To: Chair and Members
Public Works, Infrastructure & Environment Committee

From: Peter A. Barkwell
City Solicitor
Legal Services Division, City Manager's Office

Scott Stewart, C.E.T.
General Manager
Public Works Department

Telephone: 905 546-2424 x4636
Facsimile: 905 546-4370
E-mail: pbarkwel@hamilton.ca

Date: September 25, 2006

Re: Community Liaison Committee for the Taro East Landfill Site (City Wide)
(LS06013/PW06129)

Council Direction:

At the September 25, 2006 Public Works, Infrastructure and Environment Committee meeting, direction was given to staff to prepare a chronological report respecting the Taro Community Liaison Committee.

Information:

The following is a chronological summary with respect to the key issues involving the community liaison committee for the Taro East Landfill Site, so that the Public Works, Infrastructure and Environment Committee and Council can determine what action, if any, they would like to take at this time respecting the community liaison committee.

Taro East Landfill Site Certificate of Approval

September, 1996

The establishment and operation of a community liaison committee (CLC) for the Taro East Landfill Site is a requirement of the original Certificate of Approval issued by the Ontario Ministry of the Environment (MOE) for the Taro East Landfill Site. As required by the Certificate of Approval, Terms of Reference were prepared for the CLC and submitted to the MOE. The original Certificate of Approval indicates that the CLC membership would include one voting member representing the former City of Stoney Creek and one voting member representing the former Regional Municipality of Hamilton-Wentworth.

City of Hamilton Council has been appointing two councillors as the City of Hamilton representatives on the CLC. Since the creation of the new City of Hamilton on January 1, 2001, there have been two sets of appointments. For the 2001-2003 term of Council, the City of Hamilton appointees were Councillor Collins and then Councillor Bain. For
the 2003-2006 term of Council, the appointees were Councillor Bruckler and Councillor Collins. With respect to those most recent appointments, the City Clerk’s Office sent a letter to the company and to the MOE regarding these appointments but did not receive any reply.

September, 2002 – February 25, 2004

The MOE has issued several amendments to the Taro East Landfill Certificate of Approval over the past several years, two of which involved the CLC. These two amendments were issued by the MOE in September 2002 and contained the following conditions with respect to the CLC:

1. the company shall establish a health sub-committee of the CLC to address health concerns related to the Taro East Landfill Site (condition 98).

2. within six months of the date of the amendment, the company shall submit to the Regional Director of the MOE for approval, the Terms of Reference of a health study that is to be undertaken with a focus on the community immediately adjacent to the site (condition 99).

3. by September 25, 2002, the company shall arrange with the chair of the Environmental Review Tribunal, to appoint a representative from the Tribunal to conduct a public process which includes consultation with the local community, to develop revised Terms of Reference for a CLC. The proposed revised Terms of Reference were to include, among other things, clearly defined membership and selection criteria as well as consideration of the funding required for the administration of the CLC (condition 103).

The former owner of the Taro East Landfill Site appealed those amendments to the Environmental Review Tribunal (ERT) but ultimately abandoned its appeal on February 25, 2004 due to its involvement in insolvency proceedings. The company indicated at that time that it would be making an application to the MOE to amend the Certificate of Approval instead.

It should be noted that during the ERT proceedings, the City of Hamilton held “presenter” status and based on Council direction provided in November, 2002, was maintaining the position that two voting representatives of the City of Hamilton (not staff members) remain on any new CLC that is established, and that there be proper funding of the CLC.

Further, during the ERT proceedings, the ERT did revoke two of the conditions from the Certificate of Approval, namely condition 99 which required the completion of a health study within six months of the date of the certificate of approval amendment and condition 103, which revoked the requirement that a public process be conducted by a representative of the ERT, which included consultation with the local community, to develop revised terms of reference for a community liaison committee.

As a result of the revocation of the above conditions, the only requirement contained in the two Certificate of Approval amendments which were the subject of the ERT hearing that remains outstanding is the requirement that a health subcommittee of the community liaison committee be formed (condition 98). There is no time requirement in this condition.

March 3, 2004
The company subsequently submitted an application to the MOE to further amend its Certificate of Approval, including proposed amendments to the CLC provisions. The MOE has not yet processed this application and no timelines have been set for this processing to occur. It also appears that notice of this application has not been posted on the Environmental Registry. Legal Services has specifically asked the MOE to advise it when the amendments are addressed by the MOE.

