

THE PORT HOPE AREA INITIATIVE MUNICIPAL INVOLVEMENT

Mayor Rick AUSTIN
The Municipality of Port Hope, Canada

and

Mark STEVENSON
Port Hope Project Manager and Peer Review Coordinator

Introduction

Thank you.

I will lead this presentation but I will turn it over to Mark Stevenson for his thoughts on the peer review role on this Project.

As the Mayor of Port Hope with over 17 years on Council, and a life-long resident in the community, I have a unique perspective about the current Environmental Assessment process to clean up the waste, and the events that precede it.

By way of background, my municipality contains one of the world's oldest nuclear facility sites. From the 1930s through to the 1970s, processing residues from radium refining facilities located at the Port Hope Harbour were being stored and/or deposited on numerous sites throughout the municipality. For a variety of reasons, including spillage of material during transportation and unmonitored or unauthorized diversion of materials, many private and public properties in the municipality were contaminated with low level radioactive waste.

Over the past 30 years, the community has demanded that the nuclear industry and the federal government clean up the mess left in Port Hope. In the 1980s and 1990s, the federal government sought to fulfill its commitment to clean up over one million cubic metres of contaminated material remaining in Port Hope but was unable to find a solution. Some of you are aware of the Low Level Radioactive Waste Management Siting Task Force and its work in trying to find a home for historic LLRW in the 1980s and 1990s. It is only within the past 6 years that we, as a community, began to see the "light at the end of the tunnel". And, the light began to shine when the communities took the issue of long term management of the waste into their own hands and proposed possible solutions to the federal government. So the Port Hope Area Initiative is a community-based initiative. And, we see ourselves as partners in the process.

Today, I'd like to move beyond the broader community perspective and share with you some of the reasons for success (so far) and some opportunities and challenges that our municipality, and specifically municipal Council, faces as a partner in this Environmental Assessment and project development process.

I will address some of the key elements of the Project that I believe have lead to the success of the Project to this point, including:

- The Legal Agreement and Agreement Monitoring process.
- The Property Value Protection Program.
- Hosting Fee.
- Municipal veto on some decisions.
- End Use as an asset to the Community.
- The Value of Peer Review.

I will also touch on a couple of the remaining challenges.

Benefits of Signing the Legal Agreement

Our partnership in the Port Hope Project is enshrined in a legal agreement signed between the Federal Government and the Town of Port Hope, Township of Hope and Municipality of Clarington in 2001. Subsequent to the signing the Township of Hope and the Town of Port Hope were amalgamated by the Province of Ontario into the current Municipality of Port Hope.

In the past, the municipalities at times felt as though they were David about to confront the federal Goliath. The Legal Agreement gives us the ‘legs’ to be on the same level as the federal government.

During the negotiations for the Agreement I was Deputy Mayor and by the time the Agreement was signed I was Mayor of the Municipality of Port Hope. I am proud to be a member of the Council that signed this Legal Agreement. It is extremely important to me to be able to continue the work that our previous Mayor and our Chief Administrative Officer set in motion by signing the Legal Agreement.

The Agreement provided us with considerable influence over the outcome of the Environmental Assessment and the Project. First and foremost, this Legal Agreement commits the federal government to clean up the waste in the municipality, a feat that had eluded the federal government and the municipalities for so long. Specifically, the Agreement requires that Canada clean up properties contaminated with Historic Low-Level Radioactive Waste so that they can be used for “all current and foreseeable unrestricted uses”.

However, the work did not stop with the signing of the Legal Agreement. To avoid possible misinterpretations of the Agreement we needed to ensure that communication channels remained open. One of the mechanisms that was developed to implement the agreement was the Agreement Monitoring Group (AMG). This Group consists of representatives of the Low-Level Radioactive Waste Management Office (LLRWMO) as proponent for the Environmental Assessment, the federal government (NRCAN), the Municipality of Port Hope, including Peer Review Team representative Mark Stevenson and the Municipality of Clarington. The AMG meets approximately every six weeks in confidential meetings to ensure that all actions required under the Legal Agreement are on track and that all actions comply with the Legal Agreement. The meetings allow for an open and frank discussion among all parties. And let me tell you, at times the discussions have been very frank and a little tense. But at all times we had the legal agreement to guide our discussions and to provide the framework to resolve issues.

