Please consider the environment before printing this email.

From: Milne, Lindsay
Sent: Thursday, July 02, 2015 3:44 PM
To: Chris Kalimootoo ; cmarsales@markham.ca; Gagan Sandhu; George Flint - Town of Richmond Hill (gflint@richmondhill.ca); Hordowick, Julie; Hurley, Sean; Ilmar Simanovskis; Jennifer Rose; john Hannah; Loukes, Peter; McDowell, Laura; Mike Cole; Milne, Lindsay; Rob Flindall
Subject: York Regional Council Adopts Resolution on Extended Producer Responsibility in Ontario

Dear Partners,

On June 18, 2015, staff reported to York Region Committee of the Whole in regards to the pending waste reduction legislation in Ontario. The report, recommendations and presentation can be viewed at this link.

The report outlines the process the Province has undertaken to update the Waste Diversion Act; the challenges faced by municipalities under the current system; and our position on the key considerations for developing a new waste reduction framework with extended producer responsibility. Regional Council passed a resolution to support the development of a "Made-in-Ontario" framework for extended producer responsibility that respects the complexity of the integrated waste management system in Ontario and compensates municipalities for the collection, transfer and processing of designated wastes without compromising service levels to residents or the environment. Regional Chair Emmerson also sent a letter to the Minister of the Environment and Climate Change, reiterating our position on this issue (please see attached).

A copy of the report with the resolution will be circulated to local municipal councils via the clerk's office. Please consider encouraging your council to endorse the resolution as a way of supporting the municipal position on this important issue.

We will continue to keep you posted on the developments on this issue. Once the MOECC releases draft material for comment, we will set up a workshop to gather your input for a formal submission in response.

Regards,

Lindsay Milne | Manager (Acting), Sustainable Waste Management, Environmental Services

The Regional Municipality of York | 17250 Yonge Street | Newmarket, ON L3Y 6Z1
O: 905-830-4444 ext. 75714 | **C:** 905-716-3167 (if applicable) | lindsay.milne@york.ca | www.york.ca
*Our Values: **I**ntegrity, **C**ommitment, **A**ccountability, **R**espect, **E**xcellence*

A16-005

York Region

June 26, 2015

Mr. Andrew Brouwer
Director of Legislative Services and Town Clerk
Town of Newmarket
395 Mulock Drive
P.O. Box 328
Newmarket, ON L3Y 4X7

Dear Mr. Brouwer:

Re: Pending Waste Reduction and Resource Recovery Framework Legislation Update

I am writing to seek your municipality's endorsement of York Region's resolution regarding the legislative framework for waste reduction and recovery. This resolution can be found in Attachment 1 of the enclosed report.

Also, Regional Council, at its meeting held on June 25, 2015 adopted the following recommendations regarding "Pending Waste Reduction and Resource Recovery Framework Legislation Update":

1. Receipt of the presentation by Laura McDowell, Director, Environmental Promotion and Protection and Dave Gordon, Manager, Sustainable Waste Management, Environmental Services.

2. Adoption of the following recommendations contained in the report dated June 8, 2015 from the Commissioner of Environmental Services, as amended:

    1. Council adopt a modified proposed Association of Municipalities of Ontario resolution in support of a "made in-Ontario" legislative framework for waste reduction and resource recovery that supports full producer responsibility with a legislated role for municipalities that respects the current complexity of the integrated waste management system (Revised Attachment 1).

    2. Council authorize the Chairman to write to the Minister of the Environment and Climate Change in support of a "made in Ontario" model for full producer responsibility including total cost reimbursement for collection, transfer and processing of designated wastes that respects the complexity of the integrated waste management system, and to emphasize in the letter York Region's successes in innovative waste reduction strategies.

3. Council requests the Ministry of the Environment and Climate Change continue to engage with York Region and municipal associations to fully understand the impact of changes to the integrated waste management system under various extended producer responsibility models to develop a "made in Ontario" model.

4. The Regional Clerk circulate this report and attachments to Clerks of the local municipalities for local municipal endorsement as well as circulate to the Ministry of the Environment and Climate Change as acknowledgement of Council endorsement.

3. Receipt of the memorandum from Erin Mahoney, Commissioner of Environmental Services, dated June 25, 2015 regarding "Update on 2015 Blue Box Funding for Ontario Municipalities".

Copies of Minute Extracts #137 and #139 acknowledging Regional Council's endorsement, Clause 2 of Committee of the Whole Report No. 12 with three attachments and the memorandum from Erin Mahoney, Commissioner of Environmental Services, regarding "Update on 2015 Blue Box Funding for Ontario Municipalities" with one attachment are enclosed for your information and endorsement.

Please contact Laura McDowell, Director, Environmental Promotion and Protection, at 905-830-4444 ext. 75077 if you have any questions with respect to this matter.

Sincerely,

Denis Kelly
Regional Clerk

/C. Clark
Attachment (7)

York Region

Minute Nos. 137 and 139 as recorded in the Minutes of the meeting of the Council of The Regional Municipality of York held on June 25, 2015.

137 Update on 2015 Blue Box Funding for Ontario Municipalities

It was moved by Regional Councillor Wheeler, seconded by Regional Councillor Ferri that Council receive the communication from Erin Mahoney, Commissioner of Environmental Services, dated June 25, 2015 and refer it to consideration of Clause 2 of Committee of the Whole Report No. 12.

Carried

...

139 Report No. 12 of Committee of the Whole – June 18, 2015

It was moved by Mayor Pellegrini, seconded by Mayor Van Bynen that Council adopt the recommendations in Report No. 12 of Committee of the Whole with the following amendments as noted:

Clause 2 – Pending Waste Reduction and Resource Recovery Framework Legislation Update

Amendment to staff recommendation 2 to read as follows:

2. Council authorize the Chairman to write to the Minister of the Environment and Climate Change in support of a "made in Ontario" model for full producer responsibility including total cost reimbursement for collection, transfer and processing of designated wastes that respects the complexity of the integrated waste management system, *and to emphasize in the letter York Region's successes in innovative waste reduction strategies.*

Carried

York Region

Clause 2 in Report No. 12 of Committee of the Whole was adopted by the Council of The Regional Municipality of York at its meeting held on June 25, 2015 with the following amendments:

Amendment to staff recommendation 2 to read as follows:

2. Council authorize the Chairman to write to the Minister of the Environment and Climate Change in support of a "made in Ontario" model for full producer responsibility including total cost reimbursement for collection, transfer and processing of designated wastes that respects the complexity of the integrated waste management system, *and to emphasize in the letter York Region's successes in innovative waste reduction strategies.*

Add the following recommendation:

3. Receipt of the memorandum from Erin Mahoney, Commissioner of Environmental Services, dated June 25, 2015 regarding "Update on 2015 Blue Box Funding for Ontario Municipalities".

2
Pending Waste Reduction and Resource Recovery Framework Legislation Update

Committee of the Whole recommends:

1. Receipt of the presentation by Laura McDowell, Director, Environmental Promotion and Protection and Dave Gordon, Manager, Sustainable Waste Management, Environmental Services.

2. Adoption of the following recommendations contained in the report dated June 8, 2015 from the Commissioner of Environmental Services, as amended:

    1. *Council adopt a modified proposed Association of Municipalities of Ontario resolution in support of a "made in-Ontario" legislative framework for waste reduction and resource recovery that supports full producer responsibility with a legislated role for municipalities that respects the current complexity of the integrated waste management system (Revised Attachment 1).*

2. Council authorize the Chairman to write to the Minister of the Environment and Climate Change in support of a "made in Ontario" model for full producer responsibility including total cost reimbursement for collection, transfer and processing of designated wastes that respects the complexity of the integrated waste management system.

3. Council requests the Ministry of the Environment and Climate Change continue to engage with York Region and municipal associations to fully understand the impact of changes to the integrated waste management system under various extended producer responsibility models to develop a "made in Ontario" model.

