

**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT  
Hamilton Water Division**

<b>TO:</b> Chair and Members Public Works Committee	<b>WARD(S) AFFECTED:</b> City Wide
<b>COMMITTEE DATE:</b> June 17, 2013	
<b>SUBJECT/REPORT NO:</b> Appointment of Risk Management Official and Inspectors under Part IV of the Clean Water Act, 2006 (PW13044) - (City Wide)	
<b>SUBMITTED BY:</b> Dan McKinnon Acting General Manager Public Works	<b>PREPARED BY:</b> Dan McKinnon (905) 546-2424, Extension 5941 Udo Ehrenberg (905) 546-2424, Extension 2499 Carmen Ches (905) 546-2424, Extension 1301
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the General Manager of Public Works be delegated the power to appoint Risk Management Officials and Risk Management Inspectors under subsection 47(6) of the Clean Water Act, 2006;
- (b) That the City Clerk be directed to issue Certificates of Appointment to Risk Management Officials and Risk Management Inspectors under subsection 47(7) of the Clean Water Act, 2006;
- (c) That the delegation by-law attached as Appendix A to Report PW13044 be passed;
- (d) That the City Clerk be directed to circulate; as they are completed, this report, the Certificates of Appointment, and the by-law once passed to the Chairs of the local Source Protection Committees, Source Protection Authorities, and the Director of Source Protection Programs Branch, Ontario Ministry of the Environment.

**EXECUTIVE SUMMARY**

Under the Clean Water Act, 2006 (“Act”) a municipality with the authority to pass by-laws respecting water production, treatment and storage under the Municipal Act, 2001 is responsible for the enforcement of Part IV of the Act - Regulation of Drinking Water Threats.

Proposed Source Protection Plans (“SPP”) have been prepared by Source Protection Committees, endorsed by Council via General Issues Committee Report 11-033 (Item 15 Halton-Hamilton Source Protection Plan Policies - Comments from the City of Hamilton) and Report 12-022 (Item 7: Grand River/Lake Erie Region Source Water Protection Plan (Draft) - Comments from the City of Hamilton), and submitted to the Ministry of the Environment (“MOE”) for review and approval.

Part IV - Regulation of Drinking Water Threats requires the appointment of the Risk Management Official (“RMO”) and Risk Management Inspectors (“RMI”) to implement policies included in SPPs that rely on Part IV tools such as Risk Management Plans, and to report on their implementation as per the policies.

The RMO and RMIs positions can be accommodated within the existing staff to reduce the financial impact of the Act.

The appointment of the RMO and RMIs can be delegated to City staff to facilitate ease of administration, particularly should staff change positions in the future. Therefore the purpose of this report is to obtain approval to enact a by-law to delegate the power to appoint the RMO and RMIs to the General Manager of Public Works and to authorize the City Clerk to issue Certificates of Appointment to the RMO and RMIs in accordance with the Act. A copy of the proposed by-law is attached as Appendix A to this report.

**Alternatives for Consideration - See Page 5**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** At this time there are no financial implications to the current budget as all direct and indirect costs associated with the delivery of services related to the administration and enforcement of the Clean Water Act, 2006 are presently fully budgeted.

**Staffing:** The appointment of the RMO and RMIs does not require new staff. Relevant Source Protection staff have already undertaken the qualifying training. Existing staff levels will be maintained, but with a shift in current staff focus and duties as the Source Protection Planning process further evolves.

**Legal:** As a provider of safe drinking water in Ontario, the City of Hamilton is responsible for enforcement and monitoring of Source Protection Plans as mandated by the Clean Water Act, 2006. While the *Act* requires that City Council appoints the RMO and RMIs, Section 23.1 of the Municipal Act, 2001 permits the City to delegate that authority. Such a delegation would allow for easier administration of the appointments

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of the RMO and RMIs, particularly in the future should City staff change positions, vacancies occur or additional inspectors are required. The draft by-law attached to this report therefore delegates the appointment power to the General Manager of Public Works, his or her designate (i.e. the person who is filling in for the General Manager during his or her absence from the office) or successor. The draft by-law also directs the City Clerk to issue certificates of appointment to each RMO and RMI as is required under the Act.

### **HISTORICAL BACKGROUND**

At the November 16, 2011 meeting, City Council passed Item 15 of General Issues Committee Report 11-033 (Halton-Hamilton Source Protection Plan Policies - Comments from the City of Hamilton) which included the following subsection (c):

*That staff initiate the procedure for the internal appointment(s) of a qualified Risk Management Official and Risk Management Inspector(s) as necessary to satisfy the City's obligation under the Clean Water Act and report back to Council as and when appropriate.*

The details of the Clean Water Act, 2006 and the requirements of the Source Protection Plan ("SPP") and the process are contained in two previous reports on the Halton-Hamilton Source Protection Plan (PW11067/PED11183) and Grand River/Lake Erie Region Source Protection Plan ((PW12065/PED12168). .

Staff expect that the SPP will be approved by the MOE by autumn 2013. Once they are approved, the City must implement the policies that designate it as the implementing body. Part IV - Regulation of Drinking Water Threats requires the appointment of the RMO and RMI to implement policies included in SPPs that rely on Part IV tools such as Risk Management Plans, and to report on their implementation as per the policies.

