



CITY OF HAMILTON
CITY MANAGER'S OFFICE
Legal Services Division

and

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 4, 2015
SUBJECT/REPORT NO:	Port Fuels and Material Services Inc. (PFMSI) Energy-from-Waste / Gasification on Port Lands LS15004 / PED15023 (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Steve Robichaud, Director and Chief Planner – 905-546-2424 Ext 4281 and Michal Minkowski, Solicitor – 905-546-2424 Ext 4638
SUBMITTED BY:	Jason Thorne General Manager, Planning and Economic Development Department and Janice Atwood-Petkovski City Solicitor, Legal Services
SIGNATURE:	

RECOMMENDATION

- (a) That the Director, Environmental Approvals Branch, MOECC be requested to extend the deadline for receipt of elevation requests with respect to the proposed PFMSI Energy-from-Waste facility to April 28, 2015;
- (b) That the retainer of WSP Canada Inc., environmental consultants, be funded from the Tax Stabilization Reserve Fund;
- (c) That the WSP Preliminary Report, attached as Appendix “C”, be received.

EXECUTIVE SUMMARY

On Monday December 22, 2014, Port Fuels & Materials Services, Inc. (“PFMSI”) filed a Notice of Completion of the Environmental Screening under the Ontario *Environmental Assessment Act*, for an energy-from-waste facility proposed on Port Lands in Hamilton (see Appendix “B”). At the same time, PFMSI released their environmental screening report and supporting technical studies to support the application. The filing triggered a 60-day commenting period. The City now has an opportunity to: (1) review the adequacy of the recently released environmental studies to support the proposal; and (2) determine the need to make a request to the Ministry of the Environment and Climate Change (MOECC) that the project be elevated or “bumped up” to a full environmental assessment (EA) under the *Environmental Assessment Act* (EAA) (“bump-up request”). The last day to request ‘bump up’ of the environmental review is Friday February 27, 2015.

Given this short timeframe, and the need for specialised expertise to adequately assess the proposal, the City has retained WSP Canada Inc. to conduct a technical and environmental assessment planning review and advise on the bump up request.

The City has also made a request to the proponent, through legal counsel, that the February 27, 2015 deadline be extended for 60 days, to April 28, 2015, to allow sufficient time for a complete technical review, an interdepartmental review, including coordination with the City’s Health Department and Medical Officer of Health, and full Committee and Council consideration before making a decision on the bump up request. City staff have met with representatives of PFMSI to discuss the requested extension and is awaiting a response from PFSMI to the request.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: The environmental consulting firm of WSP Canada Inc. has been retained to provide expertise in the review of the Energy-from-Waste facility proposal under the *Environmental Assessment Act*. The fee for the preliminary review, in support of this report, is \$7,870. The fee estimate for the balance of the review (technical review of supporting documents, involving various technical experts) is \$75,000-\$85,000. These funds are available within the Tax Stabilization Reserve Fund.

Staffing: N/A

Legal: Peter Pickfield of the law firm Garrod Pickfield has been retained to assist the City in navigating the environmental assessment review process. Fees incurred for this retainer will be funded by Legal Services.

HISTORICAL BACKGROUND (Chronology of events)

March 31, 2014: PFMSI issues notice of Commencement of an Environmental Screening process under the EAA for a proposal to establish an energy-from-waste facility on a 17 Acre parcel of land owned by the Hamilton Port Authority and located on Pier 15 in the Port of Hamilton. The proposal will involve a relatively new “gasification-based technology” to process up to 200,000 tonnes per year of non-hazardous waste material while generating both energy and a solid by-product which according to the proponent has a commercial use and market.

April – November 2014: PFMSI convenes two Public Open Houses (April 17 and November 13, 2014) and conducts stakeholder consultation with environmental and community groups, aboriginal communities, and government agencies including some City departments. In addition, the proponent establishes a “Community Liaison Committee” with representation from area neighbourhood groups, environmental groups, McMaster University and the Hamilton Fire Department. Two meetings were convened on September 18 and October 16, 2014.

December 22, 2014: PFMSI releases Notice of Completion together with Environmental Screening Report and appended reports in the disciplines of surface water, geology and hydrogeology, land use and socio-economic assessment, air quality, acoustic engineering, natural environment, cultural heritage, and traffic.

Early January, 2014: City Legal retains Garrod Pickfield LLP to provide legal advice and assistance in the review of the Environmental Screening process. The firm of WSP is retained to provide a budget and workplan for completing a peer review of the proposal and the Environmental Screening Process.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The proposal is subject to requirements of the *Environmental Assessment Act*. According to the proponent, the Ministry of the Environment and Climate Change (MOECC) has advised that the project is not automatically subject to full Environmental Assessment (“EA”), but rather an Environmental Screening Process pursuant to Ontario Regulation 101/07. This process is a proponent driven, self-assessment that requires public and government agency consultation and the preparation of an Environmental Screening Report. Following issuance by the proponent of the Notice of the Completion of the Environmental Screening process, members of the public and government agencies have an opportunity to review the Environmental Screening Report and to request that the project be subject to a full EA if there are outstanding environmental concerns. A full EA involves a more detailed environmental review including the assessment of need, alternatives to the preferred undertaking and alternative methods.

If the project were bumped up to a full EA, the proposal would be subject to a two stage approval. The first stage would be the preparation of a Terms of Reference which would define the scope of the EA study process. This would be subject to stakeholder and government review and an approval decision by the Minister of the Environment and Climate Change. If the Terms of Reference were approved, the proponent would then carry out studies, further consultation and prepare an EA in accordance with the ToR. A second approval decision would then be made by the Minister with respect to the EA and the preferred undertaking.

Although the subject lands are owned by the Hamilton Port Authority, it should be noted that in addition to the EA approval requirements, City staff is of the view, based on available information, that the proposal is subject the requirements of the *Planning Act* and will require both an Official Plan Amendment and zoning amendment before it can proceed. To date, no planning applications have been received for the proposal. Staff's review of the Environmental Screening Report and WSP peer review will assist it in arriving at a planning opinion on the proposed use.

RELEVANT CONSULTATION

Finance was consulted on the availability of funds from the Tax Stabilization Fund for the retainer of the environmental consultant.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

(Include Performance Measurement/Benchmarking Data if applicable) N/A

ALTERNATIVES FOR CONSIDERATION

(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for each alternative) N/A

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.1 Continue to grow the non-residential tax base.
- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES ATTACHED

Appendix "A" – Executive Summary of PFMSI Environmental Screening Report
Appendix "B" – Notice of Completion