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TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON FEBRUARY 3, 2014
FROM:	JAY STANFORD DIRECTOR, ENVIRONMENT, FLEET, & SOLID WASTE
SUBJECT:	UPDATES – PROPOSED WASTE REDUCTION ACT AND RELATED MATTERS FOR FINANCING THE BLUE BOX PROGRAM

RECOMMENDATION

That on the recommendation of the Director, Environment, Fleet & Solid Waste, the following report **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Comments on Environmental Bill of Rights Registry - Waste Reduction Act and Waste Reduction Strategy (August 19, 2013 meeting of the Civic Works Committee (CWC), Item #4)
- Status Report: Update of Road Map to Maximize Waste Diversion 2.0 (July 22, 2013 meeting of the CWC, Item #14)
- Additional Submission to Waste Diversion Ontario – Potential Impacts of Implementing Extended Producer Responsibility in the Blue Box Program (February 23, 2009 meeting of the Environment and Transportation Committee (ETC), Item #1)
- Submission to Waste Diversion Ontario on the Review of the Blue Box Program Plan (February 9, 2009 meeting of ETC, Item #7)

BACKGROUND

PURPOSE:

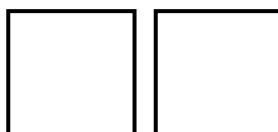
The purpose of this report is to provide Committee and Council with an update on:

- Provincial Government review of Bill 91 (Waste Reduction Act, 2013);
- status of existing industry stewardship programs;
- end markets for existing recyclable materials being handled at the City’s Regional Materials Recovery Facility (MRF); and
- negotiations for Blue Box funding in 2014.

CONTEXT:

On June 6, 2013, Bill 91 was introduced into the provincial Legislature. The government is proposing to replace the existing *Waste Diversion Act, 2002* with the proposed Bill 91 (Waste Reduction Act, 2013). If passed by the Legislature, the Waste Reduction Act (WRA) and accompanying Waste Reduction Strategy (WRA) will result in significant changes to how recyclables, organics and residential waste (garbage) are to be managed in Ontario.

This matter was before Civic Works Committee on August 19, 2013. The staff report resulted in Council submitting a response to the Environmental Bill of Rights Registry on this matter. In addition to the Bill 91, there are *other* changes and funding issues with respect to waste management (primarily the Blue Box Program) that have arisen in the last six months that Committee should be aware of.



DISCUSSION

A detailed discussion of status of the Bill 91 (Waste Reduction Act, 2013), existing industry stewardship programs, end markets for existing recyclable materials being handled at the City’s Regional Materials Recovery Facility and negotiations for Blue Box funding in 2014 is presented in Appendix A and summarized below.

City staff is actively involved in a number of organizations that are monitoring and/or directly participating in Bill 91 discussions and elated financing matters including Association of Municipalities of Ontario (AMO), Regional Public Works Commissioners of Ontario (RPWCO), and Ontario Waste Management Association (OWMA).

Key Area Being Updated	Summary Comment
<p>PART A Update on Waste Reduction Act Provincial Review Process and How it Could Affect London</p>	<p>Bill 91 (Waste Reduction Act, 2013) would shift existing Industry Funding Programs for tires, electronics, household special waste and the Blue Box program to individual producer programs. Most costs of the Blue Box recycling system would also be shifted to the producers. It is possible that funding to the City could increase as much as \$2 million to \$2.5 million.</p> <p>The Bill is currently in second reading. A potential Provincial election in 2014 would stop the debate of Bill 91 at the Committee stage and it would not be enacted. Existing programs would remain in place.</p>
<p>PART B Status of Existing Industry Stewardship Programs</p>	<p>Under the Waste Diversion Act 2002, industry stewards (producers) can leave the generic Industry Funding Program by creating their own waste diversion program called an Industry Stewardship Plan (ISP).</p> <p>Currently four ISPs have been submitted to Waste Diversion Ontario (WDO) for public consultation:</p> <ul style="list-style-type: none"> • Call2Recycle – consumer batteries • Canadian Beverage Container Recycling Association (CBRCA) – beverage containers • Product Care Association (PAC) has two ISP applications covering: a) pesticides, solvents and fertilizers and b) paint and coatings
<p>PART C Status of End Markets for Existing Recyclable Materials Being Handled at the City’s Regional Materials Recovery Facility (MRF).</p>	<p>In 2013 the average recycling revenue in Ontario was second lowest in a decade (\$107 per tonne). Only revenue during the financial crisis of 2009 was lower. Markets in 2014 are expected to be similar to 2013.</p> <p>The City’s Material Recovery Facility is typically able to generate revenue that is 15% higher than the provincial average.</p>
<p>PART D 2014 Blue Box Payments</p>	<p>The current <i>Waste Diversion Act, 2002</i> states that stewards (product manufacturers) should pay 50% of the Blue Box Program costs. In reality they pay 50% of a negotiated theoretical cost based on “best practices” and other assumptions and is less than 50% of the actual cost.</p> <p>Negotiations between municipalities and the stewards for payments in 2014 have stalled and are going to arbitration starting in April or May.</p> <p>AMO is concerned as there appears to be a significant and widening ‘gap’ between the negotiated costs that are funded and the actual reported municipal costs to operate the Blue Box Program.</p>

