

1

WASTE MANAGEMENT RESPONSIBILITIES

The Solid Waste Management Committee recommends the adoption of the recommendations contained in the following report, December 16, 2004, from the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. The Region notify the Town of Newmarket, and any other local municipality, that it is prepared to commence negotiations with only those municipalities interested in transferring its waste management collection responsibilities to the Region as per Section 189 of the Municipal Act 2001.
2. All negotiations with interested municipalities be completed by April 30, 2005 to allow sufficient time thereafter for both Regional and local councils to undertake any statutory procedures required to transfer responsibilities for a January 1, 2006 implementation.
3. Staff report back to Committee and Council in June 2005.

2. PURPOSE

The purpose of this report is to provide recommendations regarding waste management responsibility and accountability issues that were discussed at the November 25, 2004 Council workshop. In addition, the report presents recommendations to respond to the Town of Newmarket's request with respect to the assumption of collection responsibilities by the Region.

3. BACKGROUND

In February 2002, the Town of Newmarket sent the following request to the Region in a communication adopted in their CAO and Finance Report 2002-11:

“1a) That the Regional Municipality of York be requested to assume responsibility for Waste Management including waste collection in a manner which meets the waste collection service levels desired by the Area Municipalities; the collection service level costs to be area-rated by the Region as a Regional Charge-back to the Area Municipalities, as in the Regional Municipality of Halton.”

On January 1, 2003, the new Municipal Act 2001 came into force. York Region was specifically set out in the Act as the jurisdiction having “exclusive responsibility for all

waste management except for collection”. Therefore, the Region and its local municipalities jointly deliver waste management services.

In 2003, staff from the Region and nine local municipalities had several meetings with the assistance of a facilitator to clarify each jurisdictions’ role in the delivery of waste services. The scope of the discussion had two phases; responsibility split under the new Municipal Act and evaluation of the merits of a single-tier delivery of waste services. The discussions were concluded at the end of the first phase as there was no consensus by the group there could be a productive, unbiased review of the single-tier issue.

On July 26, 2004, the Town of Newmarket reiterated its February 2002 request and is seeking the status of the Region’s response.

Waste management roles and responsibilities were discussed at a Regional Council workshop on November 25, 2004. There was a consensus at that meeting that this issue should be further discussed at the Solid Waste Management Committee.

4. ANALYSIS AND OPTIONS

The diversion of waste from Michigan landfills, potential border closures, new and emerging technologies, potential diversion targets and material bans by the Ministry of the Environment will continue to make waste management more complex. These changes will almost certainly increase program costs which will result in tax levy increases at both levels of government in York Region. To successfully deal with these issues in a timely manner, and effectively fund these new programs, staff believe the responsibilities and accountabilities in York Region need to be clarified. Who is responsible for waste diversion in the Region? Which level of government will the province rely on to achieve and enforce diversion targets and bans? Would a change in governance enhance service delivery?

The new Municipal Act 2001 came into effect on January 1, 2003. The Act set out responsibilities for waste management and other functions under a new term called “Sphere of Jurisdiction.” Section 11 of the Act assigned York Region the “exclusive assignment” of the whole sphere of waste management except waste collection. As such, each municipality may pass by-laws respecting matters only within their sphere of jurisdiction. Therefore, the Region has shared accountability with the lower-tier for waste services delivery.

There have been discussions at Committee and Council recently regarding the topics of the new three-stream system, blue bags, yard waste, source separated organics, promotion and education, litter and Waste Diversion Ontario funding. With each of these discussions, there has been debate on why/how the Region is developing policy in these areas vs. the role of the local municipalities. In addition, the Town of Newmarket has asked the Region if it is interested in assuming waste collection responsibilities from the lower-tier.

Regional staff are developing a five-year work plan to deal with current and emerging issues in waste management. Currently, the development of the plan requires the input of nine local councils and Regional Council. Recently, the municipalities and the Region have successfully worked on policy development for source separated organics implementation and kraft bags for yard waste. Each decision required 11 Council resolutions (initiation at the Region, nine local councils, Region finalization) and ten months of time. In addition, some local municipalities have requested funding from the Region to reduce collection costs while others are not satisfied with the Kraft bags for yard waste policy. Staff believe, if there is clarity on the roles and responsibility of each tier of government, that policy development will be faster and financial responsibility clearer. It is therefore proposed that Regional Council discuss the roles and responsibility (i.e. governance) of waste management in the Region.

