SUBJECT: Request by Loyalist Township to Endorse Their Resolutions to Place a Moratorium on Burning of Waste Derived Fuel in Lafarge Canada Inc. Cement Kiln at Bath

Public Works Committee Outstanding Business Item (PW07006) - (City Wide)

RECOMMENDATION:

(a) That the City of Hamilton not take a position on the Loyalist Township resolutions concerning the moratorium on burning waste derived fuel in cement kilns and request for a full Environmental Assessment for the application from the Lafarge Canada Inc. for the Cement Kiln at Bath.

(b) That Loyalist Township be so advised.

(c) That these items on the Outstanding Business List of the Public Works Committee be deemed complete and removed.

Gerry Davis
Acting General Manager
Public Works

EXECUTIVE SUMMARY:

Lafarge Canada Inc. is proposing to burn waste derived or alternative fuel at its cement kiln at Bath, Loyalist Township through the approval of a Certificate of Approval under the Environmental Protection Act. Loyalist Township has passed two (2) resolutions regarding the same issue, which are attached as Appendices A and B to this report, and has asked other Ontario municipalities to support their resolutions and send responses directly to the Province.
These resolutions were referred to staff by Hamilton Council on September 13 (Appendix A) and September 27, 2006 (Appendix B) with a request that a report be brought forward to the Public Works, Infrastructure and Environment Committee.

There are two (2) past initiatives that should be considered by Council in determining a position on the Loyalist Township resolution. There is the position that has been taken by the Niagara-Hamilton Joint Working Group on the Lafarge proposal and Council’s more recent position on Environmental Assessment Act reforms. In both cases the moratorium on burning waste derived fuel in cement kilns as proposed by Loyalist Township are in conflict with previous positions put forward by the City.

The Lafarge proposal was raised as an issue at a meeting of the Niagara-Hamilton WastePlan Joint Working Group in the fall of 2004. The Joint Working Group sent a letter to the Ministry of the Environment indicating that they were very interested in the proposal as the resulting operational data on utilization of Refuse Derived Fuel (RDF) would be valuable to the WastePlan Environmental Assessment Study. A copy of the letter to the Ministry is attached as Appendix C to this report. In view of this letter, a resolution by Hamilton Council to support the Loyalist Township resolution may compromise the intent of the Niagara-Hamilton WastePlan initiative to undertake an Environmental Assessment study on the management of residual (post-diversion wastes).

In September 2006, the Public Works, Infrastructure and Environment Committee dealt with Report PW06122 related to “Proposed Regulatory Amendments to Facilitate Waste Recycling, Use of Alternative Fuels and New and Emerging Waste Management Technologies”. The Committee recommended that the City support the amendments and Hamilton Council approved the recommendation on September 27, 2006. A recommendation to support the Loyalist Township resolution would conflict with this position.

Therefore, it is recommended that the City of Hamilton not take a position on the Loyalist Township resolutions and that Loyalist Township be so advised. It is not necessary to send copies to other parties.

**BACKGROUND:**

The information provided in this report has City wide implications.

The City of Hamilton has received correspondence from Loyalist Township indicating that they have adopted two (2) resolutions requesting the Province of Ontario place a moratorium on the burning of waste derived fuel in all cement kilns until such time that a full Environmental Assessment can be completed.

On September 13, 2006 Hamilton Council received Item 5.11, which was correspondence dated August 16, 2006 from Loyalist Township indicating that a resolution was adopted at their August 8, 2006 Council meeting as attached in Appendix A. The resolution requests a moratorium on burning waste derived fuel in cement kilns until a full Environmental Assessment (EA) of impacts is completed and further requests that the application from Lafarge be subject to a full EA.
Subsequently, at the September 27, 2006 meeting Hamilton Council received correspondence Item 5.6 from Loyalist Township dated September 14, 2006 indicating that at their September 11, 2006 Council meeting, a follow-up resolution was adopted as attached in Appendix B. This resolution provides further detail to the initial resolution.

Accordingly, Hamilton Council made a recommendation to receive the correspondence and refer it to the General Manager of Public Works for comments to the Public Works, Infrastructure and Environment Committee.

