



The Corporation of the Town of Tecumseh

Corporate Services & Clerk

To: Mayor and Members of Council

From: Laura Moy, Director Corporate Services & Clerk

Date to Council: February 12, 2019

Report Number: CS-2019-02

Subject: Fluoridation of Water Supply

Recommendations

It is recommended:

That Report CS-2019-02 Fluoridation of Water Supply **be received**;

And that a further report **be provided** following receipt of legal advice on the interpretation and application of the *Fluoridation Act*, as well as the history of fluoridation of drinking water in the Town of Tecumseh and the City of Windsor's position on next steps in the process.

Background

In April 2018, the Windsor Essex County Health Unit released the report: Oral Health Report 2018 Update (Oral Health Report). The purpose of the Oral Health Report "is to provide an overview of the oral health status in Windsor-Essex County. This report is a refresh of the 2016 Oral Health Report, in which the population health data and information relevant to the new Ontario Public Health Standards have both been updated. Specifically, this report is intended to:

1. Address a request for information on oral health status in correlation with a 5-year moratorium on community water fluoridation in the City of Windsor.
2. Provide an oral health profile of the Windsor-Essex County population using available assessment and surveillance data for the period of 2011 to 2017.
3. Provide recommendations based on local data for the improvement of oral health within Windsor-Essex.”¹

The Oral Health Report was submitted to the Council for the City of Windsor (City), along with a report from City Administration on the use of the funds through oral and health nutrition initiatives, on May 7, 2018. At that meeting City Council directed its Administration by way of resolutions to provide a further report at their December 17, 2018 meeting, addressing matters such as liability, mitigation, financial, as well as any outstanding contractual agreements that might be affected. Direction was also given to send a letter to the Province of Ontario, after the provincial election, to confirm its position on water fluoridation and inquire if it would be mandated province-wide.

City Council at their meeting held on Monday, December 17, 2018, were given a report from their Administration, as directed, along with the Oral Health Report and other appendices. At the meeting, the following resolution (Decision Number: CR676/2018) was adopted by City Council:

That the report from Administration responding to the Windsor Essex County Health Unit (WECHU) Oral Health Report Update 2018, BE RECEIVED for information; and further,

That WECHU Recommendation #1 BE SUPPORTED (That administration BE DIRECTED to prepare a by-law to re-introduce community water fluoridation as a key prevention strategy for dental caries), and further, that Administration BE DIRECTED to report back on next steps in that process.

Carried.

Subsequently, Tecumseh Council and Administration received numerous communications expressing both support and opposition to fluoride being added to water, as well as requests to address Council on the matter.

The City’s drinking water system currently provides water, on a bulk basis, to the Towns of Tecumseh and LaSalle. A small number of residents in the Town of Lakeshore are also served via the Town of Tecumseh.

¹ Oral Health Report 2018 Update; Windsor Essex County Health Unit; April 2018. Page 13.

The Town of Tecumseh (Tecumseh), the Windsor Utilities Commission (WUC) and the City entered into a Water Servicing Agreement on November 10, 2004, and a subsequent Amending Agreement on January 16, 2006. The Agreement provides Tecumseh with a secure source of drinking water for a period of fifty (50) years.

Prior to 2013, the water provided by WUC was fluoridated. The matter of water fluoridation was previously raised circa 2011-2012. WUC wrote Tecumseh in September 2011 requesting its position as it pertains to the addition of fluoride to drinking water.

After receiving reports from the Director Public Works & Environmental Services [PWES Report No. 06/12 and PWES Report 16/12] on the matter of Fluoridation of Drinking Water, Tecumseh Council, at their regular meeting held Tuesday, March 13, 2012, passed the following resolution (RCM-84/12):

THAT The Town of Tecumseh advise the Windsor Utilities Commission (WUC) to cease fluoridation of drinking water supplied to the Town of Tecumseh, as recommended by the WUC at their February 29, 2012 meeting.

Subsequently, the City passed By-law Number 20-2013 to discontinue the fluoridation system in Windsor, which took effect February 4, 2013.

