

REPORT

ADMINISTRATIVE SERVICES COMMITTEE

MEETING DATE: MARCH 29, 2016

FROM: Finance Department

DATE: January 25, 2016

SUBJECT: Halton Court Services 2016 Business Plan

LOCATION:

WARD: Town wide

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RECOMMENDATION:

1. That the 2016 Business Plan and Budget for Halton Court Services (HCS), as detailed in the report from the Financial Operations department, dated January 25, 2016, be approved; and
2. That the City of Burlington on behalf of the Halton Municipal Partners be authorized to implement the recommendations contained within the 2016 Business Plan and Budget.

KEY FACTS:

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

- Halton Court Services (HCS) provides court services within Halton for offenses under the *Provincial Offences Act (POA)* and federal *Contraventions Act*.
- As the municipal partners, the CAO's of each municipality in Halton serve on the Joint Management Board (JMB) to oversee the management and business of Halton Court Services.
- Each municipality in Halton is required to approve the annual business plan and budget.
- The operation of HCS is funded through fine revenue.
- The annual net revenue from HCS is divided among all the municipal partners – 50% to the Region and 50% to the area municipalities allocated according to weighted assessment share.
- The proposed net revenue for HCS in 2016 is \$4.1 million, a 6% increase over 2015 budget. Oakville's projected share of this revenue is \$812,430 consistent with actuals from 2015.
- Due to increases in the number of charges, the current courtroom utilization is over capacity, resulting in lost revenue for all the municipal partners. In

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2012 a Growth Management Plan (GMP) Technical Working Group was formed to look at options for the long term growth management of HCS.

- A RFP has been issued to prequalified firms to build a new centralized court in Burlington. The proposals will be evaluated and reviewed with the JMB, and the municipal partners with a deadline of occupancy of October 2018. A detailed timeline is included within Appendix D

BACKGROUND:

In keeping with the Inter-municipal Agreement between the City of Burlington, the Towns of Halton Hills, Milton, Oakville and the Region of Halton, the City of Burlington is required to provide its partners with an annual Business Plan and budget for HCS.

The proposed 2016 Business Plan and budget have been reviewed and approved by the Joint Management Board (JMB) and the Area Treasurers. A copy of the 2016 Business Plan is attached as Appendix A to D of this report.

COMMENT/OPTIONS:

Staff request that the recommendations as set out in the 2016 Business Plan as highlighted in this report be approved.

The 2016 Business Plan was completed in September and was built on performance of HCS by mid-year of 2015. This report highlights year-end financial results resulting in some variation in numbers and projections provided in the Business Plan.

Overview of 2015 Financial Performance**Year-End Revenues**

The following unaudited results were realized at year-end:

- Gross revenues of 8,809,560 (111.1% of budget)
- Overall expenditures of 4,148,649 (102.3% of budget)
- Year-to-date net revenue of 4,660,911 (120.3% of budget)

Audits

An audit of HCS was performed by Deloitte during April 2015 for the period ended December 31, 2014. There were no items of concern to report to the Partnership by way of an auditors' management letter. Internal audits were not performed during 2014 or 2015.

Charges Filed

A total of 69,700 charges (100.6% of target) were filed with HCS during 2015.

2016 Performance Projections

Overall Budget

The Municipal Partners are projecting gross revenues based on actual/projected number of charges at mid-year and average fine values over the last three years. An increase of 3,000 charges (73,000) is projected for 2016. Gross revenue for HCS in 2016 is budgeted at \$8.53 million as compared to \$7.92 million during 2015. See page 10 of the 2016 Business Plan for a copy of the overall 2016 POA Budget.

Overall Revenues

Net revenue budget for 2016 is \$4.10 million (after contribution to Reserve Fund) which represents a 6.0% increase in net revenue over the 2015 budget. This difference can be attributed primarily to the increase in the average fine value and a 35% increase in large fine payments (\$120,000). The Municipal Partners are not proposing any major budget changes or increases beyond the base budget for HCS during 2016.

Overall Expenditures

Total expenditures in 2016 are budgeted at \$4.38 million compared to the \$4.01 million budgeted for 2015. This represents an overall increase of 9.3% in expenditures. The majority of this increase (6.2%) is due to an increase in provincial costs effective January 2016 as per the following:

- An increase of 50% for judiciary costs, raising the cost to \$300/hour.
Budgetary impact is approximately \$225,000 per year.
- An increase of 100% of the provincial monitoring and enforcement fee.
Budgetary impact is \$24,400 per year.