Taro Neighbourhood Liaison Committee (TNLC)

In the meantime, a new CLC has been established by the company called the “Taro Neighbourhood Liaison Committee” (TNLC). The company is no longer meeting with the previous CLC members. New Terms of Reference have been prepared for the TNLC and submitted to the MOE. City Council has not commented on those Terms of Reference. Those new Terms of Reference are attached as Schedule “A” to this report. For your assistance, the Terms of Reference for the original CLC are also attached as Schedule “B” to this report.

It is our understanding that the TNLC is following the new Terms of Reference attached as Schedule “A” to this report.

The new Terms of Reference do not correspond completely with the provisions of the current Certificate of Approval and appear to reflect the amendments to the Certificate of Approval requested by PSC on March 3, 2004. In particular, under the proposed new Terms of Reference, the City of Hamilton is to have one representative who would be selected by the company from a list provided by the City. There is also no reference to a MOE representative on the TNLC. Under the provisions of the current Certificate of Approval, there is to be one MOE representative who is a non-voting member.

The new Terms of Reference for the TNLC also differ from the previous Terms of Reference for the original CLC. For example, the new Terms of Reference alter the meeting structure of the committee reducing them from monthly to quarterly meetings with no reference to public notice of each meeting. There is also no specific reference to the funding of the TNLC other than in section 2 in which it states that the owner will “also cover all expenses relating to meetings and costs of participation as may be required by the Certificate of Approval” and in section 13 with a reference to the facilitation of outside experts by the company as appropriate to assist the TNLC “on an issue by issue basis”. Further, the procedure for addressing public complaints associated with the Taro East Landfill Site, as contained in the new Terms of Reference, is not as detailed as the complaint procedure set out in the previous Terms of Reference for the original CLC.

It is our understanding that the MOE has not made any specific comments on the Terms of Reference submitted for the TNLC. It is expected that these Terms of Reference would be addressed by the MOE at the time that the company’s 2004 application for the amendment of the Certificate of Approval is addressed.

City Council Resolutions

The following resolutions have been passed by City of Hamilton Council since 2001 regarding its position on the community liaison committee for the Taro East Landfill site:

October 30, 2001
a) That Hamilton City Council provide a one-time operating grant to the Taro Community Liaison Committee in the amount of $18,000;

b) That the Finance and Corporate Services Department determine the source of funding, and that strong consideration be given to the Taro Royalty Fund;

c) That the Community Liaison Committee be encouraged to apply through the City’s grants process for any future funding requests.

November 13, 2002

(a) That should a new CLC be established, Council petition the ERT to ensure continued Council Representation on the Committee.

(b) That Council petition the ERT and MOE to ensure proper funding is provided to support the CLC’s mandate.

Note that the following sub-section was tabled for two weeks and subsequently defeated at its November 27, 2002 meeting:

That the City of Hamilton petition the Province of Ontario and the Environmental Review Tribunal to retain the current Taro East CLC under its current terms of reference.

November 27, 2002

That the City Solicitor be authorized and directed to seek the status of Presenter for the City of Hamilton at the Environmental Review Tribunal Hearing of the Appeal by Philip Services Inc. of Certificate of Approval No. A181008, as amended (ERT Case No. 02-132)

December 6, 2004

As a result of a delegation by Mr. Charles Eleveld, a member of the original Taro CLC, City Council passed the following resolution.

That a letter be forwarded to the Ministry of the Environment to enquire about the status of the membership of the Taro Landfill Community Liaison Committee and other issues with respect to the Committee.

A letter dated March 4, 2005 was subsequently received from then Minister of the Environment, Leona Dombrowsky, in which she advised, among other things, that “Operators of the Taro East and West Landfills, PSC Industrial Services Canada Inc. established the Taro Neighbourhood Liaison Committee and meet the requirements of their Certificate of Approval.”

Further correspondence dated April 25, 2005 was received by Council from Mr. Eleveld with respect to the response the City received from then Minister of the Environment Leona Dombrowsky. Mr. Eleveld indicated that in his view and the view of the Taro East CLC, “the Minister’s letter does not resolve the concerns we originally raised at the Public Works Committee.” He then raised several questions respecting the City’s position regarding the former and new community liaison committees.

