

Safe Drinking Water Act, 2002 Statutory Standard of Care

Presentation to Environmental
Services Committee

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Introduction

- ❑ Ontario residents expect safe, high quality drinking water
- ❑ Safe drinking water is essential for public health protection
- ❑ Municipal officials and Councillors have an important role in providing safe, high quality drinking water

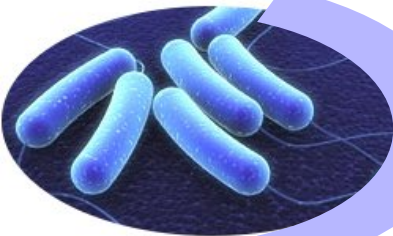


Tragic Water Quality Incident in Walkerton



Incident:

- E.coli contamination – May 2000
- Agricultural (farm) runoff into adjacent well



Health Impacts:

- 7 deaths related to E. coli contamination
- 2,500 reported illnesses (over 40% of population)

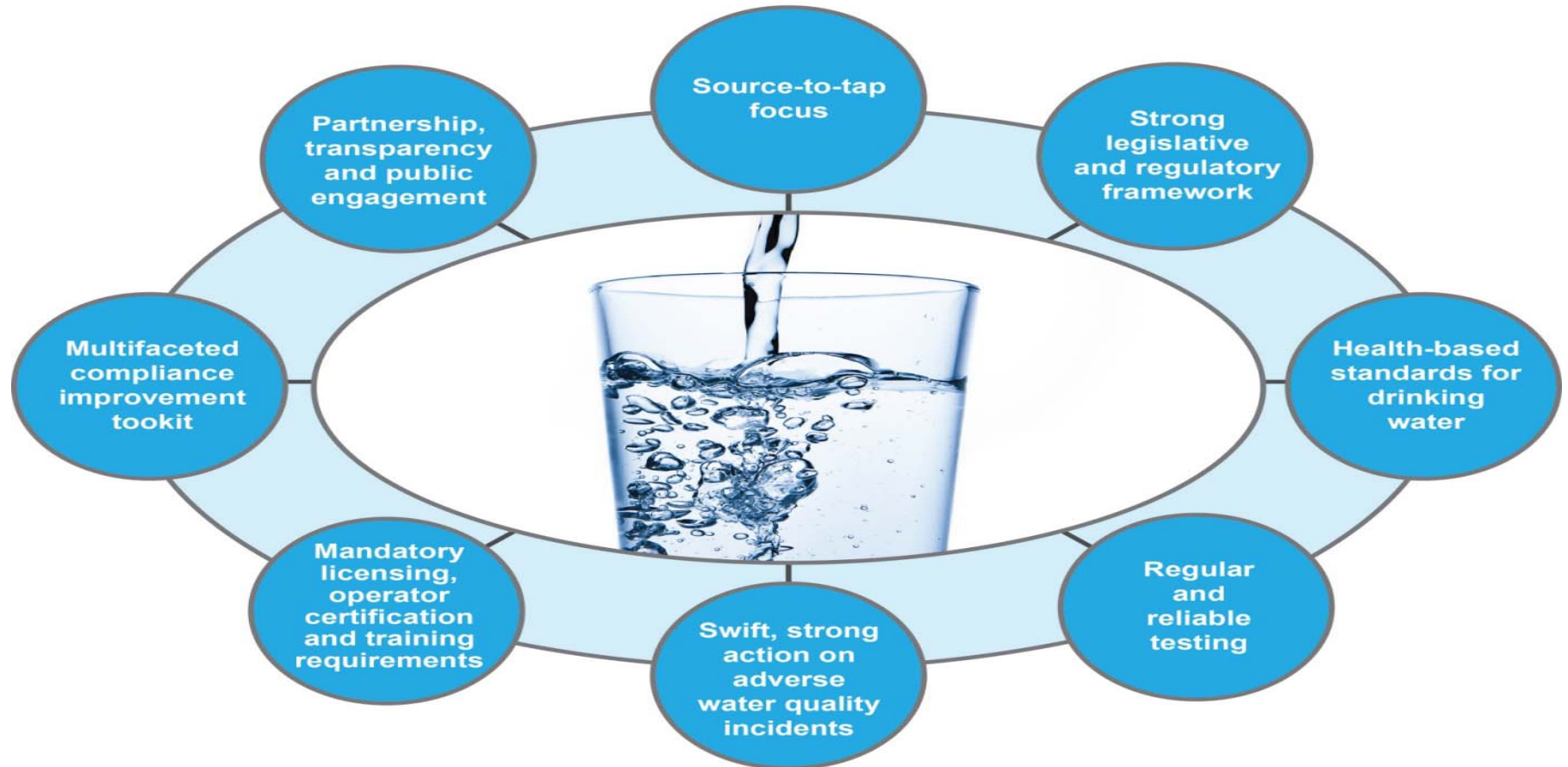


Failures:

- Improper operating practices
- Falsified records
- Management was unaware

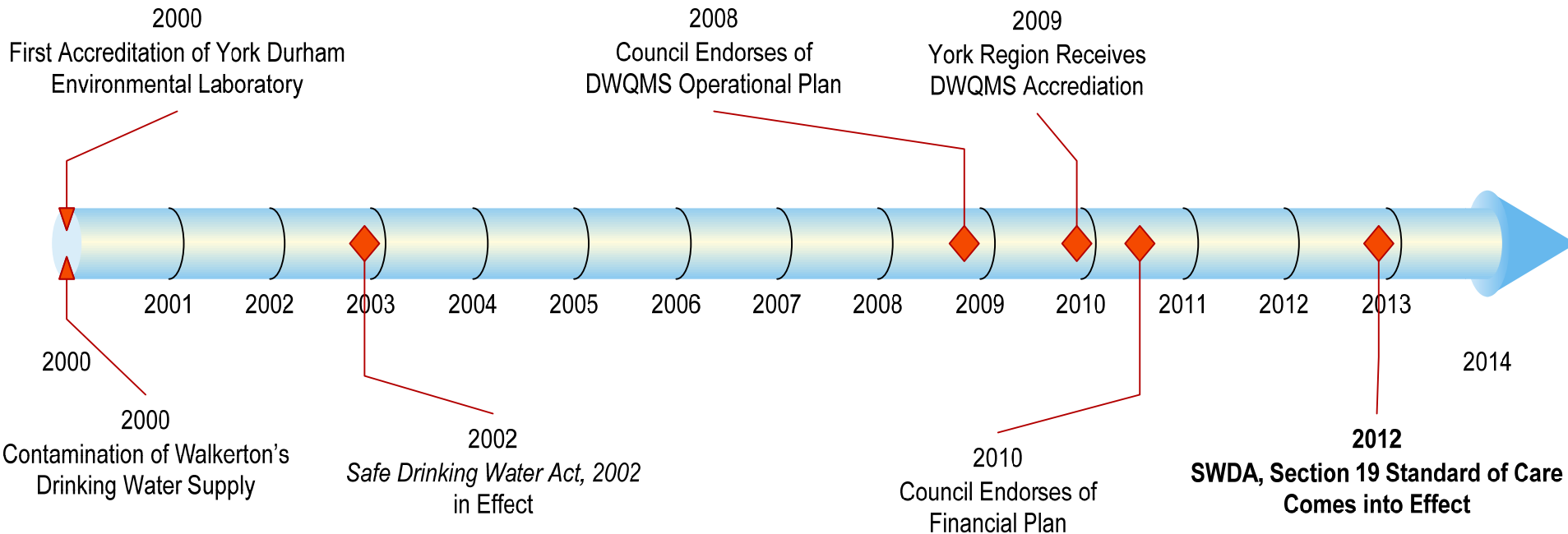
Failure to have a systematic approach to safe drinking water and direct accountability of owners, operators and regulators contributed to tragic event