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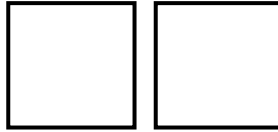
As of January 2014, substantial uncertainty remains in the fields of recycling and overall waste management in Ontario. City staff prepare calendar year budgets based on available information in the period of time between May and July in the previous year. Some of this uncertainty was known at the time; therefore budgets prepared by Environmental & Engineering Services have addressed this to the best of our ability and knowledge. Further reports to Committee and Council will be provided as key information becomes available on these matters.

ACKNOWLEDGEMENTS

This report was prepared with the assistance of Mike Losee, Manager, Solid Waste Engineering & Planning and Anne Boyd, Waste Diversion Coordinator.

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PREPARED AND RECOMMENDED BY:	REVIEWED & CONCURRED BY:
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- c Grant Hopcroft, Director, Intergovernmental and Community Liaison, City of London



APPENDIX A

This appendix contains an update on the status of the following matters:

- Provincial Government review of Bill 91 (Waste Reduction Act, 2013);
- existing industry stewardship programs;
- end markets for existing recyclable materials being handled at the City's Regional Materials Recovery Facility (MRF); and
- negotiations for Blue Box funding in 2014.

PART A – Update on Waste Reduction Act Provincial Review Process and How it Could Affect London

Update on the Waste Reduction Act Provincial Review Process

The WRA was introduced June 6, 2013 and passed first reading. The Act's purpose is to establish a new regime for reduction, reuse and recycling of waste and repeal the *Waste Diversion Act, 2002*. The Act will shift most costs of the Blue Box recycling system from the municipal tax base to producers of the products. Producers will become individually responsible for the majority of diversion costs for their products. The Blue Box program is currently funded between 40% and 50% by producers while other diversion programs (e.g., tires, electronics) are much closer to 100% funding. Existing Industry Funding Programs will be transitioned to individual producer programs.

Since the WRA and accompanying Waste Reduction Strategy (WRS) were made public, waste management and other organizations across the Province have been following the progress of the WRA. City staff is actively involved in several of these organizations:

- Association of Municipalities of Ontario (AMO) – City staff sit on the Board and the Waste Management Task Force of AMO (combination of elected officials and municipal staff).
- Regional Public Works Commissioners of Ontario (RPWCO) – City staff sit on the main committee and the Solid Waste Subcommittee.
- Ontario Waste Management Association (OWMA) – City staff sit on the Board of Directors.
- Municipal Waste Association (MWA) and Recycling Council of Ontario (RCO) – receiving updates and comments via general membership

The WRA is currently in second reading with the last debate occurring on December 4, 2013. Further debate will not occur in the legislature until February 18, 2014 when Parliament's 40th session resumes. There remain significant differences of opinion on the WRA. Of concern to supporters of the WDA is the potential for another Provincial election in 2014 which would stop the debate of the WDA at the Committee stage before third reading and Royal Assent.

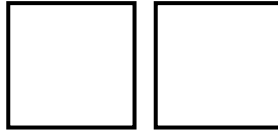
Consultation between a group of municipal and industry representatives has taken place over a number of meetings to address municipal and industry concerns with the WDA. Some of these concerns touch on the municipal role and producers concern over the lack of control over costs they will be responsible for. The goal is to agree on positive changes and amendments to the WRA that would build greater support for the passage of the WRA by all stakeholders.

