Minutes – Executive Policy Committee – July 19, 2006

REPORTS

Minute No. 523 Collection of Outstanding Permit and Inspection Related Fees
File GL-5.8.1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the administrative recommendation and recommends to Council:

1. That the imposition of administrative fees, in addition to reasonable disbursements to cover actual expenditures as well as reasonable administrative costs incurred to register and discharge caveats at the Land Titles Office where registering caveats is utilized to collect unpaid fees, rates, prices or other charges owed to the City, be approved.

2. That the Chief Administrative Officer be authorized to establish the amount of these administrative fees.

3. That the Chief Administrative Officer set the initial administrative fee at $150.00.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor O'Shaughnessy,
That the administrative recommendation be concurred in and forwarded to Council.

Carried

Re: Collection of Outstanding Permit & Inspection Related Fees

For submission to: **Executive Policy Committee**

Original report signed by: **Director of Planning, Property and Development**

Report date: March 31, 2006

Recommendation(s):

1. That Council authorize the imposition of administrative fees in addition to reasonable disbursements to cover actual expenditures as well as reasonable administrative costs incurred to register and discharge caveats at the Land Titles Office where registering caveats is utilized to collect unpaid fees, rates, prices or other charges owed to the City.

2. That Council authorize the Chief Administrative Officer of the City to establish the amount of these administrative fees.

3. That the Chief Administrative Officer set the initial administrative fee at $ 150.00.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REPORT SUMMARY

Key Issues:

- The Department has approximately $17,500 of unpaid fees associated with the provision of inspection services that the Department has been unable to collect using current collection practices. These un-collectable funds will be written off as a "bad debt".

- Subsection 210(1) of *The City of Winnipeg Charter* authorizes the City to establish "prices, rates, fees, deposits and other charges" for the commodities and services it provides. Subsection 210(4) provides the City with legal powers to collect these charges when they are unpaid. One of the powers available to the City is to register a fee or charge by way of a caveat against the property in the land titles office (LTO). This caveat is discharged when the fee or charge is paid.

- Registering a caveat currently costs $37.00 and a further $37.00 must be expended to discharge the caveat. In addition, administrative time and effort must be expended by the relevant department and the Legal Services Division in order to register and discharge caveats.

- *The City of Winnipeg Charter* also authorizes the City to charge administrative fees to cover both its expenditures and administrative "overhead" in collecting unpaid fees and charges. While the Department has the authority to immediately administer this new

process of fee collection, Council authorization is required to impose fees for the recovery of associated administrative expenses.

- Currently, in addition to the Planning, Property and Development Department, the Winnipeg Fire Paramedic Service and the Public Works Departments are considering registering caveats as a means of compelling payment of outstanding fees and charges. However, without the ability to impose the proposed administrative fees, each caveat will cost the City $74.00 plus administrative time and expense.

Implications of the Recommendation(s):

General implications:

	None
X	**For the organization overall and/or for other departments**
X	**For the community and/or organizations external to the City of Winnipeg**
	Involves a multi-year contract

Comment(s):

- Non-Collection of small unpaid fees negatively impacts revenues.
- Failing to proceed with the collection of small outstanding fees is not fair or equitable to all other customers and clients who pay their bills and fees.

Policy implications:

	No
X	**Yes**

Comment(s):

- If authorized by Council, several departments will be in a position to make full use of the mechanisms available to the City to collect unpaid fees.

Environmental implications:

X	**No**
	Yes

Comment(s):

Human resources implications:

X	**No**
	Yes

Comment(s):

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

- No budget adjustment is required.

- It is anticipated that the vast majority of outstanding fees will be paid as a result of the offending individual being made aware that the City is prepared to exercise the lien provision.

REASON FOR THE REPORT:

Council authorization is required to establish administrative fees for the recovery of administrative expenditures associated with the collection of unpaid fees and charges owed to the City of Winnipeg.

HISTORY:

The Planning, Property and Development Department provide a multitude of permit and inspections services that require payment before the service is provided. However, there are some cases where inspection services, such as emergency after-hours inspections, are provided without prior collection of a fee.

Other fees imposed by the Department that do not require collection prior to issuing a permit, include fees imposed under the Planning, Development and Building Fees By-law No. 166/2004 that are identified as a result of inspections, such as the doubling of permit fees for working without a permit.

The Department's current means of collection of these fees is through a written demand letter requesting payment. The Department's practice has been to send 3 such notices, following which the outstanding fee may be written off. In many cases, this method of securing payment has been unsuccessful in recovering the outstanding fees.

To date, the Department has approximately $17,500 of unpaid fees associated with the provision of inspection services that the Department has been unable to collect using current collection practices. Unless another collection method is employed, these unpaid fees will be written off as a "bad debt".

