

to conclusions based on a little knowledge. I need to draw on the expertise of experienced people and learn from all of you."

Transportation in Ontario has its roots in public highways, said Wynne, who prior to becoming the Minister of Transportation served as Minister of Education for more than three years. Prior to becoming an MPP, she served as a school trustee in Toronto.

"This is thanks to all the work you have done," she stated. "I recognize the excellence you bring to your work. We have earned the reputation of having the safest roads in North America and we would not have been able to get there without you and your efforts."

ORBA has been a key partner for the Ministry of Transportation, said Wynne.

"I completely believe in an open relationship," she said, commenting on the value of open and constructive dialogue. "I continue to welcome your input."

Wynne commented on the importance of not creating a backlog in infrastructure renewal.

"We need to have a long view and stay on track with our infrastructure renewal program even though we are in tough economic times," she said.

"We need to keep going even when it takes a long time to come to fruition."

She spoke about the Ontario Government working to make local businesses more competitive internationally and mentioned tax reform "to strengthen the economy and bring businesses to the province."

Wynne also mentioned the need for innovation within the industry and greener technologies.

"When I talk about these things I know you know more about it than I do," she remarked. "I will learn. We are working together to transform this industry to be on the cutting edge. With your support we will be able to move forward. Your dedication and expertise is essential."

She also encouraged further promotion of safe driving and made reference to provincial laws regarding the use of cellphones while driving.

"The surge in these technologies that people who don't drive for a living use has caught up everyone in the law," she said. "We will continue to review this."

Wynne concluded by saying she is "getting maps" and looks forward to travelling across the province and meeting industry members along the way. ■



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Ministry of Transportation

Addresses ORBA

Roads and transportation in general are critical and important for Ontario's economic growth in the long term, Bruce McCuaig, Ontario's Deputy Minister of Transportation told those in attendance at the MTO Overview session at the recent ORBA Convention. The session dealt with the past year and what lies ahead for the Ontario Ministry of Transportation.

"There has been a major and significant increase in investment in roads and bridges," said McCuaig, commenting on a \$2.4-billion investment for expanding and rehabilitating roads and bridges in the province.

McCuaig made reference to Alternate Financing and Procurement (AFP) models.

"We need to continue to evolve our contracting practices and find new ways of working with you," he said. "I feel very positive about the way the industry is moving forward with innovation. There will be disagreements from time to time, but the measure of the maturity of our relationship is how we deal with those disagreements. I am proud of the track record of our ministry and our relationship. I feel truly blessed by the skills and expertise on my team."

Brian Gaston, Assistant Deputy Minister with MTO's Provincial Highways Management Division, also offered words of praise for those in the road building industry.

"We very much value the partnership of people in the room here today,"

he said. "We value our relationship. Although we don't always completely agree, we do always go forward in partnership. This is a partnership. This is a team. I think we are working together extremely well."

He spoke about MTO's contract delivery strategy.

"MTO's capital program will continue to be strong," he noted. "We are at record levels with a focus on pavements and bridges. We need to continue exploring new ways of improving the delivery of our capital program. Our action plan involves the implementation of a new direction for contract delivery and oversight. We don't have the resources to keep doing things the way they have been done in the past, so we are looking for new innovative ways. We want to foster a sustainable organization but remain a knowledgeable owner. We have to be flexible and responsive regarding our approaches to program delivery. The change in oversight approach reduces the day-to-day activity monitoring. Performance is assessed at completion and through a warranty period. We are developing performance-based design-build and are continuing consultation with stakeholders, including ORBA. We are starting small this year with 10 low complexity projects for 2010 to help get familiar with the new program. This summer we will start developing for larger design-build projects. We will be going outside of Ontario at times to look at other jurisdictions and their experiences."

Gaston commented on the Highway 407 expansion project into Durham,

noting that a provincial environmental assessment decision was anticipated from the Ministry of the Environment in May 2010. He also noted that 2012 completion is on track for the four-lane Highway 11 project, work continues on schedule for the Highway 69 four-lane project and a four-lane expansion for Highway 11/17 in Thunder Bay is set to begin this year.

Gaston also mentioned the Windsor-Essex Parkway, noting that the \$15.5-million initial construction project to build two bridges and noise barriers in South Windsor began in December 2009.

Gaston reminded delegates about the HST, which comes into effect in July.

"Although the MTO was GST exempt in the past, it will not be HST exempt," he said. "Contract language will now revert back to the standard language. Capital and maintenance contracts will have some taxes and duties language."

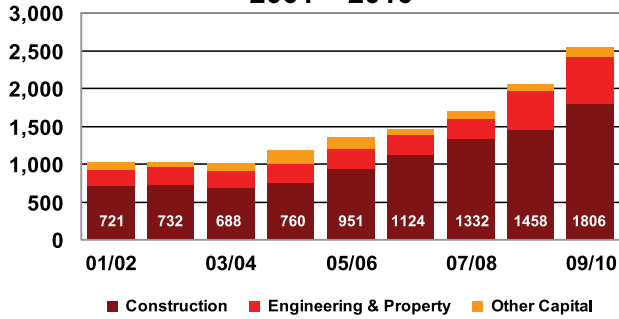
Steve Cripps, Director, Investment Strategies Branch, spoke about the provincial highways program.

"It has been an extremely positive year," he said. "The budget is at an all-time high, allowing us to put more work on the street and to look after our infrastructure. Highways help with job creation and keeping the economy moving. We are keeping our highway network healthy by maximizing expenditures on bridges and pavements. There is a lot of work coming your way in the next couple of years, especially bridge work."