Summary of how the WRA and WRS may affect London

Currently the proposed WRA enshrines the municipal role in collection and provides a yet to be defined process by which municipal programs diverting designated materials will be compensated. Any improvement in funding will be a benefit to London taxpayers.

There are also potential risks as producers could look for options to manage their waste products that might not include City diversion infrastructure. It is key that London continues to provide responsive and cost effective recycling systems that meet and exceed the needs of our customers and the expectations of funders.

The City will benefit financially as the "reasonable cost" of collection of designated products will be the responsibility of producers. It is clear that funding will increase for recycling and municipal hazardous and special waste; however it remains unclear to what level. It is possible that funding could increase as much as \$2 million to \$2.5 million if all Blue Box contracted costs



are considered “reasonable costs” and funded. The key will be negotiating what reasonable costs means to both industry and municipalities.

It is possible that producers may take over coordination responsibility for processing Blue Box materials in the long term just as they do for the other materials (e.g., tires, electronics, Municipal Hazardous and Special Waste). In this case, London’s Regional Material Recovery Facility (MRF) would likely play an important role in processing recyclable materials and other compatible materials given the facility’s location and capabilities. There are also other private sector recycling companies that will likely play an increased role in processing additional recyclables.

Under the proposed WRA and WRS, the City will not be reimbursed for the cost associated with collection and disposal of designated materials that make it into the waste stream or the cost of dealing with litter created by designated materials. The City may also have to implement disposal bans on some of the designated materials. The enforcement of disposal bans can be very difficult therefore significant care and understanding must go into their establishment.

The role of organics in the WRS is a long term initiative (beyond four years) and would not have any immediate impact on London. Several London companies that manage organics are unlikely to be supportive of this suggested time period.

PART B – Status of Existing Industry Stewardship Programs

Introduction

Each of Ontario’s recycling programs is operated by an “Industry Funding Organization” or “IFO” as follows: Ontario Tire Stewardship (Tires), Ontario Electronic Stewardship [Electronics], and Stewardship Ontario (Blue Box Program and Orange Drop Program for household hazardous waste). Waste Diversion Ontario (WDO) approves each IFO’s recycling programs and monitors these programs to ensure they are fully funded by the industry stewards (producers) of the materials being diverted from our landfills.

Under the Waste Diversion Act 2002, industry stewards can create their own waste diversion programs by submitting an Industry Stewardship Plan (ISP) to WDO for approval. If the ISP is approved, the Industry Steward Organization (ISO) can implement their program and are no longer obligated to pay fees to the IFO. Industry stewards who create their own waste diversion program will have essentially created what is required under the proposed Waste Reduction Act.

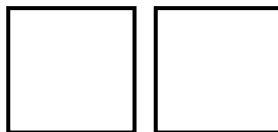
Some Industry stewards have responded with an ISP for their products and have submitted them for consultation and review by the Waste Diversion Organization. For an ISP to be accepted it must be approved by the Minister and meet the Province’s diversion goals and operational requirements. Currently four ISP’s have been submitted:

- Call2Recycle – consumer batteries
- Canadian Beverage Container Recycling Association (CBRCA) – beverage containers
- Product Care Association (PAC) has two ISP applications covering:
 - a. pesticides, solvents and fertilizers
 - b. paint and coatings

In 2014, Canadian retailers and manufacturers founded the Canadian Stewardship Services Alliance Inc. (CSSA) a national, non-profit organization that will start to offer a one-stop-shop for stewards to fulfill their stewardship obligations across Canada. The CSSA aims to do away with costly replication province-by-province, which is costing business a lot in terms of resources, time and money. Stewardship Ontario, an Ontario IFO dealing with the Blue Box and Municipal Household Special waste Programs is part of CSSA. CSSA is anticipated to play a role on behalf of producers in Ontario and across Canada.

Industry Stewardship Organizations Program Status

Due to the number of ISP applications, a high level of consultation and responses, WDO has been forced to give each ISP a separate track for consultation and review process. All the ISPs have presented their plans through webinars and are posted on the WDO website for comment. The Call2Recycle ISP has made the most progress to date with further meetings planned in 2014 by Product Care and CBRCA.



Summary

The above ISOs and their plans (ISP) have the potential to be accepted before the WRA is passed. A scenario may develop where London will have to deal with both IFO and ISO groups during a transition to individual stewardship which will complicate the administration of City programs.

