**Agenda – Council – July 19, 2018**

**Report – Executive Policy Committee – July 4, 2018**

**Item No. 5 By-law Enforcement under The Municipal By-law Enforcement Act**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 4, 2018, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That the Winnipeg Parking Authority be authorized to continue the administration of screening and adjudication functions for City By-laws enforced under the Municipal By-law Enforcement Act and the collection of all fines and penalties imposed for contraventions of City by-laws under both the Municipal By-law Enforcement Act and the Provincial Offences Act until a report on the City Auditor's review of this administrative structure is released and a permanent administrative arrangement is adopted by Council.

2. That the Public Service be directed to bring to Council a report proposing a permanent administrative arrangement for screening, adjudication and collection under the MBEA and POA, taking into account the results of the review conducted by the City Auditor.

3. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

**Report – Executive Policy Committee – July 4, 2018**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 4, 2018, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

COUNCIL DECISION:

On July 19, 2017, Council concurred in the recommendation of the Executive Policy Committee, which included the following recommendation:

2. That the Public Service be directed to report back to Council within one year with an implementation plan for administration of screening and adjudication functions for City by-laws enforced under The Municipal By-law Enforcement Act and the collection of all fines and penalties imposed for contraventions of City by-laws under both The Municipal By-law Enforcement Act and The Provincial Offences Act.

# ADMINISTRATIVE REPORT

**Title:** By-law Enforcement under The Municipal By-law Enforcement Act

**Critical Path:** Executive Policy Committee - Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| C. Stewart/A.Williams | R. Topolniski | N/A | D. McNeil |

## EXECUTIVE SUMMARY

In anticipation of the proclamation of *The Provincial Offences Act* (POA), Council temporarily authorized, notwithstanding the Winnipeg Parking Authority's Operating Charter, that screening and adjudication services for all by-law offences under *The Municipal By-law Enforcement Act* (MBEA) and collections under both the POA and MBEA be administered on a temporary basis by the Winnipeg Parking Authority (WPA) for a period of one year.

This report proposes that the WPA should continue to administer screening and adjudication services under the MBEA and collections services under the MBEA and POA pending the release of the report on the City Auditor's review of this arrangement. At that point, the Public Service would provide a report to Council proposing a permanent administrative structure for screening, adjudication, and collection under the MBEA and POA.

## RECOMMENDATIONS

1. That the Winnipeg Parking Authority be authorized to continue the administration of screening and adjudication functions for City By-laws enforced under the Municipal By-law Enforcement Act and the collection of all fines and penalties imposed for contraventions of City by-laws under both the Municipal By-law Enforcement Act and the Provincial Offences Act until a report on the City Auditor's review of this administrative structure is released and a permanent administrative arrangement is adopted by Council.

2. That the Public Service be directed to bring to Council a report proposing a permanent administrative arrangement for screening, adjudication and collection under the MBEA and POA, taking into account the results of the review conducted by the City Auditor.

3. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

## REASON FOR THE REPORT

On July 19, 2017, Council approved the following recommendations:

> *2. That the Public Service be directed to report back to Council within one year with an implementation plan for administration of screening and adjudication functions for City by-laws enforced under the Municipal By-law Enforcement Act and the collection of all fines and penalties imposed for contraventions of City by-laws under both The Municipal By-law Enforcement Act and The Provincial Offences Act.*
>
> *3. That, as a temporary measure until such time as an implementation plan referred to in recommendation 2 is in place, and notwithstanding its Operating Charter, the Winnipeg Parking Authority be authorized to administer screening and adjudication functions for City by-laws enforced under the Municipal By-law Enforcement Act and the collection of all fines and penalties imposed for contraventions of City by-laws under both The Municipal By-law Enforcement Act and The Provincial Offences Act.*

This report is provided in compliance with Recommendation 2.

## IMPLICATIONS OF THE RECOMMENDATIONS

Maintaining the current practice of administration of screening and adjudication services will provide continuity for the general public pending completion of the review of by-law screening and adjudication services by the City Auditor and the preparation and review of any required changes to Council approved documents.

## HISTORY/DISCUSSION

In anticipation of the coming into force of the *Provincial Offences Act*, Council approved amendments to the *Municipal By-law Enforcement Act Enabling By-law* to bring a number of municipal by-law offences under the screening and adjudication process which has been in place for parking offences since August 2016.

At that time, in order to limit additional implementation costs and to make use of the existing resources at the Winnipeg Parking Authority (WPA), Council approved that, notwithstanding that there was no authority in the WPA Operating Charter, the administration of screening and adjudication process would be through the WPA on an interim basis.