4. The Regional Clerk circulate this report and attachments to Clerks of the local municipalities *for local municipal endorsement as well as circulate to* the Ministry of the Environment and Climate Change as acknowledgement of Council endorsement.

1. Recommendations

It is recommended that:

1. Council adopt the Association of Municipalities of Ontario resolution in support of full producer responsibility and development of a new provincial legislative framework for waste reduction and resource recovery (Attachment 1).

2. Council authorize the Chairman to write to the Minister of the Environment and Climate Change in support of a "made in Ontario" model for full producer responsibility including total cost reimbursement for collection, transfer and processing of designated wastes that respects the complexity of the integrated waste management system.

3. Council requests the Ministry of the Environment and Climate Change continue to engage with York Region and municipal associations to fully understand the impact of changes to the integrated waste management system under various extended producer responsibility models to develop a "made in Ontario" model.

4. The Regional Clerk circulate this report and attachments to Clerks of the local municipalities and the Ministry of the Environment and Climate Change as acknowledgement of Council endorsement.

2. Purpose

This report updates Council on pending waste reduction legislation and potential implications for York Region and its local municipal partners. It recommends support for a resolution proposed by the Association of the Municipalities of Ontario on full producer responsibility and support for continued advocacy for municipal interests in new provincial waste management policy and legislation.

3. Background

Current waste management legislation in Ontario subject to continuing criticism from various stakeholders

Currently, waste management in Ontario is governed by the *Waste Diversion Act, 2002*. In September 2002, the Minister of the Environment (the Minister) designated Blue Box materials as the target of the first waste diversion program under the Act. Waste diversion programs for used oil and used tires were designated in March 2003, to be followed over the next two years by electronic wastes and household hazardous wastes. The *Waste Diversion Act, 2002* obligates stewards, companies or first importers who produce packaging and printed paper, to fund 50 per cent of the total cost of waste management for materials they manufacture. The steward funding obligation is subject to an annual negotiation through the Municipal Industry Program Committee. Municipal Industry Program Committee membership is comprised of representatives of municipalities and stewards (Stewardship Ontario) and is chaired by the executive director of Waste Diversion Ontario (WDO). The Municipal Industry Program Committee provides WDO with a recommendation for the amount of the steward obligation for any given operational year. Continuing criticisms expressed by municipal and industry stakeholders about the process include:

- The system allows industry stewards to prioritize minimizing costs to businesses over achieving increased waste diversion
- Industry stewards argue they could achieve higher efficiencies of scale if they had full control of Ontario's recycling system
- Focus on recycling rather than waste reduction and reuse
- Current *Waste Diversion Act, 2002* framework under which stewards and municipalities negotiate the steward obligation for a given year remains challenging

Challenges in negotiating steward obligation led to arbitration that awarded 50 per cent of total net costs to municipalities in 2014

Historically, negotiations at the Municipal Industry Program Committee have been challenging and have gradually resulted in the steward obligation falling below 50 per cent of the total cost of management of packaging and printed paper waste. In 2014, the Municipal Industry Program Committee could not reach an agreement on the steward obligation and the dispute was sent to arbitration by the WDO. The Arbitrator provided a thorough decision which concluded the 2014 steward obligation was correctly calculated as 50 per cent of the total net costs as submitted by municipalities. Accordingly, municipalities received the full 50 per cent of reported net costs for 2014, which was approximately $15.6M more funding than the stewards were seeking to pay. The Arbitrator recommended that the method adopted for 2014 - the use of the Municipal Datacall and the WDO verification process - be used in future years subject to review and discussion at the Municipal Industry Program Committee as to any adjustments that need to be made each year.

Waste Diversion Ontario moves to mediation between AMO/City of Toronto and Stewardship Ontario to determine the 2015 Steward Blue Box Obligation

For the 2015 Steward Blue Box obligation negotiation, municipalities requested that WDO use the methodology the Arbitrator based his 2014 decision on until new waste recovery legislation is introduced. The Stewards did not agree, favouring their historical position that the steward obligation be based on effectiveness and efficiency measures applied to the Municipal Datacall results. WDO has ordered a mediation process to explore all possible options to determine the 2015 steward obligation. Municipalities believe total costs as submitted to the Municipal Datacall reflect the final steward obligation. Interim 2015 Blue Box funding will be calculated using the Arbitrator's method of determining the 2014 steward obligation. The results of mediation and any potential arbitration proceedings will determine the final 2015 steward obligation.

The Province previously introduced new waste reduction framework legislation in 2013, but it did not receive Royal Assent

Provincial review of the *Waste Diversion Act, 2002* began in 2008 with consultations and resulted in the release of "From Waste to Worth" Minister's report in October 2009 on updating the existing *Waste Diversion Act, 2002*. In June 2013, the Ontario Government released Bill 91: Proposed Waste Reduction Act (2013). The proposed Act (2013) did not receive Royal Assent due to a General Election call. The proposed legislation reflected years of advocacy for the municipal position by York Region and municipal associations such as the

Association of Municipalities of Ontario (AMO), Municipal Waste Association and Regional Public Works Commissioners of Ontario (RPWCO). Table 1 summarizes the timeline of activities where municipalities advocated for improved and revised waste reduction legislation through Bill 91.

Table 1
Municipal advocacy timeline for improved waste reduction legislation in Ontario

Date	Municipal advocacy efforts
June 6, 2013	• Bill 91, the proposed Waste Reduction Act, is introduced in the Ontario Legislature and posted to the EBR. 90 Day Comment Period opens and closes September 4, 2014
June 6, 2013 - August 23, 2013	• Formal consultations with MOECC take place on Bill 91. All stakeholders are engaged, including stewards, municipalities, service providers, municipal associations, non-governmental organizations and residents.
June 19, 2013	• Commissioner, Environmental Services briefs Environmental Services Committee on release of Bill 91
September 4, 2013	• York Region submits comments to MOECC on Bill 91. Municipal associations (AMO, MWA, RPWCO) submit joint comments to MOECC on Bill 91
September 26, 2013	• Regional Council receives Report No. 2 of Committee Of the Whole (September 19, 2013)..including "Review of Bill 91, Proposed Waste Reduction Act 2013". Regional Council provides additional comments to Ministry on Bill 91
May 2, 2014	• Ontario General Election Call; Bill 91 dies

Minister announced 2015 legislative agenda to include reform of Ontario's waste diversion legislation, including a move to full producer responsibility

In November 2014, the Minister announced that reform of Ontario's waste diversion legislation, including a move to full producer responsibility, would be on the legislative agenda for 2015. Ministry of the Environment and Climate Change (MOECC) staff have described the new waste management legislation as a transformative policy framework for resource recovery, which will include new legislation that, if passed, would make stewards responsible for the full cost of end-of-life management of their products and packaging.

Ministry of the Environment and Climate Change scheduled sector based consultations with stakeholders on developing new waste management legislation in 2015

In early March, the MOECC held a multi-stakeholder forum to discuss the vision, scope and outcomes of a new policy framework for waste management in Ontario. Following this meeting, sector-based consultation sessions, scheduled in April and May, were attended by York Region staff, other municipalities and municipal associations to discuss key policy areas of the proposed legislation. The sector-based consultation sessions offered opportunities for stakeholders to raise their perspectives on the new waste management legislation. Representatives from stewards, municipalities, waste management industry and environmental non-governmental organizations were scheduled as separate consultation sessions to help move the framework forward.

Industry organizations have approached municipal staff and Councils asking to support resolutions regarding producer responsibility

The Minister's announcement regarding the pending release of new waste management legislation has been met with enthusiasm from all stakeholders. Many waste management and environmental organizations are publishing their proposed input on the potential for new legislation.

