




**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**Financial Planning, Administration and Policy Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	June 5, 2024
<b>SUBJECT/REPORT NO:</b>	Hamilton Police Services and Hamilton Public Library Surpluses and Deficits (FCS24023) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
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<b>SUBMITTED BY:</b>	Kirk Weaver Acting Director, Financial Planning, Administration and Policy Corporate Services Department
<b>SIGNATURE:</b>	

**Discussion of matters contained in Confidential Appendix “B” to the Report FCS24023 in closed session is subject to the following requirement(s) of the City of Hamilton’s Procedural By-Law and the *Ontario Municipal Act, 2011*:**

- **Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.**

**RECOMMENDATION(S)**

- (a) That City of Hamilton staff work with the Hamilton Police Service and Hamilton Public Library on a process to enhance the information provided on budgetary performance and disposition of year-end surplus amounts in the year-end budget variance report; and
- (b) That the Hamilton Public Library be requested to develop a policy with respect to the treatment of surplus and deficit in consultation with City staff.

## **EXECUTIVE SUMMARY**

On October 5, 2023, the Audit, Finance and Administration Committee (AF&A) directed staff to report back to the General Issues Committee with recommendations and legal advice regarding the current practices surrounding Hamilton Police Service (HPS) and Hamilton Public Library (HPL) year-end surpluses and deficits. The legal advice is contained in confidential Appendix “B” to Report FCS24023.

The HPS has had an “Operating Budget Surplus (Deficit) Retention Policy”, attached as Appendix “A” to Report FCS24023, in place since 2015 which has been adhered to since that time. This Policy was prepared in collaboration with the City’s Corporate Services Department, Financial Planning, Administration and Policy Division and received by the General Issues Committee on July 6, 2015. Though the HPL does not have a formal policy in place, the HPL commits to working with library staff to develop a Library Reserves Policy that encompasses operating surpluses and deficits and will share the proposal with City Council.

Staff provides Council with three variance reports for the Tax and Rate Supported Operating Budgets during the fiscal year. The last year-end submission proposes disposition of the year-end operating budget surplus (if a surplus exists). Currently, any surplus relating to either the HPS or the HPL are included in the year-end report and recommended to be transferred to each agency’s respective reserves. In contrast, any deficit is recommended to be transferred from each agency’s respective reserves.

Through the year-end budget variance report, City Council has authority and directs the disposition of all surplus funds inclusive of the amounts for the HPS and the HPL. Usually around the time, the HPS and HPL Boards approve an allocation plan that further directs these funds towards specific reserves or initiatives.

The current practice of transferring HPS and HPL year-end surpluses allows the respective Boards to manage these funds in accordance with their mandate should they be required. Without access to these discretionary funds, future funding requests would be brought forward to Council, often outside of the annual budget process.

It is recommended that the current practice be maintained, providing autonomy to the HPS and HPL Boards to best direct the funds where they are most required to achieve their mandate. Additionally, it is recommended that City staff work with the HPS and HPL to provide enhanced reporting around budgetary performance and the use of surplus funds in the City’s year-end variance report to increase transparency. Additional details, including current practices and responses from both the HPS and HPL, are presented in the Analysis and Rationale for Recommendation(s) section beginning on page 4 of Report FCS24023.

**Alternatives for Consideration – See Page 9**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Adoption of the recommendations in Report FCS24023 would continue with existing practices of surplus disposition for the HPS and HPL.

Staffing: N/A

Legal: Confidential Appendix “B” to Report FCS24023 is provided as information.

**HISTORICAL BACKGROUND**

On July 6, 2015, the General Issues Committee received the current HPS “Operating Budget Surplus (Deficit) Retention Policy” (PSB 15-059). A formal police reserve policy did not exist before this date.

A formal HPL reserve policy does not currently exist, though it has been a past practice to retain any operating budget surplus in HPL reserves held by the City of Hamilton and that any deficit is also funded from HPL reserves.