### Implementation

In preparation for the interim administration of the screening and adjudication process for other municipal by-law offences the WPA established an information exchange process with other penalty notice issuing departments related to:

- Information related to penalty notices issued, including supporting evidence as required;
- Departmental protocols/processes for issuance of penalty notices; and
- Existing departmental standard operating procedures.

Additionally, each department conducted training for WPA Screening Officers prior to the issuance of any penalty notices under the MBEA. WPA staff worked with issuing departments to develop a standardized penalty notice format that ensures consistency in the issuance of penalty notices across departments.

The WPA also established reporting processes to provide both statistical information on penalty notices proceeding to screening and adjudication and the results and feedback from the WPA Quality Assurance and Internal Audit process.

WPA finance staff is working with other issuing departments to develop protocols to ensure that expenses incurred and revenue generated from other department penalty notices (or tickets issued under the Provincial Offences Act) are appropriately allocated and funds transferred as required. The current arrangements ensure that the provision of services to other departments is cost neutral to the WPA.

**Interim Results**

While the administration of the screening and adjudication process for other city by-laws is relatively new, analysis of the first three months of 2018 indicates the following:

- Other by-law offences (non-parking related) are approximately 1.6% of the penalty notices administered through the agency's ticket management database;
- Approximately 12% of the non-parking related penalty notices proceed to screening compared to 8.9% of the parking penalty notices;
- Screenings for non-parking related offences are approximately 2.25% of the total screenings conducted;
- There have been five adjudications scheduled for non-parking related offences, approximately 0.85% of the penalty notices issued. This compares to 0.07% of issued parking offence notices proceeding to adjudication.

The above results are in line with what was anticipated. As the Public Service becomes more familiar with the MBEA process, it is expected that penalty notice volumes will rise – with a corresponding increase in the number of screenings and adjudications.

**Quality Assurance and Internal Audit**

As part of the initial implementation of the MBEA screening process, the WPA established both a quality assurance and an internal audit process. Under the quality assurance process all screening decisions where a penalty is cancelled are reviewed to identify where potential issues in the issuance of the penalty notice may be present, either as a result of error by the issuing officer or a deficiency in the evidence presented. Where potential issues in the issuance of the penalty notice arise, feedback is provided to the issuing agency – which now includes all civic departments which issue penalty notices under the MBEA. Additionally, an internal audit of randomly selected screenings is conducted weekly where the entire process from issuance through screening is examined to determine if the penalty notice was validly issued based on the evidence available to the officer and if the decision rendered by the Screening Officer was within one of the grounds authorized by the MBEA Enabling By-law. (Note: Unless the decision made by a Screening Officer is not within the grounds authorized by the Enabling By-law, the decision itself is not reviewed). The quality assurance and internal audit processes ensure the

integrity of the system from a legislative and transparency standpoint and also allow for operational efficiency improvements to be made by the issuing department/SOA.

**One-Year Time Frame**

Council required the Public Service to report back with an implementation plan for the long-term administration of the screening and adjudication process in one year. Based on an expected coming into force of *The Provincial Offences Act* in August 2017, this was an appropriate time frame. However, the Provincial Offences Act was not formally proclaimed and brought into force by the Province until November 20, 2017. Further, in order to ensure that appropriate processes for information transfer from other departments to the WPA were in place, initial penalty notices for other municipal by-laws were not issued until January of 2018.

Subsequent to the assumption by the WPA of the screening and adjudication process for other municipal by-laws, the City Auditor undertook a review of the process and outcomes in order to provide recommendations to the Public Service on the preferred 'way ahead'. The formal report from the City Auditor is expected to be forthcoming in the summer of 2018.

This report is being provided within one year as required by Council's resolution. However, rather than providing a permanent plan for the future, an extension of the current administrative arrangement is being sought to allow for continuity of service until such time as the report of the City Auditor is issued and can be taken into account in presenting a permanent 'way ahead' to Council. The additional time will also allow for a more thorough analysis of the impact of the new process on civic departments.

**FINANCIAL IMPACT**

## Financial Impact Statement Date: June 4, 2018

## Project Name:

By-law Enforcement under The Provincial Offences Act and the Municipal By-law Enforcement Act

**COMMENTS:**

There are no immidiate financial implications for WPA related to Recommendations #1, #2 and #3 of this report.

original signed by
Lioubov Gavrilova-Crozier CPA, CA
A/Manager of Finance, WPA

## CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
City Auditor (limited to the scope of the By-law Amalgamation audit currently in progress)

## OURWINNIPEG POLICY ALIGNMENT

Not Applicable

## SUBMITTED BY

Department: Winnipeg Parking Authority
Division:
Prepared by: Colin Stewart and Ajaleigh Williams
Date: June 5, 2018
File No: WPA-018-2018