Ontario's Drinking Water Protection Safety Net



Economics of drinking water not clearly addressed. Water quality regime depends on strong financial plans including decisions on rates and investment

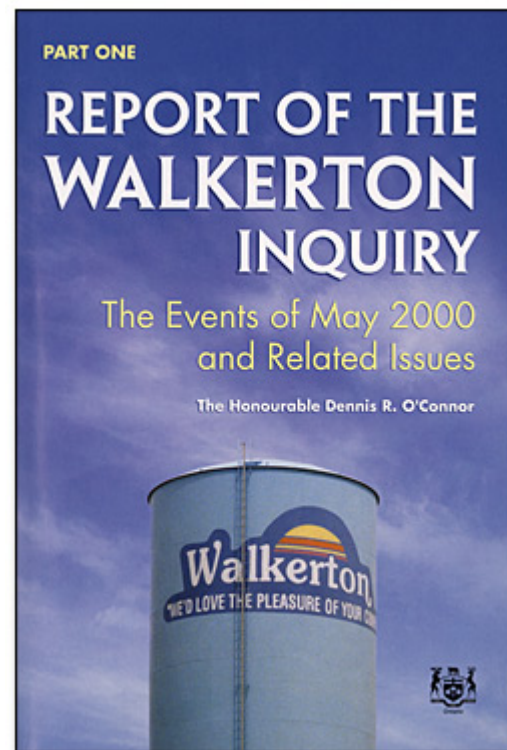
Safe Drinking Water Act, 2002 - Milestones



Council endorsement of Drinking Water Quality Management System operational plan and financial plans enables compliance with Provincial mandate to provide residents with safe drinking water

Safe Drinking Water Act, 2002 – Standard of Care

- ❑ Section 19 of the *Safe Drinking Water Act, 2002* legally requires people with decision making authority, such as Councillors and staff, to exercise a level of care, diligence and skill that a reasonably prudent person would be expected to do and to also act competently
- ❑ “Taking Care Of Your Drinking Water – A Guide for Members of Municipal Councils” is now available from the Ministry of the Environment
- ❑ Statutory Standard of Care comes into effect on December 31st, 2012



Guide distributed to committee members at local Council meetings. Regional staff available to provide information and respond to questions

Statutory Standard of Care Applies To...

- ❑ The owner of the municipal drinking water system
- ❑ Every officer and director of the corporation, if the municipal drinking water system is owned by a corporation (other than a municipality)
- ❑ Every person who oversees the operating authority or makes decisions concerning the system, if the system is owned by a municipality

☒ CHECK YOUR KNOWLEDGE

Ask yourself these questions to check your current level of knowledge about your drinking water system and oversight responsibilities.

☒ WHAT SHOULD I BE ASKING?

When decisions come before your council relating to drinking water, you want to understand the impacts on your community and public health. While every situation will be different, the following are some preliminary questions you might want to ask:

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| ☐ What are the risks to public health? | ☐ How will this decision impact our community's demand for water? |
| ☐ Are there any areas of risk that council needs to address? | ☐ How are we managing our drinking water infrastructure? Is our infrastructure sustainable for future generations? |
| ☐ What checks and balances are in place to ensure the continued safety of our drinking water? | ☐ Are there any emerging issues related to our drinking water that council should be aware of? |
| ☐ Are we meeting our legislative and regulatory requirements? | ☐ What is the emergency management plan for a negative drinking water event? What is the role of council in a drinking water emergency? |
| ☐ What is the public health impact or long-term cost of deferring this decision? | ☐ Have staff taken required training and upgrading? |
| ☐ Will this decision affect our drinking water sources? | |

Be informed. Ask questions. Get answers.

It's your duty.

management has been hired? Do they conduct regular performance appraisals of staff?

- ☐ What were the results of our last inspection? Are there areas for improvement?

water licence and the key elements of the licence (e.g. drinking water works permit, operational plan, financial plan, etc.)?

