



SUBJECT: Halton Court Services 2023 Budget and Business Plan

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Legal Services Department

Report Number: L-04-23

Wards Affected: All

File Numbers:

Date to Committee: January 9, 2023

Date to Council: January 24, 2023

Recommendation:

Approve the 2023 Halton Court Services (HCS) budget as presented; and

Contribute \$50,000 from net revenues to the capital reserve fund during 2023 to ensure that requirements of the Capital Reserve Fund Policy are met; and

Withdraw \$69,000 from the capital reserve fund for computer hard/soft replacements for the computer renewal program; and

Authorize the Mayors and Clerks of the respective municipal partners, being the Corporation of the City of Burlington, the Corporation of the Town of Oakville, the Corporation of the Town of Halton Hills, and the Corporation of the Town of Milton, to execute any required documents and/or agreements to give effect to the transfer of Part III Provincial Offences Act prosecutions subject to the satisfaction of the Joint Management Board; and

Request the Mayors and Clerks of the respective municipal partners, being the Corporation of the City of Burlington, the Corporation of the Town of Oakville, the Corporation of the Town of Halton Hills and the Corporation of the Town of Milton, to sign a letter to the Ministry of the Attorney General in support of more Justice of Peace appointments and for those appointments to be in a more timely fashion in an effort to provide a solution to the severe lack of judicial resources.

PURPOSE:

To provide a 2022 update on the administration of HCS, an overview of the 2023 Business Plan (BP) and budget, and an update on emerging issues that will have an impact on HCS operations and/or budget.

Executive Summary:

Not applicable

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 2023 BP and 2023 budget have been reviewed and approved by the Area Treasurers.

Overview of 2022 Financial Performance

Budget

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

- Gross revenues of \$3,826,826 (38.3% of budget)
- Overall expenditures of \$3,012,795 (44.6% of budget)
- Year-to-date net revenue of \$814,030 (25.1% of budget)

There is an expected shortfall of approximately \$1.67 million in net revenue in 2022. This shortfall reflects an approximate reduction in gross revenue of \$2 million which is offset by an approximate \$342k decrease in expenditures. The shortfall in gross revenues is primarily due to:

- A decrease in number of charges which continues to be pandemic related
- A backlog in matters being heard compounded by a lack in judicial resources

Revenues received from the temporary lease agreement with the Ministry of the Attorney General totaled \$296,055 with \$109,727 being paid in 2021 and \$186,328 being paid in 2022.

Audits

KPMG performed an audit of HCS for the period ended December 31, 2021. 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 23,345 (39%) charges filed of the projected 60,000 total for 2022. Filed charges fell short of Q2 projections with the probable cause being due to the ongoing pandemic impact on enforcement staffing resources and the higher amount of public working from home. Therefore, it is projected that charges may reach 50,000 (83% of projected total) by year end.

2022 Performance Projections

Overall Revenues

The Municipal Partners are projecting gross revenues based on current trends and although population continues to grow at a fair rate across Halton, the number of charges filed has been impacted by the pandemic for the last several years. While other regions show a strong correlation between population growth and increased local enforcement, many regions continue to show similar impacts from the pandemic. An increase over the projected total for 2022 (50,000) of 52,000 charges is projected for 2023, having taken into consideration the ongoing pandemic waves and with the hope that enforcement practices will increase from pandemic lows. Gross revenue for HCS in 2023 is budgeted at **\$8.6 million** as compared to the **\$10 million** originally budgeted for during 2022.

Overall Expenditures

Total expenditures in 2023 are budgeted at **\$6.8 million** compared to the **\$6.7 million** originally budgeted for 2022.

Net Revenues

Overall net revenues are decreasing by \$1.5 million over the 2022 budget. This impacts the net revenues for each of the 5 partner municipalities.

See Appendix A for a copy of the overall 2023 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 2022 where it has been determined there are no viable means of collection. **Write-offs scheduled during 2022 will total approximately 172 with a total value of approximately \$95,102. This is made up of older cases with an enforcement date from January 1994-December 2003. With an additional \$100,597 in write-offs comprised of \$99,927 for deceased persons and \$670 for small balance write-offs.**

Stabilization Fund

Net revenue surplus was transferred to the Municipal Partner Revenue Stabilization Fund (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. 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 net revenue distribution, a total of \$4,099,660 was drawn from the fund in 2020. In 2021, the JMB directed to only distribute to the Partners the actual net revenue earned from operations in 2021. The balance in the Stabilization Reserve Fund is now \$854,703 at the beginning of 2022.

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

Reserve Fund

With interest income it is projected that the Reserve Fund balance will be approximately \$397,264 at the end of 2022.

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 2023.

HCS is scheduled for new computers under the Computer Renewal Program and will be renewing with laptops and docking stations to support the Hybrid Workforce. The estimated cost for 31 laptops, 11 additional docking stations and 7 power cords is

\$69,000 which will outfit; Administration, Court Support, Collections and Prosecution and leave 10 desktop computers in the courtrooms for renewal in 2024.

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 as staffing resources were affected across all aspects including judicial resources, enforcement and within HCS, which affected not only charge volumes but also court proceedings. As the pandemic continues in waves those impacts are expected to continue. While every effort is made to manage the backlog of matters to be scheduled the drastically reduced judicial resources in the Central West Region (CWR) continues to impact the number of matters that can be scheduled. There are approximately 23,000 Part I charges that require court dates to be scheduled. The shortage in judicial resources is anticipated to be ongoing throughout 2023.

Refer to pages 9-10 for more information on Pandemic Recovery.

