



Hamilton

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division
CITY MANAGER'S OFFICE
Legal Services Division
CORPORATE SERVICES DEPARTMENT
City Clerk's Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: September 12, 2011	
SUBJECT/REPORT NO: Provincial Offences and Municipal Law Enforcement Workload Challenges (PED11122(a)/LS11007(a)/FCS11049(a)) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department Peter A. Barkwell City Solicitor, Legal Services Division, City Manager's Office Roberto Rossini General Manager, Finance and Corporate Services	PREPARED BY: R. Sabo 905-546-2424 Ext. 4520 R. Caterini 905-546-2424 Ext. 5409 W. Mason 905-546-2424 Ext 5718 W. Young 905-546-2424 Ext. 2469
SIGNATURE: <hr/> Tim McCabe <hr/> Peter A. Barkwell <hr/> Roberto Rossini	

RECOMMENDATION

- (a) That an additional 2.0 FTEs (2.0 Municipal Prosecution Assistants) be approved within the Legal Services Division of the City Manager's Office for immediate hire, and a further 1.0 FTE (1.0 Municipal Prosecutor) be approved for a start date at the beginning of January 2012;
- (b) That an additional 1.0 FTE (1.0 administrative support) be approved for Provincial Offences Administration within the City Clerk's Division of the Corporate Services Department, for immediate hire;
- (c) That an additional 1.0 FTE be approved for back-end/administrative support to by-law enforcement in the Parking and By-Law Services Division of the Planning and Economic Development Department for immediate hire, subject to the approval of recommendations (a) and (b);
- (d) That an additional 1.0 FTE be approved for back-end/administrative support to by-law enforcement in the Parking and By-Law Services Division of the Planning and Economic Development Department for a start date at the beginning of January 2012, subject to the approval of recommendations (a) and (b);
- (e) That the required Parking and By-law Services Division positions noted in recommendations (c) and (d) above be temporarily funded, firstly from Provincial Offences Administration Program Revenues in excess of 2011 budget, and any additional costs be temporarily funded from the Tax Stabilization Reserve, and future costs to be funded through fine revenues for the Division with no impact to the net levy, subject to approval of the 2012 budget;
- (f) That the Legal Services and City Clerk's Divisions' positions in recommendations (a) and (b) be temporarily funded, firstly from Provincial Offences Administration Program Revenues in excess of 2011 budget, and any additional costs be temporarily funded from the Tax Stabilization Reserve, and future costs to be funded through Provincial Offences Administration Program Revenues with no impact to the net levy;
- (g) That consideration of an additional 2.0 FTEs (1.0 Court Reporter in City Clerk's and 1.0 Municipal Prosecutor in Legal Services) respectively within the Corporate Services Department and City Manager's Office, be referred to the 2012 budget process.

EXECUTIVE SUMMARY

The above recommendations propose to phase in staffing and address costs prior to the 2012 budget. Immediate staffing will be used to partially address the existing and still increasing workloads, until the budget process can consider the remaining staff. A pilot project was not considered workable given the request is based on cumulative and increasing workload over a number of years for the affected staff groups. This approach recognizes in part the Committee's preference of considering staff additions through the budget process, and follows Council direction to phase in new staff.

Information available on Provincial Offences revenues/fines for 2011 suggest that the budgeted revenues will be exceeded by an estimated amount of \$400,000. The recommendations in this report have been amended to apply these revenues to costs of this phased-in approach, before any potential use of the Tax Stabilization Reserve.

Staff are confirming that there has been continued growth in workloads over the first quarter and half of 2011, where information is available. This growth in 2011 is over the substantial growth described in the original report for 2009 and 2010. The recent postal disruption in June did briefly reduce fine collections, charges filed and trials scheduled. Phasing in staff as proposed will allow some immediate support necessary for the workloads but on a smaller scale than originally proposed. The focus on phasing has been on the higher wage/salary positions to provide the most financial effect, including delaying the request for two FTEs to the 2012 budget process.

The phasing in and delay of staffing has the downside that existing staff will continue to see growing workloads and responsibility for public service demands. The City is at greater risk of facing increased costs, and impacts from staff absence or overtime. Higher workloads will continue for existing staff, with the potential of delays and backlog until consideration of additional staff requests referred to the 2012 budget.

The FTEs originally proposed is considered necessary by the Departments involved. The phased in approach will provide some help in addressing workload and backlogs, but not sufficient for the total workloads and growth in public demands, particularly in respect of prosecution and Court Reporter positions. Public demand for Provincial Offences Administration and municipal enforcement services has continued to increase. As a result, the public's service demands will be impacted and delays caused. The expected impacts from phasing staffing will be on customer satisfaction, effectiveness of the Departments' operations and resulting City revenues. The City also has an obligation to comply with the Memorandum of Understanding with the Province of Ontario respecting Provincial Offences administration.

