



REPORT

TO: Mayor Lawlor and Members of Council

FROM: Joseph Vandermeer, CPA, CGA
Deputy Treasurer

DATE: February 2, 2024

REPORT NO.: CS-2024-002

SUBJECT: Halton Court Services 2024 Budget and Business Plan

RECOMMENDATION:

THAT Report No. CS-2024-002 dated February 2, 2024, regarding the Halton Court Services 2024 Business Plan and Budget be received;

AND FURTHER THAT the Halton Court Services 2024 Business Plan and Budget as attached in Appendix A to this report be approved.

KEY POINTS:

The following are key points for consideration with respect to this report:

- 2024 revenue distribution for the Town of Halton Hills is projected to be \$82,749.
- The projected balance of the Halton Court Services Capital Reserve Fund at the end of 2023 is \$386,552. Municipal Partners are proposing a minimum contribution of \$50,000 be made to this reserve in 2024.
- The computer renewal program requires a \$20,000 withdrawal from the Capital Reserve Fund for courtroom computer hard/soft replacements.

BACKGROUND AND DISCUSSION:

On February 19, 2001, the administration of the Provincial Offences Act (POA) was transferred from the Province to the municipalities in the Region of Halton. An Intermunicipal Agreement was entered into between the local municipalities and the

Region of Halton established Halton Court Services (HCS) for delivering the court services of the Provincial Offences Courts.

The agreement provides for the establishment of a Joint Management Board (JMB), comprised of the CAO's of the participating municipalities, to oversee the management and operation of Halton Court Services. The agreement also outlines the funding formula, whereby net revenues are shared with the Municipal Partners and allocates 50% of the revenues to the Region of Halton with the remaining 50% of the net revenues distributed to local Municipal Partners based on the proportion of annual assessment relative to the Regional base.

In 2007, the City of Burlington was named as the service provider on behalf of Halton Court Services as part of the implementation of a two-phase streamlining initiative program, now referred to as the Growth Management Plan. The role of Halton Court Services is to accept charges after they have been filed and ensure that the administration of justice is carried out on behalf of the Province. Detailed analysis and explanations related to enforcement agency programs, targets, and safety statistics are not provided to Halton Court Services. Instead, this information resides with each individual local enforcement agency, and is not collated or analyzed on a Regional basis.

In keeping with the inter-municipal Agreement between the Town of Halton Hills, City of Burlington, Town of Milton, Town of Oakville, and the Region of Halton, the Town is required to provide its approval of the proposed annual Business Plan and Budget for HCS and these documents are reviewed annually by the Area Treasurers and the Joint Management Board.

Overview of 2023 Financial Performance

The following are the financial results for HCS at the end of the second quarter:

- Gross revenues of \$4,286,781 (49.7% of budget)
- Overall expenditures \$3,082,358 (44.6% of budget)
- Year-to-date net revenue of \$1,204,422 (68.7% of budget)

The projected net revenue to the end of 2023 is projected to be \$1,968,135 which is approximately 12.3% higher than budgeted.

2024 Budget and Business Plan

The 2024 Budget and Business Plan was completed in September 2023 and was built on the actual results reported by Halton Court Services at the end of June 2023.

On November 20th, 2023, the Joint Management Board for Halton Court Services received and approved the 2024 Business Plan and Budget for the Provincial Offences Court in Halton. The following six recommendations were adopted:

1. Recommendation: Approve the 2024 Halton Court Services budget as revised to exclude the cost of the new costs related to the transfer of Part III prosecutions

2. Recommendation: A contribution of \$50,000 from net revenues is to be made to the Capital Reserve Fund during 2024 to ensure that requirements of the Reserve Fund Policy are met.
3. Recommendation: Withdraw \$20,000 from the Capital Reserve Fund for courtroom computer hard/soft replacements for the computer renewal program.
4. Recommendation: Reject the transfer of Part III offences to Halton Court Services at this time.
5. Recommendation: That subject to a mandated transfer of Part III prosecution, Halton Court Services be delegated the authority to hire one additional full time Case Administrator and one Full Time Prosecutor, with any required 2024 funding provided from the net revenues before distributions (via an in-year variance) and future years via the annual budget process.
6. Recommendation: In accordance with the Write-Off Policy, Write-off approximately 190 cases with a total value of approximately \$85,763 where it has been determined there are no viable means of collection.