**ANALYSIS/RATIONALE:**

In November 2004, the Niagara-Hamilton WastePlan co-chairs sent a letter (see Appendix C) to the Ministry of the Environment (MOE) indicating they were aware of the Lafarge proposal (EBR Registry Nos. IA03E1902 and IA04E0466) to use RDF at a demonstration scale for the purpose of generating operational data. The operational data would be valuable to the Niagara-Hamilton WastePlan Joint Working Group in their current Environmental Assessment (EA) Study and they looked forward to monitoring this proposal.

The MOE posted a proposal on the Environmental Bill of Rights (EBR) Registry No. RA06E0008, on July 19, 2006, that would amend certain regulations under the Environmental Protection Act (EPA) and the Environmental Assessment Act (EAA) in order to facilitate efforts of municipalities and the private sector to increase waste diversion and improve the management of residual wastes.

The City of Hamilton’s Public Works, Infrastructure and Environment Committee received Report PW06122, in September 2006 and recommended that the City of Hamilton support the amendments. Council approved the recommendation at the September 27, 2006 Council meeting.

Given the awareness the City of Hamilton has gained through the Niagara-Hamilton WastePlan process, as well as recent comments in support of the MOE’s July 19, 2006 posting on the EBR Registry, supporting the Loyalist Township resolutions would contradict the City of Hamilton’s position.

**ALTERNATIVES FOR CONSIDERATION:**

Consideration of the alternative to support the Loyalist Township resolutions would conflict with other actions that have been taken by Council and is not recommended.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

There are no financial, staffing or legal implications of the recommendation in this report.
POLICIES AFFECTING PROPOSAL:

The Solid Waste Management Master Plan (SWMMP), approved by Council on December 11, 2001, contains Recommendation #5 that states:

“A new state-of-the-art Energy from Waste (EFW) facility may form part of the City of Hamilton’s waste management system so the need for the EFW must be revisited in 2006 to determine if such a facility is needed to optimize the disposal capacity at the Glanbrook Landfill site. Our diversion rates will continuously be monitored in order to determine the likelihood of success of achieving our 2006 targets.”

Although Recommendation 5 is a key step in the Solid Waste Management Master Plan (SWMMP) to manage its waste responsibly, any changes to the Environmental Assessment process may have long reaching effects on the SWMMP.

RELEVANT CONSULTATION:

No other Departments were consulted.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. □ Yes ☑ No
Environmental Well-Being is enhanced. □ Yes ☑ No
Economic Well-Being is enhanced. □ Yes ☑ No

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
August 16, 2006

To All Municipalities in the Province of Ontario:

Please be advised that the Council for The Corporation of Loyalist Township, at its meeting of August 8, 2006, adopted the following resolution:

WHEREAS Loyalist Township considers environmental protection paramount;

AND WHEREAS there is great public concern over the use of waste derived fuel in cement kilns;

AND WHEREAS Loyalist Township supports a level playing field across the Province in assessing applications for using waste derived fuel in cement kilns;

NOW THEREFORE BE IT RESOLVED that the Council of The Corporation of Loyalist Township requests the Province of Ontario to pass a regulation placing a moratorium on the burning of waste derived fuel in all cement kilns until such time that a full environmental assessment as to suitability of using waste derived fuel in cement kilns has been completed; and, if the Province rejects the moratorium on burning of waste derived fuel in cement kilns, then the application of Lafarge North America, Cement Division, Bath plant shall be assessed under the provisions of the Environmental Protection Act, with a public hearing;

AND FURTHER that a copy of this resolution be forwarded to all municipalities in the Province of Ontario, Premier Dalton McGuinty, Leona Dombrowsky, MPP Hastings, Frontenac Lennox & Addington and Laurel C. Broten, Minister of Environment

Loyalist Township respectfully requests that all Ontario municipalities support this resolution.

IF YOUR MUNICIPALITY ENDORSES THIS RESOLUTION PLEASE FORWARD YOUR LETTERS DIRECTLY TO THE HONOURABLE DALTON MCGUINTY, PREMIER OF ONTARIO, THE HONOURABLE LAUREL C. BROten, MINISTER OF ENVIRONMENT AND YOUR LOCAL MPP.