Alternatives for Consideration

Public requests for service from all Departments require immediate steps to address the resulting work volume and provide efficiencies. Training of the proposed staff positions will add to existing staff workloads, in some cases for a number of months. If the City were to wait until the budget to fill any of the requested positions, then the problems currently being experienced will be magnified and have longer term consequences. Capacities of existing staff are being overwhelmed. Waiting to fill all positions until after completion of the 2012 budget will cause even further issues with workloads and service delivery, as hiring processes and training will add to delays beyond the budget approval.

March 1, 2012 is the starting date of a new Early Resolution process, which date will likely be before the 2012 budget is approved. Early Resolution will bring added volumes of calls, scheduling, paperwork and public service requests. Having approved administrative and prosecution positions in advance of Early Resolution will allow some opportunity to address the new volume of paperwork and for training of staff. The start date for Early Resolution is somewhat close to the budget process completion which allows support for the delay in the request for one Prosecutor position until the budget, even though the reverse order of hiring and training before the March start date is preferred.

As a temporary expedient to meet service level requirements, Legal Services has retained a private Paralegal, on a fee-for-service basis, to provide prosecution services in the Fall of 2011. If the hiring of a Prosecutor for January 1, 2012 is delayed, Legal Services could continue to meet service level demands through the use of fee-for-service private Paralegals, but the costs of doing that would exceed the cost of hiring in-house staff.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: The recommended approach would see costs initially paid for firstly from Provincial Offences fines and Parking and By-law Services fine revenues, before use of the Tax Stabilization Reserve, and referral of future costs to the 2012 budget. Expected Provincial Offences Act revenues for 2011 will cover anticipated costs of Legal Services and City Clerk's in 2011. Future staffing for a Court Reporter and one Prosecutor position would also be referred to the 2012 budget. See itemized costing on Page 6.

Staffing: The recommendations would add 6.0 FTEs, 4.0 for 2011 and 2.0 in 2012. The 2012 budget process would deal with a further request for 2.0 FTEs.

Legal: Staffing additions proposed for City Clerk's and Legal Services support City obligations under its agreement with the Province of Ontario for court operation and administration.

HISTORICAL BACKGROUND (Chronology of events)

Council at its meeting of June 15, 2011, directed that Report PED11122/LS11007/FCS11049 respecting Provincial Offences and Municipal Law Enforcement Workload Challenges be referred back to staff, to investigate alternative options such as implementing a pilot program and phase-in process, and report back to the General Issues Committee.

POLICY IMPLICATIONS

The City is required to enforce a number of Provincial statutes, and has a wide range of its own by-laws to enforce. The City is party to an agreement with the Province of Ontario to provide court administration and prosecution services for Provincial Offences matters, which operation funds itself as well as supplying general revenues for municipal services. Adequate staffing is required to meet performance and staffing obligations, and to provide the City with municipal law enforcement.

RELEVANT CONSULTATION

Planning and Economic Development Department, Parking and By-law Services Division
Corporate Services Department, Financial Services Division, City Clerk's Office
City Manager's Office, Legal Services Division, Human Resources Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The approvals requested in this report are recommended, as they:

- (a) provide in part necessary new staff to address workloads that support City goals provided through Municipal Law Enforcement and a wide variety of other law enforcement agencies protecting general health and safety, resulting municipal revenues and fulfilling an agreement with the Province of Ontario for the public services involved in court administration and prosecution of these Provincial Offences;
- (b) provides in part a recognition of the City's budget process for adding new staff; and,
- (c) follows Council direction to phase in staffing for this work.

The original report (attached as Appendix "A" to this Report PED11122(a)/LS11007(a)/FCS11049(a) detailed the workload drivers and statistics. This report explained large and continuing growth in workloads arising from increased enforcement activity and the public demand for court services, which does not align with a pilot project. This growth over an extended time created the need for staffing in the Parking and By-law Services Division, City Clerk's for Court Administration and Legal Services for prosecutions. Workloads in Provincial Offences Act Court Administration and Prosecution areas comes mainly from police enforcement, which results in public requests for court and trial services, but these Divisions also support municipal law enforcement initiatives as they have grown and developed under Council's direction and approval.

Costs estimated for 2011 in the original report are reduced both by the fact that staff originally projected to start in July 2011 will not be hired until much later, as well as by the phasing in of some of the positions. Total costs will depend on decisions made in the budget process for the remaining staff positions.

All three Divisions have consulted with Human Resources on work placement options, however, there are no suitable employees in the accommodation pool to meet the requirements for the positions required. Secondment of staff is not recommended as it will not result in cost savings.

Staff is currently working on a comprehensive assessment of the financial/operating efficiencies associated with the new hand-held parking enforcement management system, and will be preparing a report for the Planning Committee before year-end. At this point, staff is confident that there will be some staffing efficiencies, and/or possible monetary savings. However, at this point the degree of efficiencies are not known. Therefore, staff will be addressing any efficiencies arising from this initiative through the year-end report to the Planning Committee and the 2012 budget process, in regards to the administrative/back end staffing requirements.