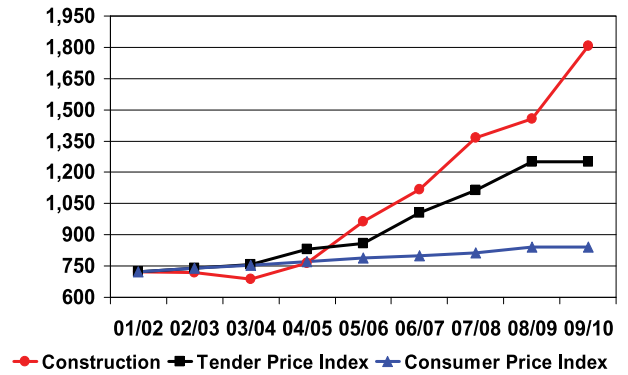
Cripps stressed the importance of innovation.

"We need to find innovative ways to reduce overhead, reduce impacts to road users and meet infrastructure demands," he said. "We need to make and deliver our investments according to sound asset management principles."

Capital Construction Spending & Budget (\$M) 2001 – 2010



Construction Budget (\$M), Price Indices



Steve Naylor, Director, Contract Management and Operations, spoke about the Qualification Committee, which he explained as overseeing the integral management system for contractor and consultant access to and improved performance on Ministry work.

“The MTO qualification system is used in lieu of bonding with an

estimated savings of \$20 million annually,” he said. “It provides that we have quality people out there. Infractions and warnings of infractions are issued by the regions for serious contract breaches of construction and maintenance contracts as well as consultant assignments. The primary contractors are always responsible for actions of their sub-contractors. There has been an increase in the

number of infractions in recent years with emphasis on environmental and management.”

Deputy Minister McCuaig thanked the Ontario Road Builders’ Association for having an MTO Day at the convention again this year. ■

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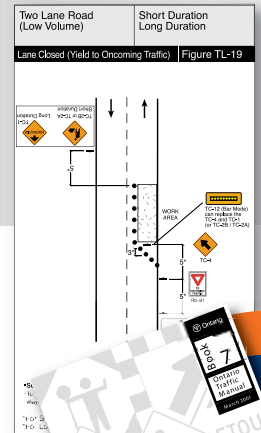
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Paver of the Year Awards



Graham Bros. Construction Limited

Graham Bros. Construction Limited won the 2009 Paver of the Year Award for work on MTO Contract 2009-2001 in Central Region.

With a tender value of \$3,597,656, the winning project involved pavement rehabilitation on Highway 10/Hurontario Street in the Town of Caledon, starting at the intersection of King Street and Highway 10/Hurontario Street and ending 0.7 km south of the intersection of Forks of the Credit Road and Highway 10/Hurontario Street for a length of 8.4 km.

“The Highway 10/Hurontario Street project was a really good job, resulting in a really smooth surface,” says Tony Tuinstra, construction engineer, Contract Management, MTO. “The overall texture and workmanship was excellent with a nice ride quality. There was really good coordination between the plant and highway operation and the project was completed seven months early. Overall, we continue to be very pleased with the quality of work and excellent products of the award winner and finalists.”

The tender opening date for Contract 2009-2001 was Aug. 5, 2009, with construction beginning Aug. 26, 2009, and completion on Nov. 20, 2009. There were 60 contract working days involved, excluding weekends and holidays.

Scope of work involved milling, paving, curb and gutter, drainage, shoulder grading, steel beam guide rail and electrical detectors. Key people involved with the project included: Contract Administrator K.P. Persaud of MCPD Consultants Inc., Site Supervisor Kevin Hutchinson of Graham Bros. Construction and Asphalt Operations Manager Murray Graham of Graham Bros. Construction.

“There were typical fall weather conditions with some rain, overcast, seasonally low temperatures into the night and in the early morning,” says Alfredo Maggio, president, Graham Bros. Construction Limited. “Highway 10/Hurontario Street is a commuter route with heavy traffic flow into Peel Region in the morning and heavy traffic flow northbound in the early afternoon and evening. Highway 10/Hurontario Street is also a common route to cottage country with heavy traffic on Friday evenings and weekends.”

The heavy traffic conditions made for logistical issues during material delivery to and from site, says Maggio.

“In order to achieve a smooth ride on the finished asphalt it is ideal to keep the equipment moving at a steady continual pace,” he notes. “Material delivery delays could ultimately create

a start and stop condition, which can create a rough ride. Additional safety concerns were when three of five possible lanes were open to traffic at one time, leaving a limited work zone. In addition to the logistical issues, the contract began at the end of the summer and ran into the fall, which can produce temperature and weather issues. Furthermore, the scheduled contract completion date was June 30, 2010, with an interim completion date for all binder course paving and surface course paving in the vicinity of any curb and gutter and the Victoria Truck Inspection Station by Oct. 30, 2009.”

Road closures were staggered with the traffic conditions such that northbound and southbound lane closures started and ended at different times throughout the day and earlier on Fridays, says Maggio. The contract prevented any weekend work in the month of October.

“In order to increase production and reduce downtime, we equipped our milling equipment with a 12’ wide milling head,” says Maggio. “This allowed for our milling equipment to remove asphalt over virtually an entire lane width at a time. This permitted the asphalt and milling operation to operate at a similar pace in the tight work zone as the paving was not



Graham Bros. Construction Limited



Graham Bros. Construction Limited

waiting for the milling to be completed. Additionally, the use of an automatic control system permitted our surface paving to achieve favourable smoothness results.”

Strong co-operation and communication between the owner, owner’s representative and the contractor permitted for strong teamwork and a successful project, adds Maggio.

“Understanding by all parties that any extended delay in the beginning

of the project, or a slow start, could equate to additional item work in early December or prevent an early finish in 2009,” he says. “Additionally, strong communication between each crew ensured that the project functioned within the lane, time and contract restrictions with minimal issue, successfully, safely and cleanly, providing a quality product. We believe that the overall outstanding smoothness test results; the clean boulevards, medians, curbs and shoulders; the crisp appearance and completeness of the project;

along with the significantly early finish; and the overall ride-ability all contributed to the quality of the final product and ultimately receiving this award.”