Summary and Next Steps
Therefore the position of City of Hamilton Council to date with respect to a community liaison committee for the Taro East Landfill Site can be summarized as follows:

1. That the City of Hamilton not petition the Province of Ontario and the Environmental Review Tribunal to retain the original Taro East CLC under its original terms of reference.

2. That the City of Hamilton continue to have two voting representatives (non-staff members) on any new community liaison committee that is established.

3. That proper funding be provided to support the community liaison committee’s mandate.

Given the fact that the certificate of approval for the Taro East Landfill Site has not yet been amended regarding the community liaison committee, there is an opportunity to provide input to the TNLC, the owner and operator of the Taro East Landfill Site (now Newalta Services Holdings Inc. and Newalta Industrial Services Inc. respectively) and to the MOE on the proposed Terms of Reference for the TNLC for their consideration. This input may reflect or include the City Council position to date as summarized above. Should the PWIE Committee wish to provide input for consideration, a recommendation similar to the following could be approved:

*That a letter be forwarded to the Ontario Ministry of the Environment (MOE), the Taro Neighbourhood Liaison Committee (TNLC) and the owner and operator of the Taro East Landfill Site indicating the following City of Hamilton Council’s comments regarding the Terms of Reference provided to the MOE for the TNLC:*

*List specific comments to be inserted.*

Until such time as the certificate of approval requirements are amended to specifically state otherwise, or City Council takes a position different from that summarized above, it appears that two voting representatives of the City of Hamilton should continue to be appointed by City Council to the community liaison committee for the Taro East Landfill Site.

_______________________    ______________________
Peter A. Barkwell      Scott Stewart, C.E.T.
City Solicitor       General Manager
City Manager’s Office     Public Works Department
Legal Services Division
TERMS OF REFERENCE FOR THE
TARO NEIGHBOURHOOD LIAISON COMMITTEE (TNLC)

BACKGROUND

1. PSC is committed to building and maintaining an open, constructive relationship with residents and property owners in the immediate neighbourhood of the Taro Landfill, through a local neighbourhood group. (TNLC)

2. PSC recognizes that these immediate neighbours (L8J postal code) have a special interest in the social and environmental reputation of the area, and also in protecting and enhancing their property and life investment in the neighbourhood.

3. PSC, as the owner and operator of a duly-licensed, “state-of-the-art” Taro Landfill non-hazardous waste management facility, shares these interests.

4. The TNLC will be a regular conduit and point-of-contact for Taro-neighbourhood residents to liaise with PSC, and for PSC to liaise with neighbourhood residents.

5. These guidelines are to assist in the functioning of the TNLC. They can be expanded upon as circumstances evolve.

Terms of Reference

1. The TNLC recognizes that it has a general mandate to follow as stated in the Certificate of Approval for the Taro Landfill and interprets the meaning of the wording of the condition to mean that the Liaison committee is a special “place” for direct PSC – neighbourhood liaison and dialogue.

2. PSC gladly assumes responsibility for helping this to take place, and will facilitate this process, and also cover all expenses relating to meetings and costs of participation as may be required by the Certificate of Approval.

3. Government, City, industry and media relations have many other channels. Enforcement and monitoring of the landfill is a government responsibility. Citizens wishing to be involved in such enforcement or monitoring are of course welcome to contact the government directly or participate in one of many well-known local environmental organizations.

4. The TNLC will meet quarterly and will hold one public open house with tours of the landfill at least once a year.
5. One person will represent PSC. From time to time as required, additional personnel may participate if required to ensure effective communication.

6. Neighbourhood resident's part of the TNLC will number 2 - 4 immediate neighbours of the Taro Landfill. (The committee will adhere to the existing conditions of the Certificate of Approval until such time as the current application to amend the Certificate has been considered by the MOE.)

7. One representative from the City of Hamilton will be selected by the Company from a list of representatives proposed by the City of Hamilton, if any.

8. The meetings will be cordial, informal and non-bureaucratic, and will operate by consensus. It is intended that all decisions be reached by mutual agreement and not by vote so that they will be acceptable to all. Brief notes will be kept of discussion highlights and these will be available for the community and the media on the Taro Landfill website.

9. PSC will provide TNLC with copies of relevant information such as the Taro Landfill annual report, and answer any requests for information or clarification. At its quarterly meetings PSC will also provide an update on activities at the landfill. (Any complaints received, update on construction of the site, etc)

10. Meetings will be held at the Taro office.

11. The TNLC will communicate with other Taro-neighbourhood residents, by sending out an annual newsletter from the committee summarizing year activities. The Committee will, if possible, participate in the Annual Open House at the landfill.

