



Minutes of a special meeting of Council held on May 15, 2009, at 9:07 a.m., in the Council Chambers.

Councillor Hooper led the meeting in prayer.

ROLL CALL

Present Were: Mayor J. Abernethy
Councillor A. Foster
Councillor R. Hooper
Councillor M. Novak
Councillor G. Robinson
Councillor C. Trim
Councillor W. Woo

Also Present: Chief Administrative Officer, F. Wu
Director of Engineering Services, T. Cannella
Director of Community Services, J. Caruana
Director of Planning Services, D. Crome
Deputy Treasurer, L. Gordon
Solicitor, D. Hefferon
Director of Corporate Services and Human Resources, M. Marano
Director of Emergency Services, G. Weir
Administrative Assistant to the Municipal Clerk, C. Fleming
Deputy Clerk, A. Greentree

DISCLOSURES OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest stated for this meeting.

Resolution #C-302-09

Moved by Councillor Hooper, seconded by Councillor Novak

THAT the Rules of Procedure be suspended and that the order of the Agenda be altered to allow Nadia McLean-Gagnon to address Council as the first delegation.

“CARRIED”

DELEGATIONS

Nadia McLean-Gagnon addressed Council concerning Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08. Ms. McLean-Gagnon believes the proposed incinerator is a huge mistake and urged Members of Council not to vote in favour of rescinding the "Unwilling Host" community status. Ms. McLean-Gagnon questioned why Mayor Abernethy is passing the responsibility for the decision onto the Region and the Ministry of the Environment when Clarington has the option to say no at the local level. She feels that if the Mayor does not care about Clarington, then why should the community expect that higher levels of government will put Clarington's best interest first. Ms. McLean-Gagnon feels there are many problems with the process and expressed concern that soon it will be too late. She feels that if all Members of Council were united, the process could be stopped. Ms. McLean-Gagnon stated science is proving incineration is unsafe and that she is basing her advocacy on science. Ms. McLean-Gagnon stated the process is flawed, there have been numerous errors in the Consultant's reports, conclusions are based on assumptions, and, the consultants do not provide adequate responses to questions asked by the public. Ms. McLean-Gagnon stated it does not make sense that there will be no negative effects and feels that Regional Councillors are not listening to those opposed to incineration as much as to those who support it.

Linda Gasser addressed Council concerning Staff Report #1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08. Prior to commencing her delegation, Ms. Gasser requested confirmation of any additional reports, memos or handouts for today's meeting. Ms. Gasser feels there is no need for Council to rush into signing a Host Community Agreement prior to receipt of key reports including the Air Quality Assessment, the Site Specific Human Health Ecological Risk Assessment Report, and the Draft Environmental Assessment which she feels should be reviewed prior to conclusions being formed. Ms. Gasser stated there is no requirement for a Host Community Agreement to be signed prior to the EA study being submitted and she feels that pressing the Municipality to accept the Host Community Agreement demonstrates that the Environmental Assessment is more about politics than substance. Ms. Gasser expressed concern that Mayor Abernethy used to say incineration must be proven safe now he says it must be proven unsafe. Ms. Gasser stated studies indicate that there is no proof that incineration is safe and that serious health concerns have been raised by the public advocating a precautionary approach. Ms. Gasser expressed concern regarding the content of the proposed agreement and stated she cannot understand what is in the Addendum Report that is better than what was in the original Report. She urged Council to consult with the community and not to sign a Host Community agreement before doing their due diligence to make an informed decision.

Louis Bertrand addressed Council regarding Staff Report # 1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation questioning who Mayor Abernethy is speaking for when he says "we got everything we asked for" in the Host Community Agreement.

Mr. Bertrand reviewed the agreement clause by clause stating the Host Community Agreement will not protect Clarington as it does not appear that the Region has given up much, he feels the agreement is full of loopholes; and, questioned whether the final wording of the agreement will be peer reviewed.

Mayor Abernethy responded to Mr. Bertrand question that he speaks on behalf of Council regarding the negotiations.