Sincerely,

Brenda J. Hamilton, CMO
Township Clerk
September 14, 2006

To All Municipalities in the Province of Ontario:

Please be advised that the Council for The Corporation of Loyalist Township, at its meeting September 11, 2006, adopted the attached resolution and requested that it be circulated to all municipalities in the province for support. This a follow-up resolution to the one circulated August 16, 2006 requesting a moratorium on burning waste.


Sincerely,

[Signature]

Brenda J. Hamilton, CMO
Township Clerk
RESOLUTION

Moved by Councillor Hudac

Seconded by Councillor Ashley

WHEREAS the application to the Ministry of Environment for certificates of approval for Lafarge Canada Inc. to store and burn waste derived fuel as alternative fuels in a cement kiln, and manage as waste the resulting Cement Kiln Dust is unprecedented and the first application of its kind in the Province of Ontario,

AND WHEREAS the Lafarge Canada Inc. applications for certificates of approval to burn waste derived fuel as alternative fuels in the cement kiln in Bath, Ontario is currently in the process of technical review with no imminent decision of the Minister of the Environment projected,

AND WHEREAS Loyalist Township considers the health and safety of its citizens and the protection of our environment as paramount, and

AND WHEREAS there have been public and private concerns from organized groups and individuals expressed to the Council of Loyalist Township and to the Minister of the Environment regarding the use of waste derived fuel as alternative fuels in cement kilns;

AND WHEREAS Loyalist Township wishes to protect its citizens and support local industry,

AND WHEREAS the Council of Loyalist Township has passed a resolution requesting that the Province of Ontario through the Minister of the Environment pass a regulation placing a moratorium on the burning of waste derived or alternative fuel in all cement kilns until a full environmental assessment at the Provincial or Industry wide level with public hearings is completed, to ensure a safe environment and to safeguard the health of the citizens of Ontario,

NOW THEREFORE BE IT RESOLVED that the Council of Loyalist Township requests a full environmental assessment as it relates to the Lafarge Canada Inc. Bath Plant proposal on the burning of waste derived or alternative fuel in that cement kiln to address environmental impacts on Loyalist Township, as well as neighbouring parts of the Province of Quebec and Manitoba and the U.S.A.;

AND FURTHER, if the Province of Ontario rejects the requested moratorium on burning of waste derived fuel in cement kilns and a full environmental assessment to address burning of waste derived fuel in cement kilns in Ontario and specifically at the Lafarge Canada Inc. Bath Plant, that the current application of Lafarge Canada Inc. Bath Plant be assessed under the provisions of the Environmental Protection Act Part V, with a formal public hearing struck by the Director of the Ministry of the Environment taking into account all measures recommended by Loyalist Township in its resolution of February 2004 as follows:

  a) That the Ministry of the Environment hold a public hearing under the Environmental Protection Act to review the technical issues relating to the Proposals;
  b) That the Ministry require the use of Best Available Control Technology (BACT) or the emission criteria for the Bath facility be established at a level equivalent to BACT;
  c) That the Bath facility make use of continuous air monitoring equipment, a continuous recording of inlet temperature to the Air Pollution Control Device (APCD) and that a
Contingency Plan be developed, including public notification, if emission levels exceed BACT criteria.

d) That the Bath facility prepare and release a user friendly annual summary report within 3 months of year-end to the Ministry of the Environment and Loyalist Township that includes vehicle traffic and air monitoring data relating to the type and the amount of waste derived fuel consumed during the previous year. The report should also document any upset conditions such as, but not limited to, the failure to maintain the temperature at the entrance to the Electronic Precipitator at the level below which dioxins and furans readily form, and the action taken under such conditions.

e) That Lafarge conduct bi-annual stack testing while alternative fuels are being utilized, including for dioxins and furans, and incorporate the results in the annual summary report.

f) That Lafarge be required in the annual summary report to review current BACT and to comment on the adequacy of the currently installed equipment in meeting BACT.

g) That Lafarge develop a Fire Protection Plan for the storage of waste derived fuel acceptable to the Fire Chief for Loyalist Township.