Municipal Veto

The Environmental Assessment process is a valuable planning tool. Based on our previous experience, we understand that decisions can be taken by senior levels of government at times without the full

knowledge and support of the local community. The Legal Agreement requires municipal consent at key milestones before the federal government can move forward with the EA process. If there is no municipal consent then the process would be halted until actions were taken to address municipal concerns. In addition, the Agreement provides the municipality with the authority to veto decisions made by the federal government during the EA process if the preferred option agreed to by Municipal Council is subsequently changed. This veto provides us with the political leverage to negotiate a project and a level of cleanup that reflects the municipality's needs.

One example of a milestone where municipal involvement is important was the formal consent required from Council to allow the proponent to submit the Environmental Assessment for federal government review. The Assessment included a recommendation to change from two proposed long term waste management sites within the amalgamated Municipality of Port Hope to one site for approximately two million cubic metres of contaminated material. Council considered this recommendation very carefully because it means transferring about one million cubic metres of waste from one Ward in Port Hope to another Ward. We listened not only to the advice of our peer review team but also the advice of the residents of both wards. In the end, we agreed to the proponent's recommendation, provided that outstanding issues were resolved to our satisfaction.

Property Value Protection (PVP) Program

The Municipalities understood from the outset that a major resident concern with the project would be the effect on property values. In fact, the lack of a program to protect property values was the main reason for the failure of a previous attempt to address the problem. In the 1980s, the federal government put forward a disposal concept to bury the historic low level radioactive waste in limestone caverns. Although there was local opposition to the concept of burial under the water table, the Municipality of Port Hope decided not to allow the federal government to proceed when it became clear during negotiations that the federal government would not include a Property Value Protection (PVP) Program. After many years of trying to address this issue, Municipal politicians and staff knew full well that, to garner local support, residents and businesses needed to know that their investment in the community (their property value) would be protected during the cleanup. Remember, this is a multi-year cleanup effort, with the potential for disruption in the community and property values are at risk during the cleanup.

During the negotiations for this Legal Agreement, the municipalities not only were insistent that a program be put in place to address this concern but they also defined what the program needed to address. The result is the PVP Program. This program ensures that home and commercial property owners will not be disadvantaged financially because of the Port Hope and Port Granby Projects. Reductions in value upon the sale of property due to the Port Hope Area Initiative will be reimbursed by the federal government.

We believe the PVP Program has been an essential component in enabling us to get to this stage.

Hosting Fee

The three municipalities and the federal government recognized that a hosting fee would be a necessary part of the package for the communities to accept siting a facility in their community. The legal agreement sets out the same hosting fee for the three municipalities although the Town of Port Hope has almost all of the contaminated sites (Clarington and the former Hope Township have existing waste management sites within their boundaries). And, the federal government agreed to clean up four non LLRW contaminated industrial sites, one a former coal gasification plant, in the former Town of Port Hope. The goal of the municipality was to ensure that the cleanup would not only make

the historic LLRW contaminated sites available again for public use but also to relieve a future burden from the municipality for the cleanup of these other industrial sites.

In addition to being a strong incentive for the communities to continue to host a waste management facility, the hosting fee provides an opportunity for the Municipality to create a positive legacy for our community.

Facility End Use: Ensuring a Positive Legacy

A significant challenge that Council faces is ensuring that this project results in a positive legacy for the municipality; something that the community can value rather than being home to a facility that creates a negative image for the Municipality. A case in point is the discussion of end use for the proposed waste management facility. Council recently appointed a Long Term Waste Management Facility End Use Advisory Committee to advise Council on how the facility and the site should be used after the municipality has been cleaned up and the facility has been closed.

The goal of the community has always been to have a facility that our community can be proud of – a facility that can be used by residents and visitors. What better way to demonstrate the safety of the facility than to design it so that it is used by the public without any additional radiation exposure. This was one of the performance criteria developed as part of the original community proposals and agreed to by the federal government. The LLRMWO has a design that addresses this community requirement and the End Use Advisory Committee is pursuing a publicly accessible facility, including flower gardens, walking trail, active sports facilities and heritage and science interpretive centres. However, some residents prefer that the mound be permanently fenced and signed to prohibit public access. And, future generations, who will have no recollection of the cleanup, should be aware of the nature of the facility, especially if they have access to it. The challenge for Council is to balance the desires of current residents and anticipate the needs of future generations when we make decisions today.

