



Corporation of the Municipality of Temagami

Memo No.
2017-M-038

Memorandum to Council

Staff
 Committee

Subject: Procedural Considerations for Public Works Advisory Committee Recommendations regarding Waste Management Contracts

Agenda Date: April 6, 2017

Attachments:

RECOMMENDATION

That Council receive this memo for information.

INFORMATION

This memo is to accompany Memo 2017-M-033 regarding Public Works Advisory Committee Recommendations for Waste Management Contracts, to explain the procedural considerations required if Council adopts their recommendations.

The three waste management contracts: (1) Landfill Attendant for Strathy and Sisk Landfill sites; (2) Landfill Attendant Services for the Briggs Landfill site and the Lake Temagami Access Point Transfer Station; and (3) To Empty the Dump Wagons at the Lake Temagami Access Point and the Welcome Centre Transfer station including attending the Welcome Centre Transfer Station; were authorized by By-laws 13-1101, 13-1102 and 13-1103 respectively. All three contracts were executed by the Municipality and the respective contractors, and are legally binding agreements.

Each contract contains an over-holding clause, as follows:

“Notice of intention of the Municipality regarding renewal of this contract shall be provided to the Contractor at least 2 weeks prior to expiry. In the absence of such notice, the contract shall continue in full force and effect until such notice is given and all other provisions shall continue in force.”

Additionally, each contract contains a clause requiring any changes to the contract to be made in writing and signed by the respective parties, as follows:

“This agreement constitutes the entire agreement between the parties with respect to the subject-matter hereof. Any modifications to this agreement must be in writing and signed by the parties to it, or it shall have no effect and shall be void. There are no representations, warranties, conditions, undertakings or collateral agreements, express or implied between the parties other than as expressly set forth in this agreement.”

What this means in plain language is that, at the time of signing, the Municipality and the contractors all agreed that if the Municipality did not terminate the agreement when it expired, that the agreement would continue **without any changes** until the Municipality gave notice of termination or the contract was otherwise terminated or amended as provided for in the contract. Therefore, any changes to the contract must be made in writing and, as the original agreement was made by by-law, authorized by an amendment to the contract, also authorized by by-law.

Council may also wish to consider the additional financial pressure that a precedent set by adopting this recommendation may cause.

Prepared by:


Elaine Gunnell, Municipal Clerk

Reviewed and approved by:

Patrick Cormier, CAO