

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 23, 2008

Item 1, Report No. 35, of the Committee of the Whole (Working Session), which was adopted, as amended, by the Council of the City of Vaughan on June 23, 2008, as follows:

By receiving the memorandum from the Director of Reserves and Investments, dated June 23, 2008.

1 DEVELOPMENT CHARGES BY-LAW UPDATE

The Committee of the Whole (Working Session) recommends:

- 1) That clauses 1-4 contained in the following report of the City Manager, the Deputy City Manager/Commissioner of Finance & Corporate Services, the Senior Management Team and the Director of Reserves & Investments, dated June 13, 2008, be approved;
- 2) That clause 5 be amended to read:
"That Council confirm September 15, 2008 at ± 7:00 pm for a Public meeting as required under the Development Charges Act";
- 3) That the City Clerk provide notice for the Committee of the Whole (Public Hearing) of September 15, 2008 to commence at ± 7:30 p.m.;
- 4) That staff work in consultation with Regional Staff and Hemson Consulting to confirm the growth forecast and report back to the Council meeting of June 23, 2008; and
- 5) That the report submitted by Hemson Consulting, entitled "City of Vaughan 2008 Development Charges Study", be received and considered as a draft, as per the direction of Hemson Consulting.

Recommendation

The City Manager, the Deputy City Manager/Commissioner of Finance & Corporate Services, the Senior Management Team and the Director of Reserves & Investments recommend:

- 1) That the presentation by Hemson Consulting be received;
- 2) That the following report based on the material from the Development Charges Background Study be received for information purposes;
- 3) That Council provide feedback so that their comments can be taken into consideration;
- 4) That Council authorize staff to meet with representatives of the development industry to review the Background Study and obtain input; and
- 5) That Council confirm September 15, 2008 at 5:00 pm for a Public meeting as required under the Development Charges Act.

Economic Impact

This report as written has no economic impact.

Communications Plan

Subsequent to Council approval, the Development Charges Background Study will be forwarded to representatives of the Development community for input.

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Purpose

To update the members of Council concerning the update of the City's Development Charges By-law and provide Members of Council an opportunity for input prior to the meeting with the development industry and the Public meeting.

Background - Analysis and Options

The City of Vaughan Development Charges Background Study has been prepared to form the basis of the statutory public meeting in order to enact a new Development Charges By-Law as per The Development Charges Act, 1997. The background study has been undertaken by Hemson Consulting Ltd. and coordinated by Finance with the direct involvement of the senior staff in those departments that provided growth information, service standards, capital forecasts and costing information. The background study focuses on growth over the next ten (10) years and growth to ultimate build out where permitted under legislation. The growth related services and the cost recovery for the majority of services is restricted to a ten (10) year period, however some services such as transportation, water and sewer are permitted to be cost shared over ultimate development.

Development charges are imposed to recover growth related capital costs from development, which causes an increased demand for services. The objective is to maintain service levels and have growth pay for growth to the extent permitted under the Legislation.

Council approved the current City of Vaughan Development Charges Background Study in September 2003. The maximum term of the current Development Charges By-law is five (5) years and expires September 2008. The updating of the 2003 Background Study included reviewing all growth related projects, identifying new projects, a review of inflation or other cost adjustments to those works included in the previous background study, consideration of additional lands that have been designated for development and a review of population, employment and non-residential growth forecasts.

Background Study Detail

The Background Study is a growth related capital plan for the City of Vaughan for the next ten (10) years. It identifies projects, their costs and the anticipated timing of construction over the next 10 years. The Study includes a forecast of residential and non-residential development anticipated by the City. The average service level provided in the City over the 10 year period preceding the preparation of the proposed 2008 background study. Based on this information, the 10 year capital plan for the City is prepared to provide the services for the anticipated development in the City.

The requirement of the Background Study provides Council, staff and the development industry with a better understanding of the capital infrastructure required to service growth.

Development Charge Rates

The Development Charges Background Study is consistent with the provisions of the Development Charges Act 1997 and its related regulations (Ontario Regulation 02/98).

The calculation of the City of Vaughan's development charges has two components, a City Wide component and Area Specific component.

