SUBJECT: Potential Impacts of the Haines Report on PHS Food Safety Programs – PH06009 (City Wide)

RECOMMENDATIONS:

(a) That the Chair of the Board of Health correspond with the Minister of Health and Long Term Care requesting that the Ministry of Health and Long Term Care (MOHLTC) expedite the enactment or amendment of provincial legislation to require the mandatory food safety certification of food premise personnel

(b) That the Chair of the Board of Health correspond with the Minister of Health and Long Term Care requesting that the Ministry of Health and Long Term Care (MOHLTC) amend the Ontario Food Premises Regulation to provide clear, reasonable and evidence-based food safety requirements for food safety events held by churches, service clubs and fraternal organizations

Elizabeth Richardson
Medical Officer of Health
Public Health Services

EXECUTIVE SUMMARY:

City Council, at its meeting held on March 1, 2006 approved the following motion:
That the Medical Officer of Health report to the Board of Health on regulatory issues under the Health Protection and Promotion Act pertaining to the preparation and sale of foods from private homes and churches.

In July, 2004, the Honourable Roland Haines released a report on the state of meat inspection in Ontario. The report was commissioned by the Ontario Ministry of the Attorney General as a result of an investigation into an abattoir in south central Ontario operating in violation of food safety legislation for a protracted period of time.

*Farm to Fork: a Strategy for Meat Safety in Ontario*, introduced over 100 recommendations for changes to food inspection strategies. The MOHLTC has committed to adopting these recommendations, some of which will affect food safety programs delivered by local health units.

Three of them: mandatory food handler training, new regulation for free-standing meat processors, and food businesses operated from private residences are discussed below. This discussion also responds to the above-noted Council motion.

**BACKGROUND:**

**Mandatory Food Handler Training**

Justice Haines has recommended in his report that managers and selected personnel of all food premises (including restaurants) be certified as safe food handlers. This recommendation is strongly supported by regulators who have long observed a correlation between trained food service personnel and increased compliance rates. Many regulatory agencies in North America, in fact, already require food safety trained staff and management as a condition of operation.

A specific strategy and funding scenarios for mandatory training have not yet been proposed by the Province. However, it is anticipated that local health departments will play a major role in the process, particularly in ensuring the certification of foodservice workers.

It is estimated that between 7,000 and 10,000 foodservice personnel in Hamilton could seek certification under this new requirement. Tasks associated with both increased training and maintaining a database of certified personnel would likely require additional Division staff totalling 1.0 FTE.*

Some jurisdictions in Ontario, such as the Brant County Health Unit, have already passed local by-laws requiring trained personnel in food premises. Others, including the City of Toronto, are moving to do so in response to delays by the MOHLTC in amending

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* The Division currently offers voluntary food handler training and certifies over 500 personnel annually. However, given the high turn-over rate of staff in the industry, it is not possible to determine with certainty how many food premises have certified managers/workers on site at any given time.
provincial food safety legislation to address this recommendation.

However, Branch staff recommend deferring a decision on local legislation. The MOHLTC has committed to the necessary amendments and is expected to announce phase-in dates this year. Assuming this timeline is met, it would be beneficial for both industry and regulators to be able to work with one uniform, province-wide requirement.

**New Regulation for Small-Scale Meat Processors**

Regulation to address gaps in the inspection of small-scale meat processors has been in development for several years. Large-scale processors, or those with a slaughter facility, are inspected by either the Canadian Food Inspection Agency or the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). Small-scale processors fall solely under the jurisdiction of local health units. However, the *Ontario Food Premises Regulation*, which health units enforce, was developed primarily to address the operation of foodservice premises. Meat processors vary greatly in their operation from foodservice premises. Therefore, a significant lack of specific food safety standards for these premises has existed.

Recommendations by Justice Haines accelerated the legislative development process with the result that Ontario Regulation 31/05 was brought into force on June 1, 2005. This regulation sets out requirements for all manner of “Meat Plants”. Small-scale processors will be required to comply as early as October, 2008.