The Area Treasurers have expressed a concern about this recent increase in costs and are recommending that Area Councils pass a resolution to request that the Ministry of the Attorney General undertake a review of POA set fines and court costs with a view to implementing increases to offset the increase in judicial and monitoring fees, and to provide for additional opportunities for cost recoveries. *A proposed resolution is attached as Appendix B.*

Reserve Fund

With interest income the Reserve Fund balance was \$2.30 million at the end of 2015. The Municipal Partners are recommending that the minimum contribution of \$50,000 be made to the Reserve Fund during 2016 and that \$185,000 be utilized for next steps in the Growth Management Plan: \$125,000 for professional consulting services and staff chargebacks and up to \$60,000 for an honorarium provided for in the RFP.

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With the direction of MHPM Project Leaders (professional consultant assisting the project team), the project team included an honorarium in the RFP of \$15,000 to be paid to each unsuccessful compliant proponent that submits a proposal. While the payment of an honorarium is not necessarily a common practice in public sector procurement, MHPM advises that it is a common practice in the construction industry where alternative forms of procurement (e.g. design-build, design-build-leaseback or Public Private Partnerships) are used. The payment of honoraria is a reasonable practice to use in alternative forms of procurement where the proponent bears the out-of-pocket expenses to third party design firms to develop the design on which the concept proposal is based. In the opinion of MHPM, a design-build-leaseback project such as the proposed courthouse would warrant such a payment. The requirements of the RFP are highly prescriptive particularly for a leased building in terms of the standards to be applied (provincial - courthouse, municipal - accessibility, functionality) to ensure that the design proposal will meet all of the courthouse requirements for the 25-year lease term.

We understand from MHPM that this practice has been used by the Towns of Milton (Milton Centre for the Arts, expansion to the Milton Sports Centre) and Oakville (North Park Quad Pad Arena), and the City of Burlington (Waterfront Centre) in recent years. Failure to pay an honorarium has been shown to result in potential proponents withdrawing, resulting in reduced competition and increased prices.

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CAPITAL BUDGET FORECAST FOR THE YEARS 2015 THROUGH 2020				
Year	Requirements	Use of Funds	Annual Contributions Including Interest	Projected Year-End Balances
	Balance Forward			\$2,327,047
2015	GMP-staff chargebacks	(\$10,150)	\$81,528	\$2,298,878
	GMP-Consultants for RFP Process -	(\$89,520)		
	Carpet Replacement in Milton	(\$10,027)		
2016	GMP-staff chargebacks / consulting / honorarium	(\$185,000)	\$95,978	\$2,209,856
2017	GMP-staff chargebacks/consulting	(\$125,000)	\$94,197	\$2,179,053
2018	GMP-staff chargebacks/consulting	(\$125,000)	\$93,581	\$2,147,634
2019	GMP - Move/Furnishings/Fittings/Equip	(\$1,600,000)	\$42,953	\$540,587
	Computer Hard/Soft Replacements	(\$50,000)		
2020	TBD		\$10,812	\$551,398

Revenue Stabilization Fund

A Municipal Partner Revenue Stabilization Fund (MPRSF) was created in 2014 to assist the partners in protecting against the impact of volatility in fine revenue, and to provide a source of funding to stabilize annual revenue sources which will be impacted in the future due to the new court facility.

The Area Treasurers and JMB have agreed to maintain net revenue sharing at the 2015 level and that any net revenue in excess of budget will be transferred to the MPRSF going forward in order to further increase available future.

The 2015 estimated surplus net revenue of \$766,000 will be transferred to the MPRSF at year-end and the year-end balance was \$2.36 million.

STABLIZATION FUND FOR THE YEARS 2013-2018						
Year	Explanation	2015 Net Revenue Cap Difference	Net Revenue Over Budget	Use of Funds (Admin Fee)	Interest	Balance
2013	Balance Forward		\$359,155			\$359,155
2014			\$1,186,072	(\$413)	\$23,642	\$1,568,456
2015			\$766,402	(\$464)	\$26,977	\$2,361,371
2016*		\$232,806		(\$500)	\$35,421	\$2,629,098
2017*		\$359,362		(\$550)	\$39,436	\$3,027,346
2018*		\$497,194		(\$600)	\$45,410	\$3,569,350

*Projected

Growth Management Plan

The primary focus of the Growth Management Plan (GMP) is on long-term growth management at HCS. Although growth at HCS has not occurred at a steady rate over the last 13 years, and the correlation to population growth has not met expectations, the number of charges continues to grow over time and this is expected to continue until overall growth across the region levels out in the next 10-15 years.