Peer Review

The Agreement also ensures that the municipalities have the resources to conduct an independent assessment of the work completed by the LLRWMO. Despite my years living in Port Hope, I am not an expert in radioactive waste management or the environmental assessment process, nor are other members of Council or staff. Thus, it was important to Council that the municipality retains a team of experts in radioactive waste management and other related disciplines to assist us in reviewing the work that the LLRWMO is undertaking for this Initiative. These reviews help me to re-assure residents that the Municipality is scrutinizing the scientific, engineering and social analysis of the proponent. The firm of Hardy Stevenson and Associates Limited, represented by Mark Stevenson and Dave Hardy, has provided Council with the expertise required to fully address our interests and concerns. Mark will outline the Peer Review Team's role in a few minutes.

Other Challenges of the Project for Council

While this Legal Agreement provides the municipalities with greater influence over the project description and the outcome of the Environmental Assessment (EA), especially when compared with the typical role of municipalities in other Federal EAs, there are many challenges that the municipalities face as partners in this process. Being a partner requires the municipality to work collaboratively with Natural Resources Canada, the lead federal agency, the LLRWMO, and with the Municipality of Clarington. While the parties see “eye to eye” on many issues, there have been instances where our interests conflict with those of the federal government. Sometimes it is necessary for all parties to “give and take” to ensure the success of the project. Although the Legal Agreement is

signed and sealed, the project really is a series of discussions and negotiations to ensure that the Agreement is implemented, that issues and directions are agreed to as the project moves forward and that public and Municipal support, and federal government commitment are maintained. Two issues that have yet to be bridged are agreement on cleanup criteria and the influence of the amalgamation of the two municipalities into one.

Cleanup Criteria

A key requirement for leaving a positive legacy is that the waste be cleaned up from the contaminated sites so that the sites can be used for all unrestricted future uses. In 25, 50 or 100 years the Municipality, its residents or business owners should not be burdened regulatory requirements or real or perceived health risk because regulations that governed this project in 2005 became more stringent.

The development of cleanup criteria (how clean is clean?) has been difficult. For each attempt to find a solution to the contamination in Port Hope over the past 20 or so years, agreement has never before been achieved on the cleanup criteria. Port Hope Council and staff, together with the Municipality of Clarington, collaborated with the LLRWMO to agree on a set of cleanup criteria for this project. The basis of the discussions was to be a technical document prepared by the federal proponent based on a risk assessment model and guided by the current regulatory regime in Canada. The discussions circled around the volumes of materials that would be generated at each remediation site. After a number of meetings when tensions were rising and nerves were frayed, we stepped back and reiterated our basic goals and desires. We then move to a discussion of the principles that could guide the development of the cleanup criteria based on a key principle contained in the legal agreement – that the remediation sites should be cleaned up “so that all such properties will be able to be used for all current and foreseeable unrestricted uses”.

After a series of meetings and some lengthy discussion, the text of the principles took form. The text was edited and the wording re-examined a number of times by the group until an agreeable set of criteria emerged. These principles are intended to guide the development of cleanup criteria. They are a key aspect of this project. These principles are intended to guarantee that, among other things, the contaminated sites will be cleaned up so that the current and future owners can use their properties for any use, such as vegetable gardens, play areas, and other recreational uses.

Now I will turn over to Mark Stevenson to briefly summarize his thoughts on the peer review process. Mark.

Peer Review Process

For the next few minutes I will share some of my insights into the Peer Review process for the Port Hope Area Initiative. I will focus on two main areas: 1) what is the PHAI peer review process? 2) how does a peer review process work? My role as lead consultant to Port Hope is to act as the Project Manager for the Municipal involvement in the Project, to coordinate the multi-disciplinary peer review team; to liaise with community members and to advise Municipal staff and Council. I have a full time office within the Municipal offices.

What is the Function of a Municipal Peer Review?

Residents typically ask their most direct and accessible level of government to help them to address issues. Yet, issues involving nuclear physics, toxicology, air emissions, hydro- geological engineering cannot be addressed by most municipalities because they lack the staff and resources to address them. Even the largest Canadian municipalities will not have nuclear engineers and toxicologists on staff.

The municipal level of government is the most accessible to residents. Municipal councillors live in the same communities as residents. As voters, the local residents are looking for assurance that their concerns are being addressed. The level of trust in municipal councillors increases when residents can hear facts and opinions from their councillors. And, so that they know that their interests are being addressed.