Within this context, some industry organizations have approached municipal staff and Councils asking to support resolutions regarding producer responsibility. Some of the resolutions proposed to municipalities have the potential to undermine the collective municipal interest by endorsing positions which may disproportionately benefit stewards.

Extended Producer Responsibility framework introduced in British Columbia is proving challenging for many municipalities

In May 2014, the Government of British Columbia approved a new stewardship plan for packaging and printed paper. These materials are managed via the Blue Box program in Ontario. Stewards, represented by Multi-Material British Columbia (MMBC), are now responsible for 100 per cent of the costs of collection and processing of residential packaging and printed paper. Under the MMBC model, municipalities have the option to collect packaging and printed paper and are compensated for collection at a rate determined by MMBC. If the rate offered by MMBC does not cover the cost of recycling services, the municipality can opt out of collection or choose to subsidize remaining costs using the tax base.

The MMBC framework for extended producer responsibility has presented challenges for some municipalities in British Columbia. Many municipalities are not able to collect materials at the low rate offered by MMBC and some have described initial negotiations with the stewards as one-sided. MMBC introduced maximum allowable contamination limits at processing centres that most Ontario municipalities would struggle to achieve. In addition, MMBC has autonomy to decide which materials are included in curbside collection. Glass has been removed from residential curbside collection, leaving depot collection as the only option for most residents to divert glass. British Columbia municipalities typically do not own processing infrastructure, unlike York Region which owns a materials recovery facility and would need to seek compensation for its capital investment if no longer in the business of processing.

York Region staff does not support the British Columbia model for extended producer responsibility as it does not recognize the integrated waste management system in Ontario

Introduction of an extended producer responsibility framework in Ontario similar to the one in British Columbia could have significant impacts on capital assets and contractual obligations. York Region staff does not support the British Columbia model for extended producer responsibility. A "made in Ontario" model is needed that builds on best practices from other communities and respects the role municipalities play as stewards of the environment and service providers for our residents.

4. Analysis and Options

Association of Municipalities of Ontario releases proposed resolution on producer responsibility and development of a new provincial framework for waste recovery

Regional staff contacted the Association of Municipalities of Ontario (AMO) with concern regarding industry organizations such as the Canadians for Clean Prosperity approaching municipalities seeking Council endorsements on the new waste management framework legislation that contradicted municipal interests. AMO responded by producing a sample resolution in support of full producer responsibility and development of a new Provincial legislative framework for waste recovery for consideration of municipal Councils. The proposed resolution was sent to all Ontario municipalities for consideration. Regional staff have reviewed and recommend this resolution as representative of York Region's interests regarding a new legislative framework for waste management.

The recommended Council resolution (Attachment 1) outlines many of the critical requirements for municipalities regarding a sustainable integrated waste management system including the importance of maintaining a municipal role to ensure customer service and environmental performance of the integrated waste management system remain integral priorities.

Association of Municipalities of Ontario releases discussion paper on Waste Reduction and Resource Recovery Framework Legislation

While individual municipalities are obligated to advocate for their own unique positions and needs, critical needs and interests of municipal governments in Ontario are universal. A collective effort to communicate these interests will have a more significant impact than a distributed response. AMO, working in collaboration with the City of Toronto, Regional Public Works Commissioners of Ontario and the Municipal Waste Association developed a position paper outlining the requirements which any new legislative framework must address. Critical municipal requirements outlined in the paper are:

- Continue to provide an integrated waste management system to Ontario residents
- Maximize diversion from landfill by diverting and recovering as much waste material as possible
- Minimize cost to municipal taxpayers to manage packaging and printed paper by shifting the full cost of end-of-life management to stewards, including the cost to manage designated products that end up in the disposal stream
- Equitable access for residents no matter where they live in Ontario to ensure convenient access to programs to encourage participation and maximize diversion of designated products
- Municipalities must be fairly compensated for any capital assets, investments and other contractual obligations that do not form part of the new legislative framework with an adequate transition period from the current system
- Clear rules and roles with balanced and accountable governance to enable decision making and dispute resolution with effective oversight that will ensure compliance with new legislation
- Municipalities, as a sector, must be formally recognized to act collectively on matters of governance, contract negotiations, dispute resolution and allocation of funds amongst municipalities

- Municipalities must have the right to maintain or reclaim the exclusive right to collect Blue Box materials from their residents and to be fairly compensated for this service

- Municipal right to compete fairly for blue box processing at a competitive rate from stewards for these services

The AMO discussion paper also examines the need for appropriate compensation for hazardous and special wastes, expanded producer responsibility to additional products, increased organics diversion and municipal-controlled access to funds for continuous improvement. The AMO discussion paper has been included as an attachment to this report (Attachments 2 and 3).

Municipal position on extended producer responsibility has been developed and revised through participation in previous consultations on proposed legislation

Through responses to Provincial discussion papers and proposed legislation, York Region and municipal associations such as AMO, Regional Public Works Commissioners of Ontario and the Municipal Waste Association have developed positions on new waste reduction framework legislation and extended producer responsibility. York Region staff work closely with municipal associations to ensure our positions align wherever possible. Regional staff have and will continue to advocate for inclusion of the 4th R – Recovery – as diversion in the provincial waste diversion reporting hierarchy. Notable advocacy positions shared between York Region and municipal associations include:

- Legislated municipal role in integrated waste management system

- Removal of the current 50 per cent funding cap for collection and processing of packaging and printed paper (Blue Box)

- Fair and transparent process for determining reasonable costs

- Fair compensation for assets and infrastructure affected by any new waste management framework

- Recognition of municipal mandate to divert potentially hazardous materials to protect municipal water quality and water sources

York Region staff are committed to working with municipalities and representative associations to develop a 'made-in-Ontario' framework for extended producer responsibility which respects the complexity of the integrated waste management system and compensates municipalities for the collection, transfer and processing of designated wastes without compromising service levels to residents or the environment.

Municipal associations' position on processing of blue box waste reflects diversity of processing arrangements across province

The municipal role, as a right, to collect packaging and printed paper (Blue Box materials) is collectively accepted by individual municipalities and their representative associations. All Ontario municipalities provide integrated collection of garbage and Blue Box materials and, in many cases, organics. The convenience of this integrated service ensures resident participation and diversion of waste from disposal and economic efficiency by procuring all collection services as part of a single contract.

The role of municipalities in the processing of packaging and printed paper is less precise. Some municipalities own and operate their own processing facilities, while some deliver this service via contracting of private facilities. A change in the processing system for Blue Box materials will impact some municipalities more than others. Those like York Region that have invested in infrastructure to process Blue Box materials face more significant impacts if the control over processing of materials is shifted to the stewards. Those currently contracting out processing of Blue Box materials will have less of a stake in this issue.

The position taken by municipal associations on processing packaging and printed paper has evolved to reflect the diversity of views in their membership. In 2013, AMO, the Municipal Waste Association and Regional Public Works Commissioners of Ontario made a submission on Bill 91 that supported a legislated role for municipalities in collection and processing with 100 per cent funding for cost of efficient service provision. In 2015, this position has changed to support a legislated role for municipalities to provide collection services with an opportunity to compete for processing services at a market rate.

Table 2

Comparison of Municipal Associations' response to Bill 91 and AMO Municipal Discussion Paper on Processing of Packaging and Printed Paper (Blue Box) – 2013 v. 2015

Municipal association (AMO, MWA, RPWCO) submission on Bill 91 (2013)	AMO Municipal Discussion Paper, April 2015
• Members agree that stewards should pay 100 per cent of cost of efficient collection, transfer and processing of packaging and printed paper in the waste stream • Multi-stakeholder process for reasonable cost determination be established to allow municipalities and stewards to reach agreement in timely manner	• Municipal role, as of right, in collection of Blue Box materials with fair compensation • Municipal right to compete fairly for Blue Box processing and the right to retain processing of these materials with reimbursement at a competitive rate

Bill 91 did not receive Royal Assent and was deferred at least partially due to stewards' concerns regarding the legislated municipal role in the waste management system, specifically on processing of blue box materials. As a result, the recent AMO discussion paper proposes municipalities retain a fully funded role in collection of designated wastes and the right to compete fairly for processing these wastes.