Overall Revenues

Halton Court Services have prepared a 2024 budget with projected gross revenues budgeted at **\$8.89 million** as compared to the **\$8.60 million** originally budgeted during 2023. This represents an overall increase of 3.37% in revenues.

Although the population continues to grow at a fair rate across Halton, the number of charges filed has not reflected the population growth for the last several years. A modest increase is projected for 50,000 charges in 2024 over the current projection of 47,000 for 2023.

Overall Expenditures

Total expenditures in 2024 are budgeted at **\$7.01 million** compared to the **\$6.87 million** originally budgeted for 2023. This represents an overall increase of 2.03% in expenditures.

See Appendix A for a copy of the overall 2024 HCS Budget (Pg 21).

Audits

KPMG performed an audit of HCS for the period ended December 31, 2022. There were no items of concern to report to the Partnership by way of an auditor's management letter. KPMG maintains a practice of issuing qualified opinions for all its POA court clients due to the inability to review cash procedures at other POA courts accepting fine payments on behalf of HCS, and the inability to review controls of the provincial ICON system utilized by all POA courts across the province.

External Review Summary of KPMG Recommendations

The external review of Halton Court Services was completed in June 2023 with the following recommendations:

1. Review Revenue Sharing Agreement
2. Enhance Reporting to the Joint Management Board
3. Strategic Vision and Mission
4. Review Burlington's Chargeback Costs
5. Increased Ministry of Attorney General Advocacy
6. Adjust Office Layout
7. Customer service metrics and Communication
8. Implement Process Improvements

More detailed information is available on pages 9-13 of Appendix A – 2024 HCS Business Plan and Budget

2023 Emerging Issues

1. Justice of the Peace shortages

The shortage in judicial resources is anticipated to be ongoing throughout 2024. The most recent posting for justice of the peace applications did not include positions in Halton. The letter signed by Mayors in 2023 was sent to the Attorney General seeking appointments for Halton, the response however indicated that the Chief Justice of the Ontario Court of Justice and the Justice of the Peace Appointments Advisory Committee have the responsibility for appointing the Justice of the Peace. Burlington Mayor Ward further advocated for judicial resource in a meeting with the Attorney General in August of 2023.

2. Backlog of Charges

There are currently approximately 19,000 Part I charges that require court dates. HCS Administration continues to collaborate with HCS Prosecution to make every effort to have matters scheduled in a timely fashion. These efforts include scheduling Early Resolution meetings outside of court sitting days which allow meetings to take place with prosecution and only those that require a justice of the peace for either plea resolution or trial to be scheduled into court sittings, thereby maximizing the limited court sittings allotted to HCS.

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3. Bill 177 Implementation

Bill 177, the Stronger, Fairer Ontario Act (Budget Measures), 2017, and Bill 46, the Less Red Tape, Stronger Ontario Act, 2023, introduced amendments to the Provincial Offences Act (POA) aimed at modernizing and streamlining POA court processes.

Effective September 22, 2023, clerks of the court will have the authority to grant, but not deny, applications to strike a conviction, if satisfied that the defendant, through no fault of their own, was unable to attend a meeting with a prosecutor, unable to appear for a hearing or did not receive delivery of a notice or document relating to the offence. If the clerk is not able to grant the application to strike the conviction, the clerk must forward the application to a justice of the peace who will make the determination whether to grant or deny the request for a reopening. In transitioning the process from the justice of the peace to the clerk of the court s.11(7) provides for a transition provision for the new clerk responsibilities. All applications to reopen a conviction, including those applications filed before September 22, 2023, are to be considered by the clerk of the court. These amendments to the reopening process will improve the customer experience and allow for quicker access to justice.