If you can't answer any of these questions, review them with municipal staff.

Training on a variety of drinking water topics is also available through the Walkerton Clean Water Centre. Visit the Centre's website at www.wccw.ca to view its course catalogue.

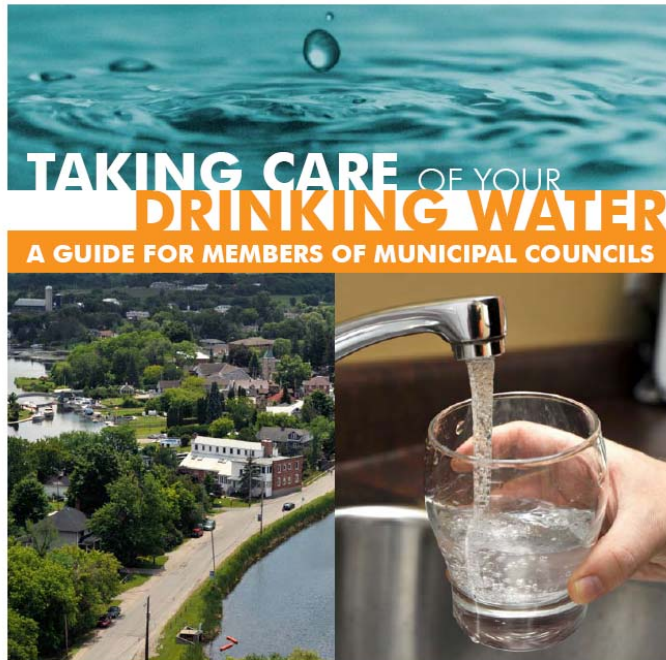
Standard of Care provides roles and responsibilities for owners and operating authorities of municipal drinking water systems

Safe Drinking Water Act, 2002

- ❑ **Section 11** of the *Safe Drinking Water Act, 2002* describes the legal responsibilities of owners and operating authorities of municipal drinking water systems
- ❑ Owners and operating authorities are responsible for ensuring their drinking water systems:
 1. provide water that meets drinking water standards
 2. operate in accordance with the Act and its regulations
 3. are kept in a fit state of repair
 4. are staffed and supervised by qualified persons
 5. comply with; sampling, testing, monitoring, notification, and reporting requirements

Existing legislation details legal responsibilities of owners and operating authorities of municipal drinking water systems

