

ADOPTED by Council at its meeting held January 23, 2012 [M25-2012]
/AA
Windsor, Ontario January 23, 2012

REPORT NO. 31 of the
ENVIRONMENT & TRANSPORTATION STANDING COMMITTEE
of its meeting held November 23, 2011

Present: Councillor Hatfield, Chair
Councillor Payne
Councillor Sleiman
Councillor Halberstadt
Councillor Valentinis

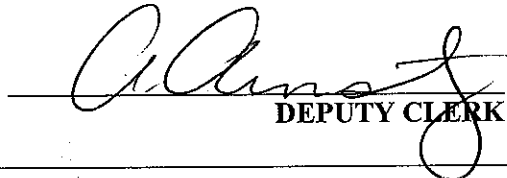
That the following recommendations of the Environment and Transportation Standing Committee **BE APPROVED:**

Moved by Councillor Valentinis, seconded by Councillor Payne,
That the minutes of the Essex-Windsor Solid Waste Authority meeting held September 14, 2011 **BE RECEIVED** for information.
Carried.

Clerk's Note: The minutes of the EWSWA meeting held September 14, 2011 are attached for information.

MB2011


CHAIRPERSON


DEPUTY CLERK

NOTIFICATION:				
Name	Address	Email Address	Telephone	FAX

MINUTES
ESSEX-WINDSOR SOLID WASTE AUTHORITY

CITY OF WINDSOR
 COUNCIL SERVICES

OCT 20 2011

RECEIVED

Essex County Civic and Education Centre
 Meeting Room C
 Wednesday September 14, 2011
 In-Camera Meeting 4:00 pm
 Regular Meeting 4:30 pm

Attendance:

EWSWA Board Members:	Wayne Hurst (Chair)	County of Essex
	Ken Antaya	County of Essex
	Tom Bain (Ex-officio)	County of Essex
	Ron McDermott	County of Essex
	Cheryl Hardcastle	County of Essex
	Alan Halberstadt	City of Windsor

Absent:	Ed Sleiman	City of Windsor
	Drew Dilkens (Alternate & Vice-Chair)	City of Windsor
	Al Maghnieh	City of Windsor
	Ed Francis (Ex-officio)	City of Windsor

(Ed Sleiman & Drew Dilkens were absent due to a conflict with the City of Windsor Aquatic Centre Steering Committee meeting.)

EWSWA Staff:

- Eli Maodus, General Manager
- Michelle Bishop, Manager of Finance and Administration
- Ralph Reiser, Manager of Waste Disposal
- Cameron Wright, Manager of Waste Diversion
- Kate George, Executive Secretary

County of Essex Staff: Mary Brennan, Clerk / Director of Council Services

City of Windsor Staff:

- Mario Sonogo, City Engineer
- Natasha Couvillon, Manager of Performance Measurement and Financial Administration
- Tony Ardovini, Deputy Treasurer - Financial Planning
- Anne Marie Albidone, Manager of Environmental Services

10. IN-CAMERA AGENDA

Moved by Alan Halberstadt
 Seconded by Ken Antaya
 THAT the Authority move into In-Camera Committee of the Whole
 to discuss a property matter at 4:00 PM.

--CARRIED UNANIMOUSLY
 96-2011

Moved by Tom Bain
Seconded by Alan Halberstadt
THAT the Board move out of In-Camera session at 4:45 PM.

--CARRIED UNANIMOUSLY
97-2011

1. CALL TO ORDER

The Vice Chair called the meeting to order at 4:45 PM.

2. DECLARATION OF PECUNIARY INTEREST

There were no declarations of pecuniary interest.

AGENDA ORDER

The Chair noted that there are several delegations present as noted on item 11 A) of the agenda.

Moved by Ken Antaya
Seconded by Tom Bain
THAT the Delegations Item 11 A) be moved up in the order of business.

--CARRIED UNANIMOUSLY
98-2011

11. DELEGATION

A) 7021 Giardini Rd. - Property Value Protection Plan - Judi and Richard Hurtubise

John McMahon, Kirwin Partners Law Firm

Mr. McMahon made reference to a package of documents that were distributed to the Board members by Christine Riley prior to the meeting. The documents were delivered to Bondy, Riley and Koski on September 13.

Mr. McMahon noted that since the Board did not have an opportunity to review the documents enclosed he would brief them on its contents. He noted that the document summarizes the Hurtubise position that they feel the Authority is unnecessarily delaying the sale of their property. He summarized the timeline of events leading up to today. Mr. McMahon expressed that his clients have been in compliance with their requirements under the Property Value Protection Plan (PVPP), and seeks that the Authority finalize the sale of the property today.

The Chair asked that the legal counsel for the Authority speak to the document and comments from Mr. McMahon.

