

COMMITTEE OF THE WHOLE - NOVEMBER 17, 2008

ADMINISTRATIVE MONETARY PENALTIES

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 the Capital costs of \$110,000. for this initiative be referred to the 2009 Capital Budget for consideration; and
- 2) That the ongoing Operating costs of \$35,000 for this initiative be referred to the 2009 Operating Budget for consideration; and
- 3) 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 Capital costs to implement an Administrative Monetary Penalty system in the City of Vaughan is \$110,000. 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 impacts to the Operating Budget to operate the Administrative Monetary Penalties system are expected to be \$35,000. The breakdown of these costs is outlined in the body of the Report.

The costs will be offset by the revenue in the first two years.

Communications Plan

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

Purpose

To introduce Administrative Monetary Penalties to ensure a more efficient administration of justice and better service to the citizens of Vaughan.

Background - Analysis and Options

Administrative Monetary Penalties are an alternative to the prosecution model of enforcing the Parking and Licensing By-laws made possible by recent amendments to the Municipal Act.

Under a system of Administrative Monetary Penalties, an Officer will issue a Penalty Notice to an alleged offender. The recipient of the penalty may dispute the penalty through a Screening Review Officer (similar to the current First Attendance) and subsequently request a review by a Hearing Officer, that is appointed by Council. The Hearing Officer is an independent quasi-judicial officer.

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.

Project Benefits

This project will generate a number of positive enhancements including increased customer service and increased administration of justice. The project benefits are outlined below.

a) Better Customer Service for Vaughan Citizens

- Whereas other municipalities such as Toronto, Mississauga, Oshawa and Brampton have court facilities available within the municipality, Vaughan citizens presently must drive to Newmarket or Richmond Hill to have parking tickets dealt with. Administrative Monetary Penalties will provide this service in the City of Vaughan.
- Both the First Attendance (Screening Officer) and the Hearing components of the process are located in Vaughan. This eliminates the need for defendants to drive to either Newmarket or Richmond Hill to have their matters heard.
- The public will have their matters dealt with in an expeditious fashion, a few weeks versus many months, or years.

b) Increased Administration of Justice

- The public interest is not well served having trial matters waiting in queue for up to 24 months for a trial date. This will result in these matters being quashed due to the length of time between charge and trial. This increases customer and staff frustration. This process will allow hearings within weeks of the offence date, therefore increasing the carriage of justice, resulting in a more streamlined and efficient offence dispute resolution process.
- The court time that will be able to be re-allocated as a result of the removal of most of the parking and licensing matters for the court schedule will allow more serious matters such as Property Standards or Zoning charges to be dealt with faster. This will result in the decision (and penalty if there is a finding of guilt) to be handed down quicker, potentially increasing compliance.

c) Reduced Environmental Impacts

- As a result of the parking and licensing matters being dealt with through First Attendance to Hearing in Vaughan, the defendant, witnesses, and staff will not have to drive the distance to Newmarket or Richmond Hill, therefore reducing the consumption of fuel and carbon emissions.

d) Revenue Timeliness

- While it is not expected to increase revenues through the issuance of more tickets or increased fines, there is a revenue benefit to the Administrative Monetary Penalties initiative. Fines that are paid through the courts will not be delayed by the court system. Also, fines that are paid will not be delayed by the court system. Under the Administrative Monetary Penalty System, as fines are paid, the funds will be transferred to the appropriate revenue accounts. Essentially, the revenue increase will be realized by reducing the number of matters that are quashed due to lengthy delays.

- 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. The powers include, but are not limited to, license plate denial for parking offences, to business license suspensions, to applying certain fines to property taxes

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, policies and procedures need to be developed. It is expected that these will be incorporated into the requisite By-Laws. This will ensure that the process is transparent. The information below provides an outline of what would be included in these policies and procedures.

Staff will bring back a report early in the new year with the appropriate by-law amendments and policies 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”*.

Guidelines are being developed 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.

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.

Procedures are being developed to allow a person against whom an administrative penalty is imposed to obtain such as an extension of time for payment of the penalty.

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 Hearing Officer.

The Hearing 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 Hearing 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.

Procedures are being developed to allow a person against whom an administrative penalty is imposed to obtain an extension of time to request a review 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.

Hearing Officer

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

1.4 Administrative Penalty Financial Management Policy

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

Procedures being developed will outline a consistent standard procedure regarding financial management, reporting and tracking of 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 be established at the same amount as the current set fines, 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's interest. An administrative penalty of \$350.00 will be imposed for all violations outlined in the Licensing By-law. This is in keeping with typical set fines and reflects the approach that penalties are not 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 legislative framework authorizes the City to impose administrative fees. The following fees are being recommended by staff:

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 Hearing Officer	\$100
Documentation Fees	
- Plate Denial	\$35
- Civil Filings	\$150
- Copy of Charges	\$15 (per)

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 Hearing 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”*.

Procedures are being developed to ensure that the Screening and Hearing 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 Hearing Officer respecting the determination of an issue respecting a Delegated Power of Decision in a proceeding that is or will be pending before the Hearing 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.

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”*.

Procedures are being 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 will apply 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 which are being recommended to be within 30 days of the situation giving rise to the complaint.

These procedures are not intended to replace other specific City policies and procedures 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”*.

Procedures are 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.

Undue hardship might, for example, be documented through proof of Old Age Security, Canada Pension, O.S.A.P. or Welfare.

Project Timelines

The remaining major steps in the project are outlined in the table 1.1 below.

**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
By-laws 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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