The Department initiated consultation with the Legal Services Division in order to investigate potential options for recovery of these outstanding fees and to minimize the Department's "bad debt".

DISCUSSION:

The Department initiated a review of the various options available to successful collection of outstanding inspections fees in conjunction with the Legal Services Division. The review identified legislative powers, resources and costs required to implement various options for the successful collection of outstanding inspection fees.

This internal review included consultation with other civic departments providing similar inspection services to investigate current practices in other departments. The Winnipeg Fire Paramedic Service (WFPS) advised that they are in a similar position relating to collecting unpaid fees from property owners who refuse to pay fees for inspections or other services. The WFPS relies on collection agencies to deal with these debts even though the collection rate is relatively poor. The Public Works Department advised that they too deal with unpaid fees on some occasions, and would be interested in utilizing caveats as a means of collecting unpaid permit fees in some circumstances if the actual and administrative costs were to be defrayed. The Community Services Department advised that it would not likely utilize caveats as a collection

mechanism, in part because many of its fees are not connected to the provision of services to property.

The consultation process included discussion surrounding the viability of potential options that could be consistently implemented from a corporate perspective. As a result, 5 potential options for successful collection of outstanding inspection fees were developed including registration of a lien as a caveat, prepayment options, filing suit through small claims court, utilization of collection services and amendment to the City of Winnipeg Charter. Refer to the attached Collection Options – Outstanding Inspections Fees for a summary of the variables considered in each option.

It was determined that, where the unpaid fee relates to a service provided to real property, the most cost-effective, viable and legislatively supported option would be to register a lien against the property by way of a caveat in the amount of the unpaid fee. Unless the debt is first paid and the caveat discharged, any future purchaser of the property would become liable for the debt. In practice, this option is similar to that currently used in other service areas and is supported by The City of Winnipeg Charter. While pursuing this option may not result in immediate collection, the collection of the debt would still be required and would be satisfied at some point in the life of the property through a sale transaction or refinancing.

Implementation of this option within the Planning, Property and Development Department could be accomplished utilizing existing resources. If Council concurs with the recommendation of this Report, the administrative costs associated with registering a lien on the property would also be charged and included in the bill. Departments involved in these discussions also indicated their support for authorization to recover the costs of registering and discharging a caveat as well as administrative costs from the person who has failed to pay for the required fee.

The Legal Services Division advised that legislatively, an unpaid fee is a debt due and owing to the City, which may be registered as a lien against the property benefited by the service for which the fee was charged. Until now, departments have not generally taken advantage of their authority to register caveats in order to collect unpaid fees and charges.

To a significant extent, this is due to the fact that the costs associated with registering and discharging a caveat makes it uneconomical as a debt collection mechanism. The current cost of registering a caveat is $37 and the cost of removing the caveat if and when the debt is paid is another $37. In addition, there are administrative costs that are incurred by the department and Legal Services in registering and discharging caveats. If these have to be absorbed by the City, filing a caveat is not generally an effective mechanism for recovering fees.

However, *The City of Winnipeg Charter* provides that Council may authorize the imposition of fees to cover administrative expenses such as these. If the person who owes unpaid fees is also required to cover the costs of registering and discharging a caveat, this mechanism will become a more cost-effective tool to ensure payment to the City of legitimate debts.

In addition to the actual costs of filing and discharging the caveat, currently $74.00, the Department recommends that the Chief Administrative Officer be granted authority to impose a further administrative fee sufficient to cover overhead costs and that the initial administrative overhead fee be set at $150.00. An all-inclusive cost would break down as follows:

* Amount of outstanding fee, plus

* Administrative fee (recommended to be initially set at $150.00), plus

* Land Titles Office charges to file & discharge caveat (currently $74.00)

Financial Impact Statement Date: March 16, 2006

COMMENTS:

The recommendations in the report are that Council authorize the imposition of administrative fees sufficient to cover actual expenditures as well as reasonable administrative costs associated with registering and discharging caveats at the Land Titles Office where registering caveats is reasonably required in order to collect unpaid fees, rates, prices or other charges owed to the City and that the Chief Administrative Officer of the City be authorized to establish the amount of these administrative fees.

.

While there would be no immediate material financial implications in approving the recommendations, it is envisioned that over the longer term that the City's collection rate on outstanding unpaid fees would improve and that bad debt expense would be reduced.

"Original signed by"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Winnipeg Fire Paramedic Service

Legal Services

Public Works Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Development & Inspections
Prepared by: Garry Solkoski, Housing & Existing Buildings Administrator
PPD File #:

Document name: 0:\reports directive\Development and Inspections\Housing-Existing Bldgs\Report - Collection of Outstanding Permit & Inspection Related Fees.doc

Collection Options – Outstanding Inspections Fees
Planning, Property and Development Department

THE ISSUE:
A small number of individuals, primarily homeowners, fail to pay imposed fees for either administrative charges, such as the doubling of permit fees for working without permit or after hours emergency service call out charges. Traditionally, it has been our policy, under emergency circumstances, and usually after normal working hours, to overlook that work is being done without a permit on condition that the permit and fees be paid the next working day.

