



Hamilton

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: April 18, 2012	
SUBJECT/REPORT NO: Illegal Dumping, Litter and Escaped Waste (PED11127(b)) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Marty Hazell (905) 546-2424 Ext. 4588 William Young (905) 546-2424 Ext. 2469
SIGNATURE:	

RECOMMENDATION

- (a) That staff be directed to conduct a 12 month pilot project for illegal dumping across the City including the specific trouble locations in each Ward as previously identified in Report PW11052/PED11127, with the requirements/resources for such pilot project being as follows:
 - (i) approval to hire four students, one temporary part-time (.6) FTE Supervisor and one temporary part-time (.5) FTE temporary By-law Clerk;
 - (ii) approval to purchase and/or lease two unmarked used vans with side/rear windows for the purpose of enforcement and surveillance, and surveillance equipment, including cameras, video cameras, cellular devices and other electronic tools as required;
 - (iii) That the gross cost of Recommendation (a) (i) and (ii) above, estimated at \$180,000.00 plus \$45,000.00 in one time Capital costs, be approved and funded through the Tax Stabilization Reserve (110046) and that any proceeds from associated fees and charges be directed back to the Tax Stabilization Reserve (110046) to offset the actual gross cost;

- (iv) That staff be directed to report back to the General Issues Committee prior to the conclusion of the pilot, detailing key performance measures including:
 - (1) cost recovery from fines and through Court actions;
 - (2) compliance rates and measurably improved conditions in the specific trouble locations in each Ward as previously identified in Report PW11052/PED11127 and other areas across the City; and,
 - (3) reduced complaints about illegal dumping.
- (b) That prior to the commencement of the pilot project staff be directed to prepare comprehensive amendments for consideration by the General Issues Committee and Council to amend the Solid Waste Management By-law (09-067), the Streets By-law (86-077), the Parks By-law (01-219), and the Yard Maintenance By-law (10-118) as follows:
 - (i) By updating and/or replacing the relevant sections in order to provide more effective enforcement, to ensure consistency in language and to identify specific roles for property owners and/or tenants on boulevards abutting residential properties; and,
 - (ii) By increasing the penalties for illegal dumping to \$500.00 and that staff be directed to submit an application to the Ministry of the Attorney General's Office for approval.
- (c) That the pilot program of using Summer students to assist with the workload of Environmental Enforcement Officers be made permanent based on full cost recovery.
- (d) That the item respecting Illegal Dumping, Litter and Escaped Waste be identified as complete and removed from the General Issues Committee Outstanding Business List.

EXECUTIVE SUMMARY

This Report continues to recommend improvements to existing by-laws and higher fines for illegal dumping as per Report PED11127(a) a copy of which is attached as Appendix "A" to this Report and provides lower-cost options for providing additional resources/efforts towards enforcing illegal dumping violations.

Alternatives for Consideration – See Page 4

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

Financial/Staffing: The funding for four students, one temporary part-time (.6) FTE Supervisor and one temporary part-time (.5) FTE temporary By-law Clerk, two vehicles, cameras and equipment associated with the recommended 12 month pilot project is estimated at \$180,000.00 plus \$45,000.00 in one-time Capital costs. It is recommended that the pilot be financed through the Tax Stabilization Reserve (110046), which has an estimated 2012 balance that currently sits at \$14.5 million.

The recommended pilot program costs could possibly be mitigated by using work accommodated employees if/when available.

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

The General Issues Committee, on July 6, 2011 dealt with Report PW11052/PED11127 Illegal Dumping, Litter and Escaped Waste which addressed issues of illegal dumping, litter and escaped waste as a result of concerns that Waste Management collection programs were contributing to illegal dumping of waste materials across the City. Public Works and Planning and Economic Development staff were directed to report back on a number of related issues including:

- improvements to the Waste, Streets, Parks and Yard Maintenance By-Laws to enhance the effectiveness of enforcement of illegal dumping; and,
- enforcement strategies, service levels and staffing requirements to adequately address illegal dumping complaints.