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The City Wide average cost approach is used to calculate development charges for general Government, indoor Recreation, Parks development and Facilities, Fire, Library, Public works yards, Fleet and Roads. This approach results in uniform charges throughout the City. It reflects the fact that service standards apply equally across the City and that the residents and businesses in Vaughan have access to services regardless of location.

The second component are area specific development charges called Special Area Development Charges calculate for water, wastewater, and storm drainage services. The area specific approach aligns costs and benefits for services where benefits are more localized and can be certified.

Development Charges Policies

The City has development charges policies to assist in the administration of the development charges bylaw. The Development Charges Act requires that these policies be clearly documented and incorporated into the Development Charge By-law. The intent is to continue with the current policies where possible. The following is an overview of the major policy areas.

1. Exemptions

The following exemptions are provided for in the draft By-law

- a) local boards;
- b) the City of any local board thereof and, without limiting the generality of the foregoing including land leased from the Crown is right of Canada or Ontario located within the Parkway Belt Planning Area as defined in Regulation 744, paragraph 16 of the revised Regulation of Ontario 1990, provided the same is used for institutional use purposes of a not-for-profit nature;
- c) the Regional Municipality of York or any local board thereof;
- d) the two Regional District School Boards;
- e) a public hospital receiving and under the Public Hospitals Act; and
- f) any area municipality within the Regional Municipality of York.

2. Deferral of Development Charges

Council at its meeting of June 27, 2005 approved the City of Vaughan City-Wide Development Charges Deferral Policy (Attachment 1) to provide a deferral of City-Wide Development Charges to non-profit organizations that provide services that would otherwise be provided by the City of Vaughan, the Regional Municipality of York or the two Regional School Boards.

3. Development Industry Dialogue

Copies of the draft 2008 Development Charge Background Study upon Council approval will be circulated to the Development Committee composed of City staff and representatives from BILD (Building Industry and Land Development Association). Meetings will be scheduled to review the Development Charges Background Study prior to the statutory Public meeting. Staff will work closely with the development community to address questions and resolve any issues prior to the statutory Public meeting proposed for September 15, 2008.

Relationship to Vaughan Vision 2020

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

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Regional Implications

Not applicable.

Conclusion

The material presented is intended to provide Members of Council with a sense of the direction that staff are recommending in a number of areas prior to discussion with the development industry. Input from Members of Council is appreciated.

Attachments

Attachment 1 – City of Vaughan City-Wide Development Charges Deferral Policy

Report prepared by:

Ferruccio Castellarin, CGA
Director of Reserves & Investments, ext. 8271

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

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Item 2, Report No. 35, of the Committee of the Whole (Working Session), which was adopted without amendment by the Council of the City of Vaughan on June 23, 2008.

2 **HUMAN RESOURCES STRATEGY 2008-2020**

(Referred from Committee of the Whole (Working Session) of May 27, 2008, Item 4, Report No. 31)

The Committee of the Whole (Working Session) recommends:

- 1) **That the recommendation contained in the following report of the Commissioner of Legal & Administrative Services and the Director of Human Resources, dated May 27, 2008, be approved; and**
- 2) **That the revised presentation material, entitled "Human Resources Strategy 2008-2020", be received.**

Committee of the Whole (Working Session), at its meeting of May 27, 2008, recommended:

That this matter be referred to the Committee of the Whole (Working Session) meeting of June 13, 2008.

Report of the Commissioner of Legal & Administrative Services and the Director of Human Resources, dated May 27, 2008.

Recommendation

The Commissioner of Legal & Administrative Services and the Director of Human Resources in consultation with the City Manager and the Senior Management Team recommends:

THAT the Human Resources Strategy 2008-2020 presentation be received.

Economic Impact

Funds have been included in the 2008 operating budget.

Communications Plan

The HR strategy will be communicated to the staff so as to ensure that the employees are aware of the programs and policies that will be established as the strategy is implemented over time.

Purpose

This report is to provide the Committee of the Whole (Working Session) with information about the Human Resources Strategy that has been developed by the Human Resources team.

Background

At the Council meeting on November 26, 2007 Council approved the Vaughan Vision 2020. This document outlines the Mission, Vision, Values, goals, objects and strategic initiatives.

