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Report on Community Participant Feedback in the First Reading

Draft Amendments to the 2000 Sanitary
Conditions Law – First Reading on May 9, 2011

Ohfar:ha/June 2011



The First Reading is part of the Community Decision Making Process that was conducted by the Legislative Coordinating Commission (LCC) for the draft amendments of the 2000 Sanitary Conditions Law on May 9, 2011. The LCC identified the responsibility of the Ohontsa'shòn:'a Ronterihwatsterishta/Lands Unit to report and make recommendations on the feedback received.

1. Introduction

As part of the process set by the Legislative Coordinating Commission (LCC) for the Community Decision Making Process (CDMP) for Type 2 legislation, the First Reading of the draft amendments to the Sanitary Conditions Law was conducted by the LCC on 9 Onerahtohkó:wa/May 2011 in the Council Lounge of the main building.

The role of the Research & Policy Analyst /Developer of Lands was to present rationale for the draft amendments and present the feedback gathered from the 30-day community review process (March 29 – April 29, 2011) that preceded the First Reading. In addition, the Research & Policy Analyst /Developer of Lands was responsible to obtain the feedback recording from the LCC Administrative Assistant, and report on the data gathered.

The scope approved by Chief & Council in Ennfska/February 2011 for amendment of the 2000 Sanitary Conditions Law was to:

- update relevant definitions,
- provide authority to the MCK to adopt regulations and give permits under the Law for any operation that will increase the potential for environmental contamination and risk to public health and safety,
- provide additional penalties for offences under this Law,
- identify expanded authorities for inspectors.

2. Data Analysis

The recording of the May 9 First Reading was provided by the LCC Administrative Assistant to the Research & Policy Analyst /Developer of Lands on May 20, 2011. Minutes were read and the feedback that related to the Sanitary Conditions Law was identified and analyzed. The feedback data and recommendations are presented in Table 1.

It was observed that there were no objections voiced by community members to the rationale for the amendments, that is to avoid environmental contamination through unregulated demolition waste recycling business and reduce or eliminate any risk to public health and safety.

3. Recommendations

Most of the feedback and discussion from community members who participated, involved the process for the CDMP for type 2 laws. Feedback from the First Reading was similar to the feedback received during the 30-day community review that is reported in a separate document. Overall recommendations appear in the recommendation column in Table 1. Specific to Section 16, Operating Permits, it is recommended to re-organize content to:

- change the introduction piece to section 16 by removing the term *structure* and replacing the remaining introduction content to become a new section 16.1,
- re-organize the content of 16.2 and 16.3 to omit the current draft use of the a,b & c points,

- consider a term change for *discretion* in the current draft section 16.2.
- make changes to Section 1, Definitions, to add two new definitions for *Structure* and *Activity* and remove the current definition for *Clean, Regulated Fill*. The term *activity* can replace references to industry or industrial process in the current wording.

Once the draft amendments are adjusted and approved, the amended Sanitary Conditions Law can come into force and can be placed in the Legislative Calendar for a comprehensive review, addressing the remaining feedback not related to the original mandate. The current mandate received in 2011 will allow the Lands Unit to write regulations for demolition waste recycling business, a permit system and for inspector within the capacity scope of the Mohawk Council of Kahnawà:ke.

4. Concluding Remarks

The Research & Policy Analyst/Developer from Lands Unit has met with the assigned lawyer, Francis Walsh, to review community feedback and discuss draft changes to the current draft amendments that respond to community participant feedback not only received at the First Reading but during the 30-day community review period.

At this time, the Environment Protection Department of the Ohontsa'shòn:'a Ronterihwatsteristha/ Lands Unit, is reviewing the legal opinion on the current definition of landfill/landfill material to ensure clarity of what uncontaminated means specifically. Section 19, Functions of Inspectors, letter (d) that received feedback at the First Reading regarding powers of inspectors, has been requested by the Research & Policy Analyst/Developer from Lands Unit to undergo a legal review by the assigned lawyer on May 19, 2011.