4. Transfer of Part III POA Prosecutions to Municipalities – Update

As reported previously, the Municipal Partners were advised by Ministry of the Attorney General (MAG) in August 2017 that the province intends to transfer the responsibility for prosecution of Part III POA matters to municipalities.

Since last reporting on the topic, the Crown's office has provided the template Interim Transfer Agreement which contemplates the transfer of prosecution of the Part III POA Prosecutions to the partners. The key terms of the agreement are as follows:

- The agreement contemplates transfer of Part III and IX of provincial offences now prosecuted by the Criminal Law Division of the Ministry of the Attorney General to the municipal partners subject to some exemptions (e.g. matters against Young Persons as defined in POA, matters where criminal proceedings were commenced with same circumstances, proceedings involving sex offender registry);
- The agreement has a limited 2-year term;
- The Attorney General maintains the right to intervene in prosecutions transferred in the agreement;
- The municipal partners are asked to agree to a number of covenants including:
 - That they provide timely disclosure to defendants;
 - That they make efforts to advise family members and other interested parties of significant developments in proceedings that involve fatalities;
 - Screen all private prosecutions for reasonable prospect of convictions;
 - Maintain reporting protocol with Crown Attorney and Attorney General respecting matters that appears likely to raise substantive legal issues at trial or appeal; and,

- As required, provide the Attorney General workspace and courtroom technology.
- Municipal Partners are asked to indemnify and hold harmless the Crown and members of Executive Council of Ontario, from losses and proceedings arising out of performance of duties under the agreement or in connection with the agreement and to maintain insurance required under the agreement;
- Attorney General may terminate the agreement for cause or, without cause, on 90 day notice.

The agreement does not contemplate any form of financial reimbursement by the Province to the municipal partners on account of the costs associated with taking on the transfer of these prosecutions. There is no anticipation of any revenue to be generated by the program given that the municipalities already receive the revenue from Part III prosecutions. The communication from the Crown made it clear that the Province sees this template as final with no room to make any amendments or side agreements. It is effectively a 'take it or leave it' scenario.

At this time, it appears that the acceptance of the transfer and execution of this agreement remains voluntary. We have sought clarification from the Crown of what consequences, if any, would follow in the event the partners chose not to voluntarily accept the transfer. We specifically inquired whether the transfer would occur (possibly on short notice) in the event it is not taken on within mutually negotiated timelines. We have not received a reply despite multiple follow ups.

If the Municipal Partners chose to accept the transfer despite the recommendation to reject it, the date of the transfer being proposed is July 1, 2024. If transfer is mandated by the province, there may be no room to negotiate the date of acceptance, as it may occur on short notice.

Given the cost to the transfer to the municipal partners and no corresponding increase in revenues, at this time the Municipal Partners do not recommend that Halton Court Services agree to voluntarily assume Part III prosecutions. The following is the review of budgetary staffing and resource needs in the event that the partners decide to accept the Part III transfer OR the transfer is mandated by the province.

More detailed information is available on pages 13-19 of Appendix A – 2024 HCS Business Plan and Budget

STRATEGIC PLAN ALIGNMENT:

This report is administrative in nature and does not have an impact on the Town's Strategic Plan.

RELATIONSHIP TO CLIMATE CHANGE:

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

PUBLIC ENGAGEMENT:

Public Engagement was not needed as this report is administrative in nature.

INTERNAL CONSULTATION:

Internal Consultation was not needed as this report is administrative in nature.

FINANCIAL IMPLICATIONS:

Halton Hills share of the POA revenue is based upon 50% of the net revenues being divided among the local municipalities proportionately to the ratio of the regional assessment base. The 2024 POA Budget estimates a revenue distribution of approximately \$82,749 for the Town based on the 2023 weighted average assessment.

Reviewed and approved by,

Moya Jane Leighton, Director of Finance & Town Treasurer

Laura Lancaster, Commissioner of Corporate Services

Chris Mills, Chief Administrative Officer