Strategic initiative #15 states "Establish and implement a human resources strategy". Over the past 12 months, the Human Resources Department staff has been involved in developing the strategy that will be presented today. Staff gathered information from a variety of means, including interviews with staff, reviewing the employee engagement survey, reviewing the report completed by the Hewitt group, and conducting white papers on the various strategic initiatives.

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Hewitt & Associates, a human resources consulting firm, conducted focus groups with our senior management team, council members and human resources staff, reviewed our internal client satisfaction survey and produced a report identifying areas of strength as well as areas where there was an opportunity to improve and provide additional value.

The Human Resources Strategy was drafted with input from all human resources staff and reviewed by the Senior Management Team.

Relationship to Vaughan Vision 2020

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

Regional Implications

Not Applicable

Conclusion

As per Council's direction staff has developed the Human Resources Strategy and will be moving forward with implementation of the specific strategic initiatives that will help the Corporation reach its goals.

Report prepared by:

Janet Ashfield, Director of Human Resources

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Item 3, Report No. 35, of the Committee of the Whole (Working Session), which was adopted without amendment by the Council of the City of Vaughan on June 23, 2008.

3 ADMINISTRATIVE MONETARY PENALTIES

(Referred from Committee of the Whole (Working Session) of May 27, 2008, Item 3, Report No. 31)

The Committee of the Whole (Working Session) recommends:

- 1) **That the recommendation contained in the following report of the Commissioner of Legal and Administrative Services and the Director of Enforcement Services, dated May 27, 2008, be approved; and**
- 2) **That the presentation material entitled, "Administrative Monetary Penalties", be received.**

Committee of the Whole (Working Session), at its meeting of May 27, 2008, recommended:

That this matter be referred to the Committee of the Whole (Working Session) meeting of June 13, 2008.

Report of the Commissioner of Legal and Administrative Services and the Director of Enforcement Services, dated May 27, 2008.

Recommendation

The Commissioner of Legal and Administrative Services and the Director of Enforcement Services recommend:

1. That this report be received; and
2. 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.

Economic Impact

An estimation of the expected costs and revenue benefits will be developed and presented to Council in the Fall.

Communications Plan

An extensive communications plan will be developed as part of the project.

Purpose

This report is to provide information relating to the establishment of a system of administrative monetary penalties for Licensing and Parking By-law enforcement

Background - Analysis and Options

Bill 130, the *Municipal Statute Law Amendment Act*, 2006, amended the *Municipal Act*, 2001 on January 1, 2007, to permit municipalities to establish a system of administrative penalties for the enforcement of Licensing and Parking By-laws. The amendment also permits a municipal council to delegate its quasi-judicial and administrative functions to individuals appointed by the municipal council, such as an officer, employee, or agent of the municipality.

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Generally speaking, an administrative monetary penalty is an alternative to the traditional enforcement of the Licensing and Parking By-laws. Under such a system, an Enforcement Services Officer would issue a penalty notice if he or she believed that an individual was in contravention of the Licensing or Parking By-laws. If this individual wants to dispute the penalty notice, he or she would have a right to appeal to a Decision Maker, who would have authority to affirm, vary or rescind the penalty notice. This Decision Maker would be an individual appointed by Council. Subject to the case law and the Regulations passed under the *Municipal Act, 2001*, the City has discretion to determine the amount of the administrative monetary penalty, who can be appointed as the Decision-Maker, to develop its own procedures for the imposition and collection of the administrative monetary penalty, as well as the procedures to be followed during the appeal process.

The City of Oshawa has recently passed By-laws to implement this system for its Licensing Bylaw, and the City of Toronto and City of Ottawa are in the process of implementing it.

Current Licensing and Parking By-law Regime

While enforcing an infraction of the Licensing or Parking By-laws, an Enforcement Services Officer can lay charges under the *Provincial Offences Act*, which would commence proceedings in the Provincial Offences Court.

With Parking By-law infractions, these proceedings are commenced by way of a Parking Infraction Notice, where the offender can either pay the set fine, or appear in front of an adjudicator in what is commonly referred to as "First Attendance Court". The adjudicator can vary, amend or rescind the parking infraction notice. The offender can elect to go to trial in Provincial Offences Court if a resolution is not reached at this stage.

With Licensing By-law infractions, an Enforcement Services Officer can issue a Part I or Part III charges, and the offender can either plead guilty or not guilty in Provincial Offences Court. If the offender pleads not guilty, a trial of the charge will be held. With certain contraventions of the Licensing By-law, the City can revoke or suspend the license that is the subject matter of the charge.