York Region staff will continue to advocate for protection of municipal infrastructure and assets

York Region owns the York Region Waste Management Centre in East Gwillimbury and contracts operation of the facility to Miller Waste Systems. The Region has made significant investments into waste management infrastructure to ensure the success of our waste diversion programs. The Waste Management Centre is among the best performing facilities in Ontario, consistently capturing over 90 per cent of program recyclables in the inbound blue box stream. The Waste Management Centre required an initial investment of more than $33 million and approximately $8.5 million in capital upgrades have been made since 2011. The Public Sector Accounting Board value of the Waste Management Centre as of December 31, 2014 is $23.3 million. The total replacement value of the Waste Management Centre is currently $51.1 million.

Potential impacts arising under a new waste management framework, including those impacts on contractual obligations and capital assets, are currently unclear. York Region staff and municipal associations will advocate that any new legislation should be based on a 'made in Ontario' full producer responsibility

system that sees collection and processing of materials funded by producers with a clear role for municipalities in developing and delivering programs to our residents and communities.

Any new model must respect municipal role in protecting water quality and ability to protect against unintended consequences of changes in waste programs

Municipalities are stewards of the environment, providing clean, safe drinking water to our communities, responsibly treating wastewater and protecting water sources in a heavily regulated environment as well as providing efficient waste management services. These integrated services that municipalities provide have the potential for unintended consequences as a result of changes to waste programs that would see stewards take over a portion of the waste management system. For instance, household hazardous waste and pharmaceuticals can impact water quality if they are not managed properly. Municipalities play an important role in informing residents on proper disposal and providing access to convenient drop-off locations. Municipal waste audits identify any cross-contamination, which informs corrective education and promotion. Municipalities need continued control of hazardous or special waste programs to ensure these materials are managed correctly and that there is no adverse impact to the environment.

Similarly, the integrated waste management systems operated by municipalities have interdependent streams. Changes in materials or service levels in one stream will have impacts on the broader system. York Region and its local municipal partners are leaders in waste diversion because of very inclusive diversion programs strongly supported by our residents. New waste management policy or legislation needs to consider not only the financial aspects of the blue box stream but also the broader implications on other streams and overall diversion. For example, York and Durham Regions have committed to a specific diversion target as part of the Environmental Compliance Approval for the Durham York Energy Centre. Achieving this target could potentially be impacted by any changes in service levels associated with the stewards assuming responsibility for delivery of part of the integrated waste management system. Municipalities need to play an important role in design and delivery of these programs to ensure environmental performance in waste and water quality is not compromised.

Link to key Council-approved plans

Regional advocacy on producer responsibility and active participation in consultations on new waste reduction and resource recovery framework legislation are key components of the SM4RT Living Integrated Waste Management Master Plan.

Endorsement of the attached resolution on producer responsibility is linked to and consistent with other Regional Strategies:

- Vision 2051
- 2015 to 2019 Strategic Plan

Specifically, the principles behind new waste reduction and resource recovery framework legislation support Regional goals identified in Vision 2051 by valuing waste as a resource. The proposed legislation also supports the 2015-2019 Strategic Plan goals of managing the Region's finances prudently and increasing the percentage of waste diverted from landfill.

5. Financial Implications

Net budget impact of future program changes unclear

Although the new waste management framework has not yet been drafted, it must recognize that municipal governments have borne much of the cost of waste diversion to date and continue to bear the primary burden when waste materials are not effectively collected and processed. Table 3 shows the Regional operating costs for waste management for all streams versus funding provided by stewards under the current system. Blue Box represents less than 30 per cent of the approximately 336,000 tonnes of waste managed. Even under a fully funded Blue Box system, costs for collecting and processing other streams such as organics and residual waste would still be borne by municipalities. In 2015, waste management services make up five per cent of the Regional budget.

Reimbursable costs and addition of designated materials for reimbursement has not yet been determined. Risks associated with additional administrative burden from program fragmentation, contractual obligations or capital assets and impacts to transfer station infrastructure are also unclear in advance of new legislation. Contributions to the Region's capital reserve fund for waste management are also contingent on receipt of steward funding for the Blue Box program and market revenue for recyclables. Any framework which reduces the convenience of the Blue Box program for residents may place increased cost pressure on managing other waste streams. Given these unknowns, the net effect on the waste management operations budget from a move to full producer responsibility is not clear and will continue to be monitored by staff.

Table 3
Regional System Operating Costs vs. Funding Received from Stewards

Regional Operating Costs	2013 $	2014 $	2015 $ (Budget)
Blue Box Regional Costs	13,886,000	12,872,000	13,496,000
Blue Box Market Revenue	(8,530,000)	(5,900,000)	(7,200,000)
WDO funding (Regional portion)*	(3,315,000)	(3,381,000) (forecasted)	N/A
Net Blue Box Cost	2,041,000	2,591,000	N/A
Green Bin	15,600,000	17,310,000	17,621,000
Yard Waste	2,951,000	4,043,000	3,195,000
HHW	749,500	900,000	962,000
Residual Waste	14,400,000	13,023,000,	17,621,000
Other (drop-off depots)	2,288,000	1,846,000	$1,444,000
Total System Costs	38,029,500	39,713,000	N/A

* WDO funding is split 50/50 with the local municipalities

Negotiations and consultation with producers and regulators require senior staff resources

York Region staff support the move to a "made in Ontario" full producer responsibility system that sees collection and processing of materials funded by producers with a clear role for municipalities in developing and delivering programs. Practical implementation will be challenging given the variety of stewards and potentially substantial assortment of producer responsibility programs. Staff will recommend the Ministry continue to consult extensively with municipalities across Ontario to better understand the challenges and impacts of changing the waste management system in Ontario in advance of making any policy or legislative decisions. Staff will recommend to the Ministry that municipal staff program management costs be eligible for reimbursement to ensure taxpayers are not penalized in the event stewards organize into inefficient collectives.

In collaboration with AMO and other municipal associations, Regional staff resources will continue to advocate for municipal interests in this new legislation including a fair cost recovery framework related to delivery of the Blue Box Program.

6. Local Municipal Impact

The impacts of a new waste management framework on local municipalities are unclear. Introduction of an extended producer responsibility framework similar to that in British Columbia could decrease resident access to waste diversion programs, affect service levels and change the role of municipalities in the integrated waste management system. Potentially additional funds and resources may be required to accommodate system changes.

Regional staff advised our local municipal partners in May at the Strategic Waste Policy Committee meeting that new waste management framework legislation is expected in 2015. Local municipal staff will provide comments for inclusion in the Regional response and may also submit their own comments. Regional staff will continue to engage the Strategic Waste Policy Committee to ensure local municipal issues are addressed in any York Region response to future legislation.

AMO resolution shared with local municipal staff

The proposed AMO resolution regarding Producer Responsibility and Development of a New Provincial Framework for Waste Recovery has been shared with all local municipal partners for their consideration. Recommendation four of this report also requests that copies of this report be circulated to local municipal councils to continue to make them aware of the Regional position on this legislation. They will have the option to endorse a similar resolution at this time if desired.

7. Conclusion

Legislative framework based on a "made in Ontario" full producer responsibility model respecting the role of municipalities in program delivery will preserve diversion success, service levels and environmental performance

The current *Waste Diversion Act, 2002* framework in which stewards and municipalities negotiate the steward obligation for a given year remains challenging. Municipalities are ready to work with the Province and other stakeholders to develop a more sustainable waste management framework for Ontario. A "made in Ontario" solution that respects the current complexity and functionality of the integrated waste management system is needed. Ontario and York Region are considered leaders in diversion and any new changes to legislation must protect against the erosion of this success. A "made-in-Ontario" extended producer responsibility framework needs to be carefully implemented

with a strong, legislated role for municipalities to ensure service levels and environmental performance is maintained. York Region staff will continue to engage with the Province and the stewards on future waste management regulations.

