Council Direction:

Not applicable.

Information:

The purpose of this Report is to provide Members of the Economic Development and Planning Committee with information on the effect of the Interim Control By-law for Private Waste Disposal Sites which was passed by Council on April 23, 2008, and to present two options for amending the By-law in order to clarify the intent of Committee and Council with respect to the scope of facilities to be prohibited.

1.0 Background

At the Economic Development and Planning Committee meeting of March 15, 2008, Committee considered Information Report PED08064 which outlined a planning study commenced earlier this year by Jacques Whitford Limited to develop new Official Plan policies and zoning regulations for Private Waste Disposal Sites which is scheduled for completion in the Fall of 2008. At that meeting, Committee also directed staff to prepare an Interim Control By-law to prohibit all such facilities, pending completion of the study.

At the following Council meeting of April 23, 2008, the following motion was adopted:

“13. Proposed Interim Control By-law of Private Waste Disposal Sites

(a) That the planning review, originally authorized by City Council at its meeting of November 13, 2001 to review waste disposal sites (recycling facilities) and recently commenced in February of 2008 by Jacques Whitford Limited, be continued and completed expeditiously for all lands
located in the City of Hamilton in respect of land use planning policies in the municipality for all private waste disposal sites.

(b) That an Interim Control By-law attached hereto be passed and enacted pursuant to the provisions of Section 38(1) of the Planning Act, R.S.O., 1990, as amended, for all industrial zones located in the City of Hamilton, and in particular for the following zones Hamilton: J, JJ, K, KK, L-i, M-11, M-12, M-13, M-14, M-15; Dundas: I.L, I.G, I.LS; Flamborough: M1, M2, M3, EI; Stoney Creek: MS, MP, MT, MG, MSP, MBP, ME, MR; Glanbrook: M1, M2, M3, M4, M5, M6, M7, M8; Ancaster: M1, M2, M3, M4, M5, M6, to prohibit, save and except for those lands indicated on Schedule “A” to By-law 06-028, known as the West Hamilton Innovation District, save and except for those lands indicated on Schedule “A” to By-law 04-054, known as the Barton Street and Tiffany Street Industrial Area, save and except for any applications for a Part V Certificate of Approval for a waste disposal site filed with the Ministry of the Environment (MOE) prior to the date of the passing of the Interim Control By-law, and save and except for such lawful uses carried on immediately prior to the passage of the Interim Control By-law, the establishment of new private waste disposal sites or the expansion of existing private waste disposal sites, pending the completion of the planning review for such uses.”

Prior to passing the By-law on April 23, 2008, questions arose at Council about whether or not the proposed by-law would prohibit recycling facilities. There appeared to be a desire by some members of Council to discuss exempting these types of facilities from the By-law. Council requested that the minutes of the meeting indicate that the proposed by-law would not prohibit recycling facilities.

The Interim Control By-law, attached as Appendix “A” to this Report, was passed by Council on April 23, 2008. The By-law prohibits all types of Private Waste Disposal Sites for the zones stated in the resolution for which an application had not been filed under Part V of the Environmental Protection Act with the Ministry of the Environment prior to the passing of the By-law or which were legally existing prior to passing. In accordance with the resolution, industrially zoned lands excluded from the By-law include the West Hamilton Innovation District and the Barton Street and Tiffany Street Industrial Area where Interim Control By-laws remain in effect. Contrary to the confirmation given by staff at the Council meeting that recycling facilities would continue to be permitted, after reviewing the By-law in more detail following the Council meeting, staff now advises that the intent of the By-law was to prohibit all recycling facilities too.

The intent of Planning and Building staff was that the By-law passed by Council on April 23, 2008, prohibit the following broad categories or combinations thereof, of waste disposal facilities (solid, liquid, hazardous, non-hazardous):

- Waste Processing Facilities (i.e. all types of recycling, composting or other processing, and sorting facilities);
- Waste Transfer Facilities (i.e. facilities receiving and transporting both non-recycled and recycled materials); and,
Waste Disposal Facilities (storage of various types of materials).

Staff note that most of the MOE applications which are circulated to the City for comment and which are reported to Committee regarding staff’s recommended conditions for the Certificate of Approval, comprise a recycling component. Very few applications comprise only storage, processing for non-recycling or transfer facilities. Hence, if the Interim Control By-law were amended to exempt recycling facilities, it would be very limited in effect and only prohibit storage, processing for non-recycling and transfer facilities, or combinations thereof.

The City’s current Zoning By-laws do not define Waste Disposal Sites. Under the Environmental Protection Act, recycling facilities are not specifically defined but captured within the definition of “Waste Disposal Site” within the broad component of “processing”. There are also many types of waste disposal sites which are continually evolving. Future Official Plan policies and/or zoning regulations which are being developed by the consultant may define the different types of facilities.

