



CITY OF HAMILTON

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management Division**

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: October 16, 2012	
SUBJECT/REPORT NO: Resolutions from the Town of East Gwillimbury and the Town of Halton Hills Respecting the Need for Provincial Guidelines and Regulations to Govern the Quality of Fill Imported to a Receiving Site (PED12184) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Jason Thompson (905) 546-2424 Ext. 3933
SIGNATURE:	

RECOMMENDATION

- (a) That the City of Hamilton supports the resolutions passed by the Councils of the Town of East Gwillimbury and the Town of Halton Hills (attached as Appendices “A”, “B”, and “C” to Report PED12184) regarding the need for Provincial guidelines and regulations to govern the quality of fill imported to a receiving site;
- (b) That this endorsement be forwarded to the Council of the Town of East Gwillimbury, the Council of the Town of Halton Hills and the Ministry of the Environment (MOE);
- (c) That the Ministry of the Environment (MOE) be requested to establish guidelines, regulations and a Provincially regulated approvals process to govern the quality of fill imported to a receiving site.

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- (d) That the Planning and Economic Development Department be directed to report back in 2013 with appropriate amendments to the Site Alteration By-law to govern the quality and quantity of imported fill to a receiving site.
- (e) That items “N”, “Q”, and “S” respecting Provincial Regulations regarding Commercial Fill Operations and the need for Provincial guidelines and regulations to govern the quality of fill imported to a receiving site be identified as complete and removed from the Planning Committee’s Outstanding Business List.

EXECUTIVE SUMMARY

The Council of the Town of East Gwillimbury adopted a resolution on November 21, 2011 and further resolution on June 25, 2012 requesting the Ministry of Environment to establish guidelines, regulations and a Provincially regulated approvals process to govern the quality of fill imported to a receiving site other than for the purposes of Brownfield redevelopment. The November 21, 2011 resolution was originally referred to Public Works Committee however after further discussion Council at its January 25, 2012 Council meeting referred the item to Planning Committee for report (Planning Committee Outstanding Business Items “N” and “Q”).

The City of Hamilton Council on February 22, 2012 received a similar resolution adopted by the Council of the Town of Halton Hills on February 6, 2012. This resolution was also referred to Planning Committee for report (Planning Committee Outstanding Business Item “S”).

The Ministry of Environment is currently undertaking a review regarding the best practice of managing excess soil that is generated by excavation during construction activities. As a result, staff supports the resolutions of the Town of East Gwillimbury and the Town of Halton Hills to ensure that the issues encountered by municipalities is included in the Ministry’s review of managing excess soils.

Alternatives for Consideration – See Page 5

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing:

There are no financial or staffing implications associated with these recommendations provided the recommended study is included and approved as part of the 2013 Work Program for the Planning and Economic Development Department.

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Legal:

There are no legal implications associated with these recommendations.

HISTORICAL BACKGROUND (Chronology of events)

At the December 14, 2011 Council meeting, City Council received correspondence from the Town of East Gwillimbury, in the form of a Council resolution, requesting the Province to establish guidelines, regulations and a Provincially regulated approval process to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment (see Appendix "A"). The correspondence was received by Council and recommended that the item be referred to the General Manager of Public Works Department for a report to the Public Works Committee.

At the January 25, 2012 Council meeting the correspondence respecting the East Gwillimbury resolution requesting the Province to establish guidelines, regulations and Provincially regulated approval process to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment was referred to the General Manager of Planning and Economic Development Department for a report to the Planning Committee.

Further, at its meeting of February 22, 2012, City Council received correspondence from the Town of Halton Hills respecting Provincial Regulations regarding Commercial Fill Operations (see Appendix "B"). The correspondence was also a Council resolution, similar to the Town of East Gwillimbury, requesting the Province to establish guidelines, regulations and a Provincially regulated approval process to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment.

At the July 12, 2012 Council meeting, additional correspondence, in the form of a Council resolution, was received from the Town of East Gwillimbury further requesting the Province to establish regulations to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment (see Appendix "C"). This additional correspondence was endorsed by the City Council.

POLICY IMPLICATIONS

The City of Hamilton currently regulates fill material through the City's Site Alteration By-law and Engineering Design Guidelines. Approval of the recommendations will require further evaluation for the regulation of fill being imported to receiving sites and amendments to the Site Alteration By-law.