Equipment used included:

- Asphalt plant: Permanent (fixed) Astec Industries, double barrel, 500 tonnes/hr. capacity.
- Trucks: A 50:50 ratio of company and broker trucks. Tri-axles - 22.5 tonnes and tri-axles with pups - 42.0 tonnes (Mac, International,

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- Milling: 950 Hp Roadtec RX900 with a CH-144 12' cutting drum - production rate: 145 tonne/hr.
- Shuttle buggy: Roadtec SB2500
- Paver: Caterpillar AP1000D and Caterpillar AP1000B. Topcon paver system 5 with Smoothtrac. Production rate: 175 tonne/hr.
- Compaction: Breakdown compactor - Caterpillar CB634. Secondary compactor - Dynapac 224W. Finishing roller - Caterpillar CB634.

Materials used included:
Asphalt:

- Mix type: Super Pave 19.0 - 20,726 tonne

- Asphalt cement: McAsphalt
- Fine aggregate: Dufferin Aggregates and Graham Bros. Aggregates
- Coarse aggregate: Dufferin Aggregates
- Mix type: Super Pave 12.5FC2 - 18,708 tonne
- Asphalt cement: McAsphalt
- Fine aggregate: Fowler Construction
- Coarse aggregate: Fowler Construction
- Shoulder materials:
 - 4,831 tonne
 - Granular A: Graham Bros. Aggregates, Caledon



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Capital Paving Inc. received a finalist Paver of the Year Award for work on MTO Contract 2009-3016 on Highway 402 in the southwest region. Valued at \$5.7 million, the project involved asphalt milling and 16.9 km of paving.

“This project turned out very well and rides very smoothly,” says Rob Munro, project manager, Capital Paving Inc. “The smoothness index for the profilograph was very low, which indicates a smooth surface. We had to deal with this project being completed in the fall of the year and experienced very wet conditions at times. The end of the project was approximately 150 km from our plant so trucking of material and making the material had to be well coordinated as it was approximately a three-hour round trip.”

Key people involved in the project included: Paving Foreman John Gmeindl, Site Supervisor Wayne Robertson, QC Manager Mark Latyn,

Traffic Control Foreman Brian Staggs and Project Manager Rob Munro.

“The project went very well and was well organized,” says Munro. “For approximately 4,000 tonnes of the surface, warm mix asphalt was used.”

Equipment used on this project included:

- Shuttle buggy: Roadtec SB 2500
- Paver: Roadtec RP 190 with Eagle 10 to 20 extendable hydraulic screed
- Compaction: Breakdown compactor - Cat CB 534 D steel roller (two to four passes). Secondary compactor - Cat PS 360C rubber tire roller (four to six passes). Finishing roller - Cat CB 534 D steel roller (one pass).

Materials used included:

- Mix type: SP 19 base (21,247 tonnes) and SP 12.5 FC2 (16,522 tonnes) for surface.

- SP 19:
- Asphalt cement: Canadian 64-28
- Fine aggregate: Lafarge Dundas
- Coarse aggregate: Lafarge Dundas
- RAP: Capital
- SP 12.5 FC 2:
- Asphalt cement: Canadian 64-28
- Fine aggregate: Fowler Rose-Warren
- Coarse aggregate: Fowler Rose-Warren
- SP 12.5 FC 2 warm mix:
- Asphalt cement: Bitumar Sasobit 64-28
- Fine aggregate: Fowler
- Coarse aggregate: Fowler

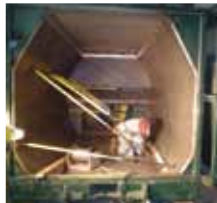


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Georgian Paving & Construction,

a division of Walker Aggregates Inc., won a finalist award for MTO Contract 2008-2012 for shoulder widening, sub-drain installation, milling, paving and guard rail work on Highway 400 south-bound from Highway 11 to Simcoe Country Road 11 in central region.

The \$8,245,000 contract was 6.5 km in length with a start date of Aug. 11, 2008, and a finish date of July 10, 2009.

Key people involved in the project were: General Manager Terry Willms, Project Manager Doug Bell, Project Supervisor Chris Osborne, Quality Control Technician Mike Scott and Asphalt Superintendent John Chipchase.

“This is our first award from the Ministry of Transportation,” says Terry Willms, general manager, Georgian Paving & Construction. “Although this was a fairly straightforward paving job, paving for the Ministry of Transportation is never easy. Georgian Paving & Construction has not placed a lot of asphalt for the MTO so when we do, we need to pave by the book. The specifications are demanding and penalties can balloon in a hurry. As we found out on this project, the bonuses can balloon in a hurry if you do things right.”

Attention to detail was key to the success of the project, says Willms.

“There were operational constraints during the recreational season that required we be off the highway from

Friday at 2 p.m. until Monday at 9 a.m. The recreational season as described in the contract is very similar to our paving season. This meant that we had to watch the weather quite closely to be sure we had all our paving in and cleaned up by week’s end. There was open and honest communication between all members of the team. It starts with the aggregate coming to the plant. Our QC technician Mike Scott had a strict testing program as aggregate was delivered to the plant to be sure the material matched the process control test data. Couple that with staying at the lab past midnight to be sure there are no changes to the mix required for the next day and it is all quite simple. Our plant operator Rob Smith was in constant communication with both our paving crew and our quality control technician to be sure the numbers stayed in line. Our paving supervisor Brent Paddison worked very closely and was in touch with our compaction technician Jordan Willms on a regular basis. Communication between all members of the team was crucial.”

Equipment used in the project included:

- Asphalt Plant: Fixed, Gencor Ultraplant, Drum Mix Plant - 300 tph
- Trucks: Live bottom, Mailhoit Trucking - Collingwood, 34-38 mt
- Milling: Rotomill Services Ltd., Orangeville - CMI PR800-7 - production rate: 240mt per hour

- Shuttle buggy: 2000 Road Tec SB2500 B
- Paver: Two pavers in echelon: Cat AP1055 and Cat AP655. Features - 10-20 electric screed and 8-16 electric screed. MOBA grade control and Topcan grade control. Production rate - 250 tph
- Compaction: Breakdown compactor - Cat CB 534D. Secondary compactor - Cat PS300B and Cat PS150B. Finishing roller - Cat CB 434C.

