



Brampton

REPORT

Planning, Design & Development Committee

Standing Committee of the Council
of the Corporation of the City of Brampton

Date: September 06, 2006

File: N05

Subject: **EXTENSION OF INTERIM CONTROL BY-LAW 312-2005
Incineration and Waste Processing Transfer and Disposal Study**

Contact: Paul Aldunate (874-2435)
Janice Given (874-3459)

Overview:

- **Interim Control By-Law 312-2005 is set to expire on October 11, 2006. Staff are recommending to Council that the By-Law be extended for a second term.**
- **An extension is needed to continue the prohibition on the expansion and development of any waste transfer or recycling stations along with combustion-based power generation facilities within areas of the City of Brampton defined in Appendix A.**
- **The extension of the By-Law would allow sufficient time for the City to finish the Incineration and Waste Processing Transfer and Disposal Study and for Council to consider appropriate amendments to the City's planning documents.**
- **Interim Control By-Law 312-2005 was required so that the City could reassess and the current policy framework for dealing with waste incineration, waste processing, and energy generation.**

RECOMMENDATIONS:

1. THAT the staff report dated September 6, 2005 and entitled "Extension of Interim Control By-Law 312-2005: Incineration and Waste Processing Transfer and Disposal Study" be received;
2. THAT the proposed extension to Interim Control By-Law 312-2005, attached hereto as Appendix A, be forwarded to City Council for approval;
3. THAT City staff be authorized to continue with the Incineration and Waste Processing Transfer and Disposal Study including holding a public meeting early in 2007 to obtain public input.

BACKGROUND:

Incineration, waste processing, and energy generation have become prominent land use issues in Brampton and the GTA. Forecasts for the Greater Golden Horseshoe project an additional 3.7 million people by 2031. This growth poses implications and presents challenges for energy generation, waste management and the associated policy frameworks. There are numerous municipal responsibilities associated with the consideration of waste and energy infrastructure including land use compatibility and consideration for public health and safety as identified through the Planning Act, Provincial Policy Statement (PPS).

The waste processing, transfer and disposal issues are combined with the issues of an emerging energy supply shortage. The supply of fossil fuels and electricity in the province is threatened and prices have risen sharply. It is expected that incinerators for power generation and or waste disposal will be considered. It is recognized that the current policy and land use regulation framework in Brampton needs refinement in order to deal with the challenges associated with the pressures that are anticipated.

Recommendation PDD209-2005 of the Planning, Design and Development Committee Meeting of September 7, 2005 was approved by Council of the Corporation of the City of Brampton on September 12, 2005 and demonstrates that Council is concerned with incineration within the City of Brampton.

City Council approved Interim Control By-Law 312-2005 (ICB) on October 12, 2005 to prohibit new and expanded incinerators and waste processing, transfer and disposal facilities (except as is necessarily incidental to any permitted industrial or manufacturing use) for a period of 1 year, for specific areas of the City, which generally include all employment lands in the City.

The ICB excluded those facilities owned, operated, managed by or used for the purposes of a municipal waste program pursuant to a contact with the Region of Peel and the Site Energy facility, located west of Goreway Drive and north of Highway 407, which received planning approvals prior to the enactment of the ICB.

The purposes of this report are to:

- Update Planning Design and Development Committee on the status of the Incineration and Waste Processing Transfer and Disposal Study;
- Extend the Interim Control By-Law for another year to allow for the completing the Incineration and Waste Processing Transfer and Disposal Study and for staff to draft the appropriate amendments to the City's planning documents for Council's consideration.

CURRENT SITUATION

The purpose of the Incineration and Waste Processing Transfer and Disposal Study is to:

- to evaluate the appropriateness of the City's land use designations, applicable land use policies, as well as transportation modes and routes; and
- to recommend implementation policies and zoning measures to guide development of incineration and waste processing, transfer and disposal sites.

Early in 2006 the firm of Marshall Macklin Monaghan was selected to undertake the study. A technical working group has been assembled consisting of City and Regional staff to work with the consultants in completing the study and assessing the City's current and future policy framework. The study has generally been divided into three main phases including a Research Compendium, Evaluation and Analysis followed by Implementation.