Staff does understand the analysis of moving responsibilities from one tier to another may be difficult and prolonged. The following options were in a discussion paper at a Council workshop on November 25, 2004 where there was a consensus that this discussion be continued at a future Solid Waste Management Committee meeting.

There are at least five governance models that could be considered:

- Status quo – shared responsibility, accountability and clarity.
- Regional assumption of waste management responsibilities from the lower-tier.
- The lower-tier is responsible for collection as per the Municipal Act and acts as a contractor to the upper-tier who is responsible for waste management services.
- The upper-tier is responsible for processing and disposal of recyclable material and residual waste and acts as a contractor to the lower-tier who would provide waste management services.
- Establishment of a municipal service board.

4.1 Option 1 – Status Quo

Under the status quo option, each policy issue needs to be dealt with on a case-by-case basis with decisions from all ten municipal governments in the Region. This approach has no financial impact as it is currently the way programs are paid for today.

Under this situation, both the local municipalities and the Region make policy decisions with respect to waste management services. It is unclear to Regional staff which tier of government is ultimately accountable for waste diversion policy. It is further unclear who is responsible for program costs as some of the local municipalities continually ask for funding from the Region for waste management service delivery. These uncertainties need to be clarified for this option to be successful.

4.2 Option 2 - Regional Assumption of Waste Management Responsibilities from the Lower-Tier

The Town of Newmarket has requested a response to their request on the Region's interest in assuming waste management responsibilities from the lower-tier municipalities. Staff from the Region and the local municipalities reviewed this issue

along with impacts from the new Municipal Act during several meetings from January to April in 2003. The Terms of Reference for the review had two phases: roles and responsibilities under the new Municipal Act 2001, and the efficiency and effectiveness of having all responsibilities at the Regional level. Discussions were concluded at the end of Phase 1 as there was not sufficient support to continue the analysis of the benefits of moving all waste management services to the Region. The Region did use the findings of this analysis in 2003 when it restructured the Solid Waste Management Branch and assumed all costs for waste processing and disposal.

The changes to the Municipal Act in 2001 provide the opportunity for the Region to consider the assumption of lower-tier waste management responsibilities on a municipality by municipality basis (*see Attachment 1*) in addition to moving all lower-tier responsibilities to the upper-tier. Therefore, there are two options for consideration; assumption of responsibilities from all lower-tier municipalities or only from those interested in moving the responsibility to the upper-tier.

4.2.1 Option 2A – Assumption of All Collection Responsibilities

Prior to January 2003, the Municipal Act only allowed the transfer of waste management responsibilities from the entire lower-tier to the upper-tier or to a municipal services board. The municipalities in Waterloo, Peel, Durham, Windsor-Essex, Niagara and Halton moved responsibilities to the upper-tier under the old Act. Municipalities such as Toronto, Niagara and Ottawa moved waste management responsibilities to the upper-tier as part of an amalgamation process. As a result, York Region and Durham Region are the only two-tiered waste management systems remaining in any large Ontario municipality. Durham is moving closer to a single system with five of seven municipalities now fully managed at the Regional level.

Municipalities who have moved to a one-tier waste management system have had concerns that services would be reduced in urban areas or unnecessarily increased in rural areas. Experience has shown that services can be developed to meet both rural and urban requirements and that these service levels do not have to be the same. Additionally, there have been concerns that customer service would decrease as the Regional offices are not local to all of the communities. Experience in municipalities having amalgamated waste management services is that proper customer service teams can be established and be successful.

The main benefits of a single-tier system are the ability to develop and implement a coordinated strategy and to optimize collection fleets and routes. Typically, the savings found in moving to a single-tier are in collection as equipment utilization can be effectively balanced over the entire Region instead of over smaller municipal boundaries. Most municipalities having moved to a single-tier have experienced major program changes and the collection savings have been put towards service level improvements. The analysis of the collection fleet requires the cooperation of all of the local municipalities as they need to provide the Region with all collection costs and detailed routings. This information would then be modeled using commercially available

computer programs to determine if efficiencies can be achieved. In 2003, the Region received an estimate of \$55,000 to complete the computer modelling.

