



Administrative Report

Office of the Director, Council & Community Services/Clerk

Office of the Director, Financial Services/Treasurer

To: Warden McNamara and Members of Essex County Council

From: Mary Birch, B.A., CMO
Director, Council & Community Services/Clerk
Sandra Zwiers, MAcc, CPA, CA
Director, Financial Services/Treasurer

Date: Wednesday, March 16, 2022

Subject: Regional Food and Organic Waste Management Program

Report #: 2022-0316-CCS-R004-MB

Purpose

To provide County Council with responses from local municipalities regarding participation in the Essex-Windsor Solid Waste Authority (EWSWA)-led Regional Food and Organics Waste Management Program and to recommend that the Essex-Windsor Solid Waste Authority (EWSWA) be advised that Essex County municipalities will participate in a regional solution for the collection and processing of organic waste material.

Background

On October 20, 2021, County Council was provided with a [report](#) and delegation from Michelle Bishop, General Manager, EWSWA providing background information on EWSWA's Regional Food and Organics Waste Management Project.

Council was advised that the primary purpose of the project is to comply with Ontario's Food and Organic Waste Policy Statement pursuant to Section 11 of the 2016 Resource Recovery and Circular Economy Act (collectively "The Organics Provincial Policy Statement" or "OPPS"), which will require some municipalities in Essex-Windsor to achieve specific reduction and recovery target rates by 2025 as follows:

- City of Windsor – Provide curbside collection of food and organic waste to single family dwellings in an urban settlement area and to achieve a target rate of reduction of 70%;
- Amherstburg, LaSalle, Leamington and Tecumseh – Provide collection (through a public drop-off depot or community composting area or through curbside collection) of food and organic waste to single family dwellings in an urban settlement area and to achieve a target rate of reduction of 50%;
- Essex, Kingsville and Lakeshore – Not required to achieve specific rates of reduction for food and organic waste based on their population and population densities.

Essex County Council subsequently adopted the following resolution at the October 20, 2021 meeting:

THAT the Essex County Council consider a Regional approach to the Food and Organics Waste Management Project as it relates to participation from municipalities and report its decision back to the Essex-Windsor Solid Waste Authority no later than December 31, 2021.

Discussion

As the designated Project Manager, the City of Windsor retained GHD Limited (GHD) as the environmental consultant for Phase 1 of the Project. A Project Oversight Committee and Working Group, comprised of members from the EWSWA, the City and County, as well as stakeholders, provided input to GHD to produce a final report which outlined their project direction analysis and recommendations.

In June 2021, the EWSWA Board passed a motion for EWSWA Administration to retain an independent third-party consultant to conduct a peer review of the evaluation process completed to-date and the GHD Report.

Tetra Tech Canada Inc. was retained through a competitive bidding process to conduct the peer review, which was presented to the EWSWA on September 15 and October 5, 2021.

The findings identified by Tetra Tech are summarized below:

- The GHD Reports are substantially sound and offer comparative impacts of the various options. Concern was noted in regards to the capital costs presented by GHD, which may be underestimated;
- Given the compliance deadline of 2025 that applies to Windsor, Tecumseh, Amherstburg, LaSalle and Lakeshore, and the likelihood of an organics ban at all landfills which would then capture Kingsville, Essex and Lakeshore, Tetra Tech recommends that all 8 communities be part of a regional solution;
- The Ministry of the Environment, Conservation and Parks ("MECP") will assess innovative technologies for compliance with the Food and Organic Waste Ontario Provincial Policy Statement ("OPPS"). Proponents of innovative technologies must demonstrate compliance with the OPPS, and should be allowed to submit a proposal in response to a Request for Proposal ("RFP");
- Anaerobic digestion appears to be the best fit for both organics processing and greenhouse gas reduction targets;
- Tetra Tech recommends an RFP be prepared that requires proponents to meet the following key critical end points;
 - That the proponents have the skills, experience and technology that works;
 - That any proposal meets all regulatory and policy requirements for the EWSWA (including energy policies);
 - That a cost proposal (whether upfront capital or all-inclusive tipping fees) be evaluated on a Net Present Value ("NPV") basis.

At the October 5, 2021 EWSWA Board meeting, Administration was directed to proceed with the development of a procurement plan for a Regional Food and Organic Waste Management project that would be as unrestrictive as possible to allow the private sector to propose innovative and cost-effective solutions. The Oversight Committee was authorized to sole source the next phase of consulting services to GHD for the preparation of a Request for Qualification (RFQ), followed by a Request for Proposal (RFP), and that the EWSWA Board approve the terms of reference prior to publishing of the RFQ and RFP.

In addition, the Board directed EWSWA Administration to schedule presentations at each of the seven (7) County municipalities and at the City of Windsor outlining the requirements of the Ontario Food and Organic

Waste Policy Statement and the decision points that will be required by each municipality.