Planning and Economic Development staff reported back to the General Issues Committee on January 9, 2012 (through Report PED11127(a)) and recommended:

- improvements to existing by-laws and higher fines for illegal dumping; and,
- an 18 month pilot using six temporary full-time Environmental Enforcement Officers, one temporary full-time Supervisor and one full time temporary By-law Clerk; and,
- that the pilot program of using summer students to assist with the workload of Environmental Enforcement Officers be made permanent based on full cost recovery.

The above recommendations were *“referred back to the General Managers of Planning and Economic Development and Public Works to discuss options to mitigate costs and additional staff resources and to provide alternate sources to fund up-front costs.”*

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Public Works and Finance were consulted in the preparation of this Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

As previously reported complaints about illegal dumping have increased each year since 2007 which has resulted in an increased work load that now exceeds the current staff capacity in Municipal Law Enforcement (MLE). At one time there was a backlog in excess of 800 outstanding illegal dumping complaints to be responded to. However, the backlog is now down to 250 complaints because:

- Public Works again temporarily provided one/two work accommodation staff persons to assist with the backlog of illegal dumping complaints. At the time of this Report, the last work accommodation staff has returned to regular duties;
- with the mild 2011/2012 Winter, Public Works staff have been able to provide additional efforts at proactive clean up of public property; and,
- illegal dumping complaints tend to decrease during Winter months when garbage does not smell as much, may be covered by snow and leaves, etc.

The number of complaints however is expected to again increase during the Spring and Summer months.

Staff continue to recommend improvements to existing by-laws and fine increases, as detailed in Report PED11127(a), a copy of which is attached as Appendix “A” to this Report.

In response to the General Issues Committee direction to investigate lower cost options for additional enforcement of illegal dumping violations, staff recommends the low cost option of using four students, one temporary supervisor, one clerk, two vehicles, cameras and equipment. This will provide some added level of enforcement and workload relief at a lower cost than using Municipal Law Enforcement Officers.

However, enforcement would not be as efficient nor effective as students would be used only to collect information and evidence from which officers will then lay charges.

Finally, it was noted in Report PED11127(a) that the transfer of one (1) FTE from the Property Standards and Zoning Team to the Environmental Enforcement Team was a temporary measure during the past two summers to assist with enforcing complaints related to long grass/weeds while Environmental Officers were busy attending to complaints about illegal dumping. However, the impact of this was temporarily reduced attention to Property Standards and Zoning issues and lost revenues in the order of \$45,000.00 from Property Standards violations. On the other hand, using summer students to assist Environmental Officers was revenue positive with \$18,200.00 net revenues in 2011. Therefore, it is recommended that the use of summer students to assist in enforcing long grass/weeds be made a permanent program so that the vacancy on the Property Standards and Zoning Team and those service levels can be returned to normal.

ALTERNATIVES FOR CONSIDERATION

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

No cost option: Do not assign any additional resources to illegal dumping, but wait to see if approved changes to garbage pick up beginning in 2013 result in less illegal dumping or a drop in complaints. This is not recommended as illegal dumping complaints continue to be burden on staff resources and negatively impact the overall budget since this type of enforcement in general does not generate revenue.

Low cost option: As recommended in this Report.

Mid-range cost option: (estimated at \$340,000.00 plus \$45,000.00 in one-time Capital costs) for a 12 month pilot involving three temporary FTEs (Environmental Enforcement Officers), (.6) FTE for temporary full-time Supervisor and (.5) FTE for a full time temporary By-law Clerk, two unmarked used vans and cameras and equipment

High cost option: (estimated at approximately \$945,000 + \$45,000 in one-time Capital costs) for an 18 month pilot with six Officers, a Supervisor, a Clerk, three unmarked used vans and cameras and equipment as previously recommended in Report PED11127(a).