Table 1: Feedback from the Draft amended Sanitary Conditions Law First Reading

Section in Sanitary Conditions Law that Feedback Relates	Feedback from LCC Minutes	Recommendation(s)
Section 1 - Definitions	<ul style="list-style-type: none"> - Combine definitions of <i>clean, regulated fill</i> and <i>landfill/landfill material</i>; - Add definition of Inspector; - new definition of <i>refuse</i> has similar meaning in another section of the Law – suggest that the definition of scrap could have been used throughout the document; - the terms <i>structure</i> to be a definition; - revise the definition for <i>person</i> to be less paternalistic . 	<p>Remove the definition of <i>clean, regulated fill</i>; currently undergoing review of the definition of <i>landfill/landfill material</i> by the Environment Protection Office.</p> <p>Definition of inspector can have expanded description in the regulations – must consider the capacity of MCK and current inspectors.</p> <p>No change to the definition of refuse – it is global enough to encompass many things.</p> <p>Revisions to additional definitions can be achieved if this law is submitted to undergo a comprehensive review in the next Legislative Calendar.</p>
Section 4 – Accumulation of Refuse Prohibited	Refers to refuse and scrap – similar meanings – need to make it more readable amendment.	Section only refers to refuse- no change to definition
Section 6 – Refuse and Hazardous Material	<p>if someone dumps nuclear waste here, who cleans it up? Nothing stated about that.</p> <p>Owners of gas stations and cigarette factories should be accountable for leaks. Raw sewage dumped needs to have something (in the law).</p>	<p>Currently Section 6 prohibits placement of refuse of anything liable to cause accidents or damages to any person whether by combustion, corrosion, explosion or otherwise. This section can respond to these feedback matters at this time in regards to prohibition and use of penalties.</p> <p>Recommend that this Section 6 can be expanded during a comprehensive review if this Law is submitted to the next Legislative Calendar.</p>
Section 16 – Operating Permits	<ul style="list-style-type: none"> -Every time that I have to go for a permit, that takes my freedoms away. -Permits are not the way to go; you might as well just charge us tax. -Specify each type of business you are referring to in the law. -Ensure clarification between residential and commercial is made throughout the Law. 	<p>Recommend to re-organize the draft content to reflect a simpler content more specifically outlined in Number 3, Recommendations, in this report.</p> <p>A listing of the types of businesses will not provide the flexibility a law needs to be able to respond to new situations over time – a list is not recommended.</p> <p>A permit system is the most effective way to be able to be knowledgeable to businesses in the community with potential for environmental contamination and risk to public health and safety - recommend keeping permit requirement in the Law.</p>

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Section in Sanitary Conditions Law that Feedback Relates	Feedback from LCC Minutes	Recommendation(s)
Section 18, Authority of Inspectors and Section 19, Functions of Inspectors	More discussion on who inspectors would be and where they'd be housed and what their role would be.	This section on inspectors has reference to regulations inserted to allow for development using regulations which will also provide ease to update or revise regulations as necessary over time – recommend no change and to keep reference to regulations in place to provide the flexibility to develop inspector roles and responsibilities within the MCK's capacity scope.
Section 20, Regulations	<ul style="list-style-type: none"> - Existing permits that were issued already, once this law gets implemented, are they going to be revoked and have to re-apply? -Insurance coverage to person applying for a permit to cover extent of possible damages(to the environment for example). 	Regulations can be developed responding to these points – no changes for this section is recommended.
Section 21, Penalties	<ul style="list-style-type: none"> -Nothing stated in the law about cost of cleanup of waste dumped. -penalties regarding community resources (this related to persons charged with cleanup who could not pay or carry out necessary actions for environmental cleanup and need to use community resources). -more clarity on penalty 	Regulations can be developed responding to these points – no changes for this section is recommended.
Other areas	<ul style="list-style-type: none"> -Have a map that shows residential and commercial areas. -appreciate being notified about any regulation pertaining to the tobacco industry -want regulations attached to the Law -How do you go about checking to see if somebody is storing hazardous waste (in storage facilities). 	<p>Lands Unit is relying on the approval of the draft amendments in order to write regulations and maintain direction to achieve this goal – no changes recommended.</p> <p>Other feedback points need to e linked to relevant files for tobacco and community planning.</p>