



SUBJECT: 2022 Halton Court Services business plan and budget
TO: Corporate Services, Strategy, Risk & Accountability Cttee.
FROM: Legal Services Department

Report Number: L-05-22

Wards Affected: All

File Numbers: 215-08

Date to Committee: February 2, 2022

Date to Council: February 15, 2022

Recommendation:

Approve the 2022 Halton Court Services (HCS) budget as presented; and
Contribute \$50,000 from net revenues to the capital reserve fund during 2022 to ensure that requirements of the Capital Reserve Fund Policy are met; and
Approve the draft terms of reference with respect to an external review of Halton Court Services including, but not limited to, development of operations and recommendations relate to service delivery, long-term financial sustainability and governance to a maximum of \$100,000 be provided from the stabilization reserve fund.

PURPOSE:

Vision to Focus Alignment:

- Deliver customer centric services with a focus on efficiency and technology transformation

Background and Discussion:

In keeping with the Inter-municipal Agreement between the City of Burlington (City), the Towns of Halton Hills, Milton, Oakville and the Region of Halton, the City is required to provide its partners with an annual BP and budget for HCS.

The 2022 BP was completed in October and builds on HCS performance during 2019 given the unprecedented circumstances and impact of the COVID pandemic on 2020 and 2021 results. In addition to providing mid-year financial results, the following represents the highlights of the Business Plan.

Strategy/process

Overview of 2021 Financial Performance

Budget

Following are the financial results for HCS at end of second quarter:

- Gross revenues of \$4,076,649 (36.7% of budget)
- Overall expenditures of \$2,879,441 (40.8% of budget)
- Year-to-date net revenue of \$1,197,208 (29.5% of budget)

There is an expected shortfall of approximately \$1.76 million in net revenue in 2021. This shortfall reflects an approximate reduction in gross revenue of \$1.9 million which is offset by an approximate \$806k decrease in expenditures. The shortfall in gross revenues is primarily due to:

- A decrease in number of charges (pandemic-related);
- A backlog in matters being heard compounded by a lack in judicial resources
- the temporary suspension of all deadlines related to the payment of new fines and enforcement resuming in March 2021, but on hold again due to lack of judicial resources.

Audits

KPMG performed an audit of HCS for the period ended December 31, 2020. There were no items of concern to report to the Partnership by way of an auditors' management letter. KPMG maintains a practice of issuing qualified opinions for all of its POA court clients due to the inability to review cash procedures at other POA courts accepting fine payments on behalf of HCS, and to review controls of the provincial ICON system utilized by all POA courts across the province.

Charges Filed

By end of June, there were 25,466 (36.4%) charges filed of the projected 70,000 total for 2021. Filed charges fell short of projections due to the continued imposed provincial lockdowns throughout the first half of the year and decreased further over the summer months. Therefore, it is projected that charges will reach 50,892 (73% of projected total) by year end.

2022 Performance Projections

Overall Revenues

The Municipal Partners are projecting gross revenues based on the budgeted revenue for 2019, rather than actual revenue, given that 2020 and 2021 were anomalies.

Although population continues to grow at a fair rate across Halton, the number of charges filed by local enforcement agencies has remained steady for the last several years. This is contrary to the experience of other regions, where there was a strong correlation between population growth and increased local enforcement. An increase over the projected total for 2021 (50,892) of 60,000 charges is projected for 2022 with the expectation that enforcement practices will increase from pandemic lows. Gross revenue for HCS in 2022 is budgeted at **\$10.0 million** as compared to the **\$11.1 million** originally budgeted for during 2021.

Overall Expenditures

Total expenditures in 2022 are budgeted at **\$6.7 million** compared to the **\$7 million** originally budgeted for 2021. This represents an overall decrease of 2.4% in expenditures.

See Appendix A for a copy of the overall 2022 HCS Budget.

Writing-off of Uncollectable Defaulted Fines

In accordance with the Write-Off Policy, the Municipal Partners are seeking approval from the Area Treasurers and the Joint Management Board to write-off those defaulted fines that have accumulated during 2021 where it has been determined there are no viable means of collection. **Write-offs scheduled during 2022 will total approximately 920 cases with a total value of approximately \$317,765.**

Stabilization Fund and Flat-Lining Net Revenue Distribution

Net revenue surplus was transferred to the MPRSF between 2013 and 2017. Interest is allocated to the MPRSF on an annual basis.

The Area Treasurers directed that contributions to the MPRSF end as of 2018 given the healthy balance of the MPRSF and long-term projections of little impact on net revenue. Due to the pandemic in 2020, the budgeted net revenue was not reached by operations alone and a drawing from the reserve fund was necessary in order to eliminate any variance in the budgeted distribution. At the end of 2019, the balance in the Stabilization Reserve Fund was just under \$4.89 million. In order to meet the \$4.65 million distribution, a total of \$4,099,660 was drawn from the fund in 2020. As a result, the balance in the Stabilization Reserve Fund is now \$847,150 at the beginning of 2021.