Weakness of the recommended approach: The recommended approach is at risk of being insufficient for further developing workloads where staff hiring or decisions have been delayed. Training new staff will temporarily add to the workloads of existing staff. As well, if the Court decides to schedule additional courtrooms the City should be prepared to staff these to meet Provincial Offences Act service commitments. There are already an ample number of charges that could be scheduled for additional courts, with potential for resulting City revenue from Provincial Offences Act operations. Depending on the extent of the Court's scheduling changes that may occur, existing staffing will be insufficient for prosecutors and court reporter positions.

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2011 Phase In:

2 Municipal Prosecution Assistants, 1 Court Administration Clerk and 1 MLE Assistant – Nov 15, 2011 Hire

Legal Services - Provincial Offences Administration/Municipal Prosecution	Salaries & Benefits	Annual Operating Expenses	One-Time Expenses	Total
Municipal Prosecution Assistant (2) – Nov 15/11	\$ 16,953	\$ 148	\$ 12,000	\$ 29,101
City Clerk's - Court Administration				
Court Administration Clerk (1) - Nov 15/11	\$ 8,812		\$ 5,000	\$ 13,812
Municipal Law Enforcement				
MLE Assistant (1) - Nov 15/11	\$ 7,437	-	\$ 1,000	\$ 8,437
Subtotal:				\$ 51,350

2012 Phase In: 1 Municipal Prosecutor and 1 MLE Assistant - Jan 1, 2012 Hire

Legal Services - Provincial Offences Administration/Municipal Prosecution	Salaries & Benefits	Annual Operating Expenses	One-Time Expenses	Total
Municipal Prosecutor (1) - Jan 1/12	\$ 95,456	\$ 2,313	\$ 648	\$ 98,417
Municipal Law Enforcement				
MLE Assistant (1) - Nov 15/11	\$ 59,500	-	\$ 1,000	\$ 60,500
Subtotal:				\$ 158,917

2012 Phase In: 1 Municipal Prosecutor and 1 Court Reporter (subject to 2012 budget approval) – Jun 1, 2012 Hire

Legal Services - Provincial Offences Administration/Municipal Prosecution	Salaries & Benefits	Annual Operating Expenses	One-Time Expenses	Total
Municipal Prosecutor (1) - Jun 1/12	\$ 55,683	\$ 2,014	\$ 12,648	\$ 70,345
City Clerk's - Court Administration				
Court Reporter (1) - Jun 1/12	\$ 41,663		\$ 751	\$ 42,414
Total for 2012 (to be offset from revenues)				\$ 521,721
Total Annualized (i.e. Full year) Basis (to be offset from revenues)				\$ 592,692

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

No further alternatives.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ A skilled, adaptive and diverse workforce, i.e. more flexible staff
- ◆ More innovation, greater teamwork, better client focus
- ◆ An enabling work environment - respectful culture, well-being and safety, effective communication
- ◆ Effective response to public needs for court and enforcement services and work flows

Financial Sustainability

- ◆ Effective and sustainable Growth Management
- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner
- ◆ Generate assessment growth/non-tax revenues
- ◆ Municipal services and revenues responding to growth

Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies
- ◆ Services required under agreement with Ontario and also for Federal Contraventions Act enforcement

Growing Our Economy

- ◆ An improved customer service
- ◆ Consequence of growth and activity

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe
- ◆ Residents in need have access to adequate support services
- ◆ Aiding enforcement of health and safety laws and the public demand for court services

Healthy Community

- ◆ An efficient and effective By-law Enforcement Program is critical to community quality of life, public health and safety

APPENDICES / SCHEDULES



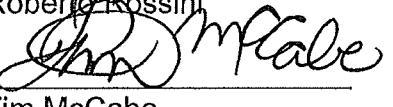
Appendix "A" to Report PED11122(a)/LS11007(a)/FCS11049(a)



Hamilton

CITY OF HAMILTON

**PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT, Parking and By-law
Services Division
CITY MANAGERS OFFICE, Legal Services Division
CORPORATE SERVICES DEPARTMENT, City Clerk's Division**

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: June 13, 2011	
SUBJECT/REPORT NO: Provincial Offences and Municipal Law Enforcement Workload Challenges (City Wide) (PED11122/LS11007/FCS11049)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Peter A. Barkwell City Solicitor City Manager's Office Roberto Rossini General Manager, Finance & Corporate Services Corporate Services	PREPARED BY: M. Hazell, Ext. 4588 B. Young, Ext. 2469 W. Mason, Ext. 5718 R. Sabo, Ext. 4520
SIGNATURE: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">  _____ Peter A. Barkwell </div> <div style="width: 45%;">  _____ Roberto Rossini </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;">  _____ Tim McCabe </div> <div style="width: 45%;"></div> </div>	

PR

SUBJECT: Provincial Offences and Municipal Law Enforcement Workload Challenges (City Wide) **(PED11122/LS11007/FCS11049)- Page 2 of 15**

RECOMMENDATION

- (a) That an additional 4.0 FTEs (2.0 Municipal Prosecutors and 2.0 Municipal Prosecution Assistants) be approved within the Legal Services Division of the City Manager's Office;
- (b) That an additional 2.0 FTEs (1.0 court reporter and 1.0 administrative support) be approved for POA Court Administration within the City Clerk's Division of the Corporate Services Department;
- (c) That an additional 2.0 FTEs be approved for back-end/administrative support to by-law enforcement in the Parking and By-Law Services Division of the Planning and Economic Development Department;
- (d) That the above new positions be temporarily funded from the Tax Stabilization reserve, and future costs to be funded through fine revenues with no impact to the net levy and subject to approval of the 2012 budget.