Following a recommendation in the 2015 Business Plan, staff was authorized to proceed with next steps in the proposed Growth Management Plan (GMP) including:

1. Project team to issue a *Request for Expressions of Interest* to invite prospective builders to propose alternate court site locations in central Halton.
2. Project team to report back to the JMB in early 2015.
3. An RFP to be issued for the building of a new POA court facility in 2015.
4. Leases at the Burlington and Milton courthouses to be extended for two years.

Update

The project team incorporated both a Request for Expressions of Interest (RFEI) and a Request for Pre-Qualification (RPQ) into the procurement process to further identify the qualified proponents in the market place while continuing to raise interest

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and maximize the interest of qualified proponents to participate in the eventual RFP process. The project team reported to the JMB on the outcome of the RFEI and RFQ in February and May 2015 at which time the JMB agreed to proceed with the Palladium Way site and to seek approval from the two remaining Councils (Burlington and Halton Hills) regarding next steps.

Approval was given to retain outside professional expertise for realty services advice and services (MHPM Project Managers Inc.) due to a conflict of interest for one of the project team members. The scope of services for MHPM was extended by the Steering Committee largely as a risk management measure as detailed below.

1. The project team was concerned that the project proposal – design/build/lease – was unique and not one in which internal staff (project management, procurement, legal) had prior experience. The business and legal relationship goes far beyond the traditional landlord/tenant relationship, and as such the RFP had to be very prescriptive in terms of what the City was seeking from the proponents. Failure to define the business relationship clearly in the RFP presents a risk that the proposals won't meet the project requirements, will be difficult to evaluate as between them (comparing apples to oranges), and financially exceed the project budget. In order to mitigate these risks, the team obtained detailed site planning costs and prepared a comprehensive and detailed RFP which included a more comprehensive schematic design/site plan, wide-ranging technical and mechanical specifications, detailed room data sheets and extensive design-build lease terms. These additional steps would ensure satisfactory responses from the selected proponents ultimately leading to the selection of the best proponent for the overall project and a suitable long-term commercial lease agreement.
2. The delivery of the new courthouse is time sensitive and must provide for occupancy by October 2018 in order to meet the first court dates scheduled for January 7, 2019. Project timelines will have to be strictly adhered to in order to deliver the new facility on time. MHPM developed a detailed Project Plan (October 16, 2015) to ensure project success. A copy of the Project Plan is attached as Appendix C.
3. The advice of the professional project managers was that the City had to do sufficient due diligence before putting the RFP to market. This included the following additional measures: external legal counsel was retained to review both the design/build/lease term sheet and the draft RFP; a cost consultant was engaged to value the detailed design project to ensure that financially what was being requested was reasonable in terms of the market, and the city's cost objectives; an architect was retained to review and revise the schematic building

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design and site plan layout and to clearly identify functional relationships that are essential to the successful operation of the facility.

4. Attention was given to the structure of the land transaction (ex. severance, size requirements, timing of close of sale, geotechnical work, Phase 1 EA, MTO and Conservation Halton requirements, locates and service connections, viability of residual piece of land, general site plan, land survey, legal advice and review of land transaction and design/build/lease). These costs, including a portion of the Project Management fees for land related matters, were covered by the City of Burlington directly as the owner of the Palladium Way site.

As a result of this additional work being done upfront there was a delay in getting the RFP to the short-listed proponents (December 2015), and additional fees were incurred to consulting services (discussed above). Timelines have been adjusted and remain realistic in terms of project delivery. The revised project timeline is attached as Appendix D.

The project timeline includes reporting back to the JMB following the evaluation of the RFP responses and selection of a proponent to seek approval from the Municipal Partners to proceed with the contracting of the successful proponent and next steps in the project.

CONSIDERATIONS:

(A) PUBLIC

Overall service levels to the public are maintained within Halton under the proposed business plan, and Municipal partners are involved in the GMP to ensure that services can meet the needs of the public into the future.

(B) FINANCIAL

The 2016 budget for HCS includes a net revenue projection of \$4.1 million of which \$3.87 million will be shared among the Municipal Partners and the Region. Oakville's budget net revenue from HCS of \$812,430 is included in the 2016 budget.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

N/A

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do
- be fiscally sustainable

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(E) COMMUNITY SUSTAINABILITY

Halton Court Services Business Plan demonstrates a continuous improvement business model wherein service needs are measured against demand and efficiencies/deficiencies in service delivery are reviewed and responded to as appropriate. This continuous review/improvement process ensures the economic benefits of this service are maximized through optimized service delivery.

APPENDICES:

- A. 2016 HCS Business Plan and Budget
- B. Resolution Regarding Increasing Court Costs, Fees and POA Set Fines
- C. GMP Project Plan
- D. GMP Timeline

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