

## **COMMITTEE OF THE WHOLE (WORKING SESSION) - OCTOBER 28, 2008**

### **ADMINISTRATIVE MONETARY PENALTIES**

(Revised report submitted at Committee of the Whole (Working Session) Meeting of October 28, 2008)

#### **Recommendation**

The Commissioner of Legal & Administrative Services and City Solicitor, in conjunction with the Director of Enforcement Services, and in consultation with the Chief Information Officer, and the Director of Purchasing, recommend:

- 1) that this initiative be referred in the 2009 Capital Budget for consideration;
- 2) That subject to Capital Budget approval, Council approve single sourcing the purchasing of software upgrades and hardware purchases, as outlined in the report.

#### **Economic Impact**

The one time costs to implement an Administrative Monetary Penalty system in the City of Vaughan is \$110,000. (capital). These funds are for software upgrades to existing systems, \$63,000., and required hardware, \$45,000. The breakdown of this is outlined in the body of the Report.

The ongoing costs to operate the Administrative Monetary Penalties system are expected to be \$35,000. (operating). The breakdown of these costs is outlined in the body of the Report.

It is expected that the costs to implement this system will be completely offset by revenue within one year of going live.

#### **Communications Plan**

An extensive communication strategy will be developed as part of the project.

#### **Purpose**

This Report is to provide additional information related to the implementation and costs of a system of Administrative Monetary Penalties.

#### **Background - Analysis and Options**

Council, at its meeting of June 23, 2008, Item 3, Report 35, approved the recommendation:

“That staff proceed to develop a system of Administrative Monetary Penalties and report back to the Committee of the Whole Working Session in the fall with a comprehensive report outlining implementation steps and cost analysis.”

A system of Administrative Monetary Penalties is an alternative to the traditional methodology of enforcing the parking and Licensing By-laws.

Bill 130, The Municipal Statute Law Amendment Act, 2006 amended The Municipal Act, 2001 to permit municipalities to establish a system of Administrative Penalties. This amendment also allows a municipal council to delegate its quasi-judicial and administrative functions to individuals approved by Council.

Under a system of Administrative Monetary Penalties, an Officer will issue a Penalty Notice to an alleged offender. The penalty becomes a debt owed to the City. The recipient of the penalty may contest the penalty through a Hearing Officer that is appointed by Council. Court is not an available option as the Hearing Officer's decision is final.

It is estimated that there are approximately 1,800 parking tickets with a face value of \$180,000. awaiting trial at Provincial Court. Due to the Court time to hear these trials, 2 days per month, most will be lost. Similarly, there are close to 200 licensing charges pending trial with a value of \$75,000. These too are in danger of being lost due to the amount of time it takes to get the matters before a Justice of the Peace. Generally speaking, delays for trials are ranging from 10-24 months.

Administrative Monetary Penalties will reduce the waiting time from 10 months to 6-8 weeks.

There is also a revenue benefit to the Administrative Monetary Penalties initiative. Fine revenue will not be delayed through the Courts. As fines are paid, the funds will be transferred to the appropriate revenue accounts. Currently, should an offender be found guilty of a Licensing By-law charge in Court, and a fine assessed, there is nothing the City can do if the fine is not paid. Under the Administrative Monetary Penalties system, the penalty is a debt owed to the City and there are stronger collection powers available to the City to pursue payment.

### **Initiative Financial Information**

There will be substantial costs to initiate an Administrative Monetary Penalties system. However, the revenue benefits over the course of the first year will offset the set up costs.

#### **Computer Software**

Currently, the City uses a database to track issuance of parking tickets, called Ticket Tracer. This system also manages the escalation of the ticket process. For example, the ticket and all the information contained on the ticket is inputted either manually or electronically into the system. The system then monitors the timeframes required for escalation. Should a ticket not be paid or disputed within 15 days, the system generates a reminder notice to the registered owner of the vehicle ticketed. Likewise, it also escalates the fine to Plate Denial if the fine is not paid.

This specified database is in wide use across the Province and beyond.

There is no similar system currently in use in the City of Vaughan for licensing matters.