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

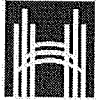
Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

- **Healthy Community** – an efficient and effective By-law Enforcement Program is critical to the health, safety and well being of the Community.

APPENDICES / SCHEDULES

Appendix “A” to Report PED11127(b) - PED11127(a) Illegal Dumping, Litter and Escaped Waste

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Hamilton

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: December 12, 2011	
SUBJECT/REPORT NO: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: William Young 905-546-2424 Ext. 2469
SIGNATURE:	

RECOMMENDATION

- (a) That staff be directed to conduct an 18 month pilot project for a coordinated, proactive and "zero tolerance" approach to enforcing illegal dumping across the City including the specific trouble locations in each Ward as previously identified in Report PW11052/PED11127, with the requirements/resources for such pilot project being as follows:
 - (i) approval to hire:
 - (1) six temporary full-time Environmental Enforcement Officers;
 - (2) one temporary full-time Supervisor; and,
 - (3) one full time temporary By-law Clerk.
 - (ii) approval to purchase and/or lease:
 - (1) three unmarked used vans with side/rear windows for the purpose of enforcement and surveillance; and,
 - (2) surveillance equipment, including cameras, video cameras, cellular devices and other electronic tools as required.

**SUBJECT: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) -
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- (iii) That the gross cost of Recommendation (a) (i) and (ii) above, estimated at \$990,000.00 be approved and funded through the Tax Stabilization Reserve (110046). That any proceeds from associated fees and charges be directed back to the Tax Stabilization Reserve (110046) to offset the actual gross cost.
- (iv) That staff be directed to report back to the General Issues Committee and Council prior to the conclusion of the pilot, detailing key performance measures including:
 - (1) cost recovery from fines and through Court actions;
 - (2) compliance rates and measurably improved conditions in the specific trouble locations in each Ward as previously identified in Report PW11052/PED11127 and other areas across the City; and,
 - (3) rate of reduced complaints about illegal dumping.
- (b) That prior to the commencement of the pilot project staff be directed to prepare comprehensive amendments for consideration by the General Issues Committee and Council to amend the Solid Waste Management By-law (09-067), the Streets By-law (86-077), the Parks By-law (01-219), and the Yard Maintenance By-law (10-118) as follows:
 - (i) By updating and/or replacing the relevant sections in order to provide more effective enforcement, to ensure consistency in language and to identify specific roles for property owners and/or tenants on boulevards abutting residential properties; and,
 - (ii) By increasing the penalties for illegal dumping to \$500.00, and that staff be directed to submit an application to the Ministry of the Attorney General's Office for approval.
- (c) That the pilot program of using summer students to assist with the workload of Environmental Enforcement Officers be made permanent based on full cost recovery.
- (d) That the item respecting Illegal Dumping, Litter and Escaped Waste be identified as complete and removed from the General Issues Committee Outstanding Business List.

EXECUTIVE SUMMARY

In July, 2011, Report PW11052/PED11127 "*Illegal Dumping, Litter and Escaped Waste*" addressed the issues of illegal dumping, litter and escaped waste as a result of concerns that the waste management programs were contributing to the dumping of illegal waste materials.

**SUBJECT: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) -
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This Report addresses the direction to investigate and report back in the Fall of 2011 on:

- improvements to the Waste, Streets, Parks and Yard Maintenance By-laws to enhance the effectiveness of enforcement of illegal dumping;
- enforcement strategies, service levels and staffing requirements to adequately address illegal dumping complaints; and,
- continued attention to clean up of litter, illegal dumping and escaped waste on areas of concern on City lands through existing programs, including prioritization and regular monitoring of these locations.

Alternatives for Consideration – See Page 7

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

Financial/Staffing: The funding for the required staff, vehicles and equipment associated with the recommended 18 month pilot project is estimated at \$945,000.00 plus \$45,000.00 in one-time Capital costs. It is being recommended that the pilot be financed through the Tax Stabilization Reserve (110046) which has a forecast uncommitted 2011 balance of \$11.2 million.

