



**SUBJECT: 2024 Halton Court Services business plan and budget**

**TO: Committee of the Whole**

**FROM: Legal Department**

Report Number: L-05-24

Wards Affected: All

Date to Committee: February 5, 2024

Date to Council: February 13, 2024

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**Recommendation:**

Approve the 2024 Halton Court Services (HCS) budget as presented; and

Contribute \$50,000 from net revenues to the capital reserve fund during 2024 to ensure that requirements of the Capital Reserve Fund Policy are met; and

Withdraw \$20,000 from the capital reserve fund for computer hard/soft replacements for the computer renewal program; and

Reject the transfer of Part III prosecutions to Halton Court Services at this time; and

That subject to mandated transfer or voluntary assumption of Part III prosecutions, Halton Court Services be delegated the authority to hire one additional full time Case Administrator and one Full Time Prosecutor with any required 2024 funding provided from the HCS net revenue before distributions (via an in-year variance) and future years via the annual budget process; and

Write-off approximately 190 cases with a total value of approximately \$85,763 in accordance with the HCS Write-Off Policy, where it has been determined there are no viable means of collection.

**PURPOSE:**

## **Vision to Focus Alignment:**

- Deliver customer centric services with a focus on efficiency and technology transformation.
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## **Background and Discussion:**

In keeping with the Inter-municipal Agreement between the City of Burlington (the City), the Towns of Halton Hills, Milton, Oakville and the Region of Halton, the City is required to provide its partners with an annual Business Plan and budget for HCS. The 2024 Business Plan, and 2024 budget have been reviewed and approved by the Area Treasurers.

The 2023 BP and 2023 budget have been reviewed and approved by the Area Treasurers and Joint Management Board.

### Overview of 2023 Financial Performance

#### **Budget**

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

- Gross revenues of \$4,286,781 (49.7% of budget)
- Overall expenditures of \$3,082,358 (44.9% of budget)
- Year-to-date net revenue of \$1,204,422 (68.7% of budget)

There is an expected increase of approximately 12.3% in net revenue in 2023.

#### **Audits**

KPMG performed an audit of HCS for the period ended December 31, 2022. 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**

Charge volumes are entirely driven by enforcement agencies and their initiatives, these charge volumes are the main influence on the revenues that are generated through HCS. At the end of Q2 2023 there were 23,477 (45%) charges filed of the projected 52,000 total for 2023. Filed charges are 2,584 short of Q2 projections. Therefore, the current projection for Q4 is that charges may reach 47,000 (90% of projected total). HCS currently has a pre-paid rate of 40%, provincially the pre-paid rate is 47%.

## 2024 Performance Projections

### **Overall Revenues**

The Municipal Partners are projecting gross revenues based current trends and although population continues to grow at a fair rate across Halton, the number of charges filed has not be reflected in the population growth for the last several years. A modest increase is projected to 50,000 charges for 2024 over the current projection of 47,000 for 2023. Gross revenue for HCS in 2024 is budgeted at \$8.89 million as compared to the \$8.6 million originally budgeted for during 2023.

### **Overall Expenditures**

Total expenditures in 2024 are budgeted at \$7.1 million compared to the \$6.87 million originally budgeted for 2023.

*Refer to Appendix A to Report L-05-24 – HCS 2024 Budget and Business Plan for a copy of the overall 2024 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 2023 where it has been determined there are no viable means of collection. Write-offs scheduled during 2023 will total approximately 190 cases with a total value of approximately \$85,763.

### **Stabilization Fund**

The Area Treasurers directed that contributions to the MPRSF end as of 2018 given the healthy balance of the MPRSF. In 2021, the JMB directed to only distribute to the Partners the actual net revenue earned from operations going forward. The balance in the Stabilization Reserve Fund is \$835,292 at the beginning of 2023.

*Refer to Appendix A to Report L-05-24 - HCS 2024 Budget and Business Plan, page 6 of the Business Plan for a detailed report of the Stabilization Fund forecast.*

## **Reserve Fund**

### *Expenditures During 2023*

Approximately \$69k was drawn for the 5 year computer refresh project to provide HCS with new laptops and docking stations.

### *Contribution During 2024*

The Municipal Partners regularly conduct an annual review of the Capital 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 Capital Reserve Fund during 2023.

### *Requirements for 2024*

HCS is scheduled to continue the Computer Renewal Program that started in 2023 and will be renewing 10 desktop computers in the courtrooms at an estimated cost of \$20,000.