Louis Bertrand addressed Council regarding Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 expressing concern that no justification for the motion had been provided and questioned whether procedurally rescinding an existing resolution was the only way to change Council's position from "Unwilling" to "Willing" host community. Mr. Bertrand cautioned Members of Council to consider the implications of the motion. He expressed concern that Mayor Abernethy is passing the buck by stating that if the project is not safe the Ministry of the Environment will turn it down. Mr. Bertrand stated rarely does the Province not approve a project that has the approval of the local municipality. Mr. Bertrand summarized by stating that if Members of Council approve the motion they are accepting the consequences of their actions and that the consequences will last longer than the expected 25 or 35 year service life of the incinerator and longer than the eighteen months to the next election.

Kerry Meydam addressed Council regarding Staff Report # 1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation stating a host community agreement is not a requirement of the Environmental Assessment and feels that the Region of Durham wants a signed agreement that is beneficial to the Region and to hopefully influence Regional Councillors who are undecided on their vote. Ms. Meydam expressed concern that there is not much in the agreement and feels certain there is nothing worth trading for substantial health and environmental risks. She noted Clarington was promised "the best of the best" in monitoring and that ambient air monitoring in the vicinity for three years only is not sufficient. She questions why the Region is backtracking on its commitment to a 70% waste diversion rate by 2010. She stated Chairman Anderson advised that Clarington would see significant financial gains but that she sees nothing in the Agreement but significant risks to residents. Ms. Meydam advised that Councillors were elected to protect Clarington residents and feels the most important way to ensure this is to retain the "Unwilling Host" community status. She stated public opinion is an important part of the process and feels the Province may enforce more stringent regulations if they are aware the community has serious concerns with the project. She also questioned why Regional Council is scheduled to vote on the proposal in June when they will have only received important information one week in advance and that Clarington peer reviews are not complete. Ms. Meydam expressed concern that residents have continually asked for the project to be delayed, but have been advised that the process must be allowed to continue without answers. She questioned whether Regional Council will proceed if the question of whether the facility is safe is not answered by Dr. Kyle or will the issue be referred to the Province to make the decision. Ms. Meydam feels that nothing has changed over the last year to warrant a change to the "Unwilling Host" position.

Dr. Ronald Stead addressed Council concerning Staff Report #1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation stating his comments on the project would focus on economics only. Dr. Stead advised he recently travelled to the Netherlands and personally witnessed an incinerator located right next to the roadway and that residents had no concerns with the location or with the incinerator. Dr. Stead feels that declaring the Municipality a “Willing Host” is preparing Clarington to negotiate a facility that is safe. He feels that Clarington has the opportunity to develop a business environment that will create local jobs and meet the requirements of the Province’s “Places to Grow” legislation. Dr. Stead stated that the municipality requires the cooperation of the Region to provide much-needed serviced lands to attract businesses. He advised he has received many inquiries from developers interested in building on “shovel-ready” land and that serviced land will improve the economy in Clarington.

Tia Woodcroft addressed Council concerning Staff Report #1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation stating she has only become involved in this issue recently and was under the impression that it was a done deal. She expressed concern with the Council proceedings at the Council meeting of May 11, 2009, where the Addendum to Report CAO-002-09 was not provided to the public or Members of Council in advance of the meeting and feels that political games and closed-meeting discussions are not appropriate. She advised she disagrees that Clarington received a good deal and questioned whether Council is willing to accept short-term gain for long-term health and financial risks. She strongly urged Council to vote against this motion and to involve the public to see if they are willing to accept increased sickness, loss of property values and businesses relocating out of the municipality in exchange for the incinerator. Ms. Woodcroft urged Council to listen to the voices of the ratepayers.

Tia Woodcroft addressed Council regarding Mayor Abernethy’s Notice of Motion to rescind Resolution #C-032-08 applauding Local Councillors and urging them to stand firm in their positions. Ms. Woodcroft stated some politicians feel that being either a “Willing Host” or an “Unwilling Host” to the incinerator does not matter; however, she feels that it is significant or this meeting would not be taking place today. Ms. Woodcroft feels that if Clarington becomes a “Willing Host” it will indicate that the community supports the incinerator. She expressed concern with the lack of public consultation and communication of information and was troubled by the fact that at meetings, the public is not permitted to ask if the facility is safe or affordable. Ms. Woodcroft urged Council to remain an “Unwilling Host” and to take more time to explore a zero waste alternative and say no to accepting a landfill in the sky.

Nancy Barnes advised advised prior to the meeting that she would not be addressing Council.