This pressure from residents inevitably results in municipal councillors being asked to take a stand on issues that are typically well beyond the ability of the municipality to address. In addition, in Canada, residents generally have a high level of education and have access to resources and information from many sources including the Internet. Their questions to political representatives are generally well researched and thoughtful.

Even if municipal councillors are not being asked to take a political position by residents, most municipalities are interested in knowing that a Proponent will be acting carefully and will not be leaving a municipality with a problem. The municipality must determine if there will be health effects, and must ensure that the clean-up be done correctly. The Municipality is also concerned with the potential for long standing financial obligations. Consequently, municipalities feel that it is prudent to conduct due diligence.

Rather than vote to stop a potential controversial project, municipalities can seek to 'level the playing field' with the proponent by asking for a peer review of the project. The peer review process functions to provide both a required level of expertise and to support political choices by the municipality.

Peer Review for the Port Hope Area Initiative

For the Port Hope Area Initiative, both the Municipality of Clarington and Municipality of Port Hope successfully negotiated in the Legal Agreement that a peer review team be retained by the municipalities during the environmental assessment studies and clean-up of contaminated sites.

Both Municipalities saw the practicality of hiring one firm: Hardy Stevenson and Associates Limited to conduct the peer review for both municipalities. By hiring one firm, each municipality would have the benefit knowing the studies and analysis being conducted by the PHAI for its neighbour, while at the same time, the overall Peer Review costs could be reduced because there would be no duplication of peer review expertise.

They sought and received a Peer Review Team that:

- Is independent of the PHAI and the Municipality. It is imperative to the process that the Peer Review Team is neutral. To be successful, residents must feel that the Peer Review Team is a neutral body, acting to maintain a level playing field between various stakeholders.
- Has an extensive track record and reputation of working with Citizen Groups and Environmental Groups.
- Answers to the Municipality.

To support the independence, the Peer Review Team is paid directly through the Municipality. The Municipality recaptures the costs from the federal government through the PHAI.

How is the Peer Review Team organized?

Initially the Peer Review Team was comprised of a range of professionals with expertise in nuclear engineering, air quality assessment, hydrogeology, geology and soils science, land-use planning, shoreline and harbour engineering, social science and natural environmental sciences. Several unique aspects of the Peer Review Team include:

- The team is a private sector consultancy that brings a depth of experience, focus and discipline to the peer review.
- The team includes a Project Manager and communications person located full time in the Municipality of Port Hope.
- There is flexibility to be able to add additional Peer Review Team members as PHAI studies warrant. To date, we've added a Medical Doctor who has a family practice, but is also highly skilled in the health effects of radio nuclides and has a PhD in toxicology and epidemiology. We have also added a transportation engineer.
- A final unique aspect of the team is that it is led by social scientists and planners rather than scientists and engineers. We felt that the social science issues were just as, if not more, complicated than the physical sciences and engineering. It is often the social aspects that derail projects. We felt it would be better to have the Peer Review led by social scientists who understand nuclear science and engineering, who could see the problems from the perspective of residents and the local community, and then apply the technical expertise from that perspective.

What are some of the distinct elements of the Peer Review Process for the PHAI?

The Peer Review process related to the PHAI has a number of distinct characteristics intended to improve communication and the effectiveness of the interaction between the PHAI and Peer Reviewers and the community:

- The Peer Review process is ongoing and iterative. To address the potential of Peer Review experts providing major negative comments at the end of a study, major comments are received in time to make adjustments or to be resolved. (e.g. transportation and health studies). This allows PHAI experts to reflect on Peer Review expert comments, conduct additional analysis or refine conclusions, as required.
- The Peer review team provides an integrated set of comments. Although for each discipline one lead reviewer is assigned, for key reports additional relevant disciplines also review the report and the comments of each reviewer are discussed and relevant comments incorporated into a set of comments forwarded to the proponent.
- To date the Peer Review Team has commented on all major reports prepared by the proponent and numerous background reports, including the Draft Environmental Assessment Study Report, the individual effects assessment reports and each discipline baseline study as well as the Cleanup Criteria Discussion Document.

The Peer Review Team has a visible role in the community. The Peer Review Team attends public meetings in order to identify local concerns and values, and to listen to what makes up the quality of life for residents. Additionally:

- As Peer Review Project Manager, I am accessible to any member of the community and am visible in the community, working full time in the Municipal Offices.
- The Peer Review Team conducts its own public consultation meetings at key milestones.