WITH THE ADDITION OF

h) That the Ministry of Environment simultaneously regulate measures to safely manage waste Cement Kiln Dust resulting from the use of waste derived or alternative fuel if the Ministry grants a certificate of approval for the burning of waste derived fuel as alternative fuels; and

i) That the Ministry of Environment and the Province of Ontario formulate a plan to address emissions from projected future increased volumes of burning of waste derived or alternative fuels to maintain safe levels of resulting total emissions from industries other than Lafarge Canada Inc. in Eastern Ontario and throughout the Province of Ontario and crossover emissions from adjoining areas of the Provinces of Quebec and Manitoba and the U.S.A.;

AND FURTHER that this resolution be forwarded to all Ontario municipalities for their support and that these municipalities forward such support to The Honourable Dalton McGuinty, Premier of Ontario, and The Honourable Leona Dombrowsky, MPP Hastings-Frontenac-Lennox and Addington, and Loyalist Township;

AND FURTHER that this resolution be forwarded to The Honourable Dalton McGuinty, Premier of Ontario, The Honourable Laurel Broten, Minister of the Environment and The Honourable Leona Dombrowsky, MPP Hastings-Frontenac-Lennox and Addington.

CARRIED √ LOST ____ DEFERRED.

RECORDED VOTE:

(Requested by)

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[Signature]

Reeve
November 19, 2004

Mr. James O’Mara
Director
Environmental Assessment and Approvals Branch
Ministry of the Environment
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario M4V 1L5

Re: Lafarge Bath Alternative Fuels Project

Dear Mr. O’Mara:

We understand that this proposal involves the utilization of RDF at a demonstration scale for the purpose of generating operational data. It is also understood that the RDF will be generated from a variety of waste sources including the municipal solid waste (MSW) stream.

As you are aware, Niagara and Hamilton have partnered to undertake an environmental assessment (EA) study for the management of residual (post-diversion) wastes. We call it the “WastePlan” study and it is being directed by a joint group of political and public representatives from both municipalities. The Niagara-Hamilton WastePlan Joint Working Group is interested in the development of operational data on the utilization of alternative fuels, and particularly RDF, and accordingly is very interested in this proposal, as the results of this undertaking would provide valuable information for use in our EA Study.

The Niagara-Hamilton WastePlan has recently submitted EA Terms of Reference for consideration by the Minister of the Environment. The purpose of our undertaking is to manage the wastes that will remain after the application of both municipalities’ (i.e., Niagara Region and City of Hamilton) at source waste diversion (reduction, reuse, recycling and composting) programs.

One of the “Alternatives to”, that we propose to consider in our EA, is the thermal processing of the post diversion residual wastes. Thermal processing covers a range of technologies including the combustion of both unprocessed and processed residual wastes including RDF. There is considerable reliable information on the net effects, including air emissions and ash quantities/characteristics of combustion residues and unprocessable wastes from state-of-the-art incineration facilities. Unfortunately, comparable information on the net effects from the combustion of RDF in North American facilities is limited and is not available for cement kilns.

Lafarge cites a number of benefits that are of particular interest to the Region and City with regards to our EA study and, in theory, appear reasonable. These benefits include:

- No new air emissions, as alternative fuels substitute for coal at existing facilities.
- A net improvement in air emissions (as proponent claims waste derived fuels are “cleaner” than the coal that they replace).
- Compliance with all air quality requirements (i.e., Guideline A-7).
• High temperature and long residence time in cement kiln assures destruction of potential contaminants.
• Opportunity to recover additional recyclable materials at waste processing/fuel production facility.
• Minimization of residue quantities requiring landfill disposal. Ash resulting from combustion of waste derived fuel is bound up in a benign fashion within the cement clinker.

The undertaking proposed by Lafarge North America could provide sound data validating these potential benefits and, therefore, could significantly benefit us in the upcoming portion of our EA that will address our “alternative to”.

Thank you for considering our comments on the Lafarge proposal and we look forward to observing the outcomes of the subject proposal (EBR Registry #’s IA03E1902 and IA04E0466).

Yours truly,

Niagara-Hamilton WastePlan Joint Working Group

Gary Burroughs
Co-Chair (Regional Municipality of Niagara)

David Braden
Co-Chair (City of Hamilton)

Copy to:

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