



REPORT TO: Mayor and Members of Council
DATE: February 7, 2018
FROM: Jill Bellchamber-Glazier, CAO-Clerk
SUBJECT: Southwest Middlesex Landfills

RECOMMENDATION

THAT Council proceed to closed session to receive legal advice related to Southwest Middlesex landfills continued non-compliance.

SUMMARY:

As explained in background below Southwest Middlesex:

- Has not complied with the ECA on landfills for as long as anyone can determine
- Has not responded to all operational deficiencies noted in ministry reports

BACKGROUND:

Ministry of the Environment and Climate Change

Provincial inspection reports for the Southwest Middlesex (SWM) landfills have consistently identified non-compliance with Environmental Certificates of Approval (ECA).

The Ministry issued a field alert after its 2016 inspection of Trillium Landfill. SWM was notified that the conditions of the Environmental Certificate of Approval (ECA) would be updated for Trillium because the terms and conditions of the previous ECA did not meet the current ministry standards for environmental protection.

A draft ECA was circulated to SWM and reported to council. The final ECA was signed by the Ministry on January 11, 2018.

The Ministry has notified that due to ongoing operational deficiencies identified during past inspections, the Trillium and Limerick landfills have been flagged by the Ministry as priority sites for annual inspection. And that these landfills will continue to be considered priority sites for inspection until the municipality can achieve ongoing compliance with the ECAs, the Environmental Protection Act, and any other statute, regulation or legal requirement.

The Ministry recently inspected the Limerick site and has provided the municipality with its inspection report (attached).

The Ministry has advised that the compliance with the Environmental Protection Act is expected, citing section 186(3) which states "*Every person who fails to comply with the terms and conditions of an environmental compliance approval, certificate of property use or renewable energy approval or of a license or permit under this Act or who fails to comply with the terms of a report under section 29 is guilty of an offence*".

Further, the Ministry has indicated that noncompliance incidents may be referred to the Ministry's Investigations and Enforcement Branch for investigation and potential prosecution.

Insurance

The municipality's previous insurer withdrew its coverage for claims for pollution and environmental insurance after reviewing the 2014 Ministry inspection reports on SWM landfills.

I have been informed that the broker will be engaging with the municipality to review details for submission to remain insured with the current provider, as opposed to automatic renewal.

I have been advised by our insurance broker that "*due to the state of the landfills sites, and associated disclosure on 2016, Environmental Liability coverage does not apply to any existing condition, or loss resulting from it.*"

Operational Review

The Archibald Report scheduled to be presented on February 28, 2018 is being provided for information prior to the presentation.

FINANCIAL IMPLICATIONS:

Costs associated with bringing the Trillium and Limerick landfills into compliance will depend on whether the landfills are closed or continue to operate.

There is \$123,995 in reserves for closure costs of Limerick landfill and \$280,160 in reserves for closure costs associated with Trillium landfill.

LEGAL IMPLICATIONS:

Compliance with the ECA and the Environmental Protection Act and its regulations is a requirement for the municipality.

RELATIONSHIP TO STRATEGIC PLAN:

Upholding a healthy & safe environment

ATTACHMENT(S):

- Southwest Middlesex Landfill Operational Review – authored by Jim Archibald
- MOECC Inspection report for Limerick Landfill – January 2018
- Trillium Amended ECA, signed by MOECC January 2018