Materials used included:
Asphalt:

- Mix Type: 12.5mm FC2 (10,780mt), SP19mm (13,519mt), SP25mm (22,786mt)
- Asphalt cement: Bitumar 64-28 and 58-28
- Fine aggregate: Walker Aggregates -Duntroon Quarry
- Coarse aggregate: Walker Aggregates - Severn Quarry
- RAP: 20 per cent in base lifts

Base Materials:

- Granular A: Walker Aggregates - Severn Quarry - 59,000mt
- Granular B:CBM - Dalston Pit - 73,000mt

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received a finalist award for MTO Contract 2008-5110 on Highway 101 from 2.2 km west of Highway 651 easterly 39.3 km in northern region.

The \$ 9.8-million project included paving, which started on Aug. 20, 2009, and was completed on Sept. 30, 2009. Key people involved with the project were: Superintendent Mark McGregor and Paving Foreman Blair Matheson. Scope of work included grading, drainage, milling, paving, lighting guard rails, ditching in place processing, adding Granular A and paving.

General Manager Kevin Williamson says traffic was very light on Highway 101 and weather conditions were good during the project.

Equipment used for the project included:
Asphalt plant:

- Type: Portable - Cedarapids - drum mix - capacity - 250 tonne/hr
- Trucks: Triaxles up to 15 in number. Payload - 20-22 tonnes. Independent owner operators.
- Shuttle buggy: Roadtec SB2500
- Paver: Cat AP1055, 2007 - MOBA - Production: 220 tonne per hour
- Compaction: Breakdown compactor - Cat 534D, 2007. Secondary compactor - Cat PS300, 2007.

Materials used included:

- Asphalt mixes:

- Mix type: 12.5mm Superpave, 50mm thick - 42,000 tonnes
- Asphalt cement - pgac 58-34, McAsphalt, Thunder Bay
- Fine aggregate: Wayside pit within contract limits
- Coarse aggregate: Wayside pit within contract limits

Base materials:

- Granular A - 59,000 tonnes by Carillion from wayside pit within contract limits.

Crushing by Gilbertson Enterprises. Contract Administration by Tulloch Engineering.

The 2009 Paver of the Year Award winner and finalists received their awards during the recent ORBA convention in Toronto. ■



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Two “Bills” Elected to Road Building Hall of Fame

The Ontario Road Building Hall of Fame got two new members at the ORBA convention in February, with the induction of William Doherty and William Graham, both better known to their friends and colleagues as “Bill.” Their entry into the Hall of Fame brings to only 13 the number of industry icons honoured since its inception in 2005.

Induction to the Hall of Fame is the industry’s highest honour and it is reserved for leaders who over the course of their careers have distinguished themselves in their exemplary service to the industry, their communities and the Association. Hall of Fame members are nominated by their peers and elected through a voting process by the ORBA Board of Directors and past presidents.

William Doherty

William “Bill” Doherty was born in 1927 in Schomberg, Ontario. He grew up with his brother Douglas farming, hunting and fishing and assisting with hard work that was a normal part of everyday life. He earned a degree in civil engineering from the University of Toronto and his P. Eng. designation shortly thereafter.

He started his career with K.J. Beamish Construction in the late 1940s where one of his first jobs was to light the oil lanterns for night work. He eventually became general manager at Beamish and oversaw construction of such projects as Hwy 400 northbound from the



Bill Doherty (centre) with family members

future City of Vaughan and the Don Valley Parkway to the Bloor Viaduct.

Doherty purchased MSO Construction Ltd. from Beamish in the late 1970s and just kept going from there. Cornell Construction from Brantford was purchased in the mid-1980s, followed by J.A. Robbins Construction, later to become Paveseal Ltd. with its fleet of Patchmasters.

Through the 1980s, Doherty served on the ORBA Board of Directors and its various working committees. His work for the Association was highlighted by his election to the presidency in 1969.

After five decades in the road building business, in the 1990s Doherty prepared for retirement with the sale of MSO and Cornell. Paveseal was sold

shortly after, but he continues to this day to provide advice and assistance.

In retirement, Doherty has carried on his work in the community. He is very involved in the operation of the Richmond Hill Community Food Bank and is a strong supporter of the York Region Police Association. He has received numerous awards over the years for his work with community organizations.

Bill has four sons and one daughter. Three of his sons - William Jr., Brian and Michael - are Professional Engineers, and the fourth (Robert) is a doctor. He currently lives with his wife Carole in Thornhill, and the whole family was on hand February 2 to see him honoured by ORBA members as the 12th person to be inducted to the Ontario Road Building Hall of Fame.



Bill Graham (left) and ORBA President, Paul Quinless

William Graham

William “Bill” Graham was born in Goderich, Ontario, in 1937. Growing up in Brampton he got his introduction to construction in high school, working with his father Douglas, but his love of football led him down a different path at the beginning. It was in 1959, while playing for the Toronto Argonauts, that Bill founded Graham Bros. Construction with his brother Don.

The business started with an excavator digging basements for Bramalea and Peel Village Developments in Brampton. Today the company employs about 400 people and is a major player in the road building and civil construction sector. One of Ontario’s largest independently owned road building companies, Graham Bros. is also one of Ontario’s leading bridge builders. A testament to the company he has built, Graham Bros. has over

20 employees who have been with the company more than 25 years – a few of them are approaching 50 years.

Graham served as an ORBA director for many years in the late 1980s and early ’90s and has been a strong supporter of industry associations. Well known for his passion, his strong opinions and his construction expertise at the ORBA board table and in his business affairs, Graham has been a vocal advocate for the road building industry through his vast business and political networks.

