
Meeting: COUNCIL

Date: February 8, 2010

Resolution #:

By-law #:

Report #: PSD-021-10

File #: PLN 33.3.10

Subject: DURHAM/YORK RESIDUAL WASTE ENVIRONMENTAL ASSESSMENT
RE-ENGAGEMENT OF PEER REVIEW CONSULTANTS – AIR QUALITY
IMPACTS

RECOMMENDATIONS:

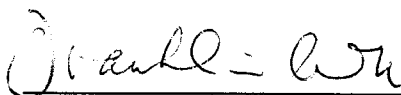
It is respectfully recommended to Council the following:

1. THAT Report PSD-021-10 be received;
2. THAT the Peer Review consultants for the EFW (Air Quality Impacts) not be re-engaged given that the modification of the Project Description in the EA from a 400,000 tonne per year facility to a 140,000 tonne per year facility addresses the air quality comments previously provided by the peer reviewers;
3. THAT a copy of Report PSD-021-10 and Council's decision be forwarded to the Region of Durham, the Region of York, and Ministry of Environment; and
4. THAT all interested parties listed in Report PSD-021-10 and any delegations be advised of Council's decision.

Submitted by:


Faye Langmaid, FCSLA, MCIP
Acting Director of Planning Services

Reviewed by:


Franklin Wu,
Chief Administrative Officer

FL/sn/df

2 February 2010

1.0 BACKGROUND AND PURPOSE OF REPORT

1.1 The Environmental Assessment (EA) for York/Durham Residual Waste, undertaken jointly by the Regions of York and Durham, began in March 2005 with consultation on the Terms of Reference for the EA Study. The York/Durham Residual Waste EA was submitted to the Ministry of Environment (MOE) on July 31, 2009, triggering the start of the formal MOE review process. The review process is on-going; however, MOE will soon be releasing their comments on the EA for public review and comment.

1.2 Council, at their meeting of January 25, 2010; passed the following resolution:

"WHEREAS the health and welfare of our residents is of primary concern to the Municipality of Clarington; and

WHEREAS questions and concerns have arisen through the EA process with respect to the current state of the local airshed and the potential negative impact the proposed incinerator may have on local airshed quality;

THEREFORE BE IT RESOLVED THAT staff investigate and report by the next Council meeting on the potential costs of peer review of air quality issues arising from the EFW EA, and that should remaining funding for peer review studies from Durham Region be available, that the Purchasing by-law be suspended and that staff retain a peer review team to comment on air quality issues relating to the EA and the proposed incinerator."

1.3 The purpose of this report is to discuss the possible re-engagement of the Municipality's peer review consultants in order to review the air quality issues arising from MOE's review of the EA for the proposed Durham/York Energy-From-Waste (EFW) facility.

2.0 YORK/DURHAM RESIDUAL WASTE EA PROCESS

2.1 Environmental Assessment Process

2.1.1 The Regions of Durham and York have jointly conducted an EA to determine how to manage the residual solid waste remaining after blue box and green box diversion efforts. Key dates in the EA study process are as follows:

March 2006: Ministry of Environment approval of EA Study Terms of Reference

June 2006: Selection of preferred approach to managing residual waste (Alternatives To)

July 2007:	Issuance of Request for Qualifications (RFQ) to potential technology vendors
October 2007:	Recommendation on preferred site (Alternative Methods)
December 2007:	Durham and York Region Council's approval of preferred site
January 2008:	Approval of Qualified Bidders
April 2009:	Identification of Preferred Vendor
January-May 2009:	Completion of all site specific studies
May 2009:	Clarington Council endorses Host Community Agreement (HCA)
June 2009:	York and Durham Region Councils approve HCA, and EA for submission to MOE
July 2009:	Submission of EA to Ministry of Environment (MOE)

2.1.2 Subsequent to the submission of the final EA to the MOE in July, there are five phases to the EA review, as follows:

Phase 1:	Inspection of the EA (7 weeks)
Phase 2:	Preparation of Ministry Review (5 weeks)
Phase 3:	Issue of Notice of Completion
Phase 4:	Inspection of Ministry Review (5 weeks)
Phase 5:	Final Ministry Evaluation Period (13 weeks)

2.1.3 The Ministry is about to complete Phase 2. The Region of Durham's Report 2010-WR-1 to the Works Committee discusses these five phases in greater detail.

2.2 **Municipality of Clarington Comments on the Environmental Assessment**

2.2.1 Clarington Staff have been involved in the EA process for Residual Waste since its inception in 2005, when the initial terms of reference were being drafted and the conceptual description of the undertaking was being formulated. The Municipality has had numerous opportunities throughout the EA process to submit comments, through both staff reports to Committee and Council and staff-level meetings.

