

Minute No. 148 as recorded in the Minutes of the meeting of the Council of The Regional Municipality of York held on November 15, 2018.

**148 Report No. 1 of the Commissioner of Environmental Services -  
Resolution to Expand Mandatory Waste Diversion Programs and  
Increase Waste Diversion Capacity**

It was moved by Regional Councillor Ferri, seconded by Mayor Quirk that Council adopt the recommendations in the report with the following amendments as noted:

**Addition to Recommendation 2:**

The Regional Clerk also circulate the report to the Association of Municipalities of Ontario.

**Recommendation 3:**

That Council request the province to strengthen policies and legislation to require producers to ensure the use of recyclable materials.

Carried

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Report dated October 25, 2018 from the Commissioner of Environmental Services now follows:

**1. Recommendations**

It is recommended that:

1. Council approve the resolution with respect to Ontario's need to expand mandatory waste diversion programs and increase waste diversion capacity to reduce dependence on landfill disposal, as outlined in Attachment 1.
2. The Regional Clerk circulate this report to the Mayor of Ingersoll, Ontario, the local municipalities, the Environmental Commissioner of Ontario, and the Ministry of the Environment, Conservation and Parks (MECP).

## **2. Purpose**

On September 20, 2018, Council received a deputation from Ted Comiskey, Mayor of the Town of Ingersoll, Ontario, which was referred to staff for a report at a future meeting. A copy of Mayor Comiskey's proposed resolution is included as Attachment 2 for reference. This report presents a modified resolution for adoption by Council which affirms York Region's support for rigorous environmental and public consultation requirements for landfills while calling on the provincial government to reduce demand for landfill disposal through increased waste diversion efforts with additional emphasis on the non-residential sector.

## **3. Background**

### **York Region continues to demonstrate environmental leadership by achieving first place in the large urban category of the Resource Productivity Recovery Authority Datacall**

York Region remains a provincial leader in the area of waste diversion, achieving first place ranking in the large urban category of the Resource Productivity and Recover Authority Datacall in every year since 2012. Subject to final verification by Resource Productivity Recovery Authority, York Region's reported waste diversion rate for 2017 was 68 per cent of total tonnes managed. York Region further reduces its contribution to Ontario's landfills by managing as much of its non-recyclable residual waste as possible at energy-from-waste facilities, achieving an overall 2017 diversion-from-landfill rate of 93 per cent while landfilling only 25,057 tonnes of waste. With Council's leadership, York Region remains on-pace for further landfill tonnage reductions in 2018.

In February 2018 the Resource Productivity and Recovery Authority released final, verified waste diversion rates for the 2016 reporting year. Results for the top ten municipalities are summarized in Table 1.

**Table 1**  
**2016 Overall Top 10 Resource Productivity and Recovery**  
**Authority Residential Waste Diversion Rates**

| Municipality             | Reported Population | Waste Generated (Tonnes) | Waste Diverted (Tonnes) | Waste Diversion Rate |
|--------------------------|---------------------|--------------------------|-------------------------|----------------------|
| York Region              | 1,186,907           | 374,718                  | 246,297                 | 65.7%                |
| Simcoe County            | 305,516             | 146,503                  | 88,911                  | 60.7%                |
| Dufferin County          | 61,735              | 19,946                   | 11,994                  | 60.1%                |
| City of Kingston         | 123,798             | 42,007                   | 25,245                  | 60.1%                |
| City of Guelph           | 131,000             | 55,423                   | 32,537                  | 58.7%                |
| City of Orillia          | 30,837              | 10,917                   | 6,274                   | 57.5%                |
| Halton Region            | 548,470             | 205,736                  | 116,532                 | 56.6%                |
| North Frontenac Township | 1,842               | 2,758                    | 1,549                   | 56.1%                |
| Niagara Region           | 447,888             | 191,341                  | 106,652                 | 55.7%                |
| Durham Region            | 663,460             | 250,159                  | 138,594                 | 55.4%                |

#### **4. Analysis and Implications**

##### **Low diversion in the non-residential sector is attributable primarily to the absence of mandatory diversion programs**

Ontario's previous waste diversion framework, as embodied in the *Waste Diversion Act, 2002* and related legislation, established mandatory diversion programs which vary by sector. Within this framework, different diversion program requirements apply to large and small municipalities, and to various non-residential waste sources within the industrial, commercial, and institutional sector.

Based on the most recent data set available from Statistics Canada, Ontario achieved an overall diversion rate of approximately 26 per cent in 2016, as summarized in Table 2.