EXECUTIVE SUMMARY

Staff additions are necessary in Provincial Offence Court offices, both Court Administration and Prosecution Office areas, as well as in the Municipal Law Enforcement Section to adequately deal with public demand and provincial offence requirements, to ensure proper operation and that revenues continue to address costs. Substantial growth of the work load in the Provincial Offences Administration (POA) offices has occurred virtually without change to staffing levels since the transfer of this work from the Province of Ontario in 2000. The leading indicator is charges filed by all enforcement agencies but primarily police, which have increased by 39.45% between 2008 and 2010. Municipal charges have increased by 158% in the same timeframe. Work loads have increased through a number of changes over time, but the sustained and projected growth in enforcement, primarily police safety efforts, requires that staffing be addressed to avoid problems with service and obligations of the City under a Provincial Offences Act agreement with the Province of Ontario.

Fine revenues follow from the work loads of Provincial Offences staff, which revenues avoid impact on the tax levy. Workloads have grown with charges filed by all enforcement agencies, increasing trial requests, court usage, and related paperwork and scheduling. Delays are occurring in meeting public demand and the processing of work, even with the use of overtime and staff re-assignments. Important duties such as scheduling trials and first attendance meetings, processing mail payments, updating court dockets, data entry of Part Three charges, extension requests for more time to pay a fine, appeals and enforcement are not being addressed due to Court Administration staff re-allocation. Prosecutor re-assignments are affecting all out of court duties as they carry out the immediately necessary work, such as charge reviews,

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research, document and case preparation, but primarily impacting on their ability to prepare for trials. While staff have been using best efforts to address work demands, the continued growth in demand over current levels indicates this will not be enough and result in continuing inefficiency and problems unless staffing issues are addressed. Staffing needs to grow to meet with increase charge volume, added legislative changes, and the increasing demand for court services. Further substantial growth is expected over the next few years based on related projections from enforcement agencies. All of these factors will add to POA work loads and service demands in future years even beyond the current levels. POA Court office staffing of 2 FTEs for POA Court Administration and 4 FTEs for Legal Services Division are required to meet contractual and public demand for services as well as successfully pursuing the revenues these activities generate. Staff are required in both POA Offices to ensure proper operation. Municipal Law Enforcement needs 2 additional administrative support staff to address their needs for approved enforcement activity.

The City of Hamilton has provided court administration and prosecution services for Provincial Offences Act charges under agreement with the Province of Ontario since 2000. Under the agreement, City staff support the enforcement and fine collection of a variety of provincial enforcement agencies, primarily the charges laid by local and provincial police forces. The agreement added this work to prosecution work for enforcement of municipal and other statutory offences prosecuted by the City, involving Public Health, Building and Fire Safety and the variety of municipal by-laws. The Provincial Agreement requires the municipality to supply court administration and prosecution services for an additional range of charges (primarily police), court administration and offices, and includes fine collection. In turn the City receives the majority of the revenues from POA fines without adding to the tax levy.

In order to convert increased charge activity into increased POA revenues, staffing increases are required.

Between 2008 and 2010 gross fine revenue from POA has increased by 32.5%. Without an increase in staff to handle the current and projected increase in the number of charges laid, revenues will not keep pace with the increased activity. Inability to properly process the charges will mean that revenues plateau even as charge activity increase, or, in the worst case actually fall off despite the increased number of charges. By not meeting public demands for service and the requirements for trials there will be reduced payments, delayed or avoided compliance and longer periods between the start and conclusion of cases. These will reduce revenue and negatively impact on the effectiveness of enforcement. The public response to lack of service or effectiveness can create a snowball effect, further increasing workload and straining the ability of limited court and municipal resources to conclude enforcement.

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Restoring integrity to the City's By-Law Enforcement program has been a Planning and Economic Department priority since 2007 when an Operational Review of the (former) Standards and Licensing Section revealed a seriously dysfunctional Section and provided 48 recommendations to correct a wide range of operational and management deficiencies. The release of the Operational Review coincided with a complete management changeover beginning on January 22, 2007 and a major Departmental restructuring June 1, 2007.

The resulting organizational transformation in Municipal Law Enforcement has significantly increased the Section's revenue generating capacity and effectiveness in advancing the Corporate goals of Community quality of life and public health and safety. However this has created serious challenges for the Division's internal back-end support, and for other supporting areas of the Corporation (i.e. Court Prosecution (Legal Services) and Court Administration (City Clerk's)).

This Report recommends two additional FTEs for the Municipal Law Enforcement section, financed from the Tax Stabilization Reserve, to provide back-end/administrative support to by-law enforcement in the Parking and By-Law Services Division.