In such circumstances, our primary concern is abatement of the emergency, which usually involves the restoration of electrical power, especially so during the winter months.

Current Practice:
Where such fees are imposed but not paid, current practice is to send a series of "payment is required" letter style invoices to the individual in the hope they will remit the amount due. If, however, they fail to pay after the third letter, the amount may be written off.

This practice is not fair or equitable to all other customers who pay their fees. Additionally, the over time costs we incur are not recovered.

Options To Collect:

1. ***Register a Lien as a Caveat against the Property***

   The City of Winnipeg Charter, Section 210(4)(b) "Collection of fees and charges" contains provisions for the immediate implementation of a process to recover outstanding fees relating to inspection services through registration of a lien as a Caveat against the property in the Winnipeg Land Titles Office. While pursuit of this action may not result in immediate collection, the debt would be required to be satisfied at some point, as it would stand as a significant impediment to re-mortgaging and/or sale/purchase transactions, therefore resulting in collection of the outstanding fee.

   While the cost of pursuing this option would be minimal, i.e. similar to the current process used to register Orders containing the default demolition provision, the Department does have the ability to charge for the associated administrative fees through existing legislation and with Council approval.

   Recommendation: Pursuit of this option, along with the suggested Council approval for recovery of associated administrative fees, is recommended. This option proves to be the easiest to implement and is financially sound. In addition, public perception would not be hindered as the Department would maintain a customer service approach to its implementation by first issuing a demand letter providing a reasonable time frame during which payment must be made and clearly advising of the consequence of non-payment. Following which, registration of a lien as a caveat against the property would be pursued.

2. *Demand Prepayment of Emergency After Hours Services*

The majority of emergency after hours services relate to requests for reconnection of electrical power. A single Inspector attending on site responds to these calls. Demanding prepayment of this type of emergency service could potentially prove problematic to enforce by a single staff member on site should he be faced with resistance or refusal of payment. Not only could the City's reputation be hindered by public perception, but pursuing this option could also place the staff member in an unfair position of making a decision about service provision, or put the staff member at personal risk.

Recommendation: This option is ***not recommended*** as it would hinder public perception of required emergency services provided by the Department, but also potentially put staff at personal risk.

3. *File Suit through Small Claims Court*

Collection of outstanding inspection fees could be sought through Small Claims Court legal proceedings. This process would require extensive human resource effort on the part of Planning, Property and Development Department staff as well as Legal Services staff to initiate a lawsuit against property owners and pursue legal proceedings. This option is not cost effective, would require substantial human resource over a lengthy period of time and also does not guarantee successful collection of outstanding fees even after receiving a judgement.

Recommendation: This option is ***not recommended*** as it is costly, requires substantial human resources to undertake and does not guarantee successful collection of outstanding fees.

4. *Utilization of Bailiff/ Collection Agency Services*

This option would require the issuance of a "Distress Warrant" and utilization of the services of a Bailiff/Collection Agency. This is the method utilized by the License Branch of Community Services to collect license fees. Where immediate payment is not made, the Bailiff may seize property, sell it and apply the fees from the sale proceeds. Costs range depending on the circumstance and start at $50.00 plus $3.50 GST for simple collections.

While effective in the collection of outstanding fees, this method would require amendment to either the Winnipeg Building By-law or the Planning, Development and Fees By-law and more importantly is in contradiction to the many customer oriented initiatives implemented by the Department through its Permits X-Press Project. The Department may be construed as taking a "heavy handed" approach to fee collection and may experience hindrances in the positive relationships established with industry representatives through the many permits process improvements.

Recommendation: This option is ***not recommended*** due to the potential of public perception that the Department is taking a "heavy handed" approach to fee collection as

opposed to the many customer oriented improvements and positive relationships established with industry representatives through the Permits X-Press Project. This option would also require amendment to the Winnipeg Building By-law or the Planning, Development and Fees By-law

5. Amendment to the City of Winnipeg Charter

In other service areas within the organization, where default actions are taken to bring properties into compliance with By-laws, outstanding arrears may be added to property taxes. While the Department views this option as potentially being the easiest to implement and possibly most cost effective, Legal Services advised that this option cannot be pursued without amendment to The City of Winnipeg Charter. Pursuit of this option would take extensive resources to implement and would require concurrence by the Province.

Recommendation: This option is ***not recommended*** due to the potential difficulties and extensive resources required to implement an amendment of this nature to the City of Winnipeg Charter.