

**COMMITTEE OF THE WHOLE**

**MAY 2, 2005**

**ENFORCEMENT SERVICES DEPARTMENT BUSINESS PROCESSES**

(Clause 6 - Referred from the Committee of the Whole (Working Session) meeting of April 26, 2005)

The Committee of the Whole (Working Session), at its meeting of April 26, 2005, recommended, in part:

“That clause 6 be referred to the Committee of the Whole meeting of May 2, 2005 for a further report addressing Members of Council’s concerns and questions, including how neighbouring municipalities deal with this matter, alternative options and related training.”

**Clause 6 - Report of the Commissioner of Legal and Administrative Services dated April 26, 2005**

6. That Council provide direction relating to the enforcement processes of illegal body rub establishments.

**Attachments**

- #1 - Excerpt from Committee of the Whole (Working Session), April 26, 2005.

**EXCERPT FROM  
COMMITTEE OF THE WHOLE (WORKING SESSION), APRIL 26, 2005.**

**ENFORCEMENT SERVICES DEPARTMENT BUSINESS PROCESSES**

(Referred from the Committee of the Whole (Working Session) meeting of April 26, 2005)

The Committee of the Whole (Working Session), at its meeting of April 26, 2005 recommended:

- 1) That clauses 1-5 contained in the following report of the Commissioner of Legal Services, dated April 26, 2005, be approved;
- 2) **That clause 6 be referred to the Committee of the Whole meeting of May 2, 2005 for a further report addressing Members of Council's concerns and questions, including how neighbouring municipalities deal with this matter, alternative options and related training;**
- 3) That as a pilot project, an evening First Attendance be implemented for up to 3 days per week with one part-time staff person and that the related costs be absorbed within the department's existing budget; and
- 4) That the memorandum of the Commissioner of Legal Services, dated April 26, 2005, be received.

Report of the Commissioner of Legal and Administrative Services dated April 26, 2005

**Recommendation**

The Commissioner of Legal Services, in conjunction with the Senior Manager of Enforcement Services, recommends that:

1. This report be received, and;
2. The processes related to Parking Enforcement be adopted, and;
3. The processes related to Property Standards, Zoning, and General By-laws be adopted, and;
4. The processes related to Licensing enforcement be adopted, and;
5. The processes related to the Special Enforcement Unit be adopted, and;
6. **That Council provide direction relating to the enforcement processes of illegal body rub establishments.**

**Economic Impact**

Economic impact to be provided at the meeting.

**Purpose**

This report is to provide information on the processes utilized by Enforcement Services in the investigation and enforcement of the City of Vaughan By-laws.

**Background - Analysis and Options**

Enforcement Services receives over 6,000 complaints per year and lays over 39,000 charges annually including Parking, Licensing and Property Standards. These complaints and charges follow different processes due to the nature of the infractions.

The Enforcement Services Department is comprised of four operational units that are supported by a team of clerical staff. Each of these units are unique, operating with separate job descriptions and differing performance expectations. It is these expectations that will be discussed in this report.

In order to provide members of Council with an increased understanding of the differing functions and processes, all members of Council were invited to spend time in the Department with each unit. Five members of Council accepted the invitation and each spent four to five hours "shadowing" various enforcement staff in the performance of their duties in February and March 2005.

Each business unit will be discussed separately to avoid confusion and overlap.

1. Parking Enforcement:

This unit is tasked with primarily enforcing the Parking By-law. They also enforce the Sign By-law and assist with Property Standards, Zoning and Noise complaints after hours. Staff in this unit are in uniform and provide 24 hour coverage to the City of Vaughan. The City of Vaughan is the only municipality in York Region that has City staff enforcing parking 24 hours per day.

The City of Brampton operates their parking staff 24 hours per day in addition to their own dispatching system to handle on street parking exemptions. They have 28 officers with five supervisors, set up in a platoon system. This ensures that each shift has a supervisor working. Vaughan, by comparison, has 14 officers with one supervisor with no after hours supervision.