The Ticket Tracer system is efficient and beneficial. Unfortunately, it is currently designed only to record license plates as violators, not the names of individuals. Staff have met with the vendor to review Administrative Monetary Penalty requirements for the City of Vaughan. The vendor has advised that they are prepared to modify their software to incorporate the Administrative Monetary Penalty requirements.

The cost of this modification was quoted as \$45,000.

Once the modifications are made, the same system that the City has used for many years will also be able to perform the same, required functions, for licensing charges. This is a key requirement for an effective Administrative Monetary Penalty system as it will not only track penalties issued, but will also track outstanding fines and collection activities.

Another required software upgrade is within the ticket issuing machines used by staff in the field to issue tickets under the current system. The software needs to be upgraded to allow staff to select different versions of tickets within the system. These machines are to be used to issue parking

and licensing penalties from a single machine. In order to provide different ticket formats from the same machine, software needs to be modified.

This vendor has provided a quote of \$14,000. to make the required software changes.

The online ticket payment system will also require a software upgrade to handle the new process. The cost for this has been estimated at \$5,000.

The total for software upgrades or modification is estimated at \$ 63,000. As mentioned, the software changes are critical to the project and because they are modifications to existing programming it is significantly cheaper and more time efficient than having another vendor build the system from scratch.

### Hardware

Under the current enforcement methodology, parking tickets are written either by hand or computer generated and Licensing tickets are handwritten. All these tickets are different in appearance.

Under the Administrative Monetary Penalty system, staff are recommending that all field staff be issued ticket machines so that all have the ability to issue parking and licensing penalties under the new system. Also, by having all tickets computer generated, the data inputting requirement is diminished significantly.

The current vendor for parking ticket machines has provided a quote of \$35,000. to supply 10 handheld ticket machines and printers, fully programmed and ready to go. This cost also includes the design of new tickets.

This company has supplied parking ticket issuing machines to the City for over 15 years and also operates the online ticket payment system.

As indicated, purchasing 10 new handheld ticket machines will allow all staff, on all shifts to issue penalties, but there are possible other benefits as well. The purchase of these machines also provides potential service improvements in two other areas:

- a) Operational improvements in the field, through real-time collection of data and access to information from systems such as CTS; and
- b) There has long been a request for the purchase of visitor parking permits to be available online. The predominant restriction on moving forward was the ability to have the permits validated by field staff. The most efficient way of validation is the use of barcodes. These new machines have the ability to read and validate barcodes. This would enable the City to allow the online purchase of parking permits.

The final piece of hardware required is a digital recording device to record proceedings during appeals to the Hearing Officer. The estimated cost is approximately \$10,000.

### Ongoing Costs

A system of Administrative Monetary Penalties will have related ongoing costs associated to it.

The largest of the ongoing cost will be the per diem rate for the Hearing Officer. The per diem rate is expected to be \$350.

Staff are anticipating that initially the Hearing Officer will be required once per week, with several other days being booked to deal with specific enforcement initiatives or unexpected overflow.

At a rate of \$350. per day, the ongoing cost will not exceed \$20,000. per year.

As a result of software changes and hardware acquisitions the annual maintenance agreements with the two vendors will increase by a combined \$15,000. per year.

The total ongoing costs for the Administrative system is \$35,000. This amount will be completely offset by the expected increase in revenue.

The project is expected to produce at least \$100,000 in additional revenue to the City in the first full year of operation.

### **Administrative Monetary Penalty System Policies**

In order to establish a system of Administrative Monetary Penalties, a series of policies need to be adopted. The information below provides an outline of what would be included in these policies.

Staff will bring back a report in February with complete draft policies and bylaws for consideration.

#### **1.1 Conflict of Interest Guidelines**

The Municipal Act requires municipalities to develop standards relating to the administration of the system of administrative penalties which shall include *“Guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur”*.

Administrative Penalty Policy 1.1 has being developed to provide a standardized guideline to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur.

The appointment of the Hearing Officer shall be consistent with these conflict of interest guidelines.

Any deviation from these guidelines shall be reported to and investigated by the Director of Enforcement Services.

#### **1.2 Extension of time for Payment**

The Municipal Act requires municipalities to develop standards relating to the administration of the system of administrative penalties which shall include *“Procedures to be established to allow a person to obtain an extension of time for payment of the penalty”*, on such grounds as may be specified in the administrative penalty by-law.