4.2.2 Option 2B – Assumption of Collection Responsibilities on an Individual Municipality Basis

Under this option, the Region could initiate a process for the transfer of power under Section 189 of the Ontario Municipal Act 2001, on an individual municipal basis, for each municipality interested in transferring their solid waste management responsibilities to the Region. Discussions and analysis with only those municipalities who have expressed an interest in consolidating services would greatly reduce the difficulty typically experienced in these decision-making processes.

The major benefit of this option is the opportunity for only interested municipalities to transfer their responsibilities to the Region without impacting those municipalities who wish to retain their current responsibilities. Policy development and implementation would be streamlined where the Region has full responsibility and accountability. There may not be an opportunity to optimize collection costs if only one or two municipalities transfer their responsibilities to the Region but the expected improvements in policy development and timing may make it worthwhile.

Under this option, the Region would need to determine how it could “area rate” Regional taxes so that the costs associated with the Region assuming waste collection services in one municipality would not be paid by tax payers in another municipality where the Region is not responsible for collection. Newmarket’s suggestion is that there could be a charge back to the local municipality so that the waste management costs are shown as part of the local levy.

4.3 Option 3 – Lower-Tier is a Collection Contractor to the Region

This option is a literal interpretation of the Municipal Act where the upper-tier is responsible for all waste management except collection. The upper-tier would consider lower-tier collection issues when it developed policy. The lower-tier would be mandated to implement collection programs to meet the upper-tier’s policies. Under this option, the Region would be responsible for meeting all provincial obligations such as diversion targets.

The major benefit of this option is that policy making is at the Regional level and would not require approval from the local municipalities. Therefore, the time required to develop and implement policy would be less as it is solely within Regional Council’s agenda.

The costs for collection would remain a local responsibility and the balance of the costs would be at the Regional level. This approach would have no financial impact as it is currently the way programs are paid for in York Region.

4.4 Option 4 – Region is a Processing Contractor to the Lower-Tier

This option takes the opposite approach from Option 3 in that all responsibility for waste management would transfer to the lower-tier and the upper-tier would serve as a processor of the waste material delivered to it. Each local municipality would be responsible for meeting and enforcing provincial waste diversion obligations such as diversion targets and any regulatory obligations stemming from disposal of waste in Michigan. This option would require that the Region delegate the majority of its responsibilities to the local municipalities. The Municipal Act only allows the delegation of responsibilities that have been moved up to the Region to move back down to the local municipalities. The Act does not provide for a migration of general waste management powers, except collection, to the lower-tier. Therefore, the Region and the lower-tier municipalities would need to seek a change to the Act for this option to be available.

If this option was pursued, it would allow each local municipality to establish its own waste diversion program and be responsible for the associated costs. If the diversion programs are not similar, the Region would not be able to optimize its processing facilities to minimize costs. An example would be if plastic bags were allowed in one municipality for blue box material and not in another municipality, the municipality that does not allow plastic bags would have higher than necessary processing costs or the Region would have to provide a second processing facility. As such, the Region would not be able to optimize its facilities and achieve the lowest operational costs.

The major benefit of this option is that each municipality would have the option to develop its own programs and be in control of their waste management costs.

4.5 Option 5 – Establish a Municipal Service Board

The Municipal Act allows the creation of a Municipal Service Board (Board) for waste management services under Section 195 (*see Attachment 2*). When a municipality has delegated powers to a Board, the municipality no longer has the power to pass by-laws with respect to the services provided by the Board. Therefore, the Board would be responsible for establishing policy and meeting any waste diversion targets. The Board would charge its customers (the local municipalities) user / tipping fees to fund its operations.

This option essentially moves governance to a single-tier but it is not at either the upper or lower-tiers. Both the Region and local municipalities would have to delegate their existing powers under the Municipal Act to the Board. As such, the Board would have the authority to make policy and be held accountable.