Parking enforcement in Vaughan is delivered applying both a proactive and reactive methodology. Field staff will patrol the City and issue tickets to parking violations on the streets, in parking lots (for handicapped and fire route violations), and in some circumstances on private property. Although there is no tracking mechanism, it is estimated that at least 80% of all tickets issued are done so proactively. As indicated in the 2004 Enforcement Services Statistical Report, 1,964 complaints about parking from the public were investigated in 2004. These complaints range from vehicles blocking driveways to parking longer than 3 hours to overnight parking.

All Parking complaints must have a complainant, address and telephone number. This is in keeping with the City Policy of not accepting anonymous complaints. By obtaining complainant information, the investigator can call for more information or update the complainant on the status of the call. Complainant information is kept strictly confidential and is subject to the provisions of the Freedom of Information legislation.

For generic parking complaints, an investigation file is opened in the CSMS (call tracking) system and assigned to an individual officer to investigate. Having one person deal with the complaint provides for continuity in the investigation and also accountability for the results. The existing procedure in the Department for investigating parking complaints is that an officer will continue to attend to the call until they have observed no violations on two consecutive visits. Once this has occurred the file is closed. The practice of closing files after two clear inspections was adopted in the summer of 2003. Prior to that staff were required to attend three times without offences observed before they could close the file.

Some time ago the possibility of having the file closed as soon as the officer does not find any violation was examined. This option can be implemented, however, it reduces customer service, as the complaint may be substantiated but just not present at the particular time the officer attended. Also, this option could result in an increased number

of complaints being called in because the files are being closed too soon. For these reasons it was decided to leave the "two clear" policy in place.

Parking staff also support the Zoning By-law by investigating complaints related to commercial vehicles parked on residential property. For this type of complaint, individual officers are assigned the call. Staff inspect the property and should an offence be observed, the officer prepares a Notice to Remove the commercial vehicle from the property. This Notice has a fourteen day compliance period. This means that the owner of the property has fourteen days to rectify the problem. This Notice is placed on the commercial vehicle and applies to the property owner. If compliance is not met a court file is prepared and sent to the Regional Prosecutors. Once the zoning charge has been laid the property owner is served a summons to appear in court. From the time the Notice is issued to a trial is approximately 8-10 months. There is no authority for the City to remove the vehicle from the property during this time frame. Evidence of continued visitations is entered during testimony, if a trial is required, or through submissions resulting from a guilty plea.

Special attention is given to parking offences related to Disabled spots and Fire Routes. These offences have an impact on safety. The City does not need permission from the property owner to enter the site and issue tickets for these two violations. The intention of enforcement of Fire Route parking restrictions is to ensure that emergency vehicles have clear passage in the event of an emergency on that site. Disable parking spaces are mandated to ensure that those persons who are disabled have extra room to maneuver around their vehicles and also so they are closer to the complex they wish to access.

The fine for a Fire Route violation is \$100. This is consistent with other municipalities in York Region. The fine for disabled space violations is \$300. This fine is set in the Ontarians with Disabilities Act, 2001.

The City of Vaughan offers a First Attendance process through the Provincial Offences Act, R.S.O. 1990. This process allows those individuals that have received a parking ticket to speak with an adjudicator and explain their version of the circumstances that lead to a ticket being issued. The adjudicator can either let the ticket stand as is, reduce the fine or cancel the ticket outright if there are circumstances that may result in the ticket being quashed in court. Should the person not agree with the adjudicator's decision, they still have the option of requesting a trial before a Justice of the Peace. However once a fine reduction has been accepted it must be paid or the defaulted fine (higher fine plus costs) is implemented.

The current process is that persons wishing to take their ticket to First Attendance must make an appointment to appear. The volume is so large that appointments are the only way to keep the process efficient and orderly. This does not apply to those parties that are disabled. As of February 2005, as a result of a suggestion from the Mayor, a pilot project was initiated for those persons wishing to contest any handicapped related parking ticket. These individuals will be accommodated as "walk-ins" as a special public service. In 2001, First Attendance was held two days per week and the cases heard by a member of management. The volume has increased so substantially that cases are now heard four days per week, every ten minutes, from 8:30 am to 4:30 pm. Due to this volume a Parking Enforcement Officer has been assigned to First Attendance as his permanent duty. There may be benefits of returning the officer to the field and hiring a permanent adjudicator. The benefits are increased parking enforcement fine revenue. At this time, there is no evening First Attendance offered due to the increased costs associated with administering an after hours program. To operate after 4:30 pm would require a Clerk and an Adjudicator to be brought in for the evening session.