In support of the municipal requirements for an integrated waste management system, Regional staff recommend that Council support the resolution from AMO (Attachment 1) regarding full producer responsibility and the development of a new legislative framework for waste reduction and resource recovery.

For more information on this report, please contact Laura McDowell, Director, Environmental Promotion and Protection, ext. 75077.

The Senior Management Group has reviewed this report.

Attachments

#6123796

Accessible formats or communication supports are available upon request

Revised Attachment 1
Agenda Item D.2.1

Proposed Modified AMO Resolution on Producer Responsibility and Development of a New Provincial Framework for Waste Recovery

"Whereas municipalities have no control over the form of municipal solid waste that is generated from packaging and products that enter their jurisdiction;

Whereas municipal taxpayers bear more than 50% of the cost of waste disposal and recycling of packaging and printed paper in the waste stream, which products are increasingly complex, multi-material and expensive to recycle, reclaim or dispose of;

Whereas the Minister of the Environment and Climate Change has committed to replacing the current waste diversion legislation, but has not yet introduced replacement legislation to the legislature;

Whereas producer responsibility provides that producers be responsible for 100% of the costs of certain designated wastes for full cost of end-of-life management for such products and packaging;

Whereas municipalities should not have to bear the cost of managing the disposal of these materials;

Whereas waste is a valuable resource;

Whereas producer responsibility would provide considerable savings to York Region residents and grow the local economy as producers innovate to reduce waste, develop more easily recyclable packaging and work with municipalities on better ways to collect and process it;

Whereas increased recycling and reclamation could add 13,000 good, high-quality jobs in Ontario and contribute more than $1.5 billion every year to Ontario's economy;

Therefore be it resolved that **The Regional Municipality of York** calls on the Ontario Government to introduce legislation to replace the *Waste Diversion Act* with a "made-in-Ontario" framework based on full Producer Responsibility with a legislated role for municipalities that respects the current complexity and functionality of the integrated waste management system, and ensures producers are responsible for 100 per cent of the end-of-life costs of designated waste, and that producers need to work with the municipal sector on those Producer Responsibility programs so that municipalities are fairly compensated for services provided to manage designated waste that enters the municipal system and to maintain service levels.

Attachment 2

AMO Municipalities Ontario

Office of the President

Sent via e-mail: gmurray.mpp@liberal.ola.org

April 15, 2015

The Honourable Glen Murray
Minister of the Environment and Climate Change
77 Wellesley Street West
11th Floor, Ferguson Block
Toronto, Ontario M7A 2T5

Dear Minister Murray:

Since 2008, the Province has called for shifting the financial burden from property taxpayers to producers for end-of-life management of products and packaging. It is time to make this happen. The new legislative framework must result in measurable reduction and diversion of waste from disposal while striking a balance that provides producers with the authority they require to manage these costs while also being fair to municipalities. It is essential that the new framework recognize that these diversion and recovery programs are elements in an integrated waste management system for residents.

AMO, working closely with the City of Toronto, the Regional Public Works Commissioners of Ontario and Municipal Waste Association, has developed a Municipal Discussion Paper that outlines the critical needs and interests of municipal governments which the new framework needs to address. This paper, on behalf of the sector, is based on work we've done on Bill 91 and our experience with the current *Waste Diversion Act*, 2002. In the absence of new draft legislation we have provided this paper for your consideration and we look forward to discussing any new legislation as it is being developed.

As you know, municipal governments are primarily responsible for Ontario's existing residential integrated waste management system that manages annually over 4.9 million tonnes of material at a cost of over $1 billion. Over 47% of this material is diverted from disposal and taxpayers have borne much of the cost of waste diversion over the last thirty plus years. Additionally, municipalities bear the primary burden when waste materials are not effectively collected and reused, because residual wastes end up in municipal disposal facilities, sewers, or streets (as litter).

We are ready to work with the Province along with other interested waste diversion parties, including producers and services providers, to address issues that have become apparent with the *Waste Diversion Act*. We remain committed to realizing our shared objectives of environmental protection and striving to minimize impacts to water, soil, and air in our communities.

[illegible]

We would be happy to discuss any of the elements of this paper with you and MOECC officials in further detail and look forward to continued conversation on how together we can design a new legislative framework for more effective waste diversion in Ontario.

Sincerely,

Gary McNamara
AMO President

cc: The Honourable Ted McMeekin, Minister of Municipal Affairs and Housing

Attachment 3

New Waste Reduction and Resource Recovery Framework Legislation

April 15, 2015

Association of
Municipalities
of Ontario

200 University Avenue, Suite 801
Toronto, ON M5H 3C6 Canada
Tel: 416-971-9856 Fax: 416-971-6191
email: amo@amo.on.ca
website: www.amo.on.ca

Municipal Discussion Paper-

Introduction

Development of a new legislative framework to replace the *Waste Diversion Act* 2002 is underway. In the Fall 2014 mandate letter to the Minister of Environment and Climate Change, Premier Wynne has requested this be brought forward:

> "Developing and implementing improved approaches to waste diversion. Your ministry will do so by building on the release of the Waste Reduction Strategy and working with industry, municipalities, and other stakeholders toward the objective of reintroducing waste reduction legislation. The goal for your ministry is to ensure the ongoing sustainability and appropriate governance of waste diversion programs. This is critical to protecting the environment, recovering economic value in the waste stream, and reaping greenhouse gas (GHG) reduction benefits by using resources more efficiently."

This is an important initiative for Ontario and provides an opportunity to achieve many public goods, including improved resource utilization and reduction in greenhouse gas (GHG) emissions.

This paper outlines the critical needs and interests of municipal governments, which the new framework must address. Municipal governments also reflect the interests of Ontario taxpayers who use and pay for waste management services, including waste diversion.

Municipal governments are primarily responsible for Ontario's existing residential integrated waste management system that manages annually over 4.9 million tonnes of material at a cost of over $1 billion. Over 47% of this material is diverted from disposal and taxpayers have borne much of the cost of waste diversion over the last thirty plus years. Additionally, municipalities bear the primary burden when waste materials are not effectively collected and reused, because residual wastes end up in municipal disposal facilities[1], sewers or streets (as litter).

Since 2008, the province has called for shifting the financial burden from taxpayers to producers for end-of-life management of products and packaging. It is time to make this happen.

The new legislative framework must result in measurable reduction and diversion of waste from disposal while striking a balance that provides producers with the authority they require to manage these costs while also being fair to municipalities. It is essential that the framework recognize that these diversion and recovery programs are elements in an integrated waste management system for residents.

[1] Disposal refers to a treatment methodology for garbage that has not been reduced, reused, recycled or composted and includes, but not limited to, landfill, transfer station and energy-from-waste technologies.

Background

Municipalities are the primary providers of waste management services to residents in communities of all sizes across Ontario. The services provided have evolved over time to include:

- Collection and safe disposal of garbage to address public health and sanitation issues for over a century
- Adding collection and processing of printed paper and packaging over 30 years ago, initially on a voluntary basis, then as required by Regulation 101/94 to increase utilization of precious natural resources and energy
- Collection and composting of leaf and yard waste, and later food waste in many jurisdictions to keep these materials out of disposal and produce a valuable amendment to improve soil quality
- Establishment of depots and special collection days for hazardous materials, electronics, pharmaceuticals and sharps to keep harmful toxins out of disposal and water treatment systems and reduce impacts on natural environment and human health.