PART C - Status of End Markets for Existing Recyclable Materials Being Handled at the City’s Regional Materials Recovery Facility (MRF).

Current Situation

In 2013 the average recycling revenue in Ontario was \$107 per tonne (see Table 1). This is the second lowest annual revenue in the last decade and was 15% below the average over this period. Only revenue during the financial crisis of 2009 was lower.

The Ontario monthly revenue in 2013 started and ended the year at \$106 per tonne and varied from \$101 to \$120 throughout the year.

London’s MRF was able to achieve average revenue of \$123 per tonne or 15% higher than the provincial average revenue. London’s MRF has consistently achieved monthly revenue that is typically 5% to 25% higher than the Ontario average.

Table 1 - Average Recycling Revenue in Ontario

Year	Price Sheet ^a (\$/tonne)	London MRF (\$/tonne)	Comment
2004	\$131	-	
2005	\$124	-	
2006	\$111	-	
2007	\$145	-	
2008	\$150	-	
2009	\$80	-	Financial crisis
2010	\$124	-	
2011	\$169	-	City MRF opens in August
2012	\$118	\$133	
2013	\$107	\$123	2 nd worst year in a decade
Average	\$126		10 Year average

Notes: a) Average revenue as compiled by Reclay StewardEdge from a range of municipal programs combined with information from industry representatives.

Short Term Market Forecasts

In 2013 there was disruption in global recycling markets by the China “Green Wall”, a policy directive which rejected contaminated recycling materials entering China to improve its environmental image and further develop its own recycling industry. This affected primarily paper and plastic loads. Municipalities and recyclers globally scrambled to access their local markets which did not have capacity for this exported material.

Municipalities who had developed local markets, like London, were generally not affected, with their loyalty to local markets paying off with secure end markets to keep materials moving. Since opening the MRF, London has shipped 100% of its plastics and almost all of its paper to Ontario companies which generally had higher quality standards than the overseas markets.

In 2014 it is expected China will moderate its Green Wall program which will help move materials. The overall basket of goods pricing is projected to be stable. The persistent low inflation rates in major economies will hold back price gains in most recyclable materials.

To keep recyclable materials moving at the best possible price, end markets continue to value quality and steady supply which is critical to access markets especially when market demand is tight. Quality and steady supply will also ensure the best possible pricing from end markets. The experience of the China Green Wall in 2013 highlights the need to take a long term outlook in developing local markets that are both stable and strong to ensure material movement.

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PART D – 2014 Blue Box Payments

The current *Waste Diversion Act, 2002* states that stewards (product manufacturers) should pay 50% of the Blue Box Program costs. In reality they pay 50% of a negotiated theoretical cost based on “best practices” and other assumptions and is always less than 50% of the actual cost.

Each year, the Municipal Industry Program Committee (MIPC) municipal representatives negotiate with the stewards’ representative, Stewardship Ontario (SO), to determine how much producers of paper and packaging should contribute to the cost of running Ontario’s Blue Box program. MIPC consists of representatives from the Association of Municipalities of Ontario (AMO), the City of Toronto and SO. It is chaired by WDO.

After several weeks of discussion over 2014 funding, MIPC negotiations were at an impasse and WDO directed MIPC to go to arbitration. An arbitrator’s help is being sought to assist Blue Box stewards and municipal negotiators come to an agreement on the 2014 funding.

According to AMO, the Canadian Stewardship Services Alliance (CSSA), the national organization representing producers of packaging and printed paper, has, despite this impasse, proceeded with setting the interim 2014 fees it charges to Stewardship Ontario’s members.

In a letter to all municipalities on November 25, Peter Hume, Chair of AMO Waste Management Task Force, notes CSSA has based these fees on a system cost which is much lower than the actual costs reported by municipalities and even lower than last year’s negotiated settlement. “AMO is concerned as there appears to be a significant and widening ‘gap’ between CSSA’s published fees and our reported municipal costs to operate the Blue Box Program,” he writes. AMO is interpreting this action as CSSA and SO not appropriately acknowledging the rising costs of managing new types of packaging being introduced into the market by producers.

It is anticipated that payments to municipalities for their Blue Box programs will not be delayed in 2014 as the usual timing for funding to begin is June/July 2014. In the event that the arbitration process to determine 2014 funding is protracted, WDO will be in discussion with Stewardship Ontario and AMO/City of Toronto to ensure funding continues to flow until the arbitrator has made a decision.