12. The TNLC is not designed to prevent anybody from communicating with PSC directly through telephone calls, email and the Internet, letters, open houses or visits to the facility.

13. In the event that any issues arise at the TNLC which call for expert assistance PSC will be pleased to facilitate provision of outside expert(s) as appropriate to assist the TLC, on an issue-by-issue basis.

14. Neighbours are encouraged to bring their questions regarding the annual reports, which are available in the local libraries, or regarding complaints or other matters of concern relating to the operation of the landfill, directly to the attention of the Company. In the event that the Company does not satisfactorily address the question or questions, then the neighbour may contact the committee by email through the Taro Landfill website, tarolandfill.com, and request that the issue be raised at the next Liaison committee meeting. The neighbour may be requested to present the issue in writing and/or attend the next meeting to present their issue.
SCHEDULE "B"
To Report No. LS06013 / PWO6129

FINAL

TERMS OF REFERENCE
OF THE
COMMUNITY LIAISON COMMITTEE

SCHEDULED MEETINGS: for 1997

<table>
<thead>
<tr>
<th>DATE</th>
<th>TIME</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 12</td>
<td>6 - 8:30 pm</td>
<td>City Hall, Cafeteria</td>
</tr>
<tr>
<td>June 9</td>
<td>7 - 10 pm</td>
<td>City Hall, Saltfleet Room</td>
</tr>
<tr>
<td>July 14</td>
<td>7 - 10 pm</td>
<td>City Hall, Saltfleet Room</td>
</tr>
<tr>
<td>August 11</td>
<td>7 - 10 pm</td>
<td>City Hall, Saltfleet Room</td>
</tr>
<tr>
<td>September 8</td>
<td>7 - 10 pm</td>
<td>City Hall, Saltfleet Room</td>
</tr>
<tr>
<td>October 13</td>
<td>7 - 10 pm</td>
<td>City Hall, Saltfleet Room</td>
</tr>
<tr>
<td>November 10</td>
<td>7 - 10 pm</td>
<td>City Hall, Saltfleet Room</td>
</tr>
</tbody>
</table>

NOTE:
The following abbreviations is at times used within the Terms of Reference:

CLC = Community Liaison Committee
Company = Taro Aggregates Inc.
MOEE = Ministry of Environment and Energy
1.0 PURPOSE

The CLC will provide community review of the development, operation, ongoing monitoring, closure and post closure related to the landfill site. This committee will act as a vehicle for communication between the Company and the Community.

2.0 MANDATE

2.1 The general mandate of the CLC shall be to:
   a. Review and provide recommendations on annual operating and monitoring reports, and
   b. Review and provide recommendations on complaints and complaint handling procedures, and
   c. Review and provide recommendations on any matters of concern to the community.

2.2 The CLC will review and provide recommendations to the Ministry of Environment and Energy, Taro Aggregates Inc., and any other appropriate authority on matters of concern to people affected by the Company’s operations.

3.0 MEMBERSHIP

3.1 The CLC shall consist of:
   a. two community representatives from ~1500m of the site
   b. two community representatives from ~500m of a designated truck haul route
   c. one representative from the City of Stoney Creek
   d. one representative from the Region of Hamilton-Wentworth
   e. one representative from the Wentworth County School Board
   f. two representatives from Taro Aggregates Inc.
   g. one representative from the Ministry of Environment and Energy

3.2 If a community representative vacancy occurs, the Company shall advertise in the Stoney Creek News and the The Spectator announcing the vacancy and inviting interested applicants. All CLC members (excluding Taro) will interview potential candidates for community member replacement and will make comments. Then only Community representatives will vote on the acceptance/rejection of the candidates.
4.0 MEETINGS

4.1 Initially, meetings will take place normally the second Monday of each month. The frequency of the meetings will be reviewed by the CLC on an annually basis. Meetings will normally commence at 1900 hours.

4.2 Normally meetings will be advertised in:

   Stoney Creek News,
   CLC Newsletter, and
   Libraries in the City of Stoney Creek

4.3 The meetings will take place at a location determined by the CLC which will accommodate committee members, consultants, invited guests, and members of the local community.