The cost of these positions, which could be initially both part time, would be approximately \$45,000. per year.

2. Property Standards, Zoning, and General By-laws

This unit is responsible for investigating complaints relating predominantly to the Property Standards and Zoning By-laws, but also include the 36 other enforceable by-laws in the City. These staff members are not in uniform but carry identification to identify themselves as City employees. This unit works during regular business hours, however, they do work some evenings if required for hearings or unusual inspections.

Investigations conducted by this unit are mainly reactive to complaints. The exception to this is the properties in Jane/Freshway industrial area. Council directed in June 2002 that this area have the Property Standards and Zoning By-laws enforced proactively.

All complaints received by Enforcement Services must be made by an identifiable person, including an address and phone number. Anonymous complaints are not taken.

Enforcement of the By-laws investigated by this unit is not as straight forward as issuing a ticket. There is a significant amount of research and investigation that takes place for every alleged offence. This is usually followed by some negotiation with compliance being the ultimate goal. This unit only lays a charge as a last resort. This is because the charge can take up to 8 months to get to trial, and even if a conviction is obtained, there is rarely a court order issued to remedy the violation. Therefore, the preferred route is for staff to work with the homeowner to obtain compliance. The following steps represent a simplified investigation process that staff undertake.

- a) Staff review the complaint and any history related to that location;
- b) Assessment information is obtained;
- c) Initial site visit where measurements and photographs are taken. If the property owner is present the details of the complaint (not the identity of the complainant) will be discussed;
- d) If a violation exists, an informal handwritten notice is issued advising the property owner of the problems. This gives the property owner 7-10 days to resolve the issue;
- e) Following the expiry of the initial notice a reinspection takes place;
- f) If the issue is resolved the file is closed. If not, a formal Notice or Order is prepared. This is either sent by registered mail or hand delivered;
- g) A land title search is conducted to identify the legal owners. Occasionally the assessment information is not the same as on the land title;
- h) Requests from the property owner for an extension in time to comply are entertained and generally granted, if compliance is promised;
- i) Inquiries are made to ensure that no appeals to the Order or Notice have been filed
- j) Re-inspect the property after the Notice/Order expires. If there is compliance the file is closed. If not, a court file is prepared and sent to the court;

- k) The file is held until after the court date;
- l) After the court date the file is closed. If the problem persists a new file is opened and the same process as outlined above starts again. Measurements and photographs must be taken again as none of the evidence used in the previous charge can be used to support a new charge.

As indicated above, formal Notices or Orders are served if compliance is not met. Normally, 14-21 days is allowed for compliance. The time frames are the same whether the property is residential, commercial, or agricultural. The property owners may appeal a Property Standards Order to the Property Standards Committee. This Committee may uphold or quash the Order. In the case of a Zoning Violation Notice, the property owner may apply for a "minor variance" to permit the condition that lead to the Notice being issued.

There are also situations that present challenges for this unit where extensions to the normal Notice/Order time frames must be permitted. The most prevalent of these is basement apartments and multi unit dwellings. Enforcement Services, Fire, and Building attempt to coordinate efforts in this regard. If the investigations (except fire) are denied entry to inspect, there is little that can be done to prove/disprove the allegations. Even in the event of the allegations being confirmed, under the Tenant Protection Act the property owner must allow 60 days for the tenant to be legally evicted.

In the case of multi unit dwellings or basement apartments, there are specific elements that must be proved to proceed to charges. These are it must be a self contained unit, no free access from area to area, and separate cooking facilities in each unit. If these elements cannot be proven, the matter cannot proceed to court.

As indicated earlier in this section, this unit investigates complaints related to 37 By-laws. The following is a list of the most frequent calls and a brief outline of what is required for each.

- Standing Water – predominant in the fight against the West Nile Virus. Often the York Region Health Unit investigates these matters and Enforcement Services assists by issuing Notices. Usually, water standing for more than 4 days can pose a problem.
- Noise – these complaints can be proceeded with by the complainant keeping a log, usually for two weeks, outlining the date, time, and length of the violation. This is necessary as in order to lay the charge the officer must have observed the offence taking place. Normally a pattern over two weeks is sufficient.