Today, we have been told that Ontario municipalities operate one of the most advanced integrated waste management systems in the world that includes:

- Delivery of an integrated waste management system to over 5 million households
- Collection, processing, marketing and disposal of almost 4.9 million tonnes of material at an estimated total annual cost of over $1 billion to taxpayers
- Disposal infrastructure consisting of 24 landfills and one energy-from-waste facility with an estimated value of over $1.6 billion
- Collection and processing of over 900,000 tonnes of printed paper and packaging at a cost of over $325 million and conversion of this material into usable commodities with a market revenue value of over $87 million
- Collection depots and special events for hazardous materials that manage almost 18,000 tonnes annually at an estimated cost of almost $26 million
- Collection and processing of 900,000 tonnes of organics (leaf and yard waste, food waste) at a cost estimated in excess of $225 million to produce soil amendment.

Municipal waste management services are primarily provided to residential customers however a small amount of waste from the Industrial, Commercial and Institutional (ICI) sector is collected from business improvement areas and small businesses for sake of efficiency and reducing impact of numerous collection vehicles on streets. As a result, our submission is focused on the residential stream.

As mentioned further in the paper however, we urge the Province to take action on a waste diversion scheme that addresses the ICI sector where diversion rates are extremely low compared with the residential sector. In order to meet Provincial waste reduction and diversion targets it will be critical to ensure the legislative framework address the ICI sector. Products and packaging are resources that should be recovered no matter if they are generated in the residential or the ICI waste stream.

Complementary programs are required to increase diversion in ICI sector and remove confusion amongst consumers so they can recycle material whether at home or out in the community.

At first reading of the *Waste Diversion Act* 2002 (WDA), the Minister of the Environment stated that "This legislation firmly establishes a partnership between industry and the municipalities and lays out the framework for a recycling system that will serve this province for years to come."[2]

The Waste Diversion Act (2002) and the subsequent plans developed under it provide a mix of cost responsibility schemes depending on the material. It ranges from shared responsibility on the blue box program (50/50 cost split) to elements of full producer responsibility for other programs (Waste electrical and electronic equipment (WEEE), municipal hazardous and special waste (MHSW), and tires).

Programs under the Act have had some success but have not reached their full potential. A core issue for municipal governments and consumers is that the implementation of the programs has not considered the impact on the residential integrated waste management system. The result has been an increase in costs for municipal governments and a confusing array of collection options for consumers.

There has been growing discord between municipalities and producers on fair compensation for delivery of the blue box program. This resulted in formal dispute resolution through arbitration in 2014 and the shared responsibility model unfortunately perpetuates constant conflict between the funding parties.

The municipal hazardous and special waste program has been through several iterations with the designated materials being split into three phases or groupings. The original intent was to implement a comprehensive program; however this was never completed due to concerns over 'eco fees' in 2010. As a result, the program is now very complex and fragmented for consumers and municipal governments. Different items are accepted at different locations and this is confusing for consumers. Municipalities continue to collect the majority of these materials despite having a minimal portion of the collection channel and have had to bear high financial and environmental costs to properly manage these materials. [3]

The waste electronic and electrical equipment program has experienced extreme changes in incentive payments to collectors and processors. This has created a highly unstable market with little predictability.

Although not under the WDA , but via regulation under the *Environmental Protection Act*, the pharmaceutical and sharps program has resulted in an increase in quantities of these materials in the municipal collection channel despite industry devising a return-to-retail model that provides no funding for municipal management of these materials. Despite the lack of funding, municipalities

[2] Official Report of Debates (Hansard) June 26, 2001; first reading of Waste Diversion Act

[3] In 2013, municipalities collected an estimated 57% of MHSW in Stewardship Ontario's Orange Drop program while providing less than 2.5% of the collection sites offered

continue to collect these materials through their MHSW collection programs to provide adequate service to their residents and reduce environmental impacts from these products.

Despite these challenges, municipalities have, and will continue to be a trusted partner of the Province to deliver these services to Ontarians due to our shared objectives of environmental protection and striving to minimize impacts to water, soil and air in our communities

Ontario municipal governments are looking forward to working with the Province to address issues that have become apparent with the WDA and apply the knowledge gained over the last 30 years and beyond.

Provincial Goals/ Public Goods

Municipalities support the high level objectives the Province is aiming to address with this new legislative framework.

- Increasing the efficiency by which natural resources and energy are utilized
- Moving to a competitive circular economy vs. current consumption-based economy
- Reducing greenhouse gas emissions
- Moving focus further up the waste management hierarchy to drive reduction and reuse efforts in addition to recycling and recovery (e.g. food waste reduction strategy, textile reuse etc.)
- More design for the environment in products and packaging that see more durable or reusable products while using less packaging and fewer hazardous materials
- Expanding new legislative framework to encompass diversion in ICI sector
- Cost effective green procurement initiatives
- Strengthen competition in the marketplace.

Municipalities understand that these are provincial policy objectives on which the MOECC will take the lead.

Critical Municipal Requirements

The new legislative framework must:

- Continue to provide an integrated waste management system Ontario residents,
- Recognize that municipal governments have borne much of the cost of waste diversion to date, and
- Recognize that municipal governments bear the primary burden when waste materials are not effectively collected and reused, because residual wastes end up in municipal disposal sites, sewers or streets as litter.

To build on this further, listed below are several requirements the new legislative framework must address.

Disposal capacity is limited in Ontario and new facilities are difficult to site with approval processes that span years. These sites can lead to environmental impacts such as leachate that can pose risk to precious groundwater resources and greenhouse gas production. Additionally, disposal sites have large land requirements that can displace higher level land use activities such as agriculture, employment lands and housing. Disposal sites will continue to be required for safe management of materials that are not captured in diversion programs, however it's critical to maximize the capacity that is available by diverting as much valuable resources as possible and increase the efficiency by which we utilize natural resources and energy.

The full cost of end-of-life management for products and packaging must be shifted to producers to internalize these costs in the sale of their products.

This would include the costs to divert the products and convert them back into usable commodities and resources as well as the costs to manage designated products and packaging in the collection and disposal stream. The disposal stream would include landfill, energy-from-waste facilities, transfer stations and additionally litter and sewer systems.

If branded products and packaging enter any municipal waste stream, municipalities should be fully compensated for the real cost of managing those wastes. While producers are free to manage their wastes outside the municipal waste stream, the municipal waste streams receive a substantial portion of all such wastes.

Municipal waste management services are primarily provided to residential customers however and as noted earlier, a small amount of waste from ICI sector is collected from business improvement areas and small businesses for sake of efficiency and reducing impact of numerous collection vehicles on streets. Municipalities would expect to be fairly compensated for services provided to collect and manage this limited amount of ICI material as well.

The new legislative framework should consider the entire integrated waste stream and contemplate designation of all potential useful resources in the waste stream including but not limited to: printed paper and packaging, hazardous waste, old electronics, pharmaceuticals and sharps, tires, and organics. Recovering resources should move beyond the designations currently identified in the Waste Diversion Act (2002).

Ontario residents must have convenient access to programs. This helps encourage participation and maximizing separation of designated products and packaging for recovery. It will be critical to ensure that residents have access to some type of program no matter where they live in the Province. The

scope, frequency and form of program may be different in various regions of the Province to recognize cost realities, but equitable access is critical.

The new legislative framework must include mandatory geographic coverage that is at least equal to, and optimally, expands upon the level of service provided under the current system.

It will also be important to ensure that residents living in multi-residential buildings (i.e. apartments and condominiums) are adequately serviced and afforded convenient access to programs. Diversion rates in multi-residential buildings lag those attained in single family households for a multitude of reasons including: lack of convenient access to separate bins for designated materials, lack of space for sufficient recycling containers, anonymity etc. With intensification occurring in many jurisdictions the percentage of residents residing in multi-residential building will continue to grow. It's critical that plans to specifically address challenges in multi-residential buildings are developed.