The Enforcement steps relating to the Licensing and Parking By-laws are challenged in several ways:

- Prosecutions are hampered by the persistent lack of judicial (Justices of the Peace) resources resulting in significant delays
- Because Provincial Offences Courts deal with a wide range of matters from Bail Hearings to *Highway Traffic Act* fatalities, municipal by-law matters are often perceived as minor in nature, so fines levied by the courts are often nominal
- Case law has made all criminal protections and defences available to defendants of even the most minor of municipal infractions, including Parking and Licensing, which results in lengthy proceedings and delays
- The City is allocated only 2 court days per month in Provincial Offences Court to hear all disputed matters

The significant delays often result in charges being stayed by the Provincial Offences Court, as section 11(b) of the *Charter of Rights and Freedoms* mandates that a person has a right to trial within a reasonable period of time after they have been charged. While each case turns on its facts, the case law has suggested that an 8 month waiting period will generally trigger section 11(b) of the *Charter of Rights and Freedoms*.

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Enforcement Services issued approximately 40,000 parking tickets annually in 2006 and 2007. Through effective utilization of First Attendance, the vast majority of parking tickets are paid without trial. Unfortunately, even with the vast majority of parking tickets being resolved at the First Attendance stage, there is a growing backlog in trials. Currently there are approximately 1800 trials outstanding, and due to the limited court time available, there is little prospect of eliminating the backlog as it is only possible to list 45 charges to court each month. Likewise, Enforcement Services has laid 436 licensing charges in 2006 and 2007. If these tickets are disputed, the trial waiting time, including requested adjournments, can be up to 18 months.

When a charge is successfully prosecuted, the fines imposed by the Court upon conviction are often nominal.

Administrative Monetary Penalty System

An administrative monetary penalty is a penalty imposed directly by the regulatory authority, in this case the City, upon an offender within the context of an administrative process rather than a judicial process. Such a system can be a useful tool to encourage compliance with the Licensing and Parking By-laws without having to resort to the traditional processes.

a) Process

The process for a parking administrative monetary penalty system is set out in Ontario Regulation 333/07 (hereinafter the "Regulation"). According to the Regulation, any proposed system of administrative monetary penalties for parking must incorporate a number of features, including:

- If an Enforcement Services Officer witnesses a contravention of a Parking By-law a penalty notice may be issued for this contravention. The penalty notice would be given to the person as soon as is reasonably practicable, and will include basic information that the person of the contravention.
- The person who receives a penalty notice shall be given the right to request a review of the administrative penalty by a screening officer appointed by the municipality.
- The Screening Officer may cancel, affirm, or vary the penalty, upon such grounds that are set out in the administrative penalty by-law.
- A person who receives notice of the decision of the Screening Officer shall, in such circumstances as may be specified in the administrative penalty by-law, be given the right to a review of the Screening Officer's decision by a Hearing Officer appointed by the municipality for that purpose.
- The Hearing Officer may cancel, affirm or vary the decision of the screening officer upon such grounds as are set out in the administrative penalty by-law. The decision of the hearing officer is final.

There are no regulations that deal specifically with a licensing administrative penalty process. However, Staff recommend that the process for the licensing administrative penalty mirror the mandated process for the parking administrative penalty system.

As a result of the new process that will be required, there will be one time costs associated with the process development, computer software modifications, new ticket design, and potentially hardware purchases. These costs will be itemized in the follow up report.

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b) Decision Maker

The Screening and Hearing Officers are quasi-judicial officers. As such, these Decision Makers must be independent and free from political interference. To address this issue, the Regulation and the common law rules of procedural fairness require the following:

- The implementation of a policies and procedures to prevent political interference in the administration of the system.
- The implementation of guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflict of interests and to redress such conflicts should they occur.

The implementation of these policies will ensure against any perception that Council can influence the outcome of a charge, or that the Decision Maker lacks independence due to the fact of the employment relationship at the City.