Jim Richards addressed Council concerning Staff Report #1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 stating the community expects true leadership and feels that the Municipality of Clarington was targeted to receive the incinerator because of weak leadership. Mr. Richards feels that Mayor Abernethy has not lived up to his campaign promise of an open and transparent process and an undivided Council and feels that he has eroded the public's trust, and that the three Regional Councillors have been derelict in their duties.

Councillor Novak rose on a Point of Order requesting Mr. Richards to cease making derogatory comments about Members of Council.

Mayor Abernethy ruled in favour of Councillor Novak's Point of Order.

Mr. Richards feels that it is time for Mayor Abernethy and Regional Councillors to stand up to Chairman Roger Anderson on behalf of the Municipality when he indicates that the incinerator will proceed. Mr. Richards feels that as the Consultants are in the business of selling incinerators, they will not prove it to be unsafe. He also feels that the Chief Administrative Officer's Report fell short as there was nothing in the agreement for the public's benefit and that Mayor Abernethy should tender his resignation. Mr. Richards urged Council to stay the course and remain an "Unwilling Host" community.

Sheila Hall, Clarington Board of Trade addressed Council concerning Staff Report #1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation. Ms. Hall stated the Board of Trade is proud to execute the role of economic development and continues its efforts to stress the importance of serviced lands. She noted the Board is encouraged to see negotiations have included the construction of Energy Drive and storm water management facility to serve the Energy Park and the commencement of the Environmental Assessment for servicing the science park. She noted the Board was speaking only on the impact of these initiatives on Clarington and not on any other components in the staff Report. Ms. Hall stated these initiatives are long overdue, they should be activated and timelines identified.

Donna Barnard addressed Council concerning Staff Report # 1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 urging Council to stand firm in their commitment to being an "Unwilling Host" community to the proposed incinerator. She stated historically, facts are just current theory or thoughts of the day noting things built in the 1970's thought to be safe are no longer safe and it would be arrogant to say that this incinerator is safe now. Ms. Barnard expressed concern that jobs created will be temporary and not long-term. She feels that one of the reasons that the proposal is being rushed through is because of the lack of citizens coming out to speak against it.

Ms. Barnard indicated she recently conducted an informal poll of the homes on her street and found that of the homes responding, the majority of residents were against incineration, one resident was undecided and one resident stated it should be given a chance. She urged Council to maintain the "Unwilling Host" position at this time as ratepayers have not had an opportunity to vote and have their say either for or against, and that some residents were under the impression that the project had been cancelled. Ms. Barnard feels the project has become more about finances than safety and that time and funding should focus on finding alternatives. She feels that if the project is pushed through there must be clauses in the agreement to allow the incinerator to be shut down when it is proven to be unsafe.

Dave Renaud addressed Council regarding Staff Report # 1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08. Mr. Renaud advised he is a Courtice resident and President of the CAW Durham Region Environmental Council representing 33,000 delegates and urged Council to maintain their "Unwilling Host" status. Mr. Renaud confirmed that the CAW does not accept jobs at any cost; that the incinerator will impact both human and ecological health; and, that the Canadian Labour Congress is on record as being opposed to burning waste. Mr. Renaud stated he has spoken to hundreds of people who do not really understand the issue who think incineration in Europe is fine, but that once they are aware of alternatives they are turning the tide on incineration. Mr. Renaud read a letter from Regional Councillor Brian Nicholson who indicated that the Terms of the Host Community Agreement are not to be considered enticements and that the Municipality is free to retain its "Unwilling Host" status. The terms of the Host Community Agreement are to compensate the municipality where the incinerator is sited and are not to be construed as a reward. According to Councillor Nicholson's letter, the Municipality of Clarington has many supporters at the Region; that a growing number of Regional Councillors have grave concerns with the project, and, that it does not make sense to give up the "Unwilling Host" status.

Helen Bajorek MacDonald addressed Council regarding Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 urging Council to maintain its "Unwilling Host" position as the question has not been put to a democratic vote through a referendum, and the need for a baseline health study has not been addressed. Ms. Bajorek MacDonald feels a referendum would relieve members of Council from shouldering full responsibility for the outcome of the proposal as well as afford the community the opportunity to be fully engaged in a critical community democratic decision-making process. Ms. Bajorek MacDonald feels that baseline health studies are critical as they document data related to human health before the fact so that any potential future impact can be measured against established data, noting without baseline health data, regulatory monitoring has no real bearing on potential human health impacts and only identifies problems with a facility and sets in motion corrections to the problem. Ms. Bajorek MacDonald expressed concern that maps provided in the process do not show Darlington Nuclear Plant, St. Marys Cement Plant and other area industry to ensure potential synergistic and cumulative impacts on human and environmental health have been factored into the equation.