These days, Graham splits his passion between Graham Bros. Construction and horse racing. He owns about 50 thoroughbreds with farms in Canada and the U.S. and has been a director of the Ontario Jockey Club for over 15 years. A community leader as well, Bill has always contributed generously to local charities, and especially the Brampton Civic Hospital. In 1995 he was named “Business Man of the Year” by the Brampton Board of Trade. ■



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Magisano and Hurst Take Top Volunteer Awards

ORBA members honoured their very best on February 2 at a gala President's Dinner and Awards Evening sponsored at the ORBA convention by Toromont. Two new members were inducted to the Ontario Road Building Hall of Fame (see separate article in this issue) and members received awards for safety performance and distinguished volunteer service.

Magisano gets Distinguished Service award

Fernando Magisano from K.J. Beamish Construction Company Ltd. received the Distinguished Service Award, which is presented annually to an ORBA member volunteer that has distinguished themselves through extraordinary service to the Association.

Magisano has contributed his expertise in materials specification and testing to ORBA technical committees for many years. He has been a longtime member of the Hot Mix Asphalt Committee and instrumental in protecting the industry's interests from the first ERS specifications, through the development of quality



control plans and more recently in the development of the QA for acceptance protocols and the move to performance specifications.

He has chaired numerous technical committees dealing with issues from pavement smoothness and air voids testing to ignition ovens and low-

temperature cracking. Magisano has also shared his expertise by delivering technical education and seminar sessions for ORBA and other industry associations. This year Magisano continues his service to the industry by serving as president of the Ontario Hot Mix Producers Association.

Hurst gets Director award

Jim Hurst, vice-president of Steed & Evans Limited, was named ORBA Director of the Year – an award presented annually to the ORBA director who goes well beyond his expected responsibilities to the Board and plays a leadership role in moving the Association's agenda forward. The Director of the Year is selected by the ORBA president.

Over the past year Hurst has managed an important agenda as chair of ORBA's Transportation Committee. He has been actively involved in promoting contractors' interests and providing education for members in areas of changing CVOR regulation, facility audits, weights and dimensions review and many others. He has been in the transportation minister's office looking for a compromise that con-

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Jim Hurst & Paul Quinless

tractors can live with under the recent regulation of mobile communications devices. In 2009, his transportation committee delivered an important new driver's licence status check service to ORBA members.

Hurst is also an active member of the ORBA Maintenance

Contractors Council and is a champion of promoting safe driving winter maintenance zones.

The Routly Safety Awards are presented annually to recognize member companies that have worked the most consecutive manhours without a lost-time injury. The record of consecutive

injury-free manhours may span one or more years.

Category One is for companies that average less than 100,000 manhours per year. The 2009 winner, for the second year in a row, with 212,743 consecutive manhours worked up to Dec. 31, 2008, without a lost-time injury is Walmsley Bros. Construction.

Category Two recognizes the ORBA member that works more than 100,000 manhours per year and that has the longest streak of consecutive manhours without a lost-time injury. The 2009 winner is Fowler Construction Company Limited with 863,316 consecutive, injury-free manhours up to Dec. 31, 2008.

Fowler Construction also received a Routly Milestone Award for reaching 500,000 consecutive manhours without a lost-time injury. ■

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The Long Road to Economic Recovery



In a recent ORBA convention session entitled “The Long, Long Road to Economic Recovery,” Professor Larry Smith of the University of Waterloo spoke about the reality of the current economy.

“The economy is in fact in recovery,” said Smith. “It has stopped shrinking. For three consecutive quarters

it was shrinking significantly, then it stopped shrinking and grew slightly. Our financial institutions are secure. We are running a deficit but it is manageable. We have resources to return our public finances to order.”

Good roads are essential to the competitiveness of the economy, said Smith.

“You will need to make this argument even more strongly than ever before,” he told the ORBA delegates. “You will have to defend the value of what you do more aggressively than you have had to do in the last 25 years. This is the direct challenge to your industry. The economy will grow slowly, which will put pressure on governments to reduce spending. The economy is not going to come and rescue your industry. In slow growth, deficit containment is more painful. Part of the money being spent today has been stolen from the capital funding of the future. In the next five years, infrastructure funding is likely to tail off. Every dollar for road construction will become even scarcer if the economy is not booming.”

One cannot talk about Ontario or Canada’s economy unless one talks about the planet’s economy, said Smith.

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“Other countries have also stopped shrinking,” he said. “Some are growing slightly. We see strengthening and recovery around the world. Stimulus plans and low interest rates are stimulating the economy but not the private sector, which needs to happen so recovery can be sustainable. China’s economy is growing significantly. China’s economy did wobble but it never went into a recession.”

Wall Street and the financial industry centred in New York created “the single most preposterous set of circumstances that one could imagine,” remarked Smith. “They lent money to people who needed it instead of persuading people who don’t need it to borrow from them. They lent the money to poor people and sold the loans to other stupid people who hadn’t done their due diligence. The financial system was imperilled and a world of financial people were going nuts. Lending in the U.S. almost came to a halt. Banks didn’t even trust each other.”

Canadians didn’t get as caught up in this situation, he noted.

“Canadian banks are dull and boring,” stated Smith. “They couldn’t play with the big boys so they had to play small boy’s games, which are safe games, so they only got bruised while the big boys were bungee jumping without a cord. The Canadian banks wanted to merge and be global bankers but the Minister of Finance wouldn’t allow it and so they stayed small and safe.”

The world’s banks, excluding Canada, had extended loans but they didn’t even know the amount, he said.

“The system was out of control,” said Smith. “They were lending money and did not know the scale of that lending. No one had checked and the herd ran off the cliff. About 20 per cent of mortgages in the U.S. are above the market value of the homes. America remains our principal customer but the number of exports going to America has been falling. We will have to continue

our disengagement from the U.S. economy. U.S. has been scrambling since the 9-11 attacks. Their government never said they were fighting two wars of long duration in the wars on terror and Iraq and ask citizens to sacrifice. There were irresponsible tax cuts from an anticipated surplus. You should only lower taxes from money that you have, not from money you

don’t have. Many things went wrong and the deficit widened and the President refused to consider any tax increases. Every nickel was borrowed. The finances of the U.S. are unsustainable. They have no money and they have no plan. In the State of California the legislature does not function. Last year, they were paying suppliers in IOU’s because they couldn’t pass a

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budget. If Washington ever starts looking like Sacramento then we need to disengage even faster.”