A new legislative framework will establish different roles and responsibilities within the integrated waste management system. It will be important to ensure that these changes are reflected in other pieces of legislation, regulations and statutory instruments.

In addition to repealing regulation 101/94, many other regulatory changes may be required, including amendments to the Municipal Act, to the EPA, and to Environmental Compliance Approvals for many existing municipal waste facilities.

Municipalities cannot be held liable to drive outcomes that they are no longer responsible for and the entire legislative regime pertaining to waste must be updated to reflect this.

Municipalities must be fairly compensated for any stranded assets, investments and other obligations that do not form part of the system under a new legislative framework.

In order to comply with O. Reg. 101/94, and with repeated encouragements from Ministers of the Environment to increase waste diversion, municipalities have invested hundreds of millions of dollars in waste processing infrastructure, entered into long term contracts with each other and with the private sector, and have incurred long-term obligations to employees. Municipalities cannot simply break these contracts, terminate these employees and write off these investments, especially without fair compensation.

There will need to be an adequate transition period from the current system design and responsibilities to that envisioned in the new framework. It will be critical to provide sufficient time for wind down of existing contractual arrangements between municipalities and service providers and to determine fair compensation for stranded assets and other obligations for municipalities who will not be providing services under a new legislative framework. Additionally, municipal Councils will need sufficient time to consider and approve any new arrangements and changes in responsibility for delivery of services.

The new legislative framework must have clearly defined roles and responsibilities for all key players including municipal governments, producers and service providers.

There must also be clear rules and targets that are open and transparent with appropriate penalties and incentives to ensure compliance. Key performance indicators and metrics are required to measure results and track progress towards intended outcomes. Currently, waste diversion is measured on a weight-basis, however with rapid changes in products and packaging and movement towards lighter weight materials, this needs to be re-examined. Metrics that track volume and/or units sold and recovered may be more applicable.

Effective oversight is critical to ensure a level playing field for all stakeholders and that diversion objectives are achieved. The oversight agency needs an adequate level of authority to enable decision making and dispute resolution and to effectively enforce the rules set out in the legislative framework.

The oversight agency requires a non-interest based board that operates in a highly transparent manner and provides opportunities for affected parties and stakeholders to have input. The board needs to be accountable for decisions and actions. Board members should have knowledge and skills applicable to the program area and should be compensated to ensure appropriate competencies given the magnitude of the programs and associated costs. The process for appointing board members needs to be carefully considered and must not indirectly create a board predisposed toward any of the affected parties or stakeholders.

The oversight agency also requires sufficient competency-based staff and financial resources to ensure required duties are professionally fulfilled.

Both the WDA and Bill 91 provided for producers to act as a group, but not municipalities. It is unreasonable and unfair to expect every individual municipal government to deal individually with a large numbers of producers and their agents. Municipalities as a sector require the ability to act collectively, especially in matters of governance, in data collection and management, master contract negotiations, in dispute resolution and in allocation of funds among municipalities.

Municipalities will propose a mechanism for funding and governing such collective action later in 2015.

Decision making, compensation methodologies and all other decisions must be based on transparent, reliable, accessible data and methods. We understand the need to protect proprietary information; however a reasonable amount of data must be shared and accessible by all stakeholders to ensure transparency and enable informed decision making.

In the case of determining compensation methodologies and payment incentives, the rationale and methodology by which this is determined must be transparent to ensure it is based on good facts and is fair to all parties.

Important Municipal Objectives

Municipalities must have the right, if they choose, to maintain or reclaim the exclusive right to collect Blue Box material from their residents, and to be fairly compensated for this service.

Recycling collection forms a key component of the integrated waste management system municipalities provide for residents and to a lesser extent, businesses in their communities. In many cases, the same truck provides multiple functions on a single pass, and recycling collection is an integrated part of waste collection contracts. In depot systems, recycling is typically one component of an integrated drop-off centre that also provides collection of garbage, hazardous materials and electronics in many cases.

Municipalities must be able to continue to provide these services if they so choose, to avoid fragmenting the integrated nature of the waste management system and burdening consumers with increased costs and truck traffic. Municipally-managed collection is highly valued by municipal residents, and is an important point of contact between residents and their local government.

As stated earlier, some municipalities collect a small portion of ICI waste from business improvement areas and small businesses for sake of efficiency and reducing impact of numerous collection vehicles on streets. Municipalities should be fairly compensated for costs associated with managing these materials and the compensation should not be treated any differently than that for residential material.

Compensation cannot be left primarily to be negotiated between municipalities and producers. The parties do not have equal bargaining power, and critical questions must not be left to negotiations, either individually or in groups. Waste diversion is a regulated activity, precisely because ordinary free market activity produces results that are contrary to the public interest, and allows commercial actors to produce large externalities that are transferred to municipalities and taxpayers as well as the natural environment.

A demand that municipalities must negotiate and agree with stewards simply reinforces the market power of these commercial actors, and in the municipal sector's perspective has produced adverse results for municipalities since the adoption of the *Waste Diversion Act* in 2002.

Particularly in the case of Blue Box collection, stewards should be required to pay the verified costs actually incurred by municipalities, determined in an objective manner that does not require steward agreement. In the 2014 arbitration between AMO/City of Toronto and Stewardship Ontario the arbitrator's recommendation that stewards should pay costs reported through the Datacall, as verified by WDO, was deemed an acceptable option. The Québec model, which excludes both high and low outliers, offers another reasonable precedent. The British Columbia model of 'take it or leave it' incentives determined solely by producers does not.

The rules and methodology for determining fair compensation need to be regulated to avoid the increasingly unproductive negotiations between the parties.

Municipalities have been required to operate the processing and marketing of collected printed paper and packaging for over 30 years, and have developed substantial infrastructure and expertise for this purpose.

Municipalities must have the right, if they choose, to provide processing services for printed paper and packaging, on a level playing field with the private sector. For the few municipalities who are not successful in competing for these services but want to retain processing for the benefit of their community, arrangements should be made to afford the municipality the opportunity to continue to provide these services, be compensated at the competitive rate from producers and absorb the additional costs of these services.

It is critical that the processing system for the Province be regulated to ensure:

- Level playing field for all stakeholders who wish to compete to provide processing services
- That a diverse range of service providers be ultimately engaged to provide these services to ensure continued competition and avoid market monopolies.

Careful consideration must be put to developing a transition plan that would enable any transfer of processing responsibility from some municipalities to producers. This would include contractual obligations between municipalities and service providers and fair compensation for any municipal assets or investments that are stranded as a result of the new responsibilities.

Municipal governments must be fairly compensated to manage or administer any major new costs that result from the new legislative framework.

For example:

- If disposal bans or levies are utilized and municipalities are expected to administer and enforce their application, there must be fair compensation for these activities
- If there is a desire to harmonize the list of materials accepted in any of the diversion programs, whether full-scale harmonization across the Province or partial harmonization depending on geographic considerations, municipalities must be fairly compensated for the additional costs to do so.

Given the toxic nature of these products and the significant environmental impact they can cause to our water, air and soil, municipalities must have the ability to provide collection services for these materials where producer systems are not adequately preventing them from entering the municipal system (disposal, sewers, etc.) and be entitled to fair compensation.

The Province should consider a compensation framework that looks at cost plus punitive charges as a stronger incentive to producers to keep toxics out of the environment

Additionally, municipalities must have the right, if they choose, to compete for providing collection services for Hazardous waste, electronics, pharmaceuticals and sharps and any other designated toxic material. A level playing field must be ensured for all stakeholders who wish to compete to provide these services.

Many municipalities currently offer depots and event days for toxic materials where many items can be brought to one location for safe collection, transportation, processing and disposal. These depots and events have been successful as evidenced in Stewardship Ontario's Orange Drop program where municipalities collected an estimated 57% of the total material in the program while providing less than 2.5% of the collection sites offered.