Administrative Penalty Policy 1.2 has being developed to denote that the system of administrative penalties incorporates certain benefits for the person against whom an administrative penalty is imposed such as an extension of time for payment of an administrative penalty notice.

Within 15 days of the date of the penalty notice the Person will have the option to:

- 1) make a voluntary payment; or
- 2) Request a review by a screening officer

The Screening Officer has a residual discretion to cancel, reduce or to extend the time for payment of an administrative penalty. This is intended to address obvious errors without requiring the individual to pursue review by a Hearings Officer.

The Hearings Officer may,

- cancel or reduce the administrative penalty; and
- extend the time for payment of an administrative penalty.

The extension of time by either the screening officer or hearings officer for payment of the penalty should not exceed 270 days.

### 1.3 Extension of time to request review

The Municipal Act requires municipalities to develop standards relating to the administration of the system of administrative penalties which shall include *“Procedures to be established to allow a person to obtain an extension of time in which to request a review by a screening officer, or a review by a hearing officer”*, on such grounds as may be specified in the administrative penalty by-law.

Administrative Penalty Policy 1.3 has been developed to denote that the system of administrative penalties incorporates certain benefits for the person against whom an administrative penalty is imposed such as an extension of time to request a review of an administrative penalty by a screening officer or a review by a hearing officer.

#### Screening Officer

An individual has a time-limited right to request a review of the administrative penalty by a screening officer.

Within 15 days of the date of the penalty notice the Person will have the option to:

- 1) make a voluntary payment; or
- 2) request a review of the administrative penalty by a screening officer. This review will normally take place within 35 days of the date of the penalty notice.

If the individual makes a request for an extension of time within 15 days of the date of the penalty notice, an extension of time for a review will be determined by the screening officer. Normally, an extension should not exceed 60 days of the date of the penalty notice. However, if there are extenuating circumstances, a screening officer may grant an extension for a longer period of time but should not exceed 120 days.

#### Hearings Officer

The individual has a time-limited right to request a review of the administrative penalty by a hearings officer.

The person will be given reasonable notice of the date, time and place for the Hearing. The date for the Hearing to review the administrative penalty by a hearings officer will normally be within 90 days of the date of the review by the screening officer.

Should the person make a request for an extension of time within 30 days of the date of the review by the screening officer, an extension of time for a review will be determined by the hearings officer. Normally, an extension should be within 90 days of the date of the review by the screening officer. The extension of time will be at the sole discretion of the hearings officer.

### 1.4 Administrative Penalty Financial Management Policy

The Municipal Act requires municipalities develop standards relating to the administration of the system of administrative penalties which shall include *“Procedures regarding financial management”*.

Administrative Penalty Policy 1.4 outlines a consistent standard procedure regarding financial management and the reporting and tracking of administrative penalties.

This policy sets out the guidelines for administrative penalties for Parking By-law violations and Licensing By-law violations.

Parking By-Law

The administrative penalty for the violations of the Parking By-law will remain at the same current fine, with the sole exception of violations pertaining to disabled parking.

The Municipal Act does not permit a municipality to impose an administrative penalty system for a disabled parking offence. Offences related to disabled parking will continue to be prosecuted by way of Part I tickets under *the Provincial Offences Act*.

Licensing By-Law

Licensing By-laws by their nature are related to the regulation of for-profit businesses to protect the public interest. An administrative penalty of \$350.00 will be imposed for all violations outlined in the Licensing By-law. This is in keeping with penalties not being punitive, but intended to promote compliance.

The administrative system will not preclude the City from pursuing charges in the Provincial Court for cases that demand more progressive enforcement strategies.

Administrative Fees:

In addition to the administrative penalty, the City may impose administrative fees as follows:

Each request of the Director for an exemption to the Licensing By-Law	\$500
Each late payment of an administrative penalty	\$50
Each failure to attend hearing before Hearings Officer	\$100
Documentation Fees	
- Plate Denial	\$35
- Civil Filings	\$150
- Copy of Charges	\$15 (per)
Interpreter Services at Hearing	\$25

Should a Person make a request for an extension of time for a review or a request for an extension of time for payment and the request is granted, the late payment penalty would not be applied.