Due to the status of the current health situation, it is expected that 2021 budgeted net revenue will not be realized, and the Municipal Partners are recommending to only distribute net revenue earned from operations in 2021 (currently projected at \$2.89 million).

Refer to page 6 of the Business Plan for a detailed report of the Stabilization Fund forecast.

Capital Reserve Fund

With interest income it is projected that the Reserve Fund balance will be approximately \$344,443 at the end of 2021.

The Municipal Partners regularly conduct an annual review of the Reserve Fund to ensure that future capital cost requirements are reflected and that the required minimum balance of \$300,000 is maintained. The Municipal Partners are recommending that the minimum contribution of \$50,000 continue to be made to the Reserve Fund during 2022.

The Remote Interpretation initiative was completed in 2021 and upgrades to equipment in courtrooms to accommodate Zoom proceedings was completed at a cost of \$33,064

Refer to pages 8-9 of the Business Plan to view the Reserve Fund table.

Emerging Issues

1. Ongoing Pandemic Recovery

The pandemic continued to effect court operations across the province and the impact is anticipated to be ongoing throughout 2022 and with the possibility of extending into future years to accommodate the backlog of cases needing to be scheduled into court. Further impacting the recovery process are the drastically reduced judicial resources in the Central West Region (CWR) which has an impact on operations with:

- Unprecedented court closures leaving limited days to schedule matters.
- Hold on convictions for Fail to Respond (FTR) dockets – since June 2021

Refer to page10 for more information on Pandemic Recovery.

2. Bill 177 Implementation

The Ministry of the Attorney General (MAG) has advised that portions of Bill 177 will be proclaimed as of November 1, 2021 if proclaimed as advised there will be impacts to several process;

- Extension for Time to Pay Applications – HCS can approve but not deny applications for more time to pay removing this process from the justice of the peace, unless it is a denial.

- Fail to Respond Docket Review – HCS will review Certificates to ensure they are proper on their face and register convictions removing this process from the justice of the peace.
- Early Resolution Process Adjustments – Moving the majority of the process away from the justice of the peace, however in the proposed current format it is cumbersome on administration and confusing to the defendants. The Municipal Partners are in consultation with MAG to seek amendments to the legislation that would eliminate the processes that have made the new legislation cumbersome and confusing and are offering suggestions and solutions to MAG before implementation.

Refer to page11 for more information on Bill 177 Implementation.

3. Automated Speed Enforcement - Update

As previously reported, the Safer School Zones Act, 2017 created a framework allowing municipalities to use Automated Speed Enforcement (ASE) camera technology to enforce speeding offences in school zones and community safety zones on roads with speed limits under 80 km/h. Under Getting Ontario Moving Act, 2019, the government has also created the legislative framework to establish Administrative Monetary Penalties (AMPs) for vehicle-based offences (such as ASE and red-light camera offences). The framework does not yet contain the required amendments to allow municipalities to implement AMPs for ASE.

Evaluation of data from various municipalities, including Oakville and Burlington, has identified that ASE would not be a revenue generating program, especially if operated through the Provincial Offences Court system. The number of charges from a single camera location has been assessed to be significant, resulting in anticipated adverse immediate impacts on staffing, judicial resources and capacity of the POA court schedule, which has already been impacted by the court closures and backlogs relating to COVID-19. It is for that reason that Ontario Traffic Council's Automated Speed Enforcement Steering Committee, comprised of various municipalities and government organizations across Ontario, has been working closely with the Ministry of Transportation to implement legislative and regulatory amendments to allow municipalities to administer the ASE program through AMPs.

Refer to page12 for more information on Automated Speed Enforcement.

4. 2022 COVID-19 Impacts

Additional contract service costs for per diem prosecutor services due to the pandemic is budgeted in the amount \$12,600.00 in anticipation of more staff absences due to compliance with public health directions and the need to self-isolate for 14 days from symptom onset, close contact or travel. This model is built on the assumption that of

the 14-day self-isolation period, staff would be able to work seven of the fourteen days remotely from home.

Financial Matters:

The 2022 HCS budget includes a net revenue projection of \$3.1 million.

Total Financial Impact

With interest income it is projected that there will be a Capital Reserve Fund balance of approximately \$344,443 at the end of 2021. The Municipal Partners are proposing that the minimum contribution of \$50,000 be made during 2022.

With interest income it is projected that there will be a Stabilization Fund balance of \$864,000 at the end of 2021.

Source of Funding

Not Applicable

Other Resource Impacts

Not Applicable

Climate Implications

Not Applicable

Engagement Matters:

Both the Area Treasurer's and Joint Management Board have reviewed and approved the HCS 2022 Business Plan.

Conclusion:

Staff request that the recommendations as set out in the HCS 2022 Business Plan as highlighted in this report be approved.

Respectfully submitted,

Leesa Shanley

Manager of Court Administration

905-335-7600 Ext 6400

Appendices:

- A. 2022 HCS Business Plan and Budget
- B. Terms of Reference Halton court Service Review 2022
- C. HCS Revenue and Cost Projections

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.