**Table 2**  
**Summary of 2016 Ontario Waste Diversion and Disposal by Sector<sup>1</sup>**

| Sector          | Diversion Tonnes | Disposal Tonnes  | Total Tonnes      | Sector Contribution to Overall Tonnes Managed | Diversion Percentage |
|-----------------|------------------|------------------|-------------------|---|----------------------|
| Residential     | 2,135,660        | 3,703,850        | 5,839,510         | 46%   | 37%                  |
| Non-Residential | 1,174,051        | 5,771,622        | 6,945,673         | 54%   | 17%                  |
| <b>Overall</b>  | <b>3,309,711</b> | <b>9,475,472</b> | <b>12,785,183</b> | <b>100%</b>                                   | <b>26%</b>           |

1. Statistics Canada Table 38-10-0033-01 Materials diverted, by source, and Table 38-10-0032-01 Disposal of waste, by source.

While some municipalities like York Region have achieved residential diversion rates of 60 per cent and higher, waste diversion is much lower in the non-residential sector, which accounts for approximately 54 per cent of the total waste generated in Ontario. This non-residential industrial, commercial, and institutional sector achieves a collective diversion rate of only 17 per cent. Low diversion in the non-residential sector is attributable primarily to the absence of mandatory diversion programs for many businesses and the lack of well-defined diversion targets for businesses that are covered by existing legislation.

**Ontario Waste Management Association estimates that continued landfilling at current rates could exhaust Ontario’s existing capacity in 11 to 17 years**

Ontario currently has limited landfill capacity, and much of the capacity that exists is subject to permit limits on the geographical service area and categories of non-hazardous waste that can be received. The newest large scale commercial landfill sites to be approved in Ontario with province-wide service areas are the Twin Creeks Landfill in Watford and the Walker South Landfill in Niagara Falls, which both commenced operation in 2009. York Region currently sends approximately 20,000 tonnes per year to the Walker South Landfill site through a contract which expires in June 2025. York Region also maintains a contingency contract for the Twin Creeks Landfill, which can be used as an alternate when the Walker South site is unavailable.

In its *State of Waste in Ontario: Landfill Report* dated February 24, 2016, the Ontario Waste Management Association estimates that continued landfilling at current rates could exhaust Ontario’s existing capacity in 11 to 17 years.

**New and expanding landfill sites and energy-from-waste facilities can require in excess of 10 years for approval, design, and construction**

Ontario’s urgent need for new waste disposal capacity is compounded by the long time period required to complete approvals, design, and construction of new or expanding

landfill sites or energy-from-waste facilities. For example, the Environmental Assessment for Walker Environmental's proposed Southwestern Landfill site in the Township of Zorra, near Ingersoll, began in early 2012, and achieved approval of the Terms of Reference in March 2016. The technical studies and public consultation activities specified in the Terms of Reference are currently in progress, and are expected to be submitted for approval by the MECP in late 2019. If approved, it is anticipated that municipal planning approvals, permitting, detailed design, and construction will require an additional three to four years to complete, resulting in a total development timeframe in excess of ten years. This timeframe is typical of other recent Ontario landfill developments, and of York Region's own experience with the Durham York Energy Centre.

**The Province should set ambitious and measureable waste diversion targets and timelines for all sectors**

The Government of Ontario is currently updating its waste diversion regulation framework through the *Waste-Free Ontario Act, 2016*. This provides an excellent opportunity for the province to reduce demand for new landfill capacity by expanding mandatory diversion programs to include additional mid-sized municipalities and multi-residential buildings, and more importantly, businesses, and industries not covered by the previous regulatory framework. The Region advocated for greater focus and target setting for underperforming sectors in consultation with the Province on the [Strategy for a Waste-Free Ontario \(2017\)](#) and [Food and Organic Waste Framework \(2018\)](#). It was encouraging to see that the finalized *Food and Organic Waste Framework (2018)* includes targets for organic waste reduction and diversion for the commercial sector. The Province should set ambitious and measureable performance targets and timelines for all sectors and ensure these are enforced.

**The Province should increase waste diversion capacity through new funding opportunities and streamlined approvals for waste processing facilities**

Expanding the scope of mandatory diversion programs to include new municipal, industrial, commercial, and institutional participants will increase demand for waste diversion infrastructure which is already operating at full capacity. The Government of Ontario should take action to increase waste diversion capacity through new funding opportunities and streamlined approvals for waste processing facilities to meet this additional demand.

**Rigorous Environmental Assessment process ensures meaningful public consultation and environmentally responsible landfill development**

New and expanding landfill sites larger than 100,000 cubic meters are required to obtain approval from the MECP in accordance with the requirements of the *Environmental Assessment Act*. The Environmental Assessment process for landfill

sites is a rigorous, multi-step process that typically requires five to ten years to complete. Every step in the process includes mandatory review and comment periods and consultation with affected stakeholders such as local municipal governments, Indigenous communities, conservation authorities, advocacy groups and the public at large.

The MECP posts its review of the final Environmental Assessment Study Document for a five-week public comment period. During this comment period, concerned stakeholders such as local municipalities may request a hearing before the Environmental Review Tribunal. Landfills are also subject to other provincial-level approvals under the *Environmental Protection Act*, *Ontario Water Resources Act*, and *Species at Risk Act*.