These include:

PSD-018-06	Feb, 13, 2006:	Comments on the Terms of Reference
PSD-070-07	May 22, 2007:	Municipal Peer Review and Other Studies
PSD-097-07	September 4, 2007:	Update on Municipal Peer Review
PSD-141-07	December 3, 2007:	Municipal Comments on Step 7 – Evaluation of Short-List of Sites and Identification of Preferred Site
PSD-141-07	Addendum:	December 10, 2007
FND-002-08	January 21, 2008:	Peer Review & Economic Studies Costs to Date
FND-022-08	Addendum:	February 25, 2008
CAO-002-09	May 11, 2009:	Status of EFW Host Community Agreement Negotiation
CAO-002-09	Addendum:	May 11, 2009
PSD-071-09	July 6, 2009:	Municipality of Clarington Peer Review Comments on Pre-Submission EA

2.2.2 The Municipality of Clarington's comments during the EA process are part of the public comment documentation. Comments made in PSD-071-09, including the appendices, have been addressed by the Project Team and are posted to the project website.

2.3 **Project Description**

2.3.1 For the EA, the purpose of the undertaking (the Project Description), was set out in the approved Terms of Reference, as follows:

- To process – physically, biologically and/or thermally – the waste that remains after the application of both Regions' at-source waste programs in order to recover resources – both material and energy – and to minimize the amount of material requiring landfill disposal. In proceeding with this undertaking, only those approaches that will meet or exceed all regulatory requirements will be considered.
- The waste proposed to be managed will be primarily Municipal Solid Waste (MSW) from residential sources generated within Durham and York Regions remaining after at-source diversion, a portion of post-diversion Industrial, Commercial and Institutional (IC&I) waste traditionally managed by the Regions at their waste disposal facilities; and Municipal post-diversion

residual waste from neighbouring non-Greater Toronto Area (GTA) municipalities that may provide disposal capacity for processing residues.

- 2.3.2 Over time, the Project Description has been refined and altered based on the EA Study findings and public/stakeholder input. In the July 2009 EA submission, the Project Description was as follows:

“The Undertaking, as defined by this Environmental Assessment, is a Thermal Treatment Facility, capable of processing post-diversion residual waste and recovering materials and energy of sufficient quality and quantity to export to the marketplace (recovered metals, electricity and eventually the possibility of district heating and cooling) with a projected maximum design capacity of 400,000 tpy. The Facility will be designed, built and operated on the Clarington 01 site, located in the Municipality of Clarington, Regional Municipality of Durham.”

- 2.3.3 In November 2009, the Project Description in the EA was amended as follows (underlined):

“The Undertaking, as defined by this Environmental Assessment, is a Thermal Treatment Facility, capable of processing post-diversion residual waste and recovering materials and energy of sufficient quality and quantity to export to the marketplace (recovered metals, electricity and eventually the possibility of district heating and cooling) with an approved capacity of 140,000 tonnes per year. It is anticipated that over the 35 year planning period the maximum design capacity of the facility could be up to 400,000 tonnes per year. The expansion of this facility beyond the approved capacity of 140,000 tonnes per year would be subject to environmental screening requirements under Ontario Regulation 101/07, as amended, (or the applicable piece of legislation at the time of expansion). The Facility will be designed, built and operated on the Clarington 01 Site, located in the Municipality of Clarington, Regional Municipality of Durham.”

- 2.3.4 The EA Project Team has indicated that the description of the undertaking was modified in consultation with the MOE to ensure that it was consistent with regulatory requirements. One consequence of this revision is that assumptions concerning future baselines will be validated at the time of expansion through the EA screening process. This will provide the Regions, Clarington and its citizens an opportunity to validate the project's environmental impacts. In addition, expansion will have to meet the regulatory limits in effect at that time.

3.0 RE-ENGAGEMENT OF THE PEER REVIEW CONSULTANT

- 3.1 The Municipality previously retained the consulting firm SENES to undertake a peer review of the technical studies that related specifically to the air quality impacts of the proposed EFW facility, including how the air quality impacts affect

the Site Specific Human Health and Ecological Risk Assessment. In accordance with Council's resolution (see Section 1.2), Staff requested SENES to submit a proposal to review the amended EA documentation as it relates to air quality impacts.