China is a major contributor to the strength of our commodity markets, said Smith.

Wall Street and the financial industry centred in New York created “the single most preposterous set of circumstances that one could imagine.”

“We used to only have to worry about America,” he commented. “Now we have to worry about China. We are a trading nation and we need healthy countries in the world and we need the one to the south to be healthy.”

China’s economy has increased by 10 per cent, he said.

“China is now restricting bank lending and in some cases forbidding loans,” he said. “They overdid it. They shouldn’t be growing by 10 per cent. The U.S. fiscal position is unsustainable and China’s trade position is unsustainable. One is addicted to lending and one is addicted to borrowing. China now owns so many U.S. assets that it has an abnormal reliance on lending money to the U.S.”

As competitive pressures rise, everyone has to worker harder, said Smith.

“As we all adjust to one planet and one economy, I believe our conservative nature will serve us well. In periods of turmoil, Canadian’s dopey behaviour and conservative bias can be a good thing. We don’t get easily frightened because we don’t get easily excited.” ■

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“Green Again” was the theme of the 2010 ORBA Convention and Patrick Bermingham, CEO of Bermingham Construction, was on hand to share information on his company’s innovative green bridge technology.

In particular, Bermingham spoke about use of a new tilting pile driving mechanism and associated beam launcher, which has been used on a highway and bridge construction project in Washington, North Carolina. The machine used on the project combined Bermingham’s diesel pile driver system with a beam-launching girder built by Deal, a company from Italy.

A joint venture between Flatiron and United Contractors, the project involved constructing a 4.8-km bridge over the Tar River and wetlands.

“The construction was to take place over very sensitive wetlands and the Tar River,” said Bermingham, who made use of a slide presentation as illustrations during the convention session. “The technology enabled the bridge to be built without any temporary staging work. It cantilevers over the river, loads and drives piles

without disturbing the surrounding environment. It wasn’t all level construction and the 40 tonne, 40 metre piles were driven with an accuracy within 25 mm. Modelling and design began in September 2006. By February 2007 testing was underway. We did a lot of testing of the tilting pile system in Hamilton and started assembling the system in Washington in 2008.”

One of the challenges of the project involved crossing the highway with live traffic to drive piles on the far side, said Bermingham.

“A lot of people were stopping beside the highway to take pictures,” he noted. “We also had to cross over live rail tracks and water. We weren’t able to cross the river during the fish window so we had to wait a couple of months. It all worked smoothly in an almost robotic fashion. In fact, the workers and staff had to fight boredom. All equipment was electric so there was no noise. Operators followed a checklist. Rework was zero as everything was done and checked as constructed. All pile driving was done by a single station. Sensors throughout the system provided location and pressure feedback and the status of various equipment functions,

ensuring that everything happened in sequence.”

A hydraulic foot was designed to go into the ground to absorb unwanted vibrations and provide extra stability.

“The foot had to be removable if it got stuck,” noted Bermingham. “It was used when a pile deviated due to minor obstructions.”

The equipment proved to be twice as productive as expected, he said. The project was completed in September 2009.

“We were doing 40 metres of bridge every four days using only the constructed bridge as a construction site and without affecting the environment. The entire team that worked on the bridge project operating the equipment totalled 14 people and most were unskilled new immigrants to America.”

The new system has been attracting a lot of attention from the construction industry around the world, stated Bermingham, who noted that the company is currently looking into other projects where the tilting pile driving mechanisms could be used. ■





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Are You Covered for Environmental Liability?

Following the Green Again theme of the recent ORBA Convention, Richard Taylor and Mark Del Ben of HKMB Hub International spoke to delegates about insurance and contractor environmental coverage.

“It is likely that you are not covered for pollution loss,” Del Ben told the ORBA members. “A standard policy includes a pollution exclusion. There are three types of pollution policies available right now: storage tank liability, contractor pollution liability and environmental impairment liability. There are a limited number of environmental specialty insurance markets but there have been an

introduction of new players, which is bringing costs down.”

A contractor pollution liability policy is usually bought because a contract says the contractor has to have it, says Taylor.

“The risk of an uninsured loss can be devastating to a company,” notes Taylor. “The cost of the insurance can be insignificant compared to the potential loss. You can insure your sub-contractors as well. The economic loss caused by a third party can also be substantial.”

Environmental laws are changing so quickly that insurance companies are

trying to keep up with the changes, he added.

“Insurance policies are changing with the laws,” he said. “Your responsibility is tied to the current standards at the time that a condition is discovered. Once you take ownership of a site you will be responsible for everything uncovered, even something that happened before you arrived on site. If it was uncovered while you are there, it is your responsibility. If there was an oil or fuel leak, it is your responsibility because it is your site. Unknown pre-existing site contamination conditions are things that are never in your budget, but they are your responsibility to make good and to clean up the site.”

There are no statutory reasons to purchase pollution insurance but changes in Ontario have broadened the scope of responsibilities for corporate directors and offices so they are now required to take all reasonable steps to ensure their corporations comply with specific requirements, such as the prevention of unlawful discharges, said Taylor.

“When the Department of Fisheries gets involved, you can get into very messy litigation,” he said in reference

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to runoff pollution or contamination involving conditions such as rainwater or melting snow. "It is important to act immediately on things because failure to act will cost you more later on. There are very big fines for not reporting spills."

You have to be careful that you have the right insurance with the right insurance company, remarked Taylor.