The shared responsibility for implementing source water protection includes the City, the Province, the Source Water Protection Authorities (Halton-Hamilton, Lake Erie Region, Niagara Peninsula) and landowners.

### **POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

Under the Act, the RMO and RMIs have the powers to enforce Part IV of the Act and are responsible for implementing Section 57 - Prohibited Activities, Section 58 - Regulated Activities and Section 59 - Restricted Land Uses.

The scope of work for the RMO and RMIs will also include establishing guidance documents for conducting risk assessments and preparation of risk management plans (RMP) for the prescribed threats/activities, developing templates and forms for RMPs, developing information packages or sessions for property owners, negotiating and establishing RMPs with property owners, approving RMPs, monitoring the implementation and performance of the RMPs, and reporting to the Source Protection Authority.

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Given the significant role of RMOs and RMIs under the Act, the City is required to appoint those positions.

**RELEVANT CONSULTATION**

- Ministry of the Environment
- Public Works Department
- Planning and Economic Development Department, Planning, and Building Services Divisions
- City Manager's Office, Legal Services Division
- Public Health Services
- Corporate Services, Financial Services Division, City Clerk's Office

All Departments and Divisions were responsive in contributing comments and input relevant to their mandates on the appointment of the RMO and RMIs.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

Once the SPP is approved by MOE, the City is required to enforce the policies set out in the SPP as of its effective date. In order to do this, Part IV of the Act states that the Council shall appoint a RMO and such RMIs as are necessary for that purpose. These positions are necessary to verify, monitor the prescribed significant threats and enforce the applicable policies. The implementation of the policies of the SPP will manage the threats as well as protect the drinking water sources against future significant threats.

Under the Act, the RMO's responsibilities will include the following:

- Agree to /establish/amend Risk Management Plans
- Evaluate risk assessments that conclude an activity is not a significant drinking water threat
- Issue orders and notices
- Issue orders to pay
- Attend Environmental Review Tribunal proceedings
- Annually report to the Source Protection Authority
- Interact with municipal departments, depending on the situation.

The responsibilities of the RMI as specified in the Act, include:

- Entry powers to conduct inspections to ensure compliance with Risk Management Plans

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- Issue compliance orders to deal with non-compliance under Part IV of the Act
- Attend Environmental Review Tribunal proceedings
- Interact with other municipal departments, depending on the situation
- Notify the MOE if he/she is of the opinion that as a result of a discharge, an imminent drinking water health hazard will exist.

The RMO and RMIs responsibilities under the Act and its regulations will be incorporated into the existing Project Manager and Senior Project Manager positions within the Source Protection Planning group, Hamilton Water Division. Those City staff have already received the required training under the Act.

The RMO and RMIs will work closely with property owners, municipal staff, local Conservation Authorities and agencies such as the MOE, Food and Rural Affairs (OMAFRA), Ministry of Municipal Affairs and Housing.

#### **ALTERNATIVES FOR CONSIDERATION**

There are no alternatives in regard to the appointment of the RMO and RMIs as the Act requires the City to make such appointments. City Council however can decide to retain the appointment powers rather than delegating them to the General Manager of Public Works. However, as noted earlier in this report, it is recommended that such a delegation be made to facilitate the administration of such appointments, particularly in the future when staff change positions, vacancies occur or if additional inspector appointments are required.

#### **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**

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

##### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

##### **Strategic Objective**

2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

**Strategic Priority #3**

Leadership & Governance

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.*

**Strategic Objective**

- 3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City of Hamilton.
- 3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.
- 3.3 Improve employee engagement.

**APPENDICES / SCHEDULES**

Appendix A By-Law No. 13-###, To Delegate the Power to Appoint Risk Management Officials and Risk Management Inspectors under the *Clean Water Act, 2006*.

Authority:  
Bill No.

CITY OF HAMILTON

BY-LAW NO. 13-

**Being a By-law to Delegate the Power to Appoint Risk Management Officials and Risk Management Inspectors under the *Clean Water Act, 2006***

**WHEREAS** paragraph 47(1)(a) of the *Clean Water Act, 2006* makes the City of Hamilton responsible for enforcing Part IV - Regulation of Drinking Water Threats of that Act;

**AND WHEREAS** subsection 47(6) of the *Clean Water Act, 2006* requires the City of Hamilton to appoint Risk Management Officials and Risk Management Inspectors for the purpose of such enforcement;

**AND WHEREAS** section 23.1 of the *Municipal Act, 2001* permits the City of Hamilton to delegate its power under subsection 47(6) of the *Clean Water Act, 2006*;

**AND WHEREAS** subsection 47(7) of the *Clean Water Act, 2006* requires the City Clerk to issue certificates of appointment to each Risk Management Official and Risk Management Inspector;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. The General Manager of Public Works or his or her designate or successor is delegated the power to appoint Risk Management Officials and Risk Management Inspectors under subsection 47(6) of the *Clean Water Act, 2006*.
2. The City Clerk shall issue certificates of appointment bearing the City Clerk's signature or a facsimile of it to each Risk Management Official and Risk Management Inspector appointed under Section 1.
3. This By-law comes into force on the day it is passed.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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R. Bratina  
Mayor

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R. Caterini  
City Clerk