8
COURTS SERVICES PROGRAM REVIEW – PRELIMINARY UPDATE

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report, January 19, 2006, from the Commissioner of Corporate Services:

1. RECOMMENDATION

It is recommended that:

1. This report be received for information

2. PURPOSE

To update Committee and Council on the status of the review that was commenced in 2005 under the direction of the Town of Markham regarding the effectiveness and efficiency of Regional Courts Services operations and on governance and revenue sharing models. This report outlines the consultant's recommendations based on a final draft report issued to each of the nine local municipalities and the Region in December, 2005. Further reports will follow the first of which will be within thirty days of the issuance of the final report by the consultants. This next report will address recommendations respecting the operational aspects. The third report will then report on progress of negotiations to finalize changes to governance and revenue sharing.

3. BACKGROUND

It was recognized by Regional staff in the preparation of the 2002 budget that a tax levy pressure of $1.8 million had been created through the process of sharing revenue with local municipalities based on gross revenue instead of net revenue. In 2003 the pressure on the tax levy was once again $1.8 million. During the 2004 budget process Regional staff forecasted that this pressure on the tax levy would rise to $1.9 million in 2004, and continue to rise to $2.3 million in 2005. Given the revenue sharing arrangement in place through an inter-municipal agreement with all 10 municipalities, negotiated on transfer from the Province in 1999, the only source of funds to cover the shortfall was tax levy.

Regional staff attempted to look for a method to resolve the budget pressure through informal discussions with its municipal stakeholders. It was further discovered that there were problems with the governance model and customer service issues were also raised by the local municipalities. During the 2004 budget process the matter came to Council's attention. An interim solution was recommended. The solution was to flat-line payments to the local municipalities, based on 2003 budgeted revenues received until such time as a more extensive review could take place and to hold the tax pressure constant.

A formal review was requested in 2005 by the Town of Markham to address the question of governance, efficiencies and revenue sharing. All municipal CAOs agreed to participate in the review lead by Markham, at a total cost of $125K cost shared ‘50-50’ (Regional – local municipalities).

Markham issued an RFP and the firm of PSTG Consultants were awarded the contract. A formal plan with milestones was approved by the municipal stakeholders through a steering committee and consultations and benchmarking research began in the spring of 2005 according to the approved plan.

A workshop with CAOs was conducted by the consultants in August 2005 to educate the stakeholders on a variety of courts related matters including the independence of Prosecutors and an interim report of the consultant’s findings was issued in the fall of 2005. A final draft report was issued to each of the 9 Local Municipalities and the Regional Municipality in December, 2005 with recommendations related to three key topics:

1. Governance models
2. Operations
3. Revenue sharing models

On December 7, 2005 the report was presented to a group of stakeholders for discussion at the Town of Markham offices.

4. ANALYSIS AND OPTIONS

The final draft report of the consultants indicated broad consultations with other POA operations, the Province of Ontario (Ministry of Attorney General) and with Regional stakeholders including Police Agencies, on the issues within the mandate of the review. Their findings are categorized under three headings as set out below:

4.1 Governance

This aspect of the review was requested to clarify roles and responsibilities between the Local Municipalities, the Regional Municipality and the Intermunicipal Joint Board of Management. As stated in their report, the consultants view the governance and operations mandates to be in conflict. “The governance structure and its roles and responsibilities for key components including the Joint Board of Management, Regional Director of Courts Services, Regional Prosecutors is not working well and creating frustration among the York Region partners.” Change options they cite include:

1. Status quo with no changes to the model.
2. A Joint Board of Management governing a separate or stand alone entity.

3. A York Region Department with an Advisory Committee.
4. Courts and Court administration operating separately for each municipality.
5. Operation by a local municipality as opposed to the Region.
6. Transfer back to the Province.

Consultant's Draft Recommendations:

The consultants have recommended Option 3 - A York Region Department with an Advisory Committee. They suggest the Courts operation be retained within the Regional Municipality and that the current Joint Board of Management become an Advisory Committee. The mandate of the Advisory Committee would be to provide a vehicle for information, input and feedback between the Region's POA management and stakeholders, not to approve budgets, direct resources or make procurement decisions. The benefits they identify include reduction in conflict between the parties, no operational costs, minimal transition costs, and still provides for advisory input into operational aspects by a broader group of stakeholders. The challenge they noted would be less direct involvement in the operational aspects, but they state this could be offset by a service level agreement. They further suggest this could be achieved by a target date of July 1, 2006 with minor revisions to the Inter-municipal Agreement.

4.2 Operations

This aspect of the review was requested to evaluate the program's efficiency and effectiveness, and provide suggestions for operational improvements. Under this broad heading the consultants have captured changes that relate to operational streamlining in workflow and benchmarking structural best practices. They recommend a number of actions.