Christine Riley addressed the Board and delegation with regard to the requirements under the PVPP. The Authority had made requests to the Hurtubise to lower the list price of the property, and this was not complied with along with other requests for debris to be removed from the property. Authority staff believe the property was not actively marketed. In all the time that the property was listed, there was only one single offer for \$135,000 brought to the Authority.

Judi Hurtubise - Property Owner 7021 Giardini / Real Estate Agent

Judi Hurtubise approached the delegations table and expressed that they felt like they are being treated differently than other property owners under the PVPP historically. She further expressed that she and Richard were insulted at the letter making the request that they remove the debris from the property and make repairs the home. She noted that the condition of their property was their business and not that of the Authority. In addition - Mrs. Hurtubise noted that they feel the property was actively marketed by way of listing the property in the Windsor Star Real Estate weekly listing as well as in another Real Estate Publication bi-weekly.

Mr. Halberstadt questioned the email sent by Judi Hurtubise (Tab 9 of the handout) where it is written to the General Manager that he should let her know if the EWSWA wanted the list price reduced.

Mrs. Hurtubise noted that although she indicated in the email that they would reduce the list price at the request of the Authority, they had no intention of reducing the price from \$297,000 to \$269,900 as they felt that a reduction of that amount would adversely affect the value of the neighboring properties.

Ms. Riley noted that the PVPP does not state the requirements for the list price of any property, only the value guaranteed to the homeowner at the time of the sale. The purpose of the 6 month time period is to offer the property for sale in good faith, there have been a number of occurrences over the years where prices have been reduced at the request of the Authority.

Ms. Riley further noted that with regard to the value of the neighboring properties, the value of each property under the PVPP is determined by appraisal as if the landfill was not there. Therefore the price reduction on the Hurtubise property would have no effect on the surrounding properties in the future. She further noted that the Hurtubise are applying the policy only in areas which appear to benefit their position on the matter. The policy is silent on many issues so the Board is asked to make decisions on a case by case basis with properties that come up. This property is unique, just like every other property that has come under the PVPP in the

past. The PVPP is not an agreement, it is a policy and a guideline for the Board and residents to be mutually beneficial when there is a property that needs to be sold. The understanding with the application of the policy is that there will be cooperation in good faith by both the Authority and the Property Owners. Since the Authority acted in good faith with the Board's decision on accepting the greater appraised value (\$297,000 vs. \$270,000) and in allowing the Property Owners to market their own home (both of which were firsts for the Authority) it was thought to be understood that a reasonable effort would be made to market and sell the property.

Mr. McMahon noted that the opinion of the Authority pertaining to the condition of the property as expressed in the correspondence sent to the Hurtubise is speculative and should not be used as fact.

Mr. Halberstadt questioned whether any of the items on the list were complied with?

Mrs. Hurtubise indicated that they have removed the contents of the barn as well as many other of the items noted on the letter. She further noted that over the course of the listing time of the property it was shown over 20 times.

The Chair noted that the letter that was sent was not the personal opinion of the General Manager, he is acting on behalf of the Board as part of his job. Make no mistake that it is in the best interest of the Board that the property sells, we simply want to make the best attempt at that as possible.

Richard Meloche - Deputy Mayor, Town of Essex

Richard Meloche spoke to the Board with regard to the PVPP and the role of the Authority. He expressed that his opinion on the matter was that the Authority should be making every effort to accommodate the property owners in these cases. The owners are already getting the adverse affects of having a landfill established in their residential area. He suggested that the PVPP be summarized for the residents.

The General Manager noted that he had permission from Judi Hurtubise to make the site visit and she was aware of his intentions at that time. No one was living on the property at the time of the visit. The Hurtubise had already moved to their new home.

The Chair noted that the goal here is to sell the property, not to punish the homeowner, after all they are guaranteed the appraised value plus other compensation. It is better for us if the property sells to a third party as opposed to us having to buy it then re-sell the property. He further asked if there were other parties present to speak to the issue.

Judi Hurtubise read a letter from her friend Margaret Ferris. The purpose of the letter was to refute the letter sent by the Authority as to the condition of the property. She noted that her son held his wedding on the premises a few years ago.

Richard Hurtubise - Property Owner 7021 Giardini - Real Estate Agent

Richard Hurtubise spoke to the matter, and addressed the Board. He expressed that the whole process is dragging out needlessly. He noted a particular personal insult at the Board's opinion that the property was not in saleable condition and had no curb appeal. He expressed that he and Judi have several years of real estate experience and that they are motivated to sell the property contrary to the speculation of the Authority. He noted that they originally attempted to sell their property without implementing the PVPP and listed the property for sale on their own because they felt that it could sell without Authority involvement for a much higher price.