Ms. Bajorek MacDonald feels that Clarington cannot be a "Willing Host" until the question is put to the community and that a hurried process misses key components such as the need to conduct baseline studies. Ms. Bajorek MacDonald stated the question of an incinerator is a complex social, economic and environmental issue requiring careful thought and should not be rushed until all questions, collection of data, open public dialogue and a referendum have taken place.

Wendy Bracken addressed Council regarding Staff Report # 1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 urging all Members of Council not to sign a Host Community Agreement today. Ms. Bracken feels that Durham Region has not be acting in good faith and that last minute deals, staff negotiating without Council or public involvement is unacceptable. She questioned how Durham Region could hold a Public Information Night and not have representatives in attendance that could answer questions on public health or present a report on health issues. Ms. Bracken stated the signing of a "Host Community" agreement is not part of the Environmental Assessment process and that it is the Region of Durham who is pressing the need for Clarington to surrender their "Unwilling Host" status as it will influence any future appeals should the project proceed. Ms. Bracken feels that an incinerator will only attract other dirty industry and that Council must protect Clarington's reputation, housing values, tourism and businesses and set the calibre for the type of businesses they want to protect. Ms. Bracken stated the quality and quantity of monitoring is not adequate and urged Members of Council to stand up for Clarington as informed citizens of the community, young families, and physicians stand behind Council and will remember those who did the research, listened to the scientific evidence and put the community first. Ms. Bracken cautioned Council that if they vote to rescind Clarington's "Unwilling Host" status, the electorate will hold them accountable.

Barry Bracken addressed Council regarding Staff Report # 1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 urging Council not to endorse the Agreement. Mr. Bracken feels that a price cannot be put on human health and wellbeing of the environment and that the terms of the agreement negotiated for Clarington are pitiful. Mr. Bracken stated his reasons for retaining the "Unwilling Host" status remain the same as previously stated at numerous meetings over the last 2 ½ years, and that he cannot understand why Clarington would surrender their "Unwilling Host" status. Mr. Bracken thanked local Councillors in advance hoping they remain steadfast in putting citizens of Clarington and all of Canada's health and environment first.

Anne Maxwell addressed Council regarding Staff Report #1 - Report CAO-002-09 and Addendum to Report CAO-002-09 – Regarding Status of EFW Host Community Agreement Negotiation and Mayor Abernethy's Notice of Motion to rescind Resolution #C-032-08 questioning what has happened to integrity in view of the dubious proceedings that took place at the May 11, 2009, Council meeting with respect to the Addendum to Report CAO-002-09.

Ms. Maxwell feels that accepting this deal is selling out Clarington and the whole of Durham Region. She stated that accepting waste from the City of Toronto is outside of the incinerator process and that if garbage is imported from the GTA, a new Environmental Assessment must be commenced. Ms. Maxwell urged Clarington's local Councillors to stand firm in their position as an "Unwilling Host" Community as the public will support their decision and noted the municipality is not required by law to change their status even when directed by the Region of Durham.

Nadia McLean-Gagnon addressed Council earlier in the meeting.

Resolution #C-303-09

Moved by Councillor Robinson, seconded by Councillor Woo

THAT Council recess for ten minutes.

"CARRIED"

The meeting reconvened at 11:19 a.m.

Resolution #C-304-09

Moved by Councillor Robinson, seconded by Councillor Trim

THAT the Rules of Procedure be suspended and that the order of the Agenda be altered to consider Mayor Abernethy's Notice of Motion concerning the rescinding of Resolution #C-032-08 at this time.

"CARRIED"

Councillor Novak assumed the Chair.