Regulation 31/05 falls under the jurisdiction of OMAFRA. However, it is anticipated that OMAFRA will approach health units to enforce the regulation on their behalf in small-scale settings. However, no formal discussion of such a strategy has yet been initiated.

Hamilton has approximately 25 premises that fall under the definition of small-scale plants. Currently, they are inspected against a Hazard Analysis Critical Control Point Strategy (HACCP) initiated by the Division in 2003. HACCP is an internationally recognized food safety system that involves the identification and control of points in food production where critical problems can occur. The Division wishes to continue playing an inspection role in these premises. However, the need for additional inspection staff, technical training and the resources for both would need to be negotiated with OMAFRARA.

**Food Businesses operated from Private Homes**

The *Ontario Health Protection and Promotion Act* (HPPA), exempts private residences from its definition of a “food premise”. This exemption has been interpreted in some jurisdictions as meaning that food-related businesses operated from private residences are exempt from provincial food safety legislation. However, it has been interpreted in other jurisdictions as meaning that portions of a private residence where a food business is operated are no longer “private” and the legislation applies.*

* * The City of Hamilton Legal Services Department investigated this issue at the request of the Division in 2003 and arrived at the latter interpretation. As a result, home-based food businesses are licensed by the City and routinely inspected.
This confusion was brought to the attention of the Haines Review Committee as a concern by regulators with the resulting recommendation that the HPPA be amended to clearly define home-based food businesses as food premises subject to relevant regulation. Such an amendment is currently under development.

**Church Bake Sales**

Though not specifically cited in *Farm to Fork*, this issue bears a relationship to the controversy that is building in Ontario around food safety requirements related to church bake sales.

Currently, such bake sales are exempt from the requirements of the *Ontario Food Premises Regulation*. This means that baked goods prepared in private residences can be served or sold at these events. However, a “gray area” exists where sales are conducted off site at venues such as special events. This situation recently raised local concerns about inequitable application of the Regulation and prompted the Council motion cited above.

Division staff acknowledge the contradiction in a regulation that appears to consider an activity safe in one location while unsafe at another. However, staff are also concerned that foods sold and served at charitable fund raisers can and have been implicated in serious outbreaks of foodborne illness.

In order to address this issue and respond to the Council motion, Division staff will

- consult with Food Safety Program staff in other Ontario health units to determine their approach to the bake sale exemption and their supporting rationale,
- seek a legal interpretation from the MOHLTC regarding the applicability of the exemption to “off-site” events and
- based on the information obtained, develop an interim policy that provides for effective and legally consistent food safety requirements for bake sales.

Due to early submission deadlines, this policy could not be included in this report. Staff will however report verbally on the policy at the Board of Health meeting.

**ANALYSIS/RATIONALE:**

The ability to move forward on both mandatory food handler training and the development of rational standards for charitable food events requires action on the part of the MOHLTC. The Ministry needs to finalize policies regarding these items and enact or amend relevant legislation to support them.

It is for these reasons that it is recommended that the Chair of the Board of Health correspond with the MOHLTC to expedite this process.
ALTERNATIVES FOR CONSIDERATION:

The Board may choose not to correspond with the MOHLTC on these issues. The result would be a lost opportunity to apprise the Ministry of its opinion with regard to the issues discussed in this report.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

As discussed in the Background, some of the food safety initiatives, if initiated by the MOHLTC may have staffing implications for the Division. These will become clearer once the Ministry implements its plan.

POLICIES AFFECTING PROPOSAL:

No policies have been identified that affect the recommendations in this report.

RELEVANT CONSULTATION:

Division staff have consulted with Food Safety program staff at other provincial health units.

CITY STRATEGIC COMMITMENT:

Community Well-Being is enhanced. ☑ Yes ☐ No
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Better food premises are better for the economy.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No