These numbers illustrate the efficacy of the municipal collection system for hazardous wastes. Many return-to-retail and other non-municipal programs were initiated under the Orange Drop program to purportedly drive higher diversion of these materials. What has ensued has been a fragmented program with many retailers no longer providing these services and if so, only taking a limited amount of materials. The municipal depot and special event programs have been a consistent producer of tonnage for this program despite a very small portion of the collection channel.

Shifting the financial burden for end of life management of products and packaging should go beyond the current programs developed under the WDA and EPA (pharmaceuticals and sharps).

The 2009 Ministry of Environment paper titled 'Waste to Worth: The Role of Waste Diversion in the Green Economy' outlined a schedule for extending producer responsibility to more products and waste streams such as printed paper and packaging in the ICI sector, expanding the current definition of electronic waste, construction and demolition waste, branded organics, bulky items such as furniture and mattresses, and small household items such as toys.

This list of products and schedule should be re-visited and updated as part of the new legislative framework to ensure Ontario can reach our waste diversion goals and increase the efficiency by which we utilize natural resources and energy and minimize the impact on our climate.

Many municipal governments have already introduced collection of household organics on a voluntary basis to meet environmental goals and reduce disposal requirements.

However, given the heavy financial burden associated with these programs, they should not be mandatory until substantial funding is provided by the stewards of branded organics such as diapers, food packaging, disposable paper products, etc. Branded organics represent over 14%[4] of the tonnage collected in Toronto's green bin program.

In addition, organics programs are severely hampered by an excessively demanding regulatory structure on issues such as odour emissions, rules for use of finished compost and arduous approvals process. In order to successfully implement increased diversion of organic waste, these regulatory issues would need to be addressed.

The new legislative framework must provide continued access to a fund for expenditures needed for continuous improvement for municipalities. Funding could come from pro-rata contributions by municipalities on an annual basis as deductions from fair compensation from producers for services provided and other funding opportunities.

Smaller municipalities, in particular, also require access to technical support and training.

The fund should be managed, and the training provided, by a collective of municipalities. Producer involvement is not required as it may create excessive conflict between different objectives and priorities.

The funding should not be limited to improvements for systems related to designated materials but to be utilized across all components of an integrated waste management system.

Municipalities are ready to work with the Province along with other interested waste diversion parties, including producers and service providers, to address issues that have become apparent with the *Waste Diversion Act (2002)*. We remain committed to realizing our shared objectives of environmental protection and striving to minimize impacts to water, soil and air in our communities.

We would be happy to discuss any of the elements of this paper with you and MOECC officials in further detail and look forward to continued conversation on how together we can design a new legislative framework for waste diversion in Ontario.

[4] City of Toronto 2012-2013 Single Family Waste Composition Study

York Region

Environmental Services Department

Memorandum

TO: Members of Regional Council

FROM: Erin Mahoney, Commissioner of Environmental Services

DATE: June 25, 2015

RE: **Update on 2015 Blue Box Funding for Ontario Municipalities**

This memo updates Regional Council on the recent Waste Diversion Ontario (WDO) Board of Director's decision on 2015 blue box funding for Ontario Municipalities (Attachment 1) and accordingly updates content in the original staff report referred to in Clause 2 of Committee of the Whole Report No. 12, dated June 18, 2015.

Minister of the Environment and Climate Change orders WDO to determine 2015 Steward Blue Box Obligation

Waste Diversion Ontario informed the Minister of the Environment and Climate Change (the Minister) that mediation regarding the 2015 Steward Blue Box obligation was unsuccessful. In response, on June 16, 2015, the Minister ordered WDO to take necessary steps to determine payments for 2015 and subsequent years, where the Municipal Industry Program Committee (MIPC) is unable to achieve consensus on payments. Waste Diversion Ontario has the authority and responsibility to do so under Section 5.2 of the *Blue Box Program Plan* and subsection 25(5) of the *Waste Diversion Act, 2002*. The Minister also directed WDO to establish a panel to develop recommendations on how cost containment principles contained in the *Blue Box Program Plan* could be used in the annual determination of industry funding to municipalities. Waste Diversion Ontario is expected to report back on its recommendations for cost containment in September 2015.

Waste Diversion Ontario Board of Directors determines 2015 blue box funding for municipalities to be full 50 per cent of total net costs.

The WDO Board of Directors met on June 17th following receipt of instruction from the Minister to determine the 2015 Steward Blue Box Obligation. On June 18th, the WDO Board of Directors announced the total amount of 2015 funding to be provided to Ontario municipalities will be $114,600,548, calculated using the methodology recommended by the arbitrator in 2014. This amount represents 50 per cent of total net costs for municipalities, as submitted via the Municipal Datacall process.

Precise funding amounts for 2015 for York Region and its local municipal partners will be determined and communicated by WDO before July 1, 2015. However it is expected that funding to York Region and its local municipal partners will be higher than the amount budgeted for 2015, as a result of the adoption by WDO of the methodology recommended by the arbitrator.

Adoption of the methodology recommended by the arbitrator in 2014 and award of the full 50 percent of total net costs reflects years of advocacy by York Region, its local municipal partners and municipal associations supporting fair and increased reimbursement of municipal costs.

ORIGINAL SIGNED

Erin Mahoney, M. Eng.

Attachment

Sh/LM

#6140050

WDO Board of Director's Decision on 2015 Blue Box Funding for Municipalities

June 18, 2015

Each year, the amount of funding Ontario municipalities receive for their Blue Box program is determined by Waste Diversion Ontario, based on a recommendation from the Municipal Industry Program Committee (MIPC), which oversees the Blue Box Program.

Earlier this year, MIPC advised WDO that it was unable to reach an agreement on the amount of industry funding to be provided to Ontario municipalities for their 2015 Blue Box programs. Each year, this funding is sent to individual municipalities in four instalments, beginning on or about July 1.

This past April, the WDO Board directed MIPC to select a mediator to work with them, in an effort to reach an agreement. Last week, the mediator informed WDO that the mediation process had ended with the parties still unable to reach an agreement.

As a result, the WDO Board met yesterday to determine the 2015 funding, as it has the authority and responsibility to do. In addition, the Minister of the Environment and Climate Change, the Honourable Glen Murray, informed WDO that he expected WDO to fulfill this responsibility without delay.

Yesterday (June 17, 2015), the WDO Board determined that the total amount of 2015 funding to be provided to Ontario municipalities operating a Blue Box program will be $114,600,548, calculated using the same methodology used by an arbitrator, the Honourable Robert Armstrong, Q.C., who was retained last year by the parties to determine the 2014 Blue Box steward obligation.

The WDO Board has directed Stewardship Ontario, the industry-funded organization established under the Waste Diversion Act to provide this industry funding, to commence paying the 2015 industry funding for each municipality's Blue Box program on or about July 1, 2015, beginning with the first quarterly instalment of this funding. Further details of this payment may be found below.

This determination results in a total 2015 Steward Obligation of $114,600,548 to be paid by Stewardship Ontario through quarterly instalments commencing on June 30, 2015. Of this:
- $2,000,000 is to be directed to the CIF;
- $6,945,011 is the in-kind contribution; and
- $105,655,537 is to be paid out in cash to Ontario municipalities.

Within the next week, WDO will place on the WDO website the amount owing to each municipality.

Yesterday, the WDO Board also directed WDO's CEO to establish a panel to develop recommendations on how the cost containment principles contained in the Blue Box Program Plan could be used in the annual determination of industry funding to municipalities for the Blue Box Program. The panel has also been directed to provide recommendations on the future of the In-kind Program, a program of free advertising provided to municipalities each year by the newspaper industry Blue Box stewards to fulfil their funding obligation.

This panel will include industry and municipal representatives and will report its recommendations to WDO in September 2015. The Minister of the Environment and Climate Change has asked WDO to provide him with WDO's recommendations on cost containment by the end of September. Further details on this panel will be shared next month.