How does the Peer Review Process Work?

The Peer Review process works on the basis of a number of principles that assist in liaison between the Municipality and PHAI.

Principles for Peer Review

First, the Peer Review Team works for the Municipality and reports through me to the Chief Administrative Officer and Council.

Second, the Peer Review team does not conduct original and independent research. Instead, the team will point out where there are studies missing or where significant gaps in the analysis occur. It is up to the PHAI, and not the Peer Review Team, to decide whether, and how, to address the research gaps.

Third, the Peer Review experts take the role of 'peer reviewers', not adversaries. That said, there have been, and will continue to be, times when there are strong areas of disagreement about scientific and engineering studies. While there is a process of discussing and resolving these issues, at times the Peer Review Team and PHAI will simply disagree and take a public position accordingly. Or comments of the government review agencies may help to resolve outstanding issues.

Fourth, the Peer Review Team has access to all relevant documentation. The PHAI has generally provided open access to information and studies. This allows the Peer Review Team to be thorough and dig for information where necessary.

Methodology

The Peer Review Team follows a methodology that sets out the process of evaluating reports. The methodology reinforces the principle of a fair and transparent process.

The following questions are posed in the methodology of the Peer Review Team:

- Is the purpose of the EA work clearly stated and all issues and impacts encompassed through the stated purpose?
- Is the methodology sound? Does it permit an objective review of the issues, data and facts?
- Are relevant data and facts clearly and consistently used in the reports/studies?
- Have cumulative effects been thoroughly understood?
- Are certainties and uncertainties of the EA studies openly and objectively stated?
- Are there data gaps?
- Can we trust the data?
- Are the conclusions supported by the data and analysis?
- If the peer review team examined the data would it reach the same conclusions?
- Are realistic mitigation measures proposed by the LLRWMO?
- Will the mitigation measures function to address effects over the life of the project?
- Are there gaps arising from our examination of the issues?

- Are there areas where the Peer Review Team and LLRWMO consultants completely disagree?
- Have significant issues been overlooked during the EA process?
- Are gaps addressed to the point where the EA can move forward?
- Are there Federal, Provincial and local standards, regulations and guidelines that are overlooked?
- What are our conclusions as a peer review team?
- What is our recommendation to the Municipality of Port Hope?

I would like to say that the peer review process also addresses trust and credibility in the environmental assessment process. While there appears to be a general acceptance of the peer review comments, not all residents agree with Peer Review Team findings and recommendations. For these residents, additional information from the Peer Review Team is not likely to be influential; their positions are already firmed up.

In conclusion, the PHAI Peer Review process, I believe, functions to improve decisions by ensuring that the Municipality is well informed; that the Municipal and public interests and concerns are advocated and addressed; and by providing greater credibility and greater community acceptance of the clean up of contaminated soils and radioactive materials.

Thank you for this opportunity to speak to you today. I would be happy to discuss the peer review team role in more detail throughout the day. Now Mayor Austin will provide his own concluding thoughts.

Conclusion

A few concluding remarks. I hope that I've been able to provide some insight about the municipal involvement in the Port Hope Area Initiative (PHAI). Starting with the community proposals, the process has involved a considerable amount of municipal energy and time. I am proud to say that our Councillors have pulled together as a team. And, I would suggest that this level of effort and commitment will occur for any other community in Canada which decides to accept the responsibility to lead the clean up of contaminated sites and to provide for better long term management of the wastes.

Signing the legal agreement has made us partners in the process and provided us with greater influence over the outcome of the EAs. We learned that, along with this partnership, comes the responsibility of balancing our interests with those of the federal government. Some may observe that the two municipalities of Clarington and Port Hope are now managing Federal-scale responsibilities. Indeed, few if any other cities in Canada require their Councilors to be conversant in matters of nuclear engineering, epidemiology, health physics and the social sciences.

While we have come along way, we still have some distance to go. We will need to confirm clean-up criteria and then prepare for Canadian Nuclear Safety Commission (CNSC) approvals and other approval steps. Most importantly, we will need to prepare the residents of Port Hope for periods of disruption while the clean-up is underway. And although our community is in transition and the local political landscape is likely to change in 2006, we are confident that, working with NRCan and the LLRWMO, the clean-up will be completed. We look forward to the day that we become not only Canada's best community but its cleanest.