1.5 Interfering with Hearings Officer Policy

The Municipal Act requires municipalities to develop standards relating to the administration of the system of administrative penalties which shall include *“Procedures to prevent political interference in the administration of the system”*.

Administrative Penalty Policy 1.5 has being developed to ensure that the Screening and Hearings Officers who are considered quasi-judicial officers are independent and free from political interference.

No person shall attempt, **directly** or **indirectly**, to communicate with or influence a Hearings Officer respecting the determination of an issue respecting a Delegated Power of Decision in a proceeding that is or will be pending before the Hearings Officer except a person who is entitled to be heard in the proceedings or the person's lawyer or licensed paralegal and only by that

person or the person's lawyer or licensed paralegal during the hearing of the proceeding in which the issued arises. Failure to comply with this policy constitutes an offence under the Administrative Monetary Penalties Bylaw.

This does not prevent a Hearings Officer from seeking and receiving advice including from the Director, or the City's Legal Department.

#### 1.6 Public Complaints against Administration of the System

The Municipal Act requires municipalities to develop standards relating to the administration of the system of administrative penalties which shall include *"Procedures for the filing and processing of complaints made by the public with respect to the administration of the system"*.

Administrative Penalty Policy 1.6 has been developed to provide a standardized, accessible, and efficient mechanism for filing and processing of complaints made by the public with respect to the administration of the system of administrative penalties.

This policy applies to any member of the public who has a complaint with respect to the administration of the system, provided that the member of the public has been directly affected by such alleged wrong doing. The complaint must be filed in accordance with the time limitations set out in this policy. The limitation to file a complaint is within 30 days of the situation giving rise to the complaint.

This policy is not intended to replace other specific City programs and legal processes available to address the Complainant's concerns.

#### 1.7 Administrative Penalty – Undue Hardship

The Municipal Act requires municipalities to develop standards relating to the administration of the system of administrative penalties which shall include *"Procedures to permit persons to be excused from paying all or part of the administrative penalty, including any administrative fees, if requiring them to do so would cause undue hardship"*.

Administrative Penalty Policy 1.7 has being developed to allow the Screening Officer or Hearing Officer the discretion to excuse a person from paying all or part of the administrative penalty, including any administrative fees if requiring them to do so would cause undue hardship.

The person must provide documented proof of financial hardship, example: Old Age Security, Canada Pension, O.S.A.P., Welfare, etc.

#### **Project Timelines**

The remaining major steps in the project are outlined in the table 1.1 below, with a target completion date. The target dates are projected under the assumption that budget approval is granted so that the vendors can commence their work at re-tooling the software.

**Table 1.1**  
**(January – June 2009)**

Identified Task	Responsible Dept
Software Modifications	External Vendor
Software Testing	External/ITM
Ticket Design and Order	Enforcement/External
Ticket Machine/Hardware Acquisition	External
CTS live Reporting	ITM
Staff Training Manual	Enforcement
Collection Protocols	Enforcement/Finance
Communication Strategy	Corp Comm/Enforcement
Retain Hearing Officer	Enforcement/HR
Establish Hearing Schedule	Enforcement
Bylaws Approved	Council
Update Departmental Website	Corp Comm/Enforcement
Establish New Revenue Accounts	Finance
Re-allocation of court time	Region/Legal/Enforcement

Although the majority of the work thus far has been performed by Enforcement Services staff, the stakeholders and departments listed above will be requested to provide support to complete the outstanding tasks in Table 1.1

**Relationship to Vaughan Vision 2020**

This project is in keeping with the Vaughan Vision in that it speaks to Enhancing Productivity, Cost Effectiveness and Innovation ; Pursuing Excellence in Service Delivery; and, Enhancing and Ensuring Community Safety, Health & Wellness

**Regional Implications**

As the Region operates the Courts used by the City to prosecute our by-law matters, they will be involved in the re-allocation of court time.

**Conclusion**

The project to implement a system of Administrative Monetary Penalties has developed well and is now at the stage where very little further progress can be realized until the project budget is approved.



**Attachments**

N/A

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