2. Bill 177 Implementation

The Ministry of the Attorney General (MAG) proclaimed some portions of Bill 177 on November 1, 2021, which allowed for the HCS Administration staff to assume processes formerly performed by the justice of the peace which has allowed for backlogs to be eliminated in:

- Extension for Time to Pay Applications – HCS now approves applications for more time to pay fines which eliminates the wait times for review by a justice of the peace and improves customer service. Applications for extensions of time are now reviewed by the justice of the peace only in cases where the application cannot be approved by Administration due to the circumstances within.
- Fail to Respond Docket Review – HCS Administration now holds the responsibility of reviewing Certificates of Offence to ensure they are proper on their face and registers convictions daily removing all delays in this process and ensuring timely convictions of matters that are without a response from the defendant.

Refer to page 10 for more information on Bill 177 Implementation.

3. Transfer of Part III POA Prosecutions to Municipalities - Update

As reported previously, the Municipal Partners were advised by Ministry of the Attorney General (MAG) in August 2017 that the province intends to transfer the responsibility for prosecution of Part Three POA matters to municipalities.

A Transitional Planning Working Group (TPWG) was formed in early 2020 to bring together municipalities across Ontario and MAG to ensure essential components are put in place for an effective transition from planning to implementation stage.

In March 2021 MAG advised that it would need additional internal approvals in order to achieve consistency among the current MOU, the proposed interim agreement and amending transfer agreement to facilitate certain requirements of the Criminal Law Division and the Provincial Offences Act.

Refer to page 11 for more information on Bill 177 Implementation.

4. Conversion of one part-time Case Administrator to full-time position

Halton Court Services currently employs one full-time and one part-time Case Administrator.

The 2021 Business Plan and Budget approved the conversion of the existing one part-time Case Administrator to one full-time position to manage the transfer of responsibility from the province for the case administration of Part III offence, subject to a report back to the Joint Management Board respecting staffing implications to manage the transfer. Given the delay in the transfer of Part III offences, the staffing implications have not yet been reported on and the recruitment to fill this part-time role has not yet occurred. The exact date for the transfer remains unknown.

The current part-time Case Administrator has indicated her intention to retire at the end of the year 2022, and therefore an opportunity arose to fill this role with one full-time Case Administration (representing the existing part-time role and an additional part-time role addressed in the 2021 budget which remains unfilled). The recruitment for this full-time role will commence once the retirement date is set, which is anticipated to be this fall, in order to ensure continuity of operations. This recruitment will occur in advance of reporting back on the staffing implication of the Part III transfer required under section 4.

5. 2022 COVID-19 Backlog efforts

Prosecutions in coordination with Court Administration is working together to help address the current backlog of cases. The coordination of efforts is key as the number of courts has reduced and continues to be further reduced due to lack of Judicial resources.

To mitigate the further delay caused by lack of resources, Court Administration increased the number of matters on trial dockets, and additional prosecution resources

were committed to allow for increased numbers of matters to be scheduled for early resolution.

During the weeks where there are closures, case management courts have been utilized to reach out to defendants whose matters are waiting to be scheduled for trial to offer them an opportunity to resolve their matter prior to trial.

Refer to page 12 for more information on Covid-19 backlog efforts.

6. 2022 COVID-19 Impacts

As the Covid 19 pandemic continues through waves, prosecution team is experiencing and has budgeted for additional contract service costs for per diem prosecutor services. In April of 2022 direction from MAG provided that all matters that are currently not scheduled, are to be scheduled for in-person proceedings with requirement to accommodate virtual proceedings if the defendant requests to attend virtually. Effective April 2022 defendants have the option on how they wish to attend, either in-person or virtual via Zoom when they file their matter with the court. As a result, scheduling currently requires all prosecutors to be in the Halton Court Services Building on all days on which Court is in session. In anticipation of more staff absences due to more frequent contact with the public and to comply with public health directions and the directions of the City of Burlington, this additional resource is required to ensure coverage of court for the 5-day self-isolation period.

7. New Regulations Permit Municipal Use of Administrative Penalties for Automated Speed Enforcement

In April of 2022, the provincial government filed Ontario Regulation 355/22 under the *Highway Traffic Act* which will permit the municipal use of Administrative Monetary Penalties (AMPs) for Automated Speed Enforcement. It also includes the use of AMPs for other camera bases systems such as red lights, streetcars, and school buses. The extension of AMPs for these vehicle based offences will significantly broaden the tools available to help enforce speed limits and improve road safety.

Refer to page 13 for more information on Administrative Penalties.

8. Articling Student Program

In July of 2022 the City of Burlington commenced participation in an articling student program. Halton Region is covering the hiring costs of the four articling students which are being shared on a rotational basis between Halton Region, City of Burlington, Halton Police and the Town of Oakville. The City of Burlington rotation for each student opens the window to litigation experience as students will obtain hands on practical

court experience as they learn about Provincial Offences and engage in the everyday activities of the prosecution office.

Financial Matters:

Total Financial Impact

The 2023 HCS budget includes a net revenue projection of \$1.7 million.

With interest income it is projected that there will be a Capital Reserve Fund balance of approximately \$397,264 at the end of 2022. The Municipal Partners are proposing that the minimum contribution of \$50,000 be made during 2023.

With interest income it is projected that there will be a Stabilization Fund balance of \$733,956 at the end of 2022.

Source of Funding

Not applicable

Other Resource Impacts

Not applicable

Conclusion:

Staff request that the recommendations as set out in the 2023 Business Plan as highlighted in this report be approved.

Respectfully submitted,

Leesa Shanley,
Manager of Court Administration
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Appendices:

- A. 2023 POA Business Plan and Budget

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.