2.0 Options

Below are two options for amending the Interim Control By-law passed on April 23, 2008 in order to provide clarification to the types of Private Waste Disposal Sites to be prohibited. The options add a section to define “Waste Disposal Site” to the attached By-law.

Option 1 prohibits all types of Private Waste Disposal Sites, including recycling facilities.

Option 2 permits facilities which have a “processing for recycling” component, and prohibits all other types of facilities.

Option 1

“5 a) For the purposes of this By-law, “Waste Disposal Site” is defined as follows:

Any non-municipal land, building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed.”

Option 2

“5 a) For the purposes of this By-law, “Waste Disposal Site” is defined as follows:

Any non-municipal land, building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, excluding all such cases where the waste is processed for recycling.”

3.0 Conclusions
If **Option 1** is adopted, then clarification will be added to the Interim Control By-law in Appendix “A” by an amending By-law to indicate that all types of Private Waste Disposal Sites will be prohibited. Notice of the passing of the original By-law and the amending By-law will be provided in the Spectator together, within 30 days of passing of the original By-law.

If **Option 2** is adopted, then the original Interim Control By-law in Appendix “A” will be amended to prohibit storage, processing for non-recycling and transfer facilities but continue to permit facilities which process for recycling. Notice of the passing of the original By-law and the amending By-law will be provided in the Spectator together, within 30 days of passing of the original By-law.

The Committee’s direction on this is requested.

____________________
Tim McCabe
General Manager
Planning and Economic Development Department

RW:dkm
Attach. (1)
CITY OF HAMILTON

BY-LAW No. ________________

To Establish Interim Control Zoning Respecting the following industrial zoned lands within the City of Hamilton: Hamilton: J, JJ, K, KK, L-i, M-11, M-12, M-13, M-14, M-15; Dundas: I.L, I.G, I.LS; Flamborough: M1, M2, M3, E1; Stoney Creek: MS, MP, MT, MG, MSP, MBP, ME, MR; Glanbrook: M1, M2, M3, M4, M5, M6, M7, M8; Ancaster: M1, M2, M3, M4, M5, M6, save and excepting those lands indicated on Schedule “A” to By-law 06-028, known as the West Hamilton Innovation District, and save and excepting those lands indicated on Schedule “A” to By-law 04-054, known as the Barton Street and Tiffany Street Industrial Area, and save and excepting those lands more particularly referenced herein.

WHEREAS subsection 38 of the Planning Act, R.S.O. 1990 c.P. 13 as amended permits Council of a municipality to pass an interim control by-law where the Council has directed that a review or study be undertaken in respect of land use planning policies within the municipality or in any defined area or areas thereof;

AND WHEREAS subsection 38(1) of the Planning Act, R.S.O. 1990 c.P. 13 as amended provides as follows:

38. (1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law.

AND WHEREAS the land which is the subject of this By-law was, as of January 1st, 2001 placed within the jurisdiction of the City of Hamilton, a new municipality incorporated as of January 1, 2001 by the City of Hamilton Act, 1999 (S.O. 1999, Chapter 14, Schedule C);
AND WHEREAS a land use study is necessary in order to determine the appropriate policies for the location of private waste disposal sites or the expansion of existing private waste disposal sites within the City of Hamilton;

NOW THEREFORE the Council of the Corporation of the City of Hamilton enacts as follows:

1. It is hereby directed that a planning study be undertaken in respect of the land use policies for the location of private waste disposal sites or the expansion of existing private waste disposal sites within the City of Hamilton.

2. Except for such lawful uses as the land is being used on the date of passing this by-law, no person shall use any land, building or structure in the following industrial zones of the City of Hamilton: Hamilton: J, JJ, K, KK, L-i, M-11, M-12, M-13, M-14, M-15; Dundas: I.L, I.G, I.LS; Flamborough: M1, M2, M3, EI; Stoney Creek: MS, MP, MT, MG, MSP, MBP, ME, MR; Glanbrook: M1, M2, M3, M4, M5, M6, M7, M8; Ancaster: M1, M2, M3, M4, M5, M6, for the establishment of any new private waste disposal site or the expansion of an existing private waste disposal site in accordance with the exceptions included in this by-law..

3. This By-law shall not apply to those lands indicated on Schedule “A” to By-law 06-028, known as the West Hamilton Innovation District.

4. This By-law shall not apply to those lands indicated on Schedule “A” to By-law 04-054, known as the Barton Street and Tiffany Street Industrial Area.

5. This By-law shall not apply to those lands for which any application for a Part V Certificate of Approval for a waste disposal site has been filed with the Ministry of the Environment prior to the date of the passing of the Interim Control By-law.

6. This By-law shall be in effect for a period of one year from the date of passing this by-law.

7. The Municipal Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this 23rd day of April, A.D. 2008.