On October 11, 2023, City Council approved the following:

- (a) That Item 6 of Audit, Finance and Administration Committee Report 23-015 respecting Hamilton Police Services and Hamilton Public Library Surpluses and Deficits be referred to the Hamilton Police Services Board and Hamilton Public Library Board of Directors for comment; and
- (b) That staff be directed to report back to the General Issues Committee with recommendations, including legal advice with regards to, how the *Police Services Act* and *Public Libraries Act* applies to the recommendations.

The recommendations from Item 6 of Audit, Finance and Administration Committee Report 23-015 are provided below:

- (a) That City staff coordinate with Hamilton Police Services to prepare an amendment to the year-end closing process whereby Council would receive and approve any Hamilton Police Services Board recommendations related to transfer funds to and from reserves relating to year-end surpluses and deficits; and

- (b) That City staff coordinate with Hamilton Public Library to prepare an amendment to the year-end closing process whereby Council would receive and approve any Hamilton Public Library Board of Directors recommendations related to transfer funds to and from reserves relating to year-end surpluses and deficits.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

In addition to receiving commentary from the Directors of the Hamilton Police Services Board and Hamilton Public Library Board, *The Community Safety and Policing Act*, *Public Library Act* and *Municipal Act* were examined and reviewed. Annual budgets, finances and reserve funds of municipalities and all its Boards are governed under the *Municipal Act*.

The *Municipal Act* states that local Boards submit annual budgets (s.290(6)) in detail and form required by the municipality. Budgets may provide for reserve funds that the municipality deems necessary (s.290(4)(g)), include estimated revenues to be paid into the reserves (s.290(2)(2.)) and estimated expenses to be paid out of reserves (s.290(2)(4.)). Confidential Appendix “B” to Report FCS24023 speaks to Council’s authority over the Hamilton Police Service and Hamilton Public Library reserves.

## **RELEVANT CONSULTATION**

Staff with the HPS and the HPL provided information included in the Analysis and Rationale for Recommendation(s) section of Report FCS24023.

Staff also consulted with the Legal and Risk Management Services Division, Corporate Services Department.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

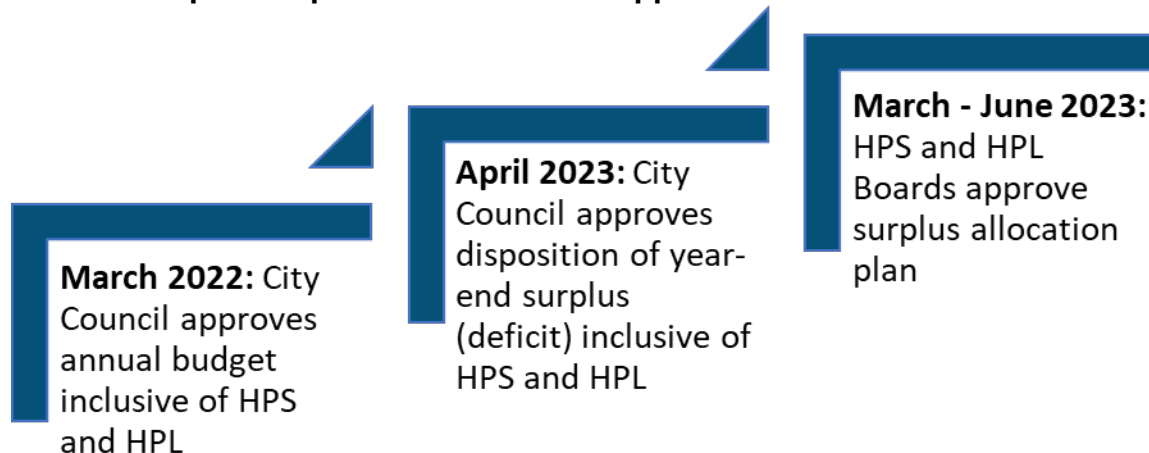
### **Current Practice**

The City of Hamilton (“the City”) is legislatively required to approve the HPS and HPL Board of Directors’ budgets. The City, HPS and HPL publicly report on the status of their operating budgets to City Council and / or their respective Boards three times per year. Two of these budget variance reports are in-year updates with projections on surpluses and deficits to the end of the fiscal year. A final year-end report on budget surpluses and deficits is also presented to City Council and / or the respective Board, which provides the recommendations to transfer surpluses to reserves or to draw on reserves to cover deficits.