Phase 1: Research Compendium (see Appendix B)

Phase 1 summarizes the existing policy framework of the various levels of government and public agencies, provides a regulatory overview and discusses the potential land use effects from existing and emerging technologies. This included a review of the approach and policy framework of the other municipalities faced with similar issues, to identify general requirements, patterns and anomalies.

According to Phase 1 the City's planning policy and approvals process will need to:

- a. address issues of local interest;
- b. reflect/relate to the approval responsibilities of Provincial and Federal Agencies; and
- c. fulfill the City's responsibilities that are not addressed in the Provincial or Federal levels, without unnecessarily overlapping them.

Phase 1 describes the emerging types of technology that are being used to process and recycle waste, which include physical, biological, thermal and chemical processes. It is recognized that the Region of Peel is using some the latest technology emerging in the field of waste management.

To consider the potential for waste management and power generation facilities to result in environmental effects in off-site areas, the types of existing waste management facilities existing in Brampton were identified. These facilities were then classified according to the type of waste management conducted in the facility.

The Report identifies seven categories of facilities, which exist in the City and/or may be anticipated through emerging technologies. The existing facilities have been mapped in relation to their relevant Official Plan and Secondary Plan land-use designations, and the potential effects associated with the facility categories have been summarized.

From a City-wide perspective the general clustering of facilities is focused within the four distinct areas generally within the Industrial and Business land-use designations. Furthermore, the facilities are generally located interior to the Industrial and Business

Industrial areas.

Phase 1 of the Study remains in draft form until Phase 2 is completed, which will build on and corroborate the findings of Phase 1. Phase 1 provides a good base for moving forward with the study by helping put Brampton into context with the number of policy layers and levels of jurisdiction that are involved with waste management and power generation, and by describing the various types of waste processing technologies that are being used today.

Phase 2: Evaluation and Analysis

The Evaluation and Analysis component of the study involves the identification of possible strategies to manage waste and energy uses. The consultants have been working with staff to formulate strategies for dealing with types of incineration, waste processing, and combustion-based power generation uses. The City's current policy framework is to be scoped for any deficiencies and improvements. This means considering the potential risk for the City of Brampton associated with land use development adjacent to waste management and combustion-based power generation facilities. Phase 2 of the study is currently underway. As part of Phase 2 a public meeting will be held to present findings and solicit feedback. Staff are seeking direction to hold this meeting early in 2007 (see Recommendation #3).

Phase 3: Implementation

The implementation phase of the study will involve suggesting amendment to the policies of the Official Plan and Zoning By-law that govern waste management and combustion-based power generation facilities. The final recommended amendments to the City's policies and zoning by-law will be prepared based on the results of the consultant's study and input from City staff and consultations with the public.

Proposed Extension to Interim Control By-Law 312-2006

Interim Control By-Law 312-2005 was required to prohibit new and expanded incinerators and waste processing, transfer and disposal facilities (except as is necessarily incidental to any permitted industrial or manufacturing use) for a period of 1 year for specific areas in the City, which generally include all employment lands in the City in order for the City carry out a study. As the study is only partially completed, staff are recommending to Council that Interim Control By-Law 312-2005 be extended for another term.

Staff advise that under Section 38 of the *Planning Act*, Council has the authority to extend Interim Control By-Law 312-2005 with the initiation of a study such as the Incineration and Waste Processing Transfer and Disposal Study

The purpose of the Interim Control By-Law is to maintain the status quo while the City carries out a planning study for the area.

Status of Appeals Concerning Interim Control By-Law 312-2005

Mississauga Metals and Alloy (MM&A):

In May 2004, Mississauga Metals and Alloys Inc. applied to the Canadian Nuclear Safety Commission to receive a Waste Nuclear Substance Licence that would allow for the

installation of an incinerator in an existing building. It would include the construction of the required facility, the installation of the incinerator, supporting mechanical and electrical systems and the activity of incinerating waste. MM&A also gave public notice of its intention to apply for a Waste Nuclear Substance License to install and operate a compact, natural gas fired incinerator system for the activity of incinerating Low Level Radioactive Materials generated at commercial facilities such as research institution and nuclear fuel manufactures.