Following are the top 10 pollution exposures faced by a contractor as shared by Taylor and Del Ben at the convention session:

1. Cleanup expenses caused by an accidental spill
2. Third party damage resulting from a pollution incident
3. Contamination resulting from the faulty application of materials (asphalt)
4. Disturbing environmentally protected areas
5. Vandalism exposures, including release of oils/fuels
6. Spills of chemicals or fuel brought onto the site, including during refuelling operations
7. Groundwater contamination resulting from drilling and excavation (dewatering operations)
8. Accidental spills during transportation
9. Leakage from above or below ground storage tanks
10. Unknown pre-existing site contamination conditions.

Other pollution exposures faced by a road building contractor, as shared by Taylor and Del Ben at the session, are:

1. Site preparation work and the spreading of contaminated soil

2. Use of materials which emit gases
3. Portable ASTs or refuelling equipment
4. Activities which disturb asbestos or lead based paints.
5. Subcontracted operations
6. Abrasive sandblasting on bridge releases lead dust
7. Spray tack coat washes into streams or groundwater
8. Dewatering pulls contaminated groundwater onto the site
9. Rupture of pipeline
10. Stockpiling of contaminated soils
11. Non-owned disposal sites ■

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Trends in Tendering Law



The principles of tendering law are a “moving target and a very active part of law right now” Charles Powell, Associate, Glaholt LLP told delegates attending a February 1 session on Recent Trends in Tendering Law at the 2010 ORBA Convention in Toronto.

The Supreme Court, in deciding an appeal in regard to a Tercon Contractors Ltd. v British Columbia (Ministry of Transportation and Highways) case, could wipe out a 1981 R v Ron Engineering and Construction (Eastern) Ltd. Supreme Court decision regarding tendering law, stated Powell.

Tercon was one of six contractors bidding on a Ministry of Transportation highway project and submitted the second lowest bid.

“The company with the lowest bid, Brentwood Enterprises Ltd., decided it did not have the capacity to complete the project on its own and approached another firm to submit a

proposal as a joint venture,” explained Powell. “The other firm was not one of the qualified RFEI bidders. The Ministry told Brentwood to submit in its name only and awarded the contract even though it had knowledge of the joint venture. The court ruled in favour of Tercon and awarded approximately \$3.5-million in damages.”

The trial decision was overturned by a British Columbia Court of Appeal decision that reasoned that Tercon was an experienced bidder and therefore an exclusion clause barred Tercon’s claim.

“The Supreme Court judgment has been reserved for over a year,” said Powell. “The Supreme Court’s decision will be interesting.”

Tendering law is based on contract law, involving an offer, consideration and acceptance, said Powell.

“Before 1981 there was no formal contractual law for tendering and a call for tenders was simply an invitation and

an offer could be withdrawn prior to acceptance if a bidder had made a mistake in a bid,” he said. “Then, in 1981 came the Supreme Court of Canada decision in the R v Ron Engineering and Construction (Eastern) Ltd. case which stated that a contractor who submits a bid cannot withdraw during the period of irrevocability stipulated in a call to tenders even in the case of an error in the bid.”

In the 1981 case, Ron Engineering’s bid was the lowest by \$630,000 and realizing there was a mistake in their bid, wanted to withdraw it but the Ontario Government refused withdrawal and said it wanted to accept the bid. Ron Engineering refused to sign the construction contract and the government refused to return Ron Engineering’s \$150,000 tender deposit and awarded the contract to the next lowest bidder.

This court decision introduced the concepts of a Contract A and Contract B with Contract A being the submission of a bid and Contract B being the construction contract.



“The invitation to bidders is considered to be the offer and the submission of a bid is considered to be acceptance of the offer,” said Powell.

The language of the call to tenders is paramount in determining the existence of both express and implied terms and tender documents must be read carefully to understand what the terms are, said Powell.

“A part of Contract A is the privilege clause, which states that the lowest or any tender shall not necessarily be accepted,” noted Powell. “The privilege clause is only one term of Contract A and it must be read in harmony with the rest of the tender documents. It allows the owner to take a more nuanced view of cost than just the price quoted or to accept none of the compliant bids. It, however, does not allow the owner to treat bidders unfairly and accept a non-compliant bid awarded based on undisclosed criteria.”

The key is to make sure to read the terms of Contract A very carefully, cautioned Powell.

Editor’s Note: The Supreme Court of Canada released its decision in the Tercon Construction Ltd. v British Columbia (Ministry of Transportation and Highways) case on February 12. Its decision reversed that of the British Columbia Court of Appeal and held that the extension clause in the RFP did not permit the Ministry to accept a non-compliant bid.

Justice Cromwell, in writing for the majority, states: “As the trial judge held, the Province not only acted in a way that breached the express and implied terms of the contract by considering a bid from an ineligible bidder, it did so in a manner that was an affront to the integrity and business efficacy of the tendering process.”

Justice Cromwell, in the Supreme Court decision, writes: “I cannot conclude that the parties, through the words found in this exclusion clause, intended to waive compensation for conduct like that of the Province in this case that strikes at the heart of the integrity and business efficacy of the tendering process which it undertook.”

Furthermore, Justice Cromwell writes: “It makes little sense to think that a bidder would comply with the bidding process if the owner could circumscribe it by accepting a non-compliant bid. Respectfully, it seems to me to make even less sense to think that eligible bidders would participate in the RFP if the Province could avoid liability for ignoring an express term concerning eligibility to bid on which the entire RFP was premised and which was mandated by the statutorily approved process.”

The decision’s disposition, as written by Justice Cromwell, states: “I conclude that the judge did not err in finding that the Province breached the tendering contract or in finding that Tercon’s remedy in damages for that breach was not precluded by the exclusion clause in the contract. I would therefore allow the appeal, set aside the order of the Court of Appeal and restore the judgment of the trial judge.” ■



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Transfield says that demand for its services "continues to be driven by the ongoing trends towards outsourcing non-core activities in both the public and private sectors." In 2009, Transfield jumped into the Ontario road maintenance market with its first area maintenance contract in Northern Ontario.

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In introducing CN2000 to the Ontario market, the company has recently completed a repair project for the Greater Toronto Airport Authority water infiltration in the luggage area in Terminal 3 at Pearson Airport was eliminated.