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RELEVANT CONSULTATION

Internal City of Hamilton Departments/Divisions consulted include:

- Development Planning
- Building Services
- Legal Services
- Public Health Services
- Parking and By-law Services
- Operations and Waste Management
- Environment and Sustainable Infrastructure
- Strategic Services – Special Projects

City staff have also contacted and consulted with staff from Peel Region, City of Toronto, Town of Caledon, Township of West Lincoln and the Grand River Conservation Authority. As a result of this consultation it has been determined that amendments to the Site Alteration By-law No. 03-126, as amended by By-law No. 05-115, and further amended by By-law No. 11-262 is required to adequately deal with the importing of fill within the City of Hamilton.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Over the past few years municipalities have seen an increase in the transportation and disposal of fill material within and across their boundaries. The movement of large quantities of fill has become a profitable commercial activity resulting in fill material travelling further and often ending up in a different municipality from its point of origin. Some of the issues that arise with the placement of fill at a receiving site include: noise, increased truck traffic, hours of operation, soil quality, public notification, dust, drainage impacts, ground water quality, loss of agricultural land and potential changes in the hydrological function of the area. As a result, it is important that appropriate controls are put in place to deal with the increasing demand to deal with the disposal of fill on sites where the receiving material is generated off-site, specifically for properties that fall outside the areas regulated by the presiding Conservation Authority. Therefore, it is recommended that direction be given for staff to review and amend the Site Alteration By-law to further govern the quality of fill imported to a receiving site.

With the Provincial increase in the transportation and disposal of fill material, a number of municipalities and conservation authorities are currently in the process of reviewing or amending their fill or site alteration by-laws. The main issues being considered are with respect to proper enforcement and monitoring of the fill operation, appropriate

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public consultation and the possible loss of agricultural land for those municipalities with large rural areas.

In light of the concerns expressed by the Town of East Gwillimbury and the Town of Halton Hills, it should be noted that there is no single Provincial legislation that applies directly to the removal, placement, definition, transportation and grading of fill when addressing the total potential impacts associated with fill operations. Municipalities can deal with most aspects of fill placement and grading through site alteration by-laws, however, without Provincial guidelines and regulations there is no consistent approach with how municipalities deal with the importing of fill within their boundaries. Therefore, it is staff's recommendation that the MOE be requested to establish guidelines, regulations and a Provincially regulated approvals process to govern the quality of fill imported to a receiving site. This would ensure a uniform set of standards and procedures that would be applied across the entire Province.

It should also be noted that the MOE is currently undertaking a review regarding the best practice of managing excess soil that is generated by excavation during construction activities. It is staff's understanding that the review is in the form of a guideline and is not a regulation and, therefore, not enforceable which is why it is recommended that the MOE establish regulations and a Provincially regulated approvals process in addition to the guidelines for governing the quality of fill imported to a receiving site.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

An alternative is to not support the resolutions of the Town of East Gwillimbury and Town of Halton Hills and direct staff to wait for the Province to develop regulations and guidelines to govern the quality of fill imported to a receiving site. This alternative is not recommended by staff as the Province would not be made aware that the City of Hamilton has concerns regarding the importing of fill to receiving sites and that commercial fill operations are becoming more prevalent and the City should be more proactive in dealing with the importing of fill material to a receiving site within the City of Hamilton.

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CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management

Intergovernmental Relationships

- ◆ Influence Federal and Provincial policy development to benefit Hamilton
- ◆ Maintain effective relationships with other public agencies

Environmental Stewardship

- ◆ Natural resources are protected and enhanced
- ◆ Aspiring to the highest environmental standards

Healthy Community

- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

- Appendix "A" – Letter from the Town of East Gwillimbury dated December 6, 2011
- Appendix "B" – Letter from Town of Halton Hills dated February 9, 2011
- Appendix "C" – Letter from the Town of East Gwillimbury dated June 28, 2012

:JT/ra

Attachs. (3)



Town of
East Gwillimbury

Fernando Lamanna, BA

Deputy Clerk
Legal and Council Support Services
905-478-4282 x1240
flamanna@eastgwillimbury.ca

December 6, 2011

Association of Municipalities of Ontario (AMO)
Attn: Monika Turner, Director of Policy
200 University Ave., Suite 801
Toronto, Ontario M5H 3C6

Dear Ms. Turner:

For your information and records, at its regular meeting held Monday, November 21, 2011, the Municipal Council of the Town of East Gwillimbury adopted the following resolution:

WHEREAS municipalities are faced with requests from Commercial Fill Operators to place fill in, for example, either previously undisturbed areas or expired gravel extraction pits;

AND WHEREAS municipalities have limited resources and ability to regulate this type of operation other than through zoning restrictions and agreements associated predominantly with operational protocol;

AND WHEREAS the issue of soil quality of fill imported to a receiving site potentially has a significant cross jurisdictional environmental impact that should be elevated to the Provincial level through the Ministry of the Environment;

AND WHEREAS the Ministry of the Environment has established criteria for quality of fill for Brownfield redevelopment but not for the importation and placement of fill within, as an example, undisturbed areas or expired gravel extraction pits;

BE IT THEREFORE RESOLVED that the Province, through the Ministry of the Environment, establish guidelines, regulations and a Provincially regulated approval process to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment;

AND FURTHER, THAT the Clerk forward copies of this resolution to York-Simcoe MPP, Julia Munroe, the Ministry of the Environment, the Association of Municipalities of Ontario and all Ontario Municipalities for their consideration.