Alternatives for Consideration – See Page 15

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Funding of the related costs on a temporary basis would be from the Tax Stabilization Reserve, until the costs can be dealt with in the budget process (for 2012). Detailed costing of staff and related expenses is provided below (on page 15)

Staffing: The recommendations provided in this report would add 8 FTE positions in total, being comprised of 2 for MLE administrative support, 1 court administration staff, 1 court reporter, 2 prosecutors and 2 prosecution support staff. These positions would support customer service in the court room, court related administration and prosecution work, including the anticipated demands of the Province of Ontario's early resolution process. These positions are recommended as the necessary and minimum staffing needed to address demands in the Provincial Offences Office and courts, and which are needed to properly address public demands and obligations under the agreement with the Province of Ontario.

Legal: Staffing additions proposed here support the City's obligations under its agreement with the Province of Ontario respecting service requirements for court administration and operation of the courts. Particularly with respect to prosecutions, the proposed staffing will help ensure the City staff are covering court and early resolution processes, have adequate out of court preparation time to address proper standards of

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prosecution required by the agreement, and will also help with the efficient use of limited judicial and court resources for the demands of the public and enforcement agencies.

HISTORICAL BACKGROUND (Chronology of events)

2000 - The City of Hamilton entered into an agreement with the Province of Ontario to undertake responsibility for local Provincial Offence Court administration and prosecution of Part I Provincial Offences in return for revenues from fines.

2002 to 2006 - Council for the City of Hamilton, along with other municipalities involved in POA matters, made repeated requests to the Province to add judicial resources to support the operation of local POA courts, which are needed to meet demand for trials and enforcement of all POA offences, but particularly for health, safety and the protection of the public. Courts had not operated on the expected frequency anticipated by the agreement with the province, creating backlogs and delays in dealing with court hearings.

2007 - Operational Review, approved by City Council February 28, 2007, revealed a seriously dysfunctional (former) Standards and Licensing Section of the (former) Building and Licensing Division and provided 48 recommendations to correct a wide range of operational and management deficiencies including:

- fundamental management practices,
- workforce performance and priorities,
- employee morale,
- staff training and communications,
- reporting and response times,
- licensing and enforcement effectiveness,
- records management,
- public education and by-law awareness,
- policies and procedures; and,
- technology.

The release of the Operational Review coincided with a complete management changeover beginning on January 22, 2007 and a major Departmental restructuring effective June 1, 2007.

2007 to 2009 - Operational Review implementation leads to Municipal Law Enforcement (MLE) Section of the Parking and By-Law Services (PBS) Division. The Operational Review Sub-Committee concluded that all outstanding business have

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been addressed or was no longer relevant because of the organizational transformation, and therefore, dismissed all items on the Outstanding Business List related to the Operational Review of the (former) Standards and Licensing Section.

From 2001 to present - Council has added to the variety and number of by-laws for public safety and protection. Police services have grown their staff to address population, legislation and traffic growth, and have focused many of their additional officers on safety related enforcement. As a result there has been sustained growth over a number of years in highway traffic related charges, which form the bulk of Provincial Offences Act work. The Province of Ontario has also responded to municipal requests by periodically adding judicial resources, and replaced some retiring Justice of the Peace, to address court needs and municipal requests. Throughout, municipal staffing in POA offices have not changed, save adding one court reporter in 2008 which was necessary to meet demands for court coverage and transcript preparation to meet contractual obligations.

2008 to 2010 - The growth in charges and related POA workload since 2008 has dramatically increased as detailed herein.

Projections for 2011 to 13 - Enforcement agencies are projecting double digit increases for their enforcement activity over the next 2 and 3 years again primarily local police who have been adding staffing to carry out this work.

POLICY IMPLICATIONS

The City is required to enforce a number of provincial statutes, and has its own regulatory by-laws to enforce. The City has an agreement with the Province of Ontario to provide the court administration and prosecution services for Provincial Offences matters, which funds itself as well as supplying general revenues for municipal services and which general revenues are in some cases directed towards public safety. Adequate staffing is necessary to support costs being incurred the related revenues used for municipal purposes without impact on the general levy.

RELEVANT CONSULTATION

Planning and Economic Development Department, Parking and By-law Services Division
Corporate Services Department, Finance, Office of the City Clerk
City Manager's Office, Legal Services Division

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The City is regularly communicating with Judicial Administration and the Province's Court Administration on court scheduling, the various municipal departments providing enforcement, and with police services (O. P. P. and Hamilton Police Services) on enforcement levels.