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Member Priorities

the Focus in New Strategic Plan

Improved communications, revitalized working committees and a stronger role in the municipal contracting sector are predominant themes in the five-year strategic plan adopted by the ORBA Board in January. The plan represents a blueprint for delivery of member services and prioritizing association priorities in the near term.

The strategic planning process was initiated early last year by 2009 president, Tom O’Callaghan. Consultants were retained to survey ORBA members and work with the Board of Directors, prior to conducting a full-day planning session with a special strategic planning team last summer.

At its March meeting, the ORBA Board began implementing the new strategic plan by approving a “year-one” strategy. Plans for 2010 include: rebuilding the ORBA website, developing a scholarship program, conducting an aggressive membership campaign, and a full review of ORBA programs and services and realignment to priorities if necessary. In the planning process members identified the top five areas where they want to see ORBA resources and priorities focused. In the order that members identified them, going forward the association will be framing policies

and programs around the following priority areas:

- Infrastructure investment promotion
- Health and safety
- Environmental regulation
- Management education
- Industry career promotion to young people

Three new working committees have been established to address strategic planning objectives. A new “Membership/Member Services” committee has been struck to manage ORBA programs, services and events. The committee is responsible for review of membership fees and membership promotion as well. In response to members’ ranking infrastructure promotion as their number one priority in the strategic planning survey, a new Infrastructure Promotion committee will be responsible for developing strategies and initiatives to promote investment at both the provincial and municipal levels. A new Associate Members’ Committee has also been approved. Recognizing the support that association members bring to ORBA and the need to provide full

value for their membership fees, this committee will recommend ways in which the relationship between ORBA and its associate members can be strengthened.

ORBA’s ongoing relevance and sustainability was also a main point of discussion through the strategic planning process. In the context of an industry that is changing structurally, the need for ORBA to adapt to those changes was highlighted. One of the main themes stemming from these discussions was the importance of ORBA establishing a stronger relationship with contractors at the municipal level. Strategies will be developed to do that, but the planning team also identified the need to more clearly communicate the many areas in which ORBA is already serving the municipal contracting sector – from being active in the development of OPS specifications and promoting investment in municipal infrastructure – and that core services such as health and safety and education are as important to municipal contractors as they are to the builders of provincial highways and bridges.

Members can view the complete ‘Strategic Plan 2010-2014’ on the ORBA website at www.orba.org. ■



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Bill 168

Brings New Employer Responsibilities to Manage Workplace Violence



by Mark Mills

Incidents of workplace violence can seriously compromise the work environment resulting in harmful and costly consequences. Apart from any injury suffered by a particular victim, other workers may find themselves no longer feeling safe and comfortable in the workplace which, in turn, may result in a loss of productivity and decreased work performance. Employers may also experience a significant reduction in worker morale, higher turnover rates and increased absenteeism, not to mention potential damage to the employer's business reputation.

According to Statistics Canada, nearly 20 per cent of all incidents of violent victimization now occur in the victim's workplace. In response to what has become a growing concern over workplace violence, Bill 168, an Act to amend the Occupational Health and Safety Act (the OHSA), received Royal Assent on Dec. 15, 2009. Bill 168 imposes obligations on employers to develop and implement policies, programs, measures and procedures to prevent such occurrences. The amendments will come into force on June 15, 2010.

Bill 168 defines workplace harassment and workplace violence as follows:

"workplace harassment" means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome."

"Workplace violence" means:

(a) *the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;*

(b) *an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;*

(c) *a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.*

Employers should note that the definition of workplace violence includes the threat of physical force that could cause physical injury to a worker. The threat of physical violence is therefore the same as actual physical violence for the purposes of the OHSA.

To comply with Bill 168, employers will have to conduct an assessment of the workplace in order to identify any potential risks of workplace violence. This assessment must take into account the risk of violence that may arise from the nature of the workplace, the type of work or the conditions of work. The risk assessment must consider circumstances that would be common to similar workplaces, as well as circumstances specific to the workplace itself. Once completed, the results of the risk assessment must be provided to the employer's health and safety committee or representative, or where no committee or representative exists, directly to the workers. Reassessments under the legislation are required as often as is necessary to ensure that workers are protected from workplace violence.

Employers will also be required to prepare written policies relating to workplace violence and harassment. These policies must be reviewed on an annual basis at minimum. For

employers who employ six or more employees, the policies must be in writing and must be posted at a conspicuous location in the workplace. All employers are required to provide workers with information and instruction on the contents of these policies.

Employers must then develop programs to implement the workplace violence and harassment policies. Programs must include measures and procedures:


- To control the risks of workplace violence identified in the risk assessment;
- To summon immediate assistance when workplace violence occurs, or is likely to occur;
- For workers to report incidents of workplace violence; and,
- About how the employer will investigate and deal with incidents or complaints of workplace violence.

The Ontario government has also extended an employer's obligations beyond that of employers in other jurisdictions by addressing domestic violence in the workplace under Bill 168. In particular, employers will now be required to "take every reasonable precaution in the circumstances for the protection of the worker" if the employer becomes aware, or ought reasonably to be aware that domestic violence may occur in the workplace.

The most controversial part of Bill 168 is the requirement for employers and supervisors to disclose information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if a worker can be expected to encounter that person in the course of his/her work and the risk of workplace violence is likely to expose the worker to physical injury. This disclosure is, however, limited to only that information that is reasonably necessary to protect the worker. Employers will therefore have to

carefully balance an individual's right to privacy with their health and safety obligations to protect other workers. Subject to exceptions for certain occupations, the Bill also expands the right of a worker to refuse unsafe work in situations where the worker has reason to believe that workplace violence is likely to endanger the worker. ■




Mark Mills is a partner with the labour and employment law firm of Mathews, Dinsdale in Toronto. He represents management in wrongful dismissal actions and other general employment law litigation matters. He also represents employers, supervisors and others charged with violating the Occupational Health and Safety Act.



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