4.6 Option Summary

Staff recognize that we currently have to manage waste programs under a two-tier system in York Region. There are frustrations at both levels of government at times and clearly roles and responsibilities need to be examined. Regional Councillors also commented at the waste management council workshop on November 25, 2004 that there needs to be clarity in the roles and responsibilities and it may be appropriate to consider changes.

Currently staff does not believe there is significant support for completely changing the waste management system in York to a single tier model (Option 2A). Staff does believe there are some local municipalities that may be interested in transferring collection responsibilities to the Region as a way to deal with program costs and complexity. It is therefore proposed that Council consider negotiating with individual municipalities who are genuinely interested in transferring collection responsibilities to the Region (Option 2B). The main benefits of this approach are:

- There is recognition that the two-tier system can work.
- It would be up to the interested municipality to approach the Region.
- Collection responsibilities, customer service and costs remain with some local municipalities.
- Negotiating with only interested municipalities will be more productive.
- Policy development and approval will be streamlined where it is managed by a single-tier.
- Opportunity to improve promotion and education.
- Significant funds do not need to be spent on Region-wide optimization studies when some municipalities are not interested in moving responsibilities to the upper-tier.
- Local municipalities transferring responsibilities to the upper-tier will avoid the cost impact of future program changes and cost increases.

It is further proposed that these negotiations be completed in a timely manner and it is therefore proposed that they be completed by April 30, 2005. This will allow final decisions to be made by the respective councils for implementation as part of the 2006 budget process. Roles and responsibilities for municipalities deciding to remain in a two-tier system will still need to be clarified and streamlined in 2005.

5. FINANCIAL IMPLICATIONS

Governance options do not impact on costs except where opportunities arise to reduce duplication of efforts or operating costs. Operations are typically improved through the consolidation of waste management contracts including the optimization of collection routes. In York Region, there is little or no duplication of efforts between the two tiers and there are less than 25 full time staff equivalents assigned to waste management. Typically, the move to a different governance model is driven by the need to reduce or transfer future financial impacts from one tier to another.

Staff reported to Committee and Council in December 2004 on Waste Diversion Ontario's data which showed that the blue box system cost in York Region was \$142 / tonne compared to an average of \$115 / tonne for other similar sized municipalities in Ontario. This may in part be due to the fact that there are 11 collection and processing contracts required in York Region to provide the same service managed by two or three contracts in each of the comparative municipalities. All of the comparative municipalities also have a single-tier of government managing blue box material.

Significant effort is required to investigate the cost impact of moving all responsibilities to the Region. Specifically, the modelling of all collection routes to determine optimal efficiency is estimated at \$70,000. Facilitated workshops to involve all elected officials from both the Region and local municipalities may cost an additional \$30,000. If requested, staff are prepared to undertake this analysis with the assistance of the local municipalities.

Staff will analyze the cost impact of transferring responsibilities to the Region if a local municipality enters into negotiations as per the recommendations of this report. The Region would need to “area rate” the tax levy for waste management costs for those municipalities that move collection to the Region so that rate payers in the other municipalities are not impacted by the change.

6. LOCAL MUNICIPAL IMPACT

A discussion or change in governance requires the full participation of the local municipalities as they have collection jurisdiction under the Municipal Act. If Regional Council wants to further explore changes in governance, it is recommended that the Region formally request each municipality to participate in a governance discussion and request that they give the appropriate authority to their staff to negotiate any change.

There is also a unique opportunity today in that there are six municipal collection contracts coming to an end in York Region in the next eight months. Consideration of a governance change or co-tendering of this service could produce cost savings.

7. CONCLUSION

The complexity and costs of waste management in York Region will be increasing with the implementation of the source separated organics program, expanded blue box, waste diversion targets and new and emerging technologies. The ability of the Region to establish and be held accountable for waste management policy is dependent on the nine local municipalities. The financial impact on some local municipalities is significant and there have been requests for funding from the Region. In dealing with these changes and requests, it may be an appropriate time for Council to discuss governance models as a way to improve the policy process and service delivery. This report identifies five governance models for discussion by Council. Staff recommend that interested municipalities approach the Region to negotiate the assumption of collection responsibilities by the Region (Option 2B).

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are attached to this report.)