Information was also collected on Provincial Offences Court operations from comparable Ontario municipalities.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Analysis for Municipal Law Enforcement:

Management supported all 48 recommendations of the 2007 Operational Review of the (former) Standards and Licensing Section, and began an aggressive campaign to correct the deficiencies. Major change initiatives included:

- instilling new workplace values such as:
 - a culture of responsiveness
 - participative management
 - integrity & professionalism
- implementing fundamental management practices:
 - establishing performance and attendance management practices
 - developing comprehensive policies and procedures
 - improved records management
- organizational re-structuring
 - re-aligned Divisional responsibilities
 - new enforcement management team/roles/responsibilities
 - team-based enforcement
- establishing workforce priorities/service levels
 - Council endorsed "*Community Based By-Law Enforcement Strategy*"
 - enforcement strategy and priorities
 - public awareness and education
- improved technology initiatives
 - technology/data collection/complaint tracking improvements
 - vehicle Automatic Vehicle Location tracking
 - mobile technology.

The resulting organizational transformation in MLE has significantly increased the Section's revenue generating capacity and effectiveness towards Community quality

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of life and/or public health and safety. The following are some of the most notable results:

Analysis for Municipal Law Enforcement (continued):

- an 800% increase (59 - 473) in average annual by-law charges since 2007; and,
- over 500 more business licences issued (7,460 - 7,980) since 2008.

As a result of increased by-law enforcement efforts, the Division's revenue generating capacity has also increased significantly as shown in the following table:

Revenue	2006	2010	(\$) Difference	(%) Difference	2011 Target
Fees for Service*	\$0	\$186,767	\$186,767	n/a	\$308,000
Fines	\$5,585	\$100,770	\$95,185	1704%	\$57,000**
Business Licensing	\$1,053,760	\$1,190,815	\$137,055	13%	\$1,618,531
Total	\$1,059,345	\$1,478,352	\$419,007		\$1,983,531

* administrative fee for continued investigations of non-compliance

** budget estimates increased but not to 2010 actual level because trend not yet established

In addition to improvements in MLE, recent performance management efforts in the Animal Services Section of the Parking and By-Law Services Division have resulted in, among other things, a 100% increase in animal control charges (390 to 785 charges) from 2009 to 2010.

While the above results demonstrate a significantly improved contribution to Community quality of life and/or public health and safety, the increased effectiveness of Municipal Law Enforcement and Animal Services has created serious challenges for Divisional internal back-end support and for other supporting areas of the Corporation (i.e. Court Prosecution (Legal Services) and Court Administration (City Clerk's)). Additional administrative support will in part be needed to deal with legislative changes including the provincial Early Resolution process as this will increase paperwork that Municipal Law Enforcement will need to supply for resolution meetings.

Back-end and administrative/support functions across the Corporation are seriously impacted because:

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- many MLE charges require Legal Services' assistance before proceeding to the Courts,
- Property Standards Committee appeals have increased by 46% annually (average of 28.5 appeals before 2007 to an average of 41.6 appeals from 2007 to 2010); and,
- "show cause" hearings of the Licensing tribunal have increased from an average of 16 hearings annually to an average of 25 hearings in 2009 and 2010.

As progress continues to be made in terms of the efficiency and effectiveness of the City's By-Law enforcement program, revenue targets continue to increase for 2011. As a result, additional staff resources are required to address the following current/future negative situations:

- in the MLE section, the added administrative workloads are being managed through overtime assignments, and often through staff electing not to take lunch/breaks because they feel pressured to keep up with their work. Although this is manageable for short periods, this cannot be sustained over the long-term, as already the abnormal workloads are visibly impacting staff health and stress,
- enforcement integrity can be compromised when by-law charges are withdrawn or not proceeded with because the lack of available Court time/resources outweigh the facts of the case,
- charges can be "time barred" if they are not filed with the Courts in a timely manner; and,
- lost revenues and staff inefficiencies result when a matter is not proceeded with after staff spend days collecting evidence, interviewing witnesses, requesting information from other divisions, etc..

Failure to provide additional staff resources will jeopardize the effectiveness of the City's by-law enforcement program and erode its contribution to the City's goals respecting Community quality of life and public health and safety, and it will be difficult to achieve revenue targets.

Analysis for Provincial Offences Court Administration and Prosecutions:

Additional staffing is required in POA Offices to address service demands and workload for POA staff in both prosecution and court administration areas. POA staff are no longer able to manage the existing workload. Similar to MLE, negative impacts of workloads are occurring and staffing is not able to sustain work flow. Staffing in

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prosecutions is needed to address the efficiencies of using clerical staff for the volume of paperwork and to allow prosecutors needed out of court preparation and charge review time. The addition of administrative support for prosecutors would bring Hamilton in line with comparable municipal offices. Since the transfer of duties in 2000, only one staff position has been added to POA Offices. Charges filed by all enforcement agencies have increased by 39.45% between 2008 and 2010, with the major category of charges being under the Highway Traffic Act. Municipal charges have increased by 158% in the same timeframe. Municipal enforcement brings added responsibilities on prosecution staff through charge reviews, document searches, staff training, scheduling, and complex disclosure issues. Backlogs are being created and overtime is being utilized in an effort to reduce the impact of current workloads on POA operations.