**Public engagement opportunities and compliance monitoring are common conditions of Environmental Assessment approvals**

When an Individual Environmental Assessment is approved, the MECP issues conditions which commonly include mandatory annual reporting on how the proponent is complying with the conditions of approval. It is also common for a public liaison committee to be established for continued stakeholder engagement after approval is obtained.

**Staff recommend support for rigorous application of the existing landfill approval process without requiring pre-approval by the local municipality**

In addition to the above-noted provincial Environmental Assessment approval, municipalities can also regulate landfill sites through official plan and zoning by-law amendments. Local municipalities can use zoning bylaws to restrict landfill development to specified areas and enforce reasonable development standards that are consistent with standards that apply to other types of businesses. However, a local municipal council currently cannot block a landfill development once provincial approval has been granted. Mayor Comiskey's deputation to Council referenced Bill 201 2018, a private member's bill halted by the recent provincial election, that would have required local municipal approval prior to issuing provincial level approvals for landfills.

While every effort should be made to reduce demand for landfill capacity through waste reduction and diversion, landfills continue to play a critical role in Ontario's waste management system. Staff are concerned that requiring local municipal approval prior to issuance of provincial approvals would allow a local municipality to stall the provincial process indefinitely. The current provincial and municipal approvals processes work together to ensure landfills are protective of the environment and developed in a manner that respects the local community. The amended resolution before Council expresses support for rigorous application of the existing process without requiring pre-approval by the local municipality.

### **Proposed right to block landfill development in adjacent municipalities reduces local municipal autonomy**

Private landfill developers typically make financial contributions to local municipalities through a host community agreement. As private businesses, landfill developers also pay property taxes to the local municipality and bring both direct and indirect employment opportunities to the area. The Ontario Waste Management Association reports that private landfills currently pay approximately \$8.5 million per year to local municipalities through host community agreements and \$3.5 million per year in property taxes or payments in lieu of taxes on landfill properties.

Mayor Comiskey's original resolution proposes that landfill developments should require approval by adjacent municipalities, and in the case of two-tier municipalities, that approval should be required at both levels. This creates the possibility that a lower-tier municipality, having reached agreement with a landfill developer on acceptable compensation through a host community agreement, could have the development blocked by a neighboring municipality or the upper-tier municipality. Staff have removed this requirement from the amended resolution to preserve a local municipality's right to regulate land use within its own boundaries.

### **Amended resolution supports the Sustainable Environment objective of the 2015 to 2019 Strategic Plan**

York Region and other Ontario municipalities have made significant gains in waste diversion in recent years through implementation of mandatory diversion programs and targets. The amended resolution to expand these mandatory programs and targets to new sectors supports the Sustainable Environment objective of the 2015 to 2019 Strategic Plan by driving further province-wide improvements in waste diversion.

## **5. Financial Considerations**

### **Expanding mandatory diversion programs in the non-residential sector provides the largest opportunity for improvement**

The Province's previous waste diversion regulations have achieved significant improvements in the residential sector, with 20 of the 105 municipalities participating in the 2016 Resource Productivity Recovery Authority Datacall achieving diversion rates of 50 per cent or higher. Continuing to focus on the residential sector, while neglecting to address waste diversion in the business sector where more than half of all waste is generated misses the largest opportunity to increase diversion across the Province. Many businesses produce homogeneous waste streams that are cheaper and easier to recycle and would significantly increase diversion across all sectors.

The amended resolution recommended in this report calls on the Province to seek a better return on investment by expanding mandatory waste diversion programs to non-residential sectors. An economic analysis of all sectors to determine the lowest cost per diverted tonne would help the Province to set effective policies and achieve its goals.

### **Proposed regulatory changes are expected to be cost neutral for the Region's public depots**

York Region currently receives recyclables and residual waste from small businesses at its public depots. Proposed provincial initiatives to increase business sector diversion could potentially affect both the total quantity of material received and the ratio of recyclable to non-recyclable materials received at the depots.

The new fee structure approved by Council in [November 2017](#) allows the depots to operate in a cost neutral manner, sustained by user fees paid on a per-tonne basis. As a result, staff do not anticipate any change to net depot operating costs if small business usage patterns change as a result of proposed changes to provincial legislation.

## **6. Local Municipal Impact**

York Region works with its local municipal partners to provide sustainable long term waste management programs that maximize diversion from landfill. The amended resolution seeks to drive additional improvement in waste diversion while ensuring that the cost of these improvements is not borne entirely by municipal taxpayers. The amended resolution supports a rigorous landfill approvals process that respects the concerns of the host community while also respecting the right of municipalities to regulate land use within their own boundaries.