If you have any further questions feel free to contact the undersigned.

Yours truly,

Fernando Lamanna, BA
Deputy Clerk
Legal and Council Support Services

DISCLAIMER

This material is provided under contract as a paid service by the originating organization and does not necessarily reflect the view or positions of the Association of Municipalities of Ontario (AMO), its subsidiary companies, officers, directors or agents.

"Our town, Our future"

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www.eastgwillimbury.ca

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VIA EMAIL

February 9, 2012

Mr. Ted Arnott, M.P.P.
Wellington-Halton Hills
181 St. Andrew Street East
2nd Floor
Fergus, ON N1M 1P9

Dear Mr. Arnott,

Re: Council Resolution regarding Provincial Regulations Regarding Commercial Fill Operations.

Please be advised that Council for the Town of Halton Hills at its meeting of Monday, February 6, 2012, adopted the following:

Resolution No. 2012-0046

WHEREAS municipalities are faced with requests from Commercial Fill Operators to place fill in, for example, either previously undisturbed areas or expired gravel extraction pits;

AND WHEREAS municipalities have limited resources and ability to regulate this type of operation other than through zoning restrictions and agreements associated predominantly with operational protocol;

AND WHEREAS the issue of soil quality of fill imported to a receiving site potentially has a significant cross jurisdictional environmental impact that should be elevated to the Provincial level through the Ministry of the Environment;

AND WHEREAS the Ministry of the Environment has established criteria for quality of fill for Brownfield redevelopment but not for the importation and placement of fill within, as an example, undisturbed areas or expired gravel extraction pits;

NOW THEREFORE BE IT RESOLVED:

...2

1 Halton Hills Drive, Halton Hills, Ontario L7G 5G2

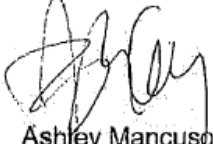
Tel: 905-873-2601 Toll Free: 1-877-712-2205 Fax: 905-873-2347 Web: www.haltonhills.ca

February 9, 2011
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THAT the Town of Halton Hills requests that the Province, through the Ministry of the Environment, establish guidelines, regulations and a Provincially regulated approval process to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment;

AND FURTHER THAT the Clerk forward copies of this resolution to Mr. Ted Arnott, MPP for Wellington-Halton Hills, Mr. Jim Bradley, Minister of the Environment, AMO, and all Ontario Municipalities for their consideration.

Yours truly,



Ashley Mancuso
Council and Committee Services Coordinator

- c The Honourable Jim Bradley, Minister of the Environment
Association of Municipalities of Ontario (AMO)
Ontario Municipalities



Town of
East Gwillimbury

Fernando Lamanna, BA

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June 28, 2012

Association of Municipalities of Ontario (AMO)
Attn: Monika Turner, Director of Policy
200 University Ave., Suite 801
Toronto, Ontario M5H 3C6

Dear Ms. Turner:

For your information and records, at its regular meeting held Monday, June 25, 2012, the Municipal Council of the Town of East Gwillimbury adopted the following resolution #C2012-326:

WHEREAS the Ministry of the Environment (M.O.E) is currently establishing guidelines for municipalities to use regarding the quality of fill imported to a receiving site;

AND WHEREAS this only partially addresses Council resolution C2011-476, passed Monday, November 21, 2011;

BE IT THEREFORE RESOLVED that the Province, through the M.O.E., be requested to establish regulations and a Provincially regulated approval process to govern the quality of fill imported to a receiving site other than for the purpose of Brownfield redevelopment;

AND FURTHER, THAT the Clerk forward copies of this resolution and resolution C2011-476 to York-Simcoe MPP, Julia Munro, the Ministry of the Environment, the Association of Municipalities of Ontario and all Ontario Municipalities for their consideration and action.

Please find enclosed a letter dated December 6, 2011 addressed to AMO, which represents resolution C2011-476 originally passed by Council on November 21, 2011.

If you have any further questions feel free to contact the undersigned.

Yours truly,

Fernando Lamanna, BA
Deputy Clerk
Legal and Council Support Services

Cc: The Honourable Jim Bradley, Minister of the Environment
Julia Munro, MPP, York-Simcoe

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