There was no member present from Colchester in Action other than those who have already appeared.

Moved By Alan Halberstadt

Seconded by Ron McDermott

THAT the Board move In-Camera to discuss the legal matter with our solicitor.

NOT CARRIED

Moved by Ron McDermott

Seconded by Cheryl Hardcastle

THAT the Board direct Administration to initiate the purchase of the property at 7021 Giardini as per the PVPP and usual legal procedure for real estate transactions, for the Appraised value of \$297,000 plus required compensation.

Mr. Halberstadt requested that the Mover make an amendment to the motion to include a property inspection by Authority Administration.

Mr. McDermott refused the request for amendment.

CARRIED
99-2011

3. APPROVAL OF MINUTES**A) EWSWA Board Meeting – August 10, 2011**

Moved by Tom Bain

Seconded by Ken Antaya

THAT the minutes of the EWSWA Board Meeting of August 10, 2011 be adopted.

--CARRIED UNANIMOUSLY

100-2011

4. BUSINESS ARISING FROM THE MINUTES

There was no business arising from the minutes.

5. CORRESPONDENCE

There were no Correspondence items.

6. FINANCE AND ADMINISTRATION**A) 2011 Business Review Report - Presentation by Jim Archibald, Stantec Consulting Ltd.**

Mr. Archibald made a brief statement regarding the overall conclusion of the Business Review. He stated that the partner municipalities are receiving value for money. The Authority is similar if not better than comparable operations throughout the province. Contributing to the overall conclusion is the competently administered zero based budgeting system coupled with well managed reserve funds.

Mr. Archibald elaborated that there are several areas to consider when evaluating an organization such as the Essex-Windsor Solid Waste Authority. He then identified two areas where the Authority could consider improvement.

Budget Forecasting

Mr. Archibald noted that the EWSWA currently employs a one year formal forecasting method. Typically it is better to use a five to ten year forecasting model, which enables administration and public bodies to more accurately delineate how the future of the operations are positioned. That a rolling 10-year planning forecast model be developed for the 2012 to 2021 budget years as a means to project capital construction and vehicle expenditures, operating expenses, debt, revenue, rates and charges, and reserve fund balances.

Staffing

Mr. Archibald noted that the Authority has no engineering or hydro geological positions on staff. As the assets age such as the landfill, it will become more of an issue for the Authority to solicit the expertise of such an individual. The additional technical resource would be beneficial in the future.

Recommendations from Consulting Firm

Mr. Archibald made recommendations to the Board for their consideration and discussion in addition to the 2 areas for improvement.

Based on the current projection of available landfill capacity and fill rates, that the \$500,000 annual contribution to the perpetual care reserve be suspended during the period of debenture repayment.

That the perpetual care reserve fund be capped at \$2 million until the landfill debenture has been repaid with the surplus amount and interest earned transferred to the rate stabilization reserve.

That select reserves be consolidated with the rate stabilization reserve to create a single 10-year rate model reserve.

That the uncontrollable cost of annual debenture repayment, host community compensation, and common administration costs be assessed to County municipalities and the City of Windsor on a per capita basis until full repayment of the debenture.

That all other costs (except Sites 2 and 3 perpetual care) be recovered through a revised per tonne charge to municipal partners.

That an annual target be developed for each year of the 10-year forecast for ICI landfill revenue. An annual target of \$3.0 million per year is considered as a reasonable starting point to balance the desire to reduce local financial contributions with the long-term goal of extending the life of the landfill. The budget for ICI revenue in 2011 was \$3.2 million, therefore a \$3.0 million annual target would result in a reduced volume of waste being received from other jurisdictions.

That a conceptual 30 year graphic illustration be developed for the EWSWA showing available landfill capacity over time, debenture repayment term, and the re-establishment of perpetual care contributions following debenture repayment in 20 years.

Mr. Bain expressed delight at the thought of reducing contributions to the reserve by \$500,000 annually, but also concern for the recommendation as it contradicts the predictions of what was thought to be needed annually in order to have sufficient funds once they are required.

Mr. Archibald noted that the suggested \$500,000 annual contribution was good planning back when they thought the life of the landfill would be shorter. The Sun Life debenture takes up a lot of funds now, almost \$4 million. Once that debenture is paid off in 2031, it will free up that \$7.3 million for other areas and the landfill will be still open for several years. That can be applied to any reserves at that time.

Mr. Anatya noted that the estimations made back at the time of the siting of the landfill were nearly perfect. If the \$500,000 can be freed up over the next few years it will put the Authority into a more comfortable position. This will work for the short term commitments as well as the longer term ones.

Mr. Archibald noted that although these are recommendations by the Consulting Firm, he expressed that it is the full intention to refer the Business Review to the Technical Staff Committee for their input and close examination.