Following the October 5, 2021 EWSWA Board meeting, the Oversight Committee, Technical Working Group and GHD began working towards the preparation of a Request For Qualifications. During this process, several issues and concerns were identified regarding a procurement process that allows for both municipally-owned and privately-owned models. These concerns are detailed in the Oversight Committee memorandum to the EWSWA Board dated January 6, 2022, provided in Appendix "A".

In an effort to assist the Regional Partners, GHD prepared a Roadmap to navigate the various questions and issues that still need to be determined to support data-driven decision making. Step 1 of the Roadmap, Program Governance, involves making decisions regarding who will be responsible for the implementation and management of each aspect of an organics program, and who will be participating and to what extent. The Oversight Committee, Technical Working Group and the Regional Partners have been working towards a decision regarding Regional Program Governance and participation.

The Roadmap clearly illustrates that a significant amount of effort is still required before a long-term organics program is established. Given the issues identified with an open procurement process, unknown participation levels, and numerous other variables including equipment and material sourcing delays which require a contract be established up to two years prior to commencement of services, the Oversight Committee concluded that the only option that can be completed prior to 2025 is a short-term service delivery contract.

Therefore, the Oversight Committee recommended to the EWSWA Board that Step 2 of the Roadmap – Short Term Service Processing Contract(s) – be initiated as soon as possible in order to secure processing capacity, establish and maintain compliance with provincial requirements, and gather valuable information and data regarding organic waste within the region.

The following recommendations were adopted by the EWSWA Board on January 12, 2022:

- 1) That the Food and Organic Waste Management Oversight Committee BE DIRECTED to continue to work through the various steps outlined in the Roadmap, and report back with progress updates, and;
- 2) That the Food and Organic Waste Management Oversight Committee BE DIRECTED to proceed with a short-term organic waste processing contract(s) RFP that meets the following minimum criteria:

- a) That the RFP BE REQUIRED to accept, at a minimum, source separated organics from Windsor and any other of the municipalities choosing to participate at the onset, and allows for changes to quantities of source separated organics, and;
 - b) That industry standards be exceeded regarding odour control measures implemented at the facility and the end product, and;
 - c) That the RFP be required to provide service for a 5-year term with options for extensions.
- 3) That the EWSWA send correspondence to the County of Essex and all municipalities in the region who have yet to respond to indicate whether or not their members or those municipalities will participate in the EWSWA led organics program and to indicate that response is required by March 31, 2022.

Correspondence advising the County of this resolution, dated January 19, 2022 is provided as Appendix "B".

Jurisdiction Over Collection and Processing of Organic Waste

The collection and processing of organic waste within the region is not a service that has been delivered by a municipality on a permanent basis in the past. The "Agreement between the County of Essex and City of Windsor Pertaining to the Creation of the Essex-Windsor Solid Waste Management Authority, dated April 18, 1994" (the Agreement), was reviewed by the County Solicitor, David Sundin, who also provides legal support to the EWSWA, to review the question of 'jurisdiction' over services related to the collection and processing of organic waste. He determined that the Agreement provides the necessary jurisdiction for the EWSWA to deal with the collection and processing of organic waste. He noted the following:

- 1) The definition of waste in the Agreement is broad and although it does not specifically state "organic waste", the definition encompasses "organic waste";
- 2) That the Agreement authorizes EWSWA "on behalf of the City and the County to take all steps and actions as are proper, necessary and/or advisable to carry out and fulfill its responsibilities and function";
- 3) That authorization is limited by, among other things, EWSWA obtaining approval from both the City and County each year for its operational plan and budget;

- 4) Even if the City and County do not both agree on the operational plan and budget, there is a dispute resolution process built into the Agreement;
- 5) EWSWA is also tasked with taking "all steps and activities as are proper and necessary" to comply with the Solid Waste Management Master Plan and to ensure "adherence to all conditions of approval for existing and future waste management sites." The current Solid Waste Management Master Plan includes the recommendation to implement an organic waste program and the Province appears to be moving towards banning organics from landfills

The 2022 EWSWA Authority operational plan and budget includes \$100,000 in consulting fees to support the continuation of the development of a regional organics program, which was adopted by the Authority on November 2, 2021 and subsequently approved by City and County Councils on December 13, 2021 and December 15, 2021, respectively.

Information Required to Move Forward

In keeping with GHD's recommendation and direction from the EWSWA Board, an RFT for contract processing services is being drafted. In order to ensure proponents provide adequate capacity for processing organic tonnage collected from participating municipalities, it is necessary to identify which municipalities will participate at this stage. GHD will then use collection data to estimate the tonnage of organic waste requiring processing in the short-term service contract.

Responses

At the time of writing this report, responses from all Essex County municipalities, with the exception of the Town of Kingsville, have been received and are provided as Appendices "C" to "H". The Town of Kingsville is scheduled to discuss this matter at their March 14th, 2022 Council meeting.