BUSINESS ARISING FROM NOTICE OF MOTION

Resolution #C-305-09

Moved by Mayor Abernethy, seconded by Councillor Trim

THAT, conditional upon Council approving Report CAO-002-09 as amended by Addendum to Report CAO-002-09 and the Regional Municipality of Durham and the Municipality of Clarington executing a Host Community Agreement to implement the intent of the Report and Addendum, the following Resolution #C-032-08 passed by Council on January 28, 2008 be rescinded:

“WHEREAS the Municipality of Clarington has requested that the Regions of Durham and York take forward two geographically distinct sites for analysis in the final stages of the EA on residual waste due to a garbage incinerator’s impact on Clarington’s air shed; the lack of site specific health studies and a lack of details regarding the technology;

WHEREAS the City of Oshawa, the Town of Ajax and the Durham Region Health and Social Services Committee have raised similar concerns with the site selection process;

WHEREAS under the Environmental Bill of Rights 1993, the MOE statement of Environmental Values indicates that the Minister should take a precautionary approach especially where there is some uncertainty about the risk presented by particular pollutants;

WHEREAS on January 23, 2008, the Region of Durham selected a site in Courtice for a garbage incinerator without knowing the technology or the specific health effects;

WHEREAS the Region has not given due consideration to the concerns presented by the potential host community;

WHEREAS the EA process is to find the best site for the incinerator and insufficient information has been provided to date to determine that the Courtice site is the best site;

THEREFORE BE IT RESOLVED the Municipality of Clarington is an unwilling host to the proposed Durham/York garbage incinerator and that a copy of this motion be forwarded to the Region of Durham and the Region of York and their constituent local municipalities, the Durham York Joint Waste Management Committee, the Ministry of the Environment and John O’Toole, MPP.”

“CARRIED ON THE FOLLOWING
RECORDED VOTE”

Council Member	Yes	No	Declaration of Pecuniary Interest
Councillor Foster		√	
Councillor Hooper		√	
Councillor Novak	√		
Councillor Robinson	√		
Councillor Trim	√		
Councillor Woo		√	
Mayor Abernethy	√		

Mayor Abernethy resumed the Chair.

STAFF REPORT(S)

Addendum to Report CAO-002-09 – Status of Energy-From-Waste Host Community Agreement Negotiation

Resolution #C-306-09

Moved by Councillor Robinson, seconded by Councillor Trim

THAT Resolution #C-294-09 be lifted from the table.

“CARRIED”

The Chief Administrative Officer provided further information with respect to the offer from Region of Durham and the financial benefits to the Municipality of Clarington.

Resolution #C-307-09

Moved by Councillor Trim, seconded by Councillor Novak

THAT Addendum to Report CAO-002-09 be received;

THAT Council approve the Host Community Agreement negotiated by the Clarington and the Region CAO’s as identified in Report CAO-002-09 and in the Addendum to Report CAO-002-09;

THAT Council urge Regional Council to endorse same and direct Regional staff to finalize the Host Community Agreement;

THAT the Mayor and Clerk be authorized to execute the Host Community Agreement subject to its final review by the Clarington Solicitor.

“CARRIED ON THE FOLLOWING RECORDED VOTE”

Council Member	Yes	No	Declaration of Pecuniary Interest
Councillor Foster		√	
Councillor Hooper		√	
Councillor Novak	√		
Councillor Robinson	√		
Councillor Trim	√		
Councillor Woo		√	
Mayor Abernethy	√		

BY-LAWS

Resolution #C-308-09

Moved by Councillor Trim, seconded by Councillor Robinson

THAT leave be granted to introduce By-law 2009-061

2009-061 Being a by-law to authorize the Mayor and Municipal Clerk to
 execute a Host Community Agreement with the Regional
 Municipality of Durham regarding an Energy-From-Waste Facility;
 and

THAT the said by-law be now read a first, second and third time and finally approved.

“CARRIED”

CONFIRMING BY-LAW

Resolution #C-309-09

Moved by Councillor Trim, seconded by Councillor Robinson

THAT leave be granted to introduce By-law 2009-062, being a by-law to confirm the
proceedings of the Council of the Municipality of Clarington at a special meeting held
on the 15th day of May, 2009; and

THAT the said by-law be now read a first, second and third time and finally approved.

“CARRIED”

ADJOURNMENT

Resolution #C-310-09

Moved by Councillor Robinson, seconded by Novak

THAT the meeting adjourn at 12:08 p.m.

“CARRIED”


MAYOR


DEPUTY CLERK