

COMMITTEE OF THE WHOLE—JUNE 14, 2011

YORK REGIONAL POLICE MARIJUANA GROW-OP COST RECOVERY

Recommendation

The Commissioner of Legal and Administrative Services & City Solicitor, in consultation with the Fire Chief, the Director of Building Standards, and the Director of Enforcement Services recommend:

1. That the City enact a by-law to permit recovery of costs incurred by the York Regional Police which are associated with the remediation of marijuana grow operations in the City, in accordance with this Report, and in a form acceptable to the Commissioner of Legal and Administrative Services & City Solicitor.
2. That the Mayor and City Clerk be authorized to execute a Memorandum of Understanding between the City and the Regional Municipality of York Police Service regarding the payment and collection of costs by the City to the Regional Municipality of York Police Services, prepared in a form acceptable to the Commissioner of Legal and Administrative Services & City Solicitor.

Contribution to Sustainability

N/A

Economic Impact

There is no negative economic impact in implementing this proposal. Costs incurred by the York Regional Police in remediating marijuana grow operation properties will be added to property taxes and paid only when collected. An administration fee will be paid to the City for this service. The City already collects its own costs related to grow operation properties.

Communications Plan

Public notice of the proposed fees to be charged for abatement and remediation of marijuana grow operations has been provided in accordance with Notice By-law 394-2002, as amended.

Purpose

The purpose of this Report is to recommend the enactment of a by-law that will enable the York Regional Police to recover their costs associated with the remediation and abatement of marijuana grow operations in the City, and to authorize the execution of a Memorandum of Understanding between the City and York Regional Police to govern this cost recovery process.

Background - Analysis and Options

On December 8, 2009, the Regional Municipality of York Police Services Board wrote to the City requesting that the City enact by-laws to enable York Regional Police (the "Police") to recover costs incurred by the Police in the dismantling of marijuana grow operations. Once such an operation is discovered, the Police conduct numerous remediation activities, including the removal of booby traps designed to injure or kill, ventilating the premises to ensure adequate air quality, removal of the marijuana plants, and disconnection of any hydro by-pass. This remediation process enables City Fire Inspectors, Building Inspectors, and By-law Enforcement Officers to conduct their own respective inspections and remediation activities under the *Fire Code*, *Building Code*, and City By-laws. It also protects the surrounding property owners by

removing fire, health and safety hazards associated with marijuana grow operations. Accordingly, the Police are performing a service for the City.

It would be necessary to codify these services into a by-law to enable the Police to recover these associated costs. The services performed by the Fire, Building, and Enforcement Services Departments, although already billed to the property owner of the illegal marijuana grow operation, can also be formally codified in the same by-law to harmonize the process. Section 128 of the *Municipal Act* permits the City to prohibit and regulate public nuisances, including matters that, in the opinion of council, are or could become public nuisances. Marijuana grow operations create fire, health and safety hazards, as well as attracting undesirable patrons and creating unsightly conditions, thereby creating a public nuisance. Pursuant to this authority, the City could pass a by-law that prohibits such a public nuisance, and provide the steps that Inspectors may take in their remediation and abatement. Fire Inspectors, Building Inspectors, By-law Enforcement Officers and the Police would be appointed as Inspectors for the purposes of the by-law. The City also has authority to impose fees for services or activities done by it or on its behalf; in this case, the remediation and abatement of the marijuana grow operation. Accordingly, Staff are recommending that the City enact a by-law that prohibits marijuana grow operations, that sets out the various steps to abate and remediate the marijuana grow operation, and that imposes fees for these services. These costs should be borne by the owner of the illegal marijuana grow operation.

A mechanism for billing and payment for the services provided by the Police is necessary should Council adopt this process. The Police propose invoicing the City for services rendered, and the City reimbursing the Police only when the fees are collected. The City can add these fees to the tax roll in the event of non-payment. Only fees related to the remediation and abatement of marijuana grow operations will be invoiced, such as the removal of booby traps, disconnection of hydro bypasses, and the removal of marijuana plants. Costs relating to enforcement of the Criminal Code of Canada, such as surveillance of the marijuana grow operation, will not be invoiced. City costs will be given priority in any disbursement of collected fees. Staff are recommending that the City enter into a memorandum of understanding with the Police to formalize this process. A similar process has been successfully implemented in other jurisdictions.

The Police have also contacted the other municipalities in York Region regarding this initiative. Markham is currently moving forward on this issue, while Aurora and Newmarket continue to consider implementation.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Regional Implications

The Regional Municipality of York Police Services Board will be required to enter into a Memorandum of Understanding with the City to govern the cost recovery process for services rendered by the Police in relation to the remediation and abatement of marijuana grow operations.

Conclusion

The Regional Municipality of York Police Services Board has requested that the City pass a by-law that would enable the Police to recover costs incurred by the Police in dismantling marijuana grow operations. The City has authority under the *Municipal Act* to pass such a by-law. This by-law would shift these remediation costs from the Vaughan taxpayer to the owner of the illegal

marijuana grow operation, and may act as a further deterrent to the establishment of these illegal operations.

Attachments

None

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Respectfully submitted,

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Commissioner of Legal and Administrative Services & City Solicitor