Using summer students to assist in enforcing long grass/weeds on a permanent basis can be full cost recovery since, in 2011, revenues exceeded expenditures (\$44,700.00 expenditures and \$62,900.00 revenues) for a positive net levy impact of \$18,200.00.

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

On July 6, 2011, the General Issues Committee dealt with Report PW11052/PED11127 concerning "*Illegal Dumping, Litter and Escaped Waste*" and recommended:

- "(a) That the General Manager of Public Works be directed to:*
- (i) report back to the Public Works Committee with the 2012 work plan for the Clean City Strategy before the end of 2011;*
 - (ii) provide an semi-annual Clean City Strategy progress report to the General Issues Committee;*
- (b) That Public Works and Planning and Economic Development Departments staff be directed to undertake investigations and report back comprehensively in the Fall of 2011 on:*

**SUBJECT: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) -
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- (i) *educational efforts towards illegal dumping, litter and escaped waste in the City;*
 - (ii) *improvements to the Waste, Streets, Parks and Yard Maintenance By-Laws to enhance the effectiveness of enforcement of illegal dumping;*
 - (iii) *enforcement strategies, service levels and staffing requirements to adequately address illegal dumping complaints;*
 - (iv) *minimum fees and tipping fees at the City's Community Recycling Centres/Transfer stations and potential fee changes as a way to reducing illegal dumping.*
- (c) *That staff be directed to implement the following action plans to address areas of concern identified by Councillors as outlined in Appendix "A" attached hereto, as amended:*
- (i) *Continued attention to clean up of litter, illegal dumping and escaped waste on areas of concern on City lands through existing programs, including prioritization and regular monitoring of these locations;*
 - (ii) *Continued enforcement on private lands;*
 - (iii) *Arrange to meet with agencies to develop plans to address remediation and prevention for the areas of concern;*
 - (iv) *Report back on progress as part of recommendation (b)."*

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Public Works (Waste Management) and Finance were consulted in the preparation is Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Enforcement Strategies, Service Levels and Staffing requirements to address Illegal Dumping Complaints:

**SUBJECT: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) -
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1. Improvements to Existing By-laws:

Currently illegal dumping is addressed through several by-laws. Staff concludes that many of the provisions are outdated and for more effective enforcement need to be either updated or replaced to:

- clarify the responsibility of property owners and/or tenants on abutting boulevards in front of residential properties,
- add new provisions for enforcement such as adding boulevard maintenance as a responsibility of the adjacent property owner, updating the Streets By-law to issue orders, and adding short form wording in the Streets By-law, etc.; and,
- clearly define assumed/un-assumed alleyways to provide for more effective enforcement and responsibility for clean up.

2. Fines for Illegal Dumping:

Staff surveyed 17 Ontario municipalities (Guelph, Windsor, Mississauga, Cambridge, St. Catharines, Kitchener, Waterloo, Brampton, Burlington, Kingston, Oshawa, Ottawa, Barrie, Thunder Bay, Markham, Aurora, and Oakville), and found that the fines for illegal dumping range from \$180.00 to \$505.00 dollars, with the average fine being \$295.00.

Hamilton's set fines for littering/illegally dumping under the by-laws are:

- a. \$275.00 under the Yard Maintenance By-law;
- b. \$105.00 under the Parks By-law;
- c. \$100.00 under the Solid Waste By-law; and,
- d. there is none applicable under the Streets By-law.

Staff are recommending that the penalty for illegal dumping under the various by-laws be increased to \$500.00, and that staff be directed to submit an application to the Ministry of the Attorney General's Office for approval.

3. Enforcement:

As previously indicated in Report PW11052/PED11127, complaints about illegal dumping have increased each year since 2007 indicating that there is a demand for by-law enforcement. Also, the increased awareness of litter and illegal dumping and demand on enforcement requirements, resulting from what we believe is primarily related to the one container limit for waste collection, has resulted in an increased work load that now exceeds the current staff capacity in Municipal Law Enforcement (MLE). Currently, there is a backlog in excess of 800 outstanding illegal dumping complaints to be responded to.