For other complaints where the noise level is required for prosecution, a certified officer will attend and take noise readings.

- Air Conditioners – although covered under the Zoning By-law, these complaints arise from the air conditioner set backs or noise. Traditionally, if the air conditioner unit was within a few inches of the required set backs and noise was not an issue there would be no enforcement action taken. At the present time each complaint is reviewed on a case-by-case basis having regard to the likelihood of conviction if the matter were to proceed to court.
- Fences – the maximum height in the rear yard is 6 feet and in the front side yards it is 4 feet. Enforcement services receives many complaints

about the height and appearance of fences. The Department also investigates fences for Fence Height Exemption requests received by the City Clerk's office. Fence investigations can pose significant problems as do driveway widening complaints, as often the entire neighbourhood can have constructed their fences to the same illegal height, or widened their driveways to the same general width. The quandary for the department is to apply the By-law consistently and start files on all the properties, or not investigate any. Often this is decided on a street-by-street basis.

There are currently seven officers in this unit assigned to six geographical zones and this unit is overseen by one supervisor. The seventh officer is assigned to investigate complaints received through the Council Offices and high profile cases. Each officer maintains ownership of the files in their zone. This deployment method allows for efficiency in workload, as staff are not driving all over the City, all their calls are in one defined area.

### 3. Licensing Enforcement

The responsibility for licensing enforcement was undertaken by this Department in July 2004. The mandate is to proactively enforce the provisions of the Licensing By-law as it pertains to most businesses, mobile and stationary, in the City of Vaughan.

This unit is comprised of one full time employee and one part time officer. This is in contrast to Brampton that has five full time employees and a dedicated Licensing Enforcement Supervisor.

Licensing enforcement is a revenue positive venture. In six months of work in 2004 the unit issued over \$125,000. in fines and also generated an increase in licensing revenues. Early 2005 saw a revision of the Licensing By-law and a fine-tuning of the offences contained in it. There are now over 800 individual offences in the By-law. Once the Ministry of the Attorney General approves all the wordings, (by the end of April) more enforcement potential may be realized.

The enforcement methodology for Licensing is generally project based. This means that the officers will focus on one type of industry at a time. For example, the refreshment vehicles were the subject of a project for several weeks, as were taxis and tow trucks. In the first 6 months 142 inspections were carried out on mobile industries. The past several months have focused on stationary businesses. These are stores, banquet halls, personal service businesses.

After some initial growing pains a consistent strategy has been worked out for the investigation of stationary businesses. This enforcement takes two different methods.

These two methods operate together. Enforcement staff receive copies of letters sent to businesses by Licensing Administration advising them that they either never completed their application process or failed to renew an expired license. With these letters, staff attend to the business and lay a charge for operating a business without a license. No notice is required as the two letters sent from Administration serve as notice. Enforcement staff also inspect businesses at random. Should the licenses not be in order the business is given a written notice to obtain a license. The business will be reinspected after one week to ensure the application process has been started.

For mobile businesses, inspections are made at random. Should drivers be found unlicensed, or the vehicle not be licensed, a charge is normally laid. Other problems such as vehicle defects are usually dealt with by way of issuing a notice to comply.

There has been a noticeable increase in compliance in the taxi and refreshment vehicle industries, and more people are applying for the proper and required licenses for their stationary businesses.

4. Special Enforcement Unit

This unit was created during the 2002 Budget Process to provide increased uniformed presence in City parks and community centres. This unit is also responsible for a high amount of parking enforcement.

This unit has 5 full time employees and works only afternoon shifts. They deal with problems on City property caused by loitering, alcohol and drug consumption, and vandalism. This unit uses bicycles and high visibility enforcement vehicles to accomplish its goals. They also work very closely with York Regional Police and take part in a number of joint initiatives with the police.

This unit is assigned to enforce the parking restrictions related to Fire routes and Handicapped parking spaces and are very effective.

In order to provide the proper tools to these staff, they take extensive training every spring in law, tactical communication and use of force. This training ensures that staff remain current in those issues that impact their day-to-day operations.

While this unit receives and investigates complaints from the public, approximately 80% of this units work is proactive.