The Safety of Ontario's Drinking Water is a Shared Responsibility



www.ontario.ca/drinkingwater

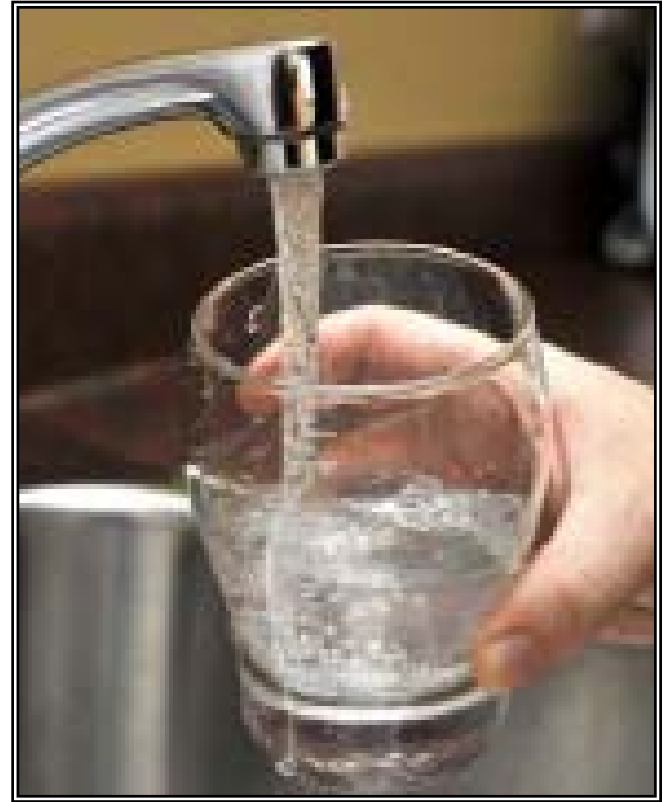


- ❑ Taking Care of Your Drinking Water - A Guide for Members of Municipal Councils is available at http://www.ontario.ca/drinkingwater/dw_el_prd_043831.pdf
- ❑ Training for Councillors is not mandatory. It is available at the Walkerton Clean Water Centre www.wcwc.ca and through Association of Municipalities of Ontario (AMO) www.amo.on.ca

Information on the Regional system readily available through the Region's website

Three Things for Municipal Councillors to Remember

1. It's their duty – *Safe Drinking Water Act, 2002* includes a statutory standard of care for individuals who have oversight responsibilities for municipal drinking water systems that can extend to municipal Councillors



Councillors and staff to exercise a level of care, diligence and skill that a reasonably prudent person would be expected to do

Three Things for Municipal Councillors to Remember

2. They should be informed – they should ask questions and get answers. Councillors' decisions can have an impact on public health. They should seek advice from those with expertise and act prudently on that advice



Approval of financial plans and budgets including decisions on rates and investment, resources and procurement

Three Things for Municipal Councillors to Remember

3. They should be vigilant – Complacency can pose a significant risk to drinking water systems. It is critical that they never take drinking water safety for granted or assume all is well with municipal drinking water systems.



Regular discussion on Regional water systems and performance including the Schedule 22 report is key for effective Councillor decision-making

Enforcement

- ❑ A provincial officer has the authority to lay a charge against a person to whom the standard applies and fails to carry out that duty
- ❑ Maximum penalties - \$4 million fine and possible imprisonment for up to five years
- ❑ No minimum penalties established – actual penalties would be decided by the courts depending on the severity and consequences of the offence



**Council decisions play key role in providing
safe drinking water and managing risk**

Council Fulfills Obligations and Elements of Due Diligence



Audit Type	Standard/Regulation	Frequency	Facilities Audited in 2011
Internal Audits	ISO 9001 ISO 14001 DWQMS	Currently Each facility is audited every 3 years	16 multi-facility internal audits conducted
MOE Inspections	Ontario Water Resources Act	Frequency not regulated, typically inspected annually	13 Wastewater
	Safe Drinking Water Act, 2002	Frequency is regulated. Inspected annually, in some cases twice a year. Approximately one third of inspections are unannounced	15 Water
Compliance Audits	ISO 14001	Periodically	40 facilities
External Audits	ISO 9001 ISO 14001 DWQMS	Annually Bi-Annually Annually	8 Water 5 Wastewater Year 2 document surveillance audit initiated
Health & Safety Audits	Occupation Health and Safety Act	Periodically	7 Facilities

104 audits of water and wastewater facilities were completed in 2011

MOE Inspections – Water and Wastewater



System:	MOE Reporting Year:	# MOE Inspections Completed	# Non-Compliance Findings	# Best Practice Recommendations
Water	2010-2011	16	1	4

- ❑ 100% of operators compliant with required training hours
- ❑ 99.82 score on MOE water facility inspection reports in 2010 - 2011
- ❑ 99.98 % of our drinking water samples met provincial water quality standards
- ❑ 11,301 treated water tests taken in 2011
- ❑ Immediate response to adverse water quality incidents with direction from Medical Officer of Health
- ❑ Added level of due diligence by partnerships with Toronto and Peel who are required to meet the same level of care