In September 2005, Brampton City Council passed a resolution, indicating that the City would provide the Region, the province and the federal government with copies of all letters of concern and objection to the Mississauga Metals & Alloys' proposed expansion. The resolution also stated the City would vigorously defend its Official Plan, zoning policies and municipal by-laws with regard to the application.

City Council approved Interim Control By-Law 312-2005 on October 12, 2005 to prohibit new and expanded incinerators and waste processing, transfer and disposal facilities for a period of 1 year, for specific areas of the City, which generally include all employment lands in the City.

In December of 2005, MM&A provided notice of its intent to appeal the Interim Control By-Law because they considered the By-Law to be passed in bad faith, and is discriminatory specifically against MM&A and not based on proper planning.

In July 2006 the City received notice that MM&A have withdrawn their appeal to the Ontario Municipal Board. MM&A also indicated that they have suspended its application to the Licensing Division of the Canadian Nuclear Safety Commission to operate a low-level radioactive waste incinerator on its site.

Canadian Eco Rubber Ltd.:

Canadian Eco Rubber Ltd. plans to move into an existing building at 8 Bramwin Court to operate a business that will receive used tires and process them into rubber crumb and removing the fibre and steel.

Canadian Eco Rubber Ltd. applied to the Committee of Adjustment for a minor variance for a waste processing facility within 120 metres from a non-industrial zone. On May 30, 2006 the request was approved, provided that the applicant receives an exemption from Council on the Interim Control By-Law, or that the Ontario Municipal Board appeal of the Interim Control By-Law is granted.

The proposal by Canadian Eco Rubber Ltd. satisfied staff that the purpose and intent of the Interim Control By-Law and planning study are not offended by the exemption. The exemption was deemed to be in keeping with the original intent of passing the Interim Control By-Law and initiating the study. On June 12, Council passed By-law 185-2006, which exempted Canadian Eco Rubber Ltd. from Interim Control By-Law 312-2005.

The exemption has since been appealed to the Ontario Municipal Board by North East Tubes Inc. North-East Tubes is a wholesale distributor of steel pipe products which operates a

warehouse at 29 Nugget Court. North East tubes is concerned about the effect the implementation of By-Law 185-2006 will have on its employees and, more generally, on the planning process within the City of Brampton.

The basis North East Tubes appeal, which is outlined in their letter dated August 12, 2006, is as follows:

- It is inappropriate to grant exemption prior to completion of the Interim Control By-Law Study;
- The By-Law does not constitute good planning since the proposed use is incompatible with surrounding land-uses and will have adverse land-use and environmental impacts on the North-East Tubes; and
- Health, safety and environmental concerns are not properly addressed through the exemption.

Staff are awaiting instruction from the OMB concerning the timing and location of a pre-hearing conference to discuss the appeal and scope down arguments.

CONCLUSION

It is anticipated that the Incineration and Waste Processing Transfer and Disposal Study will be completed in 2007. Once the consultant's Study has been completed staff will prepare a Recommendation Report to the Planning Design and Development Committee and Council to endorse the Study's recommendations. After the report is endorsed, staff will begin to initiate the planning process required to incorporate the study recommended land-use policies to the Official Plan.

In light of the foregoing, staff are recommending that Interim Control By-Law 312-2005 be extended by City Council for a second term to allow for the completion of the study and to provide staff with the opportunity to draft the appropriate amendments to the City's planning documents.

Respectfully Submitted:

Adrian J. Smith, MCIP, RPP
Director, Planning & Land Development
Services

John B. Corbett, MCIP, RPP
Commissioner, Planning, Design &
Development Department

Authored by Paul Aldunate

Attachments:

Appendix A: *By-Law*

Appendix B: *Incineration and Waste Processing Transfer and Disposal Study: Phase 1- Research Compendium (Draft), June 2006*

APPENDIX A

By-Law

APPENDIX B

**Incineration and Waste Processing Transfer and Disposal Study:
Phase 1- Research Compendium (Draft), June 2006**