Agenda – Executive Policy Committee – September 10, 2019

REPORTS

Item No. 6 Vehicle for Hire – By-law Update

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That this report be received as information.

DECISION MAKING HISTORY:

COUNCIL DECISION:

On February 28, 2019, Council concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works, as amended by the Executive Policy Committee, which included the following:

6. That additional amendments to the Vehicle for Hire By-law (draft amending By-law set out in Appendix B) be enacted, subject to the following:

    A. That section 11 of the draft by-law be deleted and referred back to the Winnipeg Public Service for further review and report back to the Executive Policy Committee in up to 180 days.

ADMINISTRATIVE REPORT

Title: Vehicle for Hire – By-law Update

Critical Path: Executive Policy Committee

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Heather	R. Topolniski	N/A	D. Wardrop, Acting Interim CAO

EXECUTIVE SUMMARY

In February 2019, the Public Service brought forward its first annual report on the Vehicle for Hire (VFH) By-law. Included in the report was a recommendation that intended to provide greater flexibility for the VFH Appeal Board and allow it to consider additional factors in its deliberations.

This recommendation (which amended Section 68(3) of the VFH By-law) was referred back to the Public Service for further review and report back to the Executive Policy Committee.

In response, the Public Service consulted with Councillors and the members of the VFH Appeal Board. The Public Service intends to bring forward a revised recommendation, as part of the next VFH annual report, which will allow the Appeal Board to conduct a more comprehensive risk assessment while maintaining the primary focus on safety for the general public.

RECOMMENDATIONS

1. That this report be received as information.

REASON FOR THE REPORT

On December 13, 2017, Council approved the Vehicle for Hire By-law 129/2017, directing the Winnipeg Public Service to provide annual updates for the first five years of City oversight and regulation.

In February 2019, the Winnipeg Parking Authority brought forward to Council the first annual report, which included updates on the industry as well as recommended changes to the VFH By-law.

In approving the Vehicle for Hire Annual Report and By-law Amendments report in February 2019, Executive Policy Committee made an amendment as follows:

"That Section 11 of the draft by-law be deleted and referred back to the Winnipeg Public Service for further review and report back to the Executive Policy Committee in up to 180 days".

Section 11 of the draft amending by-law proposed changes to s. 68(3) of the VFH By-law.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no implications to receiving this report as information.

HISTORY/DISCUSSION

The Vehicle for Hire By-law 129/2017, approved by Council in December 2017, created the independent Vehicle for Hire (VFH) Appeal Board, and laid out their duties and responsibilities. Further, it gave some general direction in how to handle appeals, while still allowing the Board the opportunity to develop procedures and rules for conducting its affairs that are consistent with the By-law.

The Board consists of 5 citizen members and is appointed by Council. They hear appeals in panels of 3 members. The Appeal Board is responsible for hearing appeals of license applicants who disagree with license application decisions or other enforcement decisions made by the Designated Employee or enforcement officers. The Appeal Board is not responsible for hearing issues related to the issuance of penalty notices as those are matters considered under the Municipal By-law Enforcement Act.

One of the recommendations of the December 2017 Council approval of the VFH By-law was that that Public Service would report back annually for the first five years the By-law is in force, with an update on the industry as well recommended potential by-law amendments.

In February 2019, the Public Service brought forward the first of such annual reports. Based on the appeal hearings held in 2018, the Public Service recommended an amendment to Section 68(3) of the VFH By-law.

Currently, s. 68(3) states that the Board can overturn the denial of a licence on the basis of a criminal conviction, major driving offence or registration on the child abuse registry within the previous 10 years only if the Board determines that "the nature of the criminal offence, the major driving offence or the actions that resulted in the registration on the child abuse registry justify denying the individual the taxi driver's licence or the registration, as the case may be."

The proposed amendment was intended to provide additional flexibility under the By-law for the Appeal Board to consider "whether the outcome of the decision was justified in light of

a) The nature of the appellant's actions that resulted in a conviction for a relevant criminal offence or major driving offence or registration on the child abuse registry (as the case may be);

b) The time that has elapsed since the conviction for a relevant criminal offence or major driving offence or registration on the child abuse registry (as the case may be) and the appellant's conduct since that time; and

c) Other factors that the Board considers relevant."

The original intention of this proposed amendment was to allow the Appeal Board to hear both the City's and the appellant's view as it relates to the situation, and to perform a risk assessment based on what they are told and any other evidence presented. The risk assessment was meant to consider factors focusing on public safety, such as the length of time that had elapsed since the criminal offence, major driving offence or registration on the child abuse registry to determine the risk to the passengers in the vehicles, other drivers on the road, as well as other industry participants.

Having received the comments and concerns from Executive Policy Committee in February 2019, the Public Service met with Councillors to receive their input. Further, the Public Service consulted with members of the VFH Appeal Board regarding their experience based on hearings that have been completed to date. Further dialogue and discussions have occurred regarding this topic in order to gain a better understanding of concerns and to ascertain what could be workable from a by-law amendment standpoint.

The Winnipeg Parking Authority intends to make a recommendation to Council on this matter when the Public Service brings forward the next VFH annual report in late 2019 or early 2020.The Winnipeg Parking Authority will be working with Legal Services to include wording for an amendment to Section 68(3) that should provide the Appeal Board with the flexibility to conduct a risk assessment along with guidance on what important factors should be considered in hearing the case and making an assessment.

In considering appeals, first and foremost the safety of the general public should be paramount in the decision of the Appeal Board. Citizens, as well as the industry, must see and feel that there is confidence in the system that is in place and the Appeal Board members. Council and the general public should feel that the VFH Appeal Board has the best interest of the general public in mind in protecting their overall safety and should consider that there is a reputational risk to the City when they reach a decision.

As well, the Appeal Board does have the option to include conditions on a license in making an appeal decision, if these are needed to further mitigate risk.

FINANCIAL IMPACT

Financial Impact Statement

Date: July 2, 2019

Project Name:
Vehicle for Hire By-law Update

First Year of Program **2019**

	2019	2020	2021	2022	2023
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Deferred revenue available	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts		-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: There are no financial implications related to the above report.

original signed by
Eva Solis, CPA, CGA
Acting Manager of Finance
Winnipeg Parking Authority

CONSULTATION

This Report has been prepared in consultation with:

Legal Services

OURWINNIPEG POLICY ALIGNMENT

These changes are aligned with the key goals of the City of Winnipeg 2011 Transportation Master Plan (a part of the OurWinnipeg framework):

“A key underlying goal of the transportation plan is to expand the range of travel options that are available to residents, workers and visitors, and to ensure that people are not dependent on one single mode. Expanded travel choice creates countless community benefits.”

SUBMITTED BY

Department: Winnipeg Parking Authority
Division: Vehicle for Hire
Prepared by: G. Heather
Date: July 5, 2019
File No: WPA-020-2019