Mr. Antaya questioned whether there was a positive view on refinancing the Sun Life debenture?

Mr. Archibald indicated that in speaking with representatives from Sun Life, it is a term debenture that makes Sun Life much in revenue. With the negotiated term and guaranteed income on their end, it is unlikely that Sun Life would consider refinancing the debenture. Unfortunately for the Authority it may have been a less than appealing deal at the time, but it is set in stone. He noted however that it is not uncommon for municipal organizations to take on debt with large scale projects such as this Regional Landfill.

Mr. Archibald elaborated on the reserve funds and noted that the Board would set a minimum level below which the reserve funds would not be allowed to fall. This number is something that will be derived from sessions with the Technical Staff Committee.

Mr. Archibald noted that the recommended 5 to 10 year forecasting would give a clear picture of the financial position of the Authority and the Board could then consider this at the time of examining and deciding on new programs.

The General Manager noted that the Business Review is one document that the consultant for the Master Plan Review will be needing for completion of the report.

Moved by Tom Bain

Seconded by Alan Halberstadt

1. That the Authority receive the report.
2. That the Authority refer the report to a staff finance committee comprised of representatives from the EWSWA, City of Windsor and County of Essex so that an analysis of the consultant's recommendations can be undertaken. The finance committee's findings would then be presented to the Board at a future meeting in order for a discussion to take place as to which recommendations are to be implemented.

CARRIED UNANIMOUSLY
101-2011

B) Summary of Legal Invoices

Moved by Ron McDermott

Seconded by Alan Halberstadt

THAT the legal invoices be approved for payment.

--CARRIED UNANIMOUSLY
102-2011

7. **WASTE DISPOSAL ISSUES**

There were no waste disposal issues noted.

8. **WASTE DIVERSION ISSUES**

A) Tender for the Yard Waste Pad Expansion - Windsor Public Drop Off Depot - Contract Award

The General Manager summarized the report, noting that there was a request by the Board for the contractor to agree in writing to their request that components of the construction be amended in order to reduce the overall cost of the project. The contractor agreed to the reduction in one area for a cost savings of \$50,000. The total cost of the project will be \$418,891 less any cost savings, plus HST.

Mr. Halberstadt questioned whether not going forward with the paving of the drain will have an adverse affect on the site.

The Manager of Waste Diversion noted that it is not an issue.

Mr. Bain noted that he was pleased that the cost was reduced.

Moved by Tom Bain

Seconded by Cheryl Hardcastle

THAT the Board approve and authorize the general Manager to enter into an agreement with J&J Lepera Infrastructures Inc. for \$418,891 less any and all potential cost savings, plus the HST, related to the expansion of the yard waste pad located at the Windsor Public Drop Off Depot.

CARRIED
103-2011

9. ANY OTHER BUSINESS

There was no other business raised.

12. BY-LAWS

- A) By-Law 10-2011 - Being a By-Law to Authorize an agreement with Christopher Malott Farming Enterprises Inc. RE Land Lease

Moved by Ken Antaya

Seconded by Tom Bain

THAT By-Law 10-2011 - Authorizing and agreement between Christopher Malott Farming Enterprises Inc. and the Essex-Windsor Solid Waste Authority be given three readings and be adopted this 14th day of September, 2011.

--CARRIED UNANIMOUSLY
104-2011

- B) By-Law 11-2011 - Being a By-Law to Confirm the Proceedings of the Board of the Essex-Windsor Solid Waste Authority.

Moved by Ken Antaya

Seconded by Tom Bain

THAT By-Law 11-2011 - Being a By-Law to confirm the proceedings of the Board of the Essex-Windsor Solid Waste Authority be given three readings and be adopted this 14th day of September, 2011.

--CARRIED UNANIMOUSLY
105-2011

13. NEXT MEETING

The next meeting is scheduled for October 4, 2011. The General Manager confirmed that this date was agreeable with the Board members.

14. **ADJOURNMENT**

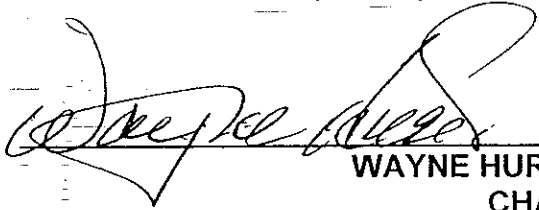
Moved by Tom Bain

Seconded by Ron McDermott

THAT the meeting be adjourned at 6:30 PM.

--CARRIED UNANIMOUSLY
106-2011

All of which is respectfully submitted.


WAYNE HURST
CHAIR


ILIJA MAODUS
GENERAL MANAGER