



Municipality of Port Hope

Staff Report

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Report Title: PHAI Project/Municipal Responsibilities

Report to: Corporate Services Committee

Department responsible:

Date of meeting: January 18, 2022

Office of the CAO

Report number: CAO-01-2022

Report Author:

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1. Recommendation:

1. That a by-law be presented to Council to repeal By-Law 08/2016; and
2. That staff be directed to prepare a by-law to repeal and replace By-law 50/2014 in order to align new municipal roles and responsibilities required to facilitate the PHAI project.

2. Highlights:

- Two by-laws related to the Municipality's relation to the Port Hope Area Initiative (PHAI) are outdated and need to be addressed
- A vacant staff position will be refilled, and a part time contract role created, both funded within the current municipal budget
- Further improvements to facilitate the PHAI project are being implemented

3. Background:

The PHAI project is governed by multiple agreements, some created prior to the project work commencing. Over time, practices have evolved generally as a necessity of lessons learned as practical experience is gained. All stakeholders have agreed that improvements to the processes and revisiting role clarity is important as the project advances through multiple stages.

By-law 50/2014 establishes one such agreement and outlines the role of the 'Municipal Project Staff' management office and establishes the authority for staff to grant exemptions to several other by-laws in context of PHAI project activities. The structure of the previous management office outlined in the agreement is no longer required as various changes and improvements to the municipality's approach to supporting PHAI activities have taken place over time.

By-law no. 08/2016 appointed the former Municipal Project Staff Team Leader. This position is no longer in place and the by-law is no longer required.

4. Discussion:

Throughout 2021 a review was conducted related to the municipal participation in the PHAI cleanup project. That review reached several conclusions and identified multiple action items and points for consideration including, but not limited, to the following:

- Integrating PHAI municipal participation into the regular business operations of the municipality would be more effective.
- The Municipality should focus efforts on facilitation rather than oversight.
- Council's participation in decision making should be clarified so a consistent approach is followed.
- Without shifts in approach the project will continue to be at risk for reasonable and timely conclusion.

With the departure of the Municipal Project Staff Team Leader late in 2021 the remaining MPS Team staff have now been re-aligned within the Works and Engineering department in a newly formed division as most of their work aligns directly with this department. The concept of a separate and distinct project office has evolved into a municipal work team to be referred to as the Environmental Remediation Division. This shift has already had positive results and has created efficiencies.

A position of Manager, Environmental Remediation will be hired to provide technical and managerial leadership to this division and provide technical review of the items related to the cleanup project. An in-house resource will reduce reliance on external consultants. This position will be funded from the existing project funding provided by the Federal Government and has no municipal tax levy impact.

In addition, a contract, part time role will be created to facilitate non-technical work related to this project such as end use planning, policy review, and coordination of municipal responses. This part time role will also be funded within the project budget and will report to the CAO.

One of the identified improvements is evolving the municipal role to facilitation rather than oversight as recommended. Staff began moving to this approach in March 2020, prior to the CAO's arrival, with an acknowledgement that taking an active role in the review and approval of small scale sites was not appropriate and problematic. The volume is very high, the municipality has no legal oversight role for private property, has no technical expertise and would be duplicating work.

Remediation agreements directly between private property owners and the Federal Government are appropriate. It is acknowledged that at this point in the project the Municipality's role is better suited for review of strategies on municipal property, facilitation of project work including road permits etc. to ensure residents are minimally disrupted during remediation, assisting in public communication, ensuring residents understand their rights and representing municipal/community interests with the Federal Government Canada via Atomic Energy of Canada Limited (AECL) and regulators of the project.

In no way does this shift reduce any responsibility of AECL or their contractor Canadian Nuclear Laboratories (CNL). Oversight of the project, adherence to clean up criteria, technical strategies etc. are still subject to regulator approval and oversight. Municipal legal counsel supports this shift as selective involvement in oversight without any legislated responsibility (perceived or otherwise) creates significant risk to the corporation.

As identified in the review that recently took, Councils required involvement in PHAI project decisions has not been consistent. Staff have identified the need to ensure that Council approval is sought where appropriate in a consistent manner. For example, as more municipal properties are approaching their remediation it is important that Council approve end use potential uses early in the process to allow for community consultation where appropriate. Staff are developing protocol to ensure this becomes a routine process in the project and is considered and communicated in a consistent fashion.

Upon Council direction, By-law 50/2014, which among multiple considerations, outlines the current role of the municipality as described above, will be reviewed by staff in order to simplify and standardize the shifting role of the municipality and clarify responsibilities and situations requiring Council approval. The full extent of what is required in a new by-law has not been fully realized, but staff will endeavour to present a draft by-law to Council in the near future that encompasses the above considerations and fully outlines clear roles and responsibilities.

The exemptions identified with the current By-law 50/2014 are still required in practice, and the new by-law will be sure to capture when and how these exemptions are to be applied. For example, exemptions to the site alteration and fill by-laws, minor variances, tree removal permits, road occupancy permits, and fees will continue to be approved by staff as they have been done under the previous by-law and those responsibilities will also be identified in the new by-law to be created.

5. Financial Considerations:

The proposed actions are well within the established project budget and have no impact to the ratepayer. Municipal costs to the project are reimbursed by the Federal Government.

6. Communication and Public Engagement:

The public is regularly updated on the project with quarterly presentations via Council meetings, regular mailing to all property owners and a strong web presence maintained by the PHAI.

7. Conclusion:

The PHAI project is complex and maturing. Adapting to lessons learned through practical experience is allowing all stakeholders to improve processes and create efficiencies. Tremendous effort has advanced the project thus far and the changes being implemented will produce excellent results going forward through this next phase. The small shifts to date have produced encouraging outcomes.

8. Attachments:

None.