City Council first approves the disposition of any year-end surpluses and deficits for HPS and HPL through the City’s year-end budget variance report. As current practice, staff will recommend through the year-end budget variance report that both HPS and HPL operating surpluses are transferred to their general reserves for future use by the Boards. The HPS Board has had a policy in place since 2015 with respect to how police reserves related to operating budget surpluses and deficits are managed. This policy was prepared in collaboration with the City’s Corporate Services Department, Financial Planning, Administration and Policy Division. The full details are available in Appendix “A” to Report FCS24023. In lieu of its own policy, the HPL surplus or deficit is subject to the City’s General Reserve Policy originally established in 2001 upon amalgamation.

The procedure of allowing the HPS and HPL to retain surpluses effectively provides the boards with the autonomy over the allocation of its surplus funds and reduces future operating and capital budget requests from the City. Figure 1 outlines the current approval process (and timing for 2022 budget as an example) for HPS and HPL surpluses and deficits from initial budget approval to the end allocation of surplus funds.

**FIGURE 1**  
**Process Map of Surpluses and Deficits Approvals**



In some cases, timing on the allocation of surplus funds by the HPS and HPL Boards may not be in alignment with the timing of City Council’s approval of the surplus disposition based on timing of City Council and Board meetings. In 2023, the HPS Board approved its allocation plan in June (attached as Appendix “C” to Report FCS24023) after City Council had approved the transfer of its surplus to its stabilization reserve in the year-end budget variance report in April. However, the HPL had approved its allocation plan in March prior to Council approval of the year-end budget variance report (attached as Appendix “D” to Report FCS24023).

It is recommended that City staff work with the HPS and HPL to incorporate the information presented to their boards into the City's year-end budget variance report and to better align the timing of communication of information on year-end surpluses and use thereof.

### **City Shared Services**

The HPS and HPL are separate local boards responsible for public services within the City of Hamilton.

However, there are several services that are provided by the City and charged back to each respective Board as a result of either cost savings or efficiencies that can exist by sharing certain resources. The following is a list of some of the main services provided by the City that are utilized by the HPS or HPL:

- Communications
- Human Resources
- Facilities Administration
- Legal and Risk Management
- Information Technology
- Financial Services (Payroll, Accounting, Accounts Payable, Accounts Receivable, Procurement, Investments)
- General Office Expenses (including Postage / Courier Fees)

### **Annual Financial Report**

The consolidated financial statements reflect the assets, liabilities, revenues, expenses, changes in accumulated surplus, changes in net financial assets of the reporting entity (City of Hamilton), which include the activities of both the HPS and the HPL.

### **Communication from Hamilton Police Services Board**

At its meeting of October 26, 2023, the HPS Board approved the following comments, with respect to the matter of HPS surpluses and deficits:

- The *Police Services Act* (PSA) sets out how budget matters related to policing in Ontario are managed.
- Section 4 of the PSA provides that municipalities have the obligation to ensure adequate and effective policing and to approve the allocation of funds necessary for the provisions of policing as required by the PSA.
- Section 39(4) of the PSA states that Council does not have the authority to approve or disapprove of specific items when the Board submits its draft budget for Council's approval.

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- The Hamilton Police Services Board has had a policy in place since 2015 with respect to how police reserves related to operating budget surpluses and deficits are managed. This policy was prepared in collaboration with the City's Financial Planning, Administration and Policy Division.

Overall, the HPS believes that Council's motion to amend the year-end closing process is in contravention of the PSA, as a municipality does not have the general powers of financial management of a Police Services Board.

A full copy of the communication is included on the June 5, 2024, General Issues Committee Agenda as correspondence.