Consultant's Draft Recommendations:

1. Consolidate the role of Manager of Courts Administration in Richmond Hill with responsibility overall for financial administration for both sites.
2. Establish common templates and checklists for court briefs by By-Law enforcement staff.
3. Establish regular communication forums between the Senior Regional Prosecutor and municipal By-Law staff.
4. Local municipalities should consider hiring their own Prosecutor for particular cases they feel are of importance.
5. Review the case scheduling in By-Law courts to improve utilization of time.
6. Set aside specific and dedicated times for the municipal By-Law staff to meet with Justice of the Peace for the purposes of signing documents. (This time would not be available to the public).
7. Change the reporting structure of Regional Prosecutors to the Regional Solicitor.
8. Richmond Hill should schedule all of its pending cases immediately for consideration by the Court.

9. Staff should consistently clear transactions to prevent any backlog.
10. Modify the collections strategy to allow for internal and external collection teams.
11. Write off uncollected fines prior to 1999.
12. Keep abreast of a York Regional Police pilot initiative in 2006 to use electronic ticketing.

In their detailed report they also recommend establishing a centralized fine payment centre and relocating the two Courts to one site.

4.3 Revenue Sharing

This aspect of the review requested the consultant to present options for revenue sharing models that could address the issue of taxpayer subsidy for the POA Courts program. Under the current Inter-municipal Agreement (June 1999) the consultants described the revenue distribution as follows:

- Fines from charges laid by York Regional Police are directed to the Region
- Fines generated from municipal By-Law enforcement are forwarded directly to local municipalities where the infraction occurred
- A $3 per parking ticket surcharge from each municipality is paid to the Region for the processing of the parking ticket revenue
- Revenue from all other charges and fines is distributed to the area municipalities based on the Regional levy

NOTE: The consultants did not reference that dedicated fines from agencies such as GO Transit and Provincial Ministries must be remitted to these Agencies directly. Neither was it made clear that the Region only retains revenue from the *Highway Traffic Act* charges of York Regional Police. All revenue received from other charges laid by York Regional Police is actually shared between the Area Municipalities.

They state that experience has shown that the current revenue sharing model is not sufficient to cover the costs of POA operations. Hence, York Region subsidizes POA operations, which was clearly not the intent when the program was transferred from the Province. Their report provides their estimate of future charge volumes and revenue using three scenarios which reference such things as Justice of the Peace availability, electronic ticketing, Region demographics, charge back provisions from the Province, improvement in court scheduling and relocation of the Courts operation.

Consultant’s Draft Recommendations:

1. Change the revenue distribution model to be a net of expenses model.
2. Net revenue distribution to reflect an 80-20 split with the local municipalities retaining the 80% and the Region retaining 20%.
3. The distribution of shareable revenue be held frozen (flat-lined) at the 2004 levels until York Region is at break-even point.

4. After break-even is reached local municipalities start to see an increase in their revenue share assuming the 2004 flat-line value is exceeded.

The consultants forecast sees this break-even point in 2011-12 based on their revenue forecast.

4.4. Key Performance Indicators

The consultants were also asked to consider a number of measurement criteria that would assist the Region in tracking operating performance. PSTG's recommendations are set out in Table 1 below and are based on their research across other POA operations in the Province.

Table 1
Measurement Criteria

Perspective	*Key performance Indicator*
Financial	Net Distribution of Revenues (Monthly) Revenue per charge (Annual) Cost of Operations (Annual)
Operational	Net new fines going into default (Annual) Charges per clerk (Yearly) Number of Charges by type (Yearly)
Service	Time to Trial (Quarterly)
Continuous Improvement	Court Room utilization actual to available to agency (Monthly)

5. FINANCIAL IMPLICATIONS

The consultants have not identified the costs associated with any of their recommendations. The overall cost of the study was $125K with York Region carrying 50% of the cost at $62.5K and the remainder being shared equally among the nine local municipalities ($6.9K each).

6. LOCAL MUNICIPAL IMPACT

The consultant's recommendations have the potential to change the current governance model and the revenue sharing from the POA program to local municipalities.

7. CONCLUSION

The report prepared by PSTG, as commissioned by the CAO's group and managed by the Town of Markham, has completed their review and made draft recommendations affecting key areas of concern. The report states that the current governance model …"is a mix of disparate and disconnected groups. In a number of cases, the governance and the operations are in conflict". They recommend changes to make the accountability clearer and simpler. They also identify that the Region of York POA program is, "unique in that it is the only Region … that is losing money…" They highlight the fact that "all other jurisdictions in Ontario use a net revenue distribution model" and they recommend a net revenue sharing model with incentives for local municipalities and the Region, once a break even point is reached.

The consultants also recommend a number of operational changes in structure, processes and procedures that may have the potential to maximize revenue. The costs of implementing those changes have not yet been identified by the consultants. A report to Council on staff assessment of the recommended changes will follow.

At this time all of the recommendations are under consideration by the CAOs of the Local Municipalities and the Region. The consultants have been asked to refine their work based on CAO feedback on December 7, 2005 and to clarify some of their recommendations. It is hoped that subsequent CAO meetings can be held in the first quarter of 2006 to expeditiously address all aspects of the Consultants report.

Subsequent to these discussions the CAO's will report to Committee and Council with recommendations for proceeding.

The Senior Management Group has reviewed this report.