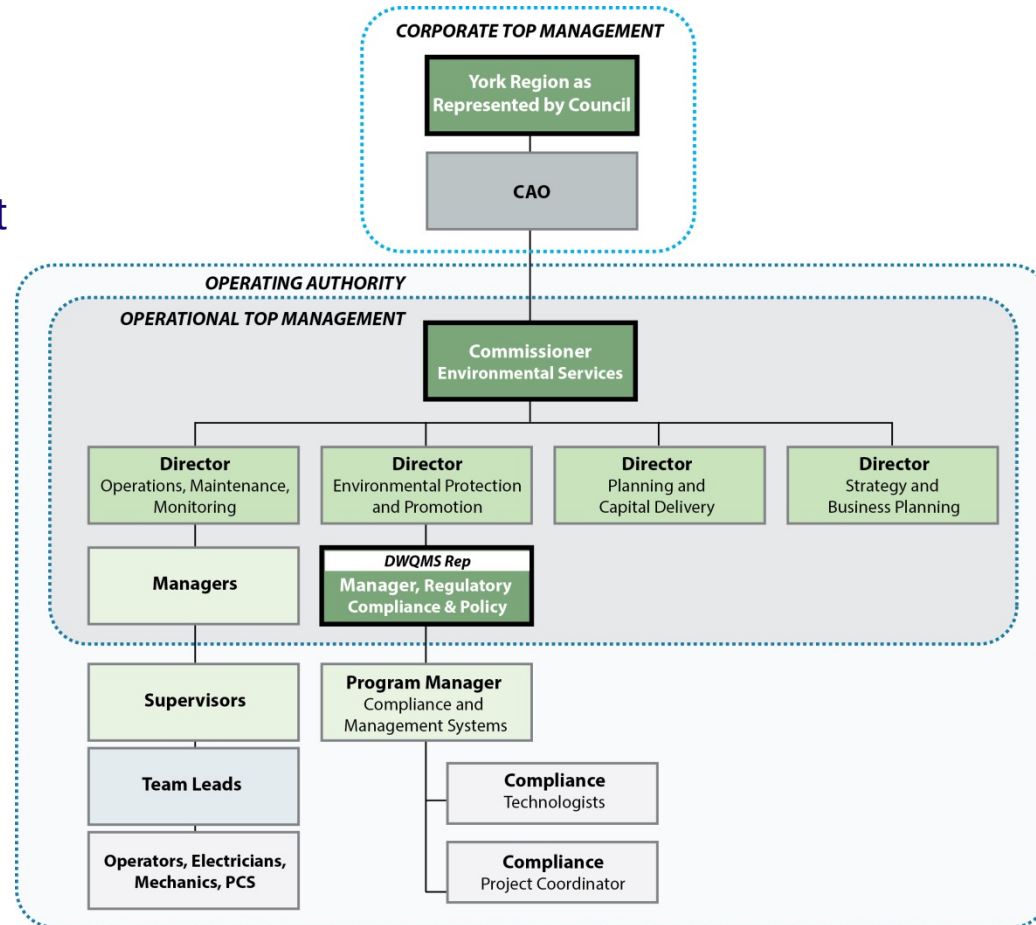


York Region water and wastewater operations continue to receive top marks from Ministry of the Environment inspections



Regional Activities Related to Standard of Care

- ❑ Overall Responsible Operator (ORO) has been designated in compliance with O. Reg 170/03
- ❑ Drinking Water Quality Management System (DWQMS) includes operating, emergency response and reporting plans
- ❑ Proactively manage risk through audits and inspections
- ❑ Comprehensive operations, maintenance and monitoring programs
- ❑ Robust training program and succession planning
- ❑ Annual Water Quality Report and Schedule 22 Report submitted to province and made available to public



Council Plays an Important Role in Drinking Water Safety

- ❑ Councillors and staff exercise a level of care, diligence and skill
- ❑ Council's continued leadership through approval of financial plans and budgets including decisions on rates and investment, resources and procurement
- ❑ Council decisions play key role in providing safe drinking water and managing risk

"Municipalities need to ensure that their water systems are adequately financed. Over the long term, safety depends on stable and adequate financing to maintain the water system's infrastructure and its operational capacity to supply high-quality water consistently."

**- Justice Dennis O'Connor, 2002
Report of the Walkerton
Inquiry**