5. Massage / Body Rub Parlours

Although this is a matter that is covered in the Licensing By-law, the topic needs to be discussed separately. The City of Vaughan currently has 23 body rub parlours of which only 5 are licensed. This kind of business has been known to employ young girls and immigrant women and usually operate as a front to prostitution. The conditions inside these operations are generally poor. In the past special projects have been successful in closing some of these establishments down permanently, but as one closes it seems like another opens.

York Regional Police investigate these establishments and those in the other municipalities for Criminal Code and by-law violations. City of Vaughan Licensing Enforcement has been dedicating two days per month to enforcement of this industry.

York Regional Police have expressed concern that without targeted enforcement of this industry, the crime associated with body rub parlours will escalate and the potential for homicides such as what happened in Markham a year ago will increase. They have also written a letter complaining about the lack of enforcement of Body Rub operations by the City of Vaughan.

The only way to close these establishments is to apply constant enforcement and lay as many charges as possible against the operations and the property owners. The average investigation takes up to 8 hours per establishment per inspection. This can be broken down as: one hour of inspection, four hours preparing the charges, and at least three hours in court.

It is estimated that at anywhere from five to ten convictions under the By-law would be required before a closure order is considered. A closure order means that the unit itself is closed and the property owner cannot rent it out for any business of any kind for two years.

The difficulty in providing sustained enforcement is one of resources. While the police and City enforcement staff do work together whenever possible, to obtain the number of convictions required, a targeted project for about one year would need to be undertaken. Any redeployment of existing staff to this kind of project will have a direct impact on revenue and service delivery.

One solution to this may be to approve a one-year enforcement pilot project in which an officer would be hired on contract for one year with the sole responsibility of dealing with Body Rub violations. The cost to the City would be approximately \$65,000. for the project. There would be offsetting fine revenue, but it is not known whether it would be enough to make the position revenue neutral. Council has in the past, expended contract resources on special enforcement projects. The most recent was in 2001 & 2002 to clean up the Freshway Drive area.

This is an area which needs dedicated staff to work towards the goal of eliminating illegal body rub parlours and demonstrate that commitment to York Regional Police.

Although sign enforcement is a significant matter it is the subject of a separate report and will not be discussed here.

The administrative unit of the department should also be examined. This unit is comprised of six full time clerical staff and two part time clerks to assist in parking ticket data entry. Clerical staff can be broken down into two main groups. There are two positions that are responsible for answering the incoming calls and inputting them into the complaint system. These positions are also responsible for dealing with matters at the front counter, including assisting those that come in for First Attendance. This group can be backed up by the Administrative Coordinator, and the Council/CSMS Liaison Clerk, both full time positions that have other functions but are cross trained to fill in emergencies.

The other group of clerical staff are responsible for the administration of parking tickets and fines. The Parking Coordinator is responsible for processing all the tickets that are written, sending out notices for the fines that are not paid, processing payments and dealing with public queries. This position is supported by two part time positions that deal with court scheduling and data entry. There is also a Collection Clerk that is responsible for collecting parking fines that are more than three years in arrears. This position is the subject of a separate report.

The environment in which all these positions work is very stressful and busy. In 2004 all clerical staff received Tactical Communications training in order to provide them with the tools to attempt to diffuse hostile individuals who come into the front counter. Front end staff will also attempt to diffuse any hostile or violent situation at the front counter through dialogue. They understand that the public can become very passionate about receiving a ticket. If that does not work supervisory staff or the Civic Centre security guard is called upon to ask the person to leave the premise until they have calmed down.

### **Relationship to Vaughan Vision**

This report is consistent with the Vaughan Vision as it refers to service excellence.

The necessary resources have been approved and allocated

### **Conclusion**

The City of Vaughan Enforcement Services Department is comprised of 39 staff members dedicated to serving the citizens of Vaughan in the most efficient way possible. The business

units and their processes outlined above represent the most efficient way of accomplishing this, taking into account the requirements of the laws and the courts that hear our cases.

**Attachments**

1. Letter from York Regional Police regarding body rubs
2. List of all enforceable City of Vaughan by-laws

**Report prepared by:**

Tony Thompson,  
Senior Manager, Enforcement Services