The City already employs an individual who acts as a First Attendance officer for Parking By-law matters. This individual's duties are similar to the proposed duties for the Screening Officer. An appropriately qualified individual will need to be retained as a part-time per diem Hearings Officer. A By-law appointing these individuals as Screening and Hearing Officers as well as a By-law delegating authority to these individuals will need to be enacted.

c) Penalties

The Regulation sets out the guidelines for administrative penalties for Parking By-law violations:

- The amount of the penalty shall not be punitive in nature
- The amount of the penalty shall not exceed the amount reasonably required to promote compliance
- The amount of the penalty shall not exceed \$100.

Staff recommend that the administrative penalty for the violations of the Parking By-law be at the current fine levels. It should be noted that the *Municipal Act* does not permit a municipality to impose an administrative penalty system to 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*.

Staff recommend adhering to the aforementioned guidelines with respect to Licensing By-law offences, with the exception of the maximum amount. Licensing By-laws by their nature are related to the regulation of for-profit businesses to protect the public interest. Accordingly, a more significant administrative penalty is appropriate. Staff recommend an administrative penalty of \$350 to promote compliance.

It is important to note that the creation of an administrative penalty system will not preclude the City from pursuing charges in the Provincial Offences Court for cases that demand more progressive enforcement strategies.

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

- If an administrative penalty is not paid within a specified time,
- Late payment fees, and

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- A fee in respect of the failure of a person to appear at the time and place scheduled for a hearing by a hearing officer.

d) Benefits of the Administrative Monetary Penalty Process

The benefits of this process are anticipated to be:

- More streamlined and efficient offence dispute resolution process
- Potential increase in compliance and revenues as matters will not be lost in court due to extensive delays
- The City has the ability to schedule additional Hearing Days should a backlog of hearing requests become too large
- The City has an increased ability to collect or enforce the payment of outstanding penalties
- An application for a license or renewal of license may be denied if the applicant has outstanding monetary penalties owed to the City
- By removing the volume of parking and licensing tickets disputes from the courts there be a resulting increase in available court time for other matters, such as Property Standards charges

e) Potential Issues with the Administrative Penalty Process

The potential issues of this process are:

- Perception that Council could control the outcome of charges because this would now be a City function and not a Provincial Offences Court function
- Perception that Hearings Officer decisions may be biased as he or she would be employed by the City
- One time costs (to be determined) for process development, including new tickets and computer software modifications
- Ongoing costs of the Hearings Officer

The potential issues regarding public perceptions would be addressed by the implementation of policies dealing with political interference and conflicts of interest. Such policies are required by the Regulation. The costs for process development are one time costs, which would likely be offset by increased revenues. Lastly, the costs associated with the Hearings Officer would be minimal, given that such an individual would not be a full time employee, but rather someone employed on a per diem basis. At this time, it is anticipated that a Hearings Officer would sit once a month to hear cases. Furthermore, any such costs would likely be recovered through increased revenues. Therefore, the Administrative Monetary Penalties will likely be of benefit to the City, and the benefits should outweigh any of the negative issues that have been identified within the body of the report.

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Next Steps

Should Council wish to proceed with this initiative, the next steps will be to establish project costs, including one time and ongoing expenditures, and potential revenue estimates; draft policies and processes for both Licensing and Parking cases; establish a potential project plan that would allow the initiative to be rolled out in the Fall of 2009; and an initial communications plan.

In order to include any costs in the 2009 Operating Budget, staff are recommending that a report be brought back in the early Fall to give Council time to consider the project and impacts.

Relationship to Vaughan Vision 2020

This report is in keeping with the Vaughan Vision in that it speaks to enhancing productivity, cost effectiveness, and innovation.

The necessary resources have yet to be allocated.

Regional Implications

This project will have a regional impact as the courts are currently managed by the Region. Dialogue will take place to ensure proper reallocation of court time.

Conclusion

The City has authority under the *Municipal Act, 2001* to create an administrative penalty system for Parking and Licensing By-laws. This alternative adjudicative process will allow for a more streamlined and efficient offence dispute process which will in turn promote greater compliance with City By-laws, and increased revenue.

The administrative penalty system also lessens the volume of cases currently in Provincial Offences Court, which will result in increased court time for other matters, such as Property Standards charges.

Attachments

N/A

Report prepared by:

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Supervisor, Uniform Group Administration/First Attendance Adjudicator

Tony Thompson
Director, Enforcement Services

Chris G. Bendick
Solicitor