## **7. Conclusion**

Despite recent gains in municipal residential waste diversion, Ontario continues to rely heavily on landfills for its waste disposal needs, and at current rates of usage the province's existing landfill capacity is expected to be exhausted in less than 20 years. The Regional Municipality of York calls on the Government of Ontario to reduce demand for new landfill capacity by expanding mandatory waste diversion programs with increased emphasis on the non-residential sector. Any new landfill developments should continue to be subject to rigorous approvals requirements that are fully protective of the environment and sensitive to the needs of host communities.

Expanding mandatory diversion programs will increase demand for waste diversion processing capacity. The Government of Ontario should take action to increase waste diversion capacity through new funding opportunities and streamlined approvals for waste processing facilities

For more information on this report, please contact Laura McDowell, Director, Environmental Promotion and Protection at 1-877-464-9675 ext.75077.

The Senior Management Group has reviewed this report.

October 25, 2018

Attachments (2)

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Accessible formats or communication supports are available upon request

## **Attachment 1**

### **Resolution to Expand Mandatory Waste Diversion Programs and Increase Waste Diversion Capacity**

WHEREAS the Ontario Waste Management Association estimates that Ontario's existing landfill capacity could be exhausted within the next 11 to 17 years; and,

WHEREAS new or expanding landfill sites and energy-from-waste facilities can require in excess of 10 years for approval, design, and construction; and,

WHEREAS non-residential sources account for approximately 54 per cent of the waste generated in Ontario, of which, only 17 per cent is currently diverted from landfill; and,

WHEREAS urgent action is required to conserve existing landfill capacity and reduce demand for construction of new or expanded landfills;

THEREFORE BE IT RESOLVED that The Regional Municipality of York calls on the Government of Ontario to expand mandatory diversion programs and set and enforce performance targets and timelines with increased emphasis on improving waste diversion in the non-residential sector through its powers under the *Waste Free Ontario Act, 2016*; and,

BE IT FURTHER RESOLVED that the Government of Ontario should increase waste diversion capacity through new funding opportunities and streamlined approvals for waste processing facilities; and,

BE IT FINALLY RESOLVED that the Government of Ontario should continue to subject new and expanding landfill sites and energy-from-waste facilities to rigorous environmental approval processes, planning, and public consultation requirements to ensure that these facilities are designed, built, operated, closed, rehabilitated, and monitored in a manner that is fully protective of the natural environment and sensitive to the needs and concerns of the communities in which they are located.

**MOTION COUNCIL  
FOR THE  
[INSERT NAME OF MUNICIPALITY]**

**MUNICIPALITIES CALL ON PROVINCE FOR “RIGHT TO APPROVE”  
LANDFILL DEVELOPMENTS**

WHEREAS municipal governments in Ontario do not have the right to approve landfill projects in their communities, but have authority for making decisions on all other types of development;

AND WHEREAS this out-dated policy allows private landfill operators to consult with local residents and municipal Councils, but essentially ignore them;

AND WHEREAS proposed Ontario legislation (Bill 139) will grant municipalities additional authority and autonomy to make decisions for their communities;

AND WHEREAS municipalities already have exclusive rights for approving casinos and nuclear waste facilities within their communities, AND FURTHER that the province has recognized the value of municipal approval for the siting of power generation facilities;

AND WHEREAS the recent report from Ontario’s Environmental Commissioner has found that Ontario has a garbage problem, particularly from Industrial, Commercial and Institutional (ICI) waste generated within the City of Toronto, where diversion rates are as low as 15%;

AND UNLESS significant efforts are made to increase recycling and diversion rates, a new home for this Toronto garbage will need to be found, as landfill space is filling up quickly;

AND WHEREAS municipalities across Ontario are quietly being identified and targeted as potential landfill sites for future Toronto garbage by private landfill operators;

AND WHEREAS other communities should not be forced to take Toronto waste, as landfills can contaminate local watersheds, air quality, dramatically increase heavy truck traffic on community roads, and reduce the quality of life for local residents;

AND WHEREAS municipalities should be considered experts in waste management, as they are responsible for this within their own communities, and often have decades’ worth of in-house expertise in managing waste, recycling, and diversion programs;

AND WHEREAS municipalities should have the exclusive right to approve or reject these projects, and assess whether the potential economic benefits are of sufficient value to offset any negative impacts and environmental concerns;

THEREFORE BE IT RESOLVED THAT the **[INSERT NAME OF MUNICIPALITY]** calls upon the Government of Ontario, and all political parties, to formally grant municipalities the authority to approve landfill projects in or adjacent to their communities, prior to June 2018;

AND THAT in the case of a two-tier municipality, the approval be required at both the upper-tier and affected lower-tier municipalities;

AND FURTHER THAT the **[INSERT NAME OF MUNICIPALITY]** encourage all other municipalities in Ontario to consider this motion calling for immediate provincial action.