*Refer to Appendix A to Report L-05-24 - HCS 2024 Budget and Business Plan, page 9 of the Business Plan to view the Reserve Fund table.*

## **External Review**

The external review of Halton Court Services was performed by KPMG and completed in June.

Following the 2024 HCS Budget and Business Plan presentation to the JMB, the JMB requested that the Area Treasurers undertake to have a further study completed that will look at the long term sustainability of the Provincial Offences Court given the ongoing reduced judicial resources provided by the Province to the Court and potential changes resulting from the Administrative Penalty Program. The JMB provided authorization to the Area Treasurers for funding this further study from HCS Revenues and directed the Area Treasurers report back to JMB with the study results.

*Refer to Appendix A to Report L-05-24- HCS 2024 Budget and Business Plan, page 9 of the Business Plan for a summary of the KPMG recommendations from the review and actions taken.*

## **Emerging Issues**

### **1. Justice of the Peace Shortages**

The shortage in judicial resources is anticipated to be ongoing throughout 2024. The most recent posting for justice of the peace applications did not include positions in Halton. The letter signed by Mayors in 2023 was sent to the Attorney General seeking appointments for Halton, the response however indicated that the Chief Justice of the Ontario Court of Justice and the Justice of the Peace Appointments Advisory Committee have the responsibility for appointing the Justice of the Peace. Burlington Mayor Ward further advocated for judicial resource in a meeting with the Attorney General in August of 2023.

### **2. Backlog**

There are currently approximately 19,000 Part I charges that require court dates. HCS Administration continues to collaborate with HCS Prosecution to make every effort to have matters scheduled in a timely fashion. These efforts include scheduling Early Resolution meetings outside of court sitting days which allow meetings to take place with prosecution and only those that require a justice of the peace for either plea resolution or trial to be scheduled into court sittings, thereby maximizing the limited court sittings allotted to HCS.

### **3. Bill 177 Implementation**

Bill 177, the *Stronger, Fairer Ontario Act (Budget Measures), 2017*, and Bill 46, the *Less Red Tape, Stronger Ontario Act, 2023*, introduced amendments to the Provincial Offences Act (POA) aimed at modernizing and streamlining POA court processes.

Effective September 22, 2023, clerks of the court will have the authority to grant, but not deny, applications to strike a conviction, if satisfied that the defendant, through no fault of their own, was unable to attend a meeting with a prosecutor, unable to appear for a hearing or did not receive delivery of a notice or document relating to the offence. If the clerk is not able to grant the application to strike the conviction, the clerk must forward the application to a justice of the peace who will make the determination whether to grant or deny the request for a reopening. In transitioning the process from the justice of the peace to the clerk of the court s.11(7) provides for a transition provision for the new clerk responsibilities. All applications to reopen a conviction, including those applications filed before September 22, 2023, are to be considered by the clerk of the court. These amendments to the reopening process will improve the customer experience and allow for quicker access to justice.

#### 4. 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 III POA matters to municipalities.

Since last reporting on the topic, the Crown's office has provided the template Interim Transfer Agreement which contemplates the transfer of prosecution of the Part III POA Prosecutions to the partners.

The Interim Transfer Agreement does not contemplate any form of financial reimbursement by the Province to the municipal partners on account of the costs associated with taking on the transfer of these prosecutions. There is no anticipation of any revenue to be generated by the program given that municipalities already receive the revenue from Part III offences.

If the Municipal Partners chose to accept the transfer despite the recommendation to reject it, the date of the transfer proposed is July 1, 2024. If the transfer is mandated by the Province, it may occur on short notice with little to no negotiation. Given the cost that will be incurred by the municipal partners in accepting the transfer, coupled with no corresponding increase in revenues, it is not recommended that HCS agree to voluntarily assume Part III prosecutions.

*Refer to Appendix A to Report L-05-24 - HCS 2024 Budget and Business Plan, page 14 of the Business Plan for an outline of the terms of the agreement.*

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#### **Financial Matters:**

The 2024 HCS budget includes a net revenue projection of \$1.822 million.

With interest income it is projected that there will be a Capital Reserve Fund balance of approximately \$386,552 at the end of 2023. The Municipal Partners are proposing that the minimum contribution of \$50,000 be made during 2024.

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#### **Climate Implications:**

Not Applicable

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**Engagement Matters:**

Not Applicable

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**Conclusion:**

Staff request that the recommendations as set out in the 2024 HCS Budget and Business Plan be approved.

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Respectfully submitted,

*Original signed by Leesa Shanley*

Leesa Shanley

Manager, Halton Court Services Administration

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**Appendices:**

- A. 2024 HCS Budget and Business Plan

**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.