**Communication from Hamilton Library Board**

At its meeting of November 15, 2023, the HPL provided the following comments with respect to the matter of HPL surpluses and deficits that have been summarized below:

- The Library Board respectfully requests City Council consider maintaining the current arrangements regarding year-end transfers and not implement the changes in authority to the Library Board as proposed by the AF&A motion.
- The Library Board supports efforts to improve awareness of how their funds are used and a formalization of processes to ensure there is a formal and well understood policy to govern this process going forward.
- While the proposed change does not now directly impact the Library Board's authority over collections or programs, we see elsewhere in Canada, attempts to undermine the authority of the Library Board to serve all residents. This change would create a mechanism that future Councils might decide to utilize to limit the Library Board's autonomy.
- While the Library Board is supportive of the current practice, the Board also sees benefit in formalizing and clarifying some aspects. To this end, the Library Board commits to working with Library staff to develop a Library Reserves Policy that encompasses operating surpluses and deficits and will share the Policy proposal with City Council. The establishment of an official Library Tax Stabilization Reserve, with a targeted balance, where surpluses would first be transferred to and deficits first drawn from, would be one desired outcome.

A full copy of the communication is included on the June 5, 2024, General Issues Committee Agenda as correspondence.

**Research and Best Practices**

Staff consulted with other single-tier and upper-tier municipalities to compare the current policies in place for their respective police services and public library boards (where applicable). The responses received are included below:

<b>Municipality</b>	<b>Current Practice</b>
City of London	<p>Police Service has a dedicated reserve fund and its year-end surpluses are contributed to this fund. Conversely, its year-end deficits are expected to be drawn from that fund as well. The City implemented a target balance range on the Police reserve fund of 5%-10% of the Police operating budget. If the reserve fund reaches that 10% upper limit, that would trigger a conversation between the City and the Police Service regarding the allocation of the surplus (it may be returned to the City at that point). This is intended to avoid surpluses accumulating indefinitely.</p> <p>The Library Board has its own internal stabilization reserve (not managed by the City) which they may contribute to from time-to-time. However, the general expectation is that any year-end surpluses are returned to the City.</p>
Halton Region	Board surpluses, if any, will be transferred to a reserve in accordance with recommendations from the respective Boards.
Norfolk County	No formal policies. Historically, Police Services forms part of the overall corporate surplus / deficit and the Library operations are closed to its specific reserve.
Region of Peel	Police Service has a dedicated reserve fund and its year-end surpluses are transferred to this fund; conversely, its year-end deficits are expected to be drawn from that fund as well.
Region of Waterloo	Police Services Board and Library Board retain its own operating surpluses and allocate them to its respective reserves.
York Region	Reserve and Reserve Fund Policy outlines the allocation of the annual operating surplus to various reserves and reserve funds. Year-end operating surpluses from York Regional Police are included in the overall Regional surplus and distributed in accordance with this policy. Currently, York Regional Police does not have a policy that directs its surplus funds into one of its own reserves.



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Of the six responses received, four of the municipalities allow their respective Police Services and Library Boards to retain their surpluses while also expecting a draw from those reserves should a deficit occur. Some municipalities have formal policies, while others do not.

**Summary of Analysis**

In the current process, City Council approves the disposition of HPS and HPL surpluses to their reserves through the year-end budget variance report. Each board then has the autonomy to further distribute the funds to other priorities to meet their mandates. If the surpluses were directed to other purposes, this could result in future tax levy or one-time funding requests to Council by both Boards. In the past, communication on HPS and HPL budget performance and disposition of surplus funds has not always been clear as a result of timing in the year-end reporting process and City Council / Board meeting schedules. Therefore, it is recommended that City staff work with the HPS and HPL to enhance the information provided on budgetary performance and disposition of year-end surplus amounts in the City's year-end budget variance report.

**ALTERNATIVES FOR CONSIDERATION**

Council has authority for the establishment and use of reserves as per Section 290 of the *Municipal Act, 2001*. As an alternative, Council could direct HPS and HPL year-end surpluses towards City managed reserves.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report FCS24023 – Current Hamilton Police Services Operating Budget Surplus (Deficit) Retention Policy

Appendix "B" to Report FCS24023 – Confidential

Appendix "C" to Report FCS24023 – HPS 2022 Year-End Surplus Allocation Plan

Appendix "D" to Report FCS24023 – HPL 2022 Year-End Surplus Allocation Plan

KP/DR/dt