5.0 CHAIR, AGENDA, MINUTES

5.1 There will be two Co-Chairs. One Chair will be selected from the Company (or the Company may opt to designate an Independent Chair) and the other Chair will be selected by the Region, City, and Community representatives. The Co-Chairs will alternate conducting the meetings.

5.2 An agenda will be constructed by the two Co-Chairs. The agenda shall be sent to all committee members at least one week in advance of the next scheduled meeting.

5.3 Minutes shall be taken at all CLC meetings. A draft copy of the minutes shall be sent to all committee members at least one week in advance of the next scheduled meeting. Once the draft minutes have been approved by the CLC, they will be made available to the public upon request.

6.0 PUBLIC INPUT AT MEETINGS

6.1 If from the public there are advance requests in writing to address, make comments or ask questions to the CLC, the Co-Chairs will construct the agenda to accommodate such requests. Written requests must be received two weeks in advance of the meeting the writer wishes to attend.

6.2 If there is no advance notification on an urgent matter, and members of the public would like to address the committee, it will be at the discretion of the Co-Chairs and the CLC members. The timing and length of the input will be at the discretion of the Co-Chairs.
7.0 VOTING AND QUORUM

7.1 Only CLC members (excluding the MOEE representative) will be allowed to vote.

7.2 A quorum for a CLC meeting and/or vote shall be at least five members.

8.0 EXPENSES

8.1 The Company will be responsible for all the expenses relating to the CLC up to a maximum of $10,000 per year. This amount will be reviewed every five years.

8.2 Accounting of expenses and expenditures will be conducted through the Treasurer. The Treasurer will be an elected member of the CLC. A monthly report from the Treasurer will be presented to the CLC at each meeting.

9.0 LIABILITY STATEMENTS

9.1 No action or other proceedings for damages, prohibition or mandamus shall be instituted against any member of the CLC or the CLC as a whole by:

a. Ministry of Environment and Energy or any other Crown agency,

b. Taro Aggregates Inc., and/or Philip Environmental Inc., and/or any other subsidiary of Philip Environmental,

c. City of Stoney Creek,

d. Region of Hamilton-Wentworth,

e. Any consultant hired by the above or the CLC, and/or

f. Community representatives,

regarding any act, execution, exercise or for any alleged neglect or default in the execution or performance in good faith of the CLC member representing the community.

9.2 The Company will provide liability insurance coverage for each member of the CLC.
10.0 COMPLAINTS

10.1 The complaint procedure shall be forwarded to the Regional Director of the MOEE and annually to all properties within the landfill boundaries:

Upper Mount Albion to First Road East
Escarpoint to Rymal Road

10.2 Complaint Procedure (see Appendix A)

10.3 Complaint Form (see Appendix B)

11.0 SIGNATURES

__________________________  __________________________
Community Representative  Community Representative

__________________________  __________________________
Community Representative  Community Representative

__________________________  __________________________
City of Stoney Creek  Region of Hamilton-Wentworth

__________________________  __________________________
Taro Aggregates Inc.  Taro Aggregates Inc.

__________________________  __________________________
Ministry of Environment and Energy  Wentworth County School Board
Appendix A: Complaint Procedure

1. All complaints will be forwarded to the Company.

2. If the complaint is:
   a. not related to health and safety, then the Community Co-Chair and the MOEE will be notified by the Company
   b. related to health and safety and
      i. is not an emergency, then the Community Co-Chair and the MOEE will be notified by the Company
      ii. is an emergency, then all members of the CLC will be notified by the Company

3. The Company will attempt to resolve the complaint within a reasonable time period of receiving the complaint as determined by the CLC.

   The Community Co-Chair will contact the complainant and inform the individual(s) that the CLC has been notified of the complaint and that the Company is working to resolve the complaint.

4. If the Company:
   a. resolves the complaint to the satisfaction of the complainant, then the Company will notify the Community Co-Chair and the MOEE of the resolution. The Community Co-Chair will then notify all CLC members of the complaint and resolution at the next CLC meeting.
   b. does not resolve the complaint to the satisfaction of the complainant, then the Company will notify the Community Co-Chair and the MOEE of the non-resolution. The Community Co-Chair will then notify all CLC members of the complaint and the non-resolution for CLC review and resolution. A copy of the resolution will be forwarded to the Ministry, Company, City, Region and complainant.