- 3.2 To prepare their proposal, the representatives from SENES reviewed the information that has been posted to the Project website, contacted the professional experts on the EA Project Team, and verified that the risk assessment and air quality assessment have received sign-off from the MOE technical reviewers as being complete. SENES has confirmed that the amendments made to the Air Quality and Site Specific Human Health and Ecological Risk Assessments do not affect the conclusion. The amendments and addendums are posted to the project website.
- 3.3 SENES has advised that "[they] feel that the modified undertaking confirms the Regions' intentions to construct an EFW facility that is right-sized to the need [shown] into the next decade at 140,000 tonnes per year and recognizes the requirements for future expansion up to a total of 400,000 tonnes per year." In addition, the revised project description allows for confirmation at the time of expansion of the environmental impacts of the project because of the requirements under the EA Act, through the screening process.

SENES further indicated that, in light of the modification to the project description, they do not feel a further peer review is necessary. The peer reviewers are available at their daily charge out rate, (\$1300/day/professional) to meet with Clarington Staff and/or the Project Team if requested to do so.

- 3.4 On April 18, 2007, Council for the Regional Municipality of Durham adopted the following:

"That each respective Region shall provide adequate funding to any of the potential host communities located within their respective Region. And further, that such adequate funding shall include the costs of all necessary studies and legal advice incurred by the potential host community to investigate and complete its due diligence in arriving at its decision whether or not it will become a host community for the EFW facility. And further, the total of such costs shall be deducted from the combined royalty fee, if any and not otherwise."

Through subsequent resolutions and discussions, \$500,000 was set aside by the Region of Durham for the retention of economic consultants, legal counsel, and peer review consultants for the host community. To date, Clarington has spent \$476,573 of this amount.

4.0 CONCLUSIONS

- 4.1 The change in the EA Project Description of the proposed EFW facility from a 400,000 tpy (tonnes per year) facility to a 140,000 tpy facility addresses the major concerns expressed by the Municipality's Peer Review team. More specifically, it has been confirmed by Clarington's consultant SENES that the air quality impacts, including how they relate to the site specific human health and ecological risk assessment, have been addressed. As a result, re-engaging the consultant to carry out further review is not recommended.
- 4.2 The Project Team has made numerous changes to the EA to provide clarification, elaboration and explanation as requested by MOE to address the regulatory agency and public comments. These changes detail and rationalize the conclusion previously reached by the EA.
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List of interested parties to be notified of Councils decision:

Erin Mahoney, Reg. of York	Andrew Robson	Slyvain Gagnon
Cliff Curtis, Durham Works	Yvonne Spencer	Melissa Girard
Jim McKay, Stantec	Nicole Young	Beth Hewis
Gavin Battarino, MOE	Lucy Wunderlich	Manuel Jimenez
Joachim Baur	Ontario Power Generation	Debbie Kuehn
Alexandra Bennett	Anthony Topley	John MacDonald
Barry Bracken	Paul Andre Larose	Ralph Machon
Kathi Bracken	Don Wilkinson	Mary Anne and Gerry Martin
Wendy Bracken	Noah Hannah	Kristin McKinnon-Rutherford
Karen Buck	Katherine Miles	Lorna McSwan
Terry Caswell	Donna Mcaleer-Smith	Bretn Mersey
Katie Clark	Kristin Robinson	Donna Packman
Shirley Crago	Steve Tharme	Devon Richard
Kevin Diamond	David Climenhage	Brian and Sharon Thompson
Wayne Ellis	Steve Conway	Bill and Lorna Turner
Linda Gasser	Chester Miles	Doug Woods
James Gibson	Bernadine Power	Don Wright
Glenda Gies	Hilary Balmer	Lakeridge Health
Tenzin Gyaltsan	Willis & Marilyn Barrabal	Lorraine Huinink
Ron Hosein	Stewart and July Dayes	John Oates
Dr. Debra Jefferson	Maureen Dingman	Rev. Christopher Greaves
Laurie Lafrance	Carl Zmozynski	Leslie Heinrichs
Lee McCue	Gaston Morin	Diana Kanarellis
Warren McCarthy	Ann and Mike Buckley	Elaine and Vincent Ho
Cathrine McKeever	Fraser and Cathy Grant	Ron Campbell
Kerry Meydam	Jean and Wallace Mcknight	Stephanie Adams
John Mutton	Stephanie Adams	Betty Robinson
Karen Nichol	Julie Allen-Freeman	Nicola Keeme
Dave Renaud	John and Dale Cerniuk	Mable M. Low
Jim Richards	Garland and Anne Foote	Rebecca Harrison

Charlie and Irene Briden
Nadia McLean-Gagnon
Dorothy Barnett
Marc Tepfenhart
Rosemary Davies
Wendy Bracken

Libby Racansky
Beav201
Louis Bertrand
Sandra Viau
Tim Finnis
Hugh Allison

Marke Nelson
Jeremy Woodcock
Kevin LeGrand
Doug Anderson
Elaine Gillies