The Town of LaSalle (LaSalle) supported a resolution by the Region Peel asking Health Canada to regulate the fluorosilicates hexafluorosilicic acid and sodium silicofluoride used as a treatment for dental cavities in drinking water, as drugs under the Food and Drugs Act.

Comments

Legislation

The legal framework for drinking water fluoridation in Ontario is provided by the following legislation and associated regulations:

- Municipal Act, 2001
- Fluoridation Act 1990 (Act)
- Safe Drinking Water Act 2002 (SDWA)

The Municipal Act, 2001 imposes a duty of care on those who oversee drinking water systems requiring them to act in good faith.

The decision to begin to fluoridate, or to stop, has always been a municipal decision in Ontario. The current Act provides for the establishment or discontinuance of fluoridation in a drinking water system by a municipality. In the case of the City, Tecumseh and LaSalle, the individual Councils do not have the authority under the Act to unilaterally authorize fluoridation.

In accordance with the Act, the body operating the waterworks system shall establish, maintain and operate a fluoridation system in connection therewith, where there are **more than two municipalities**, only after the Councils of a **majority of such municipalities have passed a by-law** requiring the fluoridation of the water supply of their respective municipalities.

The Town may (but is not required to) submit a question to this effect to its electors. A vote by the municipality's electors would then be binding on Council but subject to the other requirements of the Act.

The current Water Supply Agreement between Tecumseh, City, and WUC suggests that WUC is operating a supply system which supplies both Windsor and the Town. WUC has also acknowledged that both Tecumseh and LaSalle have systems which are integrated into its capital works. If WUC is operating a waterworks system for all three municipalities, two of the three Councils would need to pass the necessary by-laws in order to re-introduce fluoridation.

Both the Town and the City are awaiting independent legal opinions and advice on the Act.

The SDWA establishes an enhanced duty of care for those who have oversight of municipal drinking water systems. Under this standard, each person must exercise the level of care, diligence and skill in respect of a municipal drinking water system that a reasonably prudent person would be expected to exercise in a similar situation. The standard of care also extends to the owner of the municipal drinking water system, and to those people who, on behalf of the municipality, oversee the accredited operating authority or who exercise decision-making authority over the system. These persons may rely in good faith on a report of an engineer, lawyer, accountant or other person whose professional qualifications give credibility to the report.

From an operating perspective, in Ontario the act of fluoridating the water supply is ostensibly covered by the SDWA and its companion regulations. Section 11 is of particular note and requires that:

- All water provided by the drinking water system meets prescribed drinking water quality standards;
- The drinking water system is operated in accordance with the Act and regulations and is kept in a good state of repair;
- All sampling testing and monitoring requirements are complied with; and
- All reporting requirements are complied with.

The SDWA provides for a drinking water system to operate under a Drinking Water Works Permit (DWWP) which specifies the treatment equipment that is used by that system. In the event that WUC is to re-introduce fluoridation, an application for a DWWP amendment would have to be made to the MOE in order to add the fluoridation equipment. This application would have to be approved by the MOE.

Fluoridation is a process that does not contribute to the municipality's objective of providing safe drinking water. The presence of fluoride does not make drinking water any more or any less safe than that provided in any of the non-fluoridated service areas. Fluoridation is implemented as a public health measure which is ancillary to providing safe drinking water. In addition, there are costs and operational issues associated with fluoridation. The process requires the provision of equipment, time spent on maintenance and operation of that equipment and the purchase and handling of fluoride salt. Operationally, fluoride salt is a

hazardous material which requires the operators to take special precautions including using disposable coveralls, gloves and respirators.²

Discussion

The Town has not yet received formal communication from the City regarding its Council's decision to "re-introduce community fluoridation", nor a request for a decision by the Town.

City Administration has, however, advised Town Administration that they have requested a legal opinion from external legal counsel relative to the proper process required to move forward with its Council's previous decision on the matter. They expect the opinion will be received in time to report to City Council at their meeting of March 4, 2019, after which they would then be in a position to communicate Windsor's position on the proper next steps.