Court administrative staff are being re-allocated to front line customer service positions to meet additional demands while other work is left unattended as a result. Front counter staff of POA Court Administration are processing much larger numbers of requests for trial due to increasing charges and public demand. Trial requests require personal attendance and staffing of the counters, and many other members of the public attend to pay fines, file materials, request information to assist them appear as witnesses or to deal with their own charges. The additional administrative staff person will allow a further counter to be opened, and to address the increasing volume of telephone and clerical work of the Court office.

POA administration has recently received authorization from the Local Administrative Justice of the Peace to schedule additional court dates to meet with the increasing number of trial requests, giving the City opportunity to process outstanding charges. In order to keep transcript orders current, an additional court reporter will be required to manage/balance the staffing of the two or three courtrooms running each day with the transcript orders.

Prosecution staff have been dealing with charge volumes, but the rapid and combined increase in keeping pace with scheduled court work, administrative paperwork, public demand for prosecutors in and outside of court, and charge reviews has eaten away at their out of court preparation time. Prosecutors effectiveness depends on their ability to keep current with the law, time to review their cases and prepare for trials. These efforts help ensure the public need for fair and efficient trials is accommodated, and that limited enforcement and court resources are effectively used.

Legislative changes will also soon replace the existing First Attendance system, with a new Early Resolution Process. The main change will be that Early Resolution will apply to all Part 1 POA charges, whereas First Attendance applies to a small number of selected charges. Either process helps improve customer service for accused and witnesses, and in particular frees up enforcement officers time and brings much faster resolution to enforcement matters. The expansion of Early Resolution will affect court

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administration in scheduling, and prosecutors who have to be able to review disclosure and meet with the public on their cases to bring matters to conclusion.

Prosecutors need to be added to address the problems with existing out of court time, the new Early Resolution process, and meet the expanding demands for their time in concluding disputed POA charges. The failure to address these issues will affect POA Court Administration and revenues. The effectiveness of Municipal Law Enforcement and other municipal enforcement will also be impacted, as they depend on prosecutors' time in dealing with their charges. Both court administration and prosecution offices work together to deliver complete services, and need to be effectively staffed to deal with increasing charge and public demands. If the growth in charges and public demand is not met, POA revenues will fall. These revenues include fines collected by the municipality for its own enforcement of by-laws and statutes. Reduced effectiveness of POA operations will affect the enforcement of community health and safety legislation. The already limited municipal and court resources will be used up without the cost recovery and returns expected under provincial transfer of POA work.

Multiple Factors are driving the workload of POA Offices:

- large sustained increases in charge numbers, trials requests, document and disclosure requests, and related duties in collections, public counter attendances and calls
- Hamilton Police Service traffic safety and enforcement initiatives project 15% yearly charge growth for the next 3 years. Even without municipal enforcement increases it is expected that annual charge volume will exceed 100,000 in 2012
- trial request rate has been increasing, with a substantial jump in trial requests in 2010
- to be effective Municipal Law Enforcement work in safety, community improvement and public nuisances needs to be responded to with POA administration and prosecution resources
- court usage (longer sittings) and number of court days have both increased, resulting in the scheduling and holding of more trials that requires staffing under the provincial agreement. This particularly affects prosecutors, court clerks and reporters who have less out of court time for other necessary duties.
- Red Light Camera locations have increased, capturing more offences and adding to POA workloads
- contractual requirements require staffing to meet court schedules and the related administration and preparation. Limited existing staff numbers pose risk that illness or other employee absence will affect court operations, and the high existing workloads of staff add to the risk.
- each customer attendance or call can take 10 minutes or more, depending on their questions and understanding of the process, completion of forms, language and accessibility needs. Peak demand times daily require that staff be pulled from other duties to help with customer line-ups, affecting the ability to complete other work and answer telephones. Not addressing customer demands affects the public as witnesses,

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accused, and victims, and revenues from frequent attendances for fine payments and related court services.

- Prosecutors currently have no approved administrative support. As a result prosecutors have been spending increasing amounts of time on the administrative paperwork and duties from charge/trial request volumes and public demand. This administrative work is taking away needed time for preparations and affecting court performance. It would be more efficient to assign this work to clerical staff, as is done in other municipal POA offices.
- revenues for POA operations have been increasing, but increasing workloads will affect performance and impact on recovery rates and amounts unless addressed by added staffing
- The addition of judicial resources may result in major schedule changes or periodic additional court days (the latter is shown by recent court days announcements).
- new early resolution process will expand First Attendance work by substantial amount. This resolution process will provide efficiencies to enforcement agencies in reducing costs of court attendances. Early Resolution is expected to be a positive trade off considering both municipal and police financial impacts, in particularly freeing up officers for work in the community, but will add further to the administrative and prosecution workload through public demand and the related scheduling and paperwork.

In order to address the above issues, recommend staffing increases are:

- 1 FTE for POA Court Administration, to address public demands and increasing paperwork
- 1 FTE Court Reporter Position to cover off court scheduling and transcript preparation, and to ensure courts are not affected by absence or illness
- 2 prosecutor positions, to cover court scheduling, early resolution process, and to provide needed out of court preparation time
- 2 prosecutor administrative support positions to deal with public demands for meetings, trial activity and enforcement agency service demands, and which will ensure that prosecutors out of court time is not taken away by projected growth over the next few years and that courts are not affected by absence or illness.