Of the responses received Amherstburg, Lakeshore, LaSalle, Leamington and Tecumseh have all stated their support for a regional approach to food and organics waste management. Tecumseh Council further provided authorization for participation in a regional program. LaSalle Council also requested the EWSWA, with the County of Essex to begin to investigate a comprehensive regional approach for the collection and management of waste, as well as organics and recyclables. The Town of Essex resolution did not indicate support for the initiative and simply received the report from the EWSWA General Manager which was presented to County Council on October 2021.

Role of County Council

Based on the information provided by the local municipal councils, and in accordance with the motion of County Council from October 2021, County Council is now responsible for identifying the participation level for the whole of the County.

Financial Implications

As an initiative of the EWSWA, the County of Essex does not contribute directly to the finances of the Authority. The current financing model distributes costs of the EWSWA to the participating local municipalities on a user fee basis. Despite no direct costs to the County of Essex, the following financial implications should be considered:

- A regional approach provides for economies of scale which will drive financial savings. The more fulsome the participation, the greater the potential for savings for everyone.
- To optimize the diversion of organics, as well as realize financial savings for the whole of the system, centralizing garbage collection should be investigated simultaneously to provide a coordinated approach to collections. Reducing garbage collection frequency and increasing organics and recycling collection frequency will incentivize source separation for all refuse streams. Centralizing garbage collection will also provide for additional economies of scale and potential contract savings for all service areas.
- With a ban on organics on the horizon, it is prudent for all municipalities to participate to ensure any organics solution supports the entire region's capacity needs. Leaving some municipalities out exposes those municipalities to capital and operating risks of having to proceed with a stand-alone solution in the future to meet their needs.

Consultation

Substantial consultation on this initiative has taken place over the past year. Michelle Bishop has attended all municipal Council meetings within the region, as well as several meetings of the Chief Administrative Officers. County Solicitor David Sundin has been consulted on the question of jurisdiction for organics collection and processing decisions.

From County Administration, Sandra Zwiers is a member of the Working Group and Oversight Committee and Mary Birch is a member of the Oversight Committee.

Conclusion

Having participated on the Organics Working Group and Oversight Committee, County Administration concludes that they fully support a regional source separated organics program for the following reasons:

- It is the environmentally right thing to do;
- It aligns with our regional community energy plan goals;
- It will ensure compliance as the County municipalities continue to grow in population and density;
- It provides a sound business case for transferring governance of waste collection contracts from the local level to the regional level; and
- It will maximize the potential for cost savings and operational efficiencies for the whole of the waste collection/disposal system if the contracts are managed as a centralized solution by the EWSWA.

Recommendation

That Essex County Council receives for information the memorandum prepared by the Regional Food and Organics Oversight Committee and sent to EWSWA Board Members on January 6, 2022 regarding the Regional Food and Organics and Biosolids Waste Management Project – Facility Ownership and Recommended Next Steps attached as Schedule “A”;

And Further That County Council receives for information the letter received from Essex-Windsor Solid Waste Authority (EWSWA) dated January 19, 2022 regarding the Resolution of the EWSWA Board – Regional Food and Organics and Biosolids Waste Management Project attached as Appendix “B”; and,

And Further that County Council receives for information the correspondence from the local municipalities indicating their decision on participation in the Regional Food and Organic Waste Management Program, attached as Appendices “C” to “H” and provide copies to EWSWA;

And Further that County Council advise the EWSWA prior to March 31, 2022, that all Essex County municipalities will participate in a regional solution for the collection and processing of organic waste material from urban settlement areas, at a minimum, as part of the short-term processing contract commencing January 1, 2025 or immediately upon the expiration of a municipality’s existing waste collection contract, whichever is later.

Approvals

Respectfully Submitted,

Mary Birch

Mary Birch, B.A., CMO Director, Council & Community Services/Clerk

Respectfully Submitted,

Sandra Zwiers

Sandra Zwiers, MAcc, CPA, CA, Director, Financial Services/Treasurer

Concurred With,

Mike Galloway

Mike Galloway, MBA, CMO, Chief Administrative Officer

Appendix Number	Title
Appendix A	Memo from the Regional Food and Organics Oversight Committee to the EWSWA Board, dated January 6, 2022
Appendix B	Correspondence from Michelle Bishop, General Manager EWSWA, dated January 19, 2022
Appendix C	Correspondence from the Town of Amherstburg, dated January 6, 2022
Appendix D	Correspondence from the Town of Essex, dated January 19, 2022
Appendix E	Correspondence from the Municipality of Lakeshore, dated November 16, 2021
Appendix F	Correspondence from the Town of LaSalle, dated February 24, 2022
Appendix G	Correspondence from the Municipality of Leamington, dated March 2, 2022
Appendix H	Correspondence from the Town of Tecumseh, dated March 1, 2022