In light of the numerous communications received by both Town Council and Administration regarding fluoridation of drinking water, and a number of requests to address Tecumseh Council on the matter, a Public Meeting was held on Tuesday, January 29, 2019. The sole purpose of the meeting was to hear delegations on the matter of water fluoridation and to receive written submissions.

At the meeting, 27 delegations (both resident and non-resident of Tecumseh) were scheduled to appear before Council: 10 in support and 17 opposed to fluoridation. The Agenda for the meeting listed 115 Communications (from both residents and non-residents) with 52 being in support of fluoridation and 63 being opposed. The delegations and communications were received from both medical professionals and non-professionals.

Administration was asked by Council to provide:

1. The history of water fluoridation for the whole of the Town, pre and post amalgamation.
2. Information regarding the cost of water fluoridation and any impact on water rates.
3. Information regarding the promotion of Oral and Health Nutrition Education using the 'savings' resulting from the cessation of fluoride in the water system as was directed by City Council in 2013 when fluoridation was discontinued.
4. Advice on whether the Town of Lakeshore must provide a decision on water fluoridation in light of receiving water supply from the Town.
5. A report on water fluoridation for the February 12, 2019 Regular Meeting of Council.

² PWES Report No. 06/12 January 11, 2012, Page 3

This is an information report to respond to Council's request for a report on water fluoridation. Administration are not experts on issues related to oral health and the impact of fluoride on oral and overall health, and defer to the authors of the Oral Health Report at the Windsor Essex County Health Unit on questions related to the Oral Health Report and public comments on the matter.

1. The history of water fluoridation for the whole of the Town, pre and post amalgamation.

Administration is making best efforts to search the former Township of Sandwich South, Town of Tecumseh, Village of St. Clair Beach, and Tecumseh Public Utilities Commission records to the extent that they still exist to provide a history. Information is also being requested of other agencies to assist in this regard.

2. Information regarding the cost of water fluoridation and any impact on water rates.

Costs and rates are captured within the provisions of the Water Servicing Agreement between the Town, City and WUC. These provisions are currently being clarified through Mediation.

3. Information regarding the promotion of Oral and Health Nutrition Education using the 'savings' resulting from the cessation of fluoride in the water system as was directed by City Council in 2013 when fluoride was discontinued.

A copy of the report to City Council at their December 17, 2018 meeting has been provided to Council, which includes information on the promotion of Oral and Health and Nutrition Education, as well as a Summary Report of the Activities of the Oral Health Education Advisory Committee for Windsor.

4. Advice on whether the Town of Lakeshore must provide a decision on water fluoridation in light of receiving water supply from the Town.

As previously indicated, independent legal advice is being sought by both the City and Town regarding the application and interpretation of the Fluoridation Act to help to determine the next steps in the process.

Summary

There is a high degree of controversy regarding fluoridation of drinking water. The practice has been subject to strong support and vehement opposition. Administration does not have the expertise to ascertain whether the fluoridation of drinking water is beneficial or harmful. Therefore, Administration has not given a position on this public health debate because it is not qualified to do so. This matter is best addressed by health care professionals.

A further report will be provided to Council following receipt of its legal opinion on the interpretation of the Act and how it may apply in the circumstance of the City, Town, Town of LaSalle and Town of Lakeshore, in addition to the City's position on next steps following their March 4, 2019 meeting.

Consultations

Public Works & Environmental Services
City of Windsor
Town of LaSalle

Financial Implications

This is an information report and therefore there are no financial implications at this time.

Link to Strategic Priorities

Applicable	2017-18 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that the Town of Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of the Town of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input checked="" type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☒

Website ☐ Social Media ☐ News Release ☐ Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Director Corporate Services & Clerk

Reviewed by:

Phil Bartnik, P.Eng.
Director Public Works & Environmental Services

Recommended by:

Tony Haddad, MSA, CMO, CPFA
Chief Administrative Officer

Attachment Number	Attachment Name
None	None