Staffing for POA Offices is supported by comparison to other municipal POA sites.

Comparable Municipal POA Sites

In the last two years Hamilton has moved from a mid-size to a large POA Transfer site considering charge levels, with Hamilton now being the 4th largest site by that measure. The charts below show staffing levels for court administration, prosecutions and related measures. Hamilton's charges filed between 2008 and 2010 have grown at rates exceeding the growth in all of the listed municipalities below.

SUBJECT: Provincial Offences and Municipal Law Enforcement Workload Challenges (City Wide) (PED11122/LS11007/FCS11049)- Page 13 of 15**POA Offices Staffing Levels Comparators (excluding collections staff):**

Municipality	Total POA Staffing Levels	Prosecution (Legal Services)				Court Administration (City Clerk's)		
		Supervisor	Prosecutor	Support	Total	Supervisor	Support	Total
Hamilton	22.0	1	4	0	5.0	2	15	17.0
Waterloo Region	22.5	1	4	2	7.0	2	13.5	15.5
Mississauga	28.5	1	5	2.5	8.5	2	18	20.0
Durham Region	36.0	1	6	3	10.0	3	23	26.0
Burlington	22.5	1	3	1.5	5.5	3	14	17.0

Prosecution staff from Durham and Waterloo Regions are not responsible for the local municipal charge prosecutions, so prosecution staffing in those Regions is for a smaller range of work.

POA Offices Staffing Per Capita Analysis (excluding collections staff):

Municipality	Population	# Charges	Charges Per POA Staff	# Staff	Staff Per Capita
Hamilton	528,502	88,020	4001*	22.0	24,023*
Waterloo Region	223,715	69,433	3086	22.5	9,943
Mississauga	668,000	81,978	2876	28.5	23,439
Durham Region	560,000	72,783	2022	36.0	15,556
Burlington	164,415	58,068	2581	22.5	7,307

*City of Hamilton Charges per POA staff would become 3144 with additional requested staff, and Staff Per Capita ratio will become 18,875 with additional staff requested.

POA Offices and MLE Staff Costing

Legal Services POA/Municipal Prosecution	Salaries & Benefits	Annual Operating Expenses	One-Time Expenses	Total
2011 (6 months)	\$163,268	\$2,612	\$28,942	\$194,822
2012	\$326,536	\$5,224	-	\$331,760
City Clerk's Court Administration	Salaries & Benefits	Annual Operating Expenses	One-Time Expenses	Total
2011 (6 months)	\$70,966	-	\$5,751	\$76,717
2012	\$141,932	-	-	\$141,932
Municipal Law Enforcement	Salaries & Benefits	Annual Operating Expenses	One-Time Expenses	Total
2011 (6 months)	\$59,500	-	\$2,000	\$61,500
2012	\$119,000	-	-	\$119,000
Total 2011 (6 months)	\$293,734	\$2,612	\$36,693	\$333,039
Total 2012	\$587,468	\$5,224	-	\$592,692

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ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Council could reduce the number of staff enforcing municipal by-laws to a level which would align with back-end administrative support resources. However, this would require a re-prioritization of by-law enforcement service levels and reduce annual revenue expectations accordingly. This approach would not be recommended as it would not support the City's strategic goals towards Community quality of life and/or public health and safety. Reductions in municipal law enforcement staffing would not have substantial impact on POA staffing needs or workload.

The vast majority of POA Office work is the result of enforcement agencies outside the City, so it is not a reasonable alternative to reduce POA staffing. The City is obliged to meet provincial requirements for service under the transfer agreement, but these services are offset by revenues transferred to the municipality. Future growth in police and other enforcement agency work will quickly offset any municipal enforcement reduction. A smaller POA staff leaves the City susceptible to being unable to meet contractual requirements in the event of illness or absence of employees, and unable to meet any future court schedule changes. As a result a status quo option for POA staffing is not a recommended and would have a negative impact on revenues, impact on contractual responsibilities and performance, customer service, overtime and other staffing costs..

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ A skilled, adaptive and diverse workforce, i.e. more flexible staff
- ◆ More innovation, greater teamwork, better client focus
- ◆ An enabling work environment - respectful culture, well-being and safety, effective communication
- ◆ Effective and responsive to public needs and work flow

Financial Sustainability

- ◆ Effective and sustainable Growth Management

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

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- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner
- ◆ Generate assessment growth/non-tax revenues
- ◆ Municipal services and revenues responding to growth

Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies
- ◆ Services required under agreement with Ontario and also for federal Contraventions Act enforcement

Growing Our Economy

- ◆ An improved customer service
- ◆ Consequence of employment growth and activity

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe
- ◆ Residents in need have access to adequate support services
- ◆ Aiding enforcement of health and safety laws and public demand for court services

Healthy Community - An efficient and effective by-law enforcement program is critical to Community quality of life and public health & safety.

APPENDICES / SCHEDULES

N/A