As result, Enforcement Officers were not able to keep up with other enforcement priorities, and so staff levels/priorities were temporarily adjusted as follows:

**SUBJECT: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) -
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- e. one (1) FTE was transferred temporarily from the Property Standards and Zoning Team to the Environmental Enforcement Team to fund a trial summer student program to enforce long grass/weeds; and,
- f. two work accommodated employees provided assistance to MLE Officers in collecting evidence with respect to illegal dumping. However, the workers have returned to regular duties, and no replacements are available at this time.

Further, enforcement provisions related to illegal dumping in the Waste, Streets, Parks and Yard Maintenance By-laws are neither efficient nor effective because, unless an Officer witnesses illegal dumping taking place, it is virtually impossible to lay a charge which will withstand a challenge in Court.

In response to Council direction staff provided increased enforcement since July 2011 including attending to the "hot spots" as previously identified by each Ward Councillor, and can report the following:

- Overnight (6 p.m. to 2 a.m.) surveillance was conducted at problem locations including those previously identified by the Ward Councillors in Report PW11052/PED11127. However, staff can report that the enforcement efforts were extremely time and labour intensive with limited success, and virtually all of these locations continue to be problem locations for illegal dumping.
- Additional dumping "hot spots" were identified based on analysis of illegal dumping complaints provided by Waste. Two (2) Officers were assigned to conduct weekly monitoring of the various problem illegal dumping locations throughout the City. However, as above, there has been limited success related to successful charges/convictions, but Officers continue to monitor these sites as workload permits.
- Staff initiated a pilot using bicycle patrols which are generally more efficient because Officers can better patrol and enforce locations such as trails, back alleys, and other hard to reach places.
- Staff has also been working with Canadian National Railway (CNR) concerning illegal dumping on railway properties. Staff are working on strategies which include community engagement (Crown Point Neighbourhood, Ward 4) and with CNR's permission to enter onto their lands, two (2) Officers have been assigned to conduct surveillance and enforce illegal dumping.
- Considerable resources were dedicated to a City-wide blitz of enforcing illegal dumping and illegally located charitable donations boxes, and staff recently reported the results through an Information Update to Councillors.

**SUBJECT: Illegal Dumping, Litter and Escaped Waste (PED11127(a)) (City Wide) -
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- Staff is also investigating the feasibility of creating a volunteer student program to assist elderly and disabled residents in complying with the by-laws.

Based on the increasing number of complaints being received and problems being identified, staff concludes that using low level education and a reactive approach to enforcing illegal dumping has not been effective. Accordingly, we are recommending a new approach to this enforcement in the form of an 18 month pilot proactive enforcement program which incorporates proactive enforcement, specialized surveillance techniques and focuses on identified problem locations throughout the City.

Finally, it is important to note, that the transfer of one (1) FTE from the Property Standards and Zoning Team to the Environmental Enforcement Team was a temporary measure during the past two Summers to assist with enforcing complaints related to long grass/weeds while Environmental Officers were busy attending to complaints about illegal dumping. However, the impact of this was temporarily reduced attention to Property Standards and Zoning issues and lost revenues in the order of \$45,000.00 from Property standards violations. On the other hand, using summer students to assist Environmental Officers was revenue positive with \$18,200.00 net revenues in 2011. Therefore, it is recommended that the use of summer students to assist in enforcing long grass/weeds be made a permanent program so that the vacancy on the Property Standards and Zoning Team and those service levels can be returned to normal.

ALTERNATIVES FOR CONSIDERATION

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

The City Council approved by-law enforcement priorities could be adjusted to divert more attention to illegal dumping, but this is not recommended.

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

- **Healthy Community** - efficient and effective by-law enforcement program is critical to the health, safety and well being of the Community

APPENDICES / SCHEDULES

N/A

BY/dt