



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: July 8, 2010
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VanRIMS No.: 08-2000-21
Meeting Date: July 20, 2010

TO: Vancouver City Council
FROM: City Manager
SUBJECT: Project Funding - Bylaw Adjudication Project

IN CAMERA RATIONALE

This report is recommended for consideration by Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (c) labour relations or other employee relations; (f) law enforcement, if the Council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment; (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

RECOMMENDATION

- A. THAT Council approve, in principle, the establishment of a Bylaw Dispute Adjudication System.
- B. THAT Council approve \$873,000 for the design and development work needed to implement a bylaw adjudication system and that the funding be provided from the Capital Financing Fund on terms acceptable to the Director of Finance.

CITY MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

COUNCIL POLICY

Financing from the Capital Financing Fund requires Council approval.

PURPOSE

To obtain Council's approval, in principle, to establish a Bylaw Dispute Adjudication System and to obtain funding from the Capital Financing Fund (CFF) to undertake the design and development work necessary to prepare the City for the implementation of a bylaw adjudication system which is an alternative to the current court-based model in place to enforce violations of the parking-related bylaws.

BACKGROUND

The Bylaw Adjudication Project was initiated in June 2009 under the Vancouver Services Review (VSR). At that time a business case was prepared that assessed the feasibility of the City of Vancouver adopting an adjudication model for managing bylaw infractions. The business case indicated that the City would increase annual net revenue by roughly \$0.6 million initially (based on 2009 implementation) and \$3.1 million approximately by 2014.

At present, the City uses a court-based model where disputed bylaw infractions are dealt with in the Provincial Court system. Within this model, nearly all of the City parking-related bylaws are enforced by bylaw violation notices (BVN). The current court-based processes are complex, resource intensive, and can be very lengthy and costly. In light of the fact that many bylaw infractions are minor in nature and the lengthy delays, continuing to proceed under the Provincial Court process with respect to those infractions is not justifiable. Furthermore, the Province has indicated that it is no longer willing to provide the City the court resources to pursue non-complex parking by-law infractions through the court process.

The City of Vancouver issues almost 450,000 parking-related bylaw infractions annually (i.e. bylaw violation notices) under the Parking Meter, and Street and Traffic Bylaws. Almost all of these by-law violation notices (BVN) are issued by the Parking Enforcement branch of Engineering Services.

Approximately 76 percent of BVNs are voluntarily paid by the offending citizens. However, the remaining 24 percent (approximately 101,000 bylaw infractions) are not voluntarily paid. The City of Vancouver must prosecute these individuals in Provincial Court to obtain a fine or a court order for compliance. This enforcement process is governed by the Offence Act. In 2009, out of the 101,000 outstanding tickets, only 16,000 bylaw infractions were disputed by citizens or prosecuted by the city. Of those, only 6,000 cases (approximately) were heard by the Provincial Court. Thus, in total on an annual basis, there is roughly \$7 - \$8 million in uncollected revenue due to unpaid parking fines.

This court-based dispute process is long (about 2 years), onerous, and costly yet most of the bylaw infractions are minor (e.g. In 2009, the average fine for each BVN ticket issued was \$82). The Provincial Court allots twenty hours per month to hear bylaw enforcement disputes for parking and some non-parking BVN initiated matters, resulting in an increasing backlog of unresolved disputes. At present the wait for court hearings for bylaw infractions is approximately two and one-half years, thus generating a significant backlog. The current court-based system is not sustainable.

To address the use of court time for minor by-law offences, the Province of British Columbia adopted the Local Government Bylaw Notice Enforcement Act in 2003 which created a framework for a non-judicial system for local governments to deal with bylaw enforcement disputes. Under the Act, local governments may establish a local government bylaw dispute

adjudication system which largely replaces the Provincial Court as the venue for resolving disputes of minor municipal bylaw breaches. Since the adoption of the Act, 40 municipalities in BC have adopted (or are in the process of adopting) the adjudication model. The municipality is responsible for all administration and adjudication costs.

Under the adjudication model, formal bylaw enforcement action begins with the completion of a Bylaw Notice (BN). Once the bylaw notice is received or presumed received, the individual is considered to have contravened the bylaw (i.e. they are guilty). The bylaw notice is legally effective and the recipient has a fixed period of time in which to take action on it. Within that period, the person named on the Notice or in the case of a parking bylaw notice, the vehicle's registered owner (if it was left on the vehicle) must either pay the fine amount on the BN or notify the municipality that they wish to dispute the allegation.

In the event that the person does neither, the amount of the Notice plus an additional late payment penalty (if established by bylaw), will be due and owing to the municipality. If a fine is not paid, the municipality can proceed to collections. Under the City's current court-based model, 101,000 tickets remain unpaid annually - primarily due to individuals neither paying nor disputing the tickets. Legally, these ticket amounts are not due and owing to the municipality until court actions are taken. Under the bylaw adjudication model, this will not be the case. The City can proceed with collection action, as soon as 49 days of the bylaw contravention.

The adoption of the bylaw adjudication system for enforcing the parking-related bylaws has many benefits. They include:

- **Improved service to citizens** - The existing court-based model is complicated, time-consuming, costly, and lengthy. Those municipalities that have adopted the bylaw adjudication system have indicated that not only are citizens pleased with the flexibility of dispute scheduling (adjudication hearings may be held at various times of day in various locations), they see bylaw adjudication as being more credible and meaningful. The municipalities that have implemented bylaw adjudication have found that the increased credibility leads to increased payment rates and reduced bylaw dispute rates (i.e. more people opt to pay without disputing).
- **Increased revenue and operating efficiencies** - Under a bylaw adjudication system, all fines are due and payable. As such, the City can proceed with the collection of all unpaid fines, as soon as 49 days of the bylaw contravention. Further, staff are not required to attend the adjudication hearings, therefore they are able to enforce the parking bylaws, or, in the case of the City's prosecutor, they are able to focus on more serious bylaw infractions. Staff anticipate annual increased net revenues of approximately \$3.1 million by 2014.
- **Reduced court dependency** - Under a bylaw adjudication system, disputes are heard by an independent adjudicator appointed by the Province rather than a judge in Provincial Court. This greatly reduces the court time needed for dealing with minor parking disputes.

DISCUSSION

Staff are requesting that Council approve, in principle, the development for the City of Vancouver a bylaw adjudication system and approve funding from the Capital Financing Fund (CFF) to undertake the design and development work necessary to prepare the City for the implementation of a bylaw adjudication.

This design and development work is required for the information system and associated information technology infrastructure to support the City for issuing bylaw tickets and for tracking payment of the tickets in order to support a bylaw adjudication system.

This work will cost an estimated \$873,000 to complete. It includes:

Item	Amount
IT - Project Support	\$ 137,000
Revenue Services - backfill to provide business expertise re documentation and testing	20,000
Communication, Education, and Training	50,000
Legal - advice	15,000
Handheld computers with colour photo capability	225,000
External Systems Consultants	426,000
TOTAL - Estimated Cost	\$ 873,000

Staff will return to Council in approximately September 2010 to provide further detail on the proposed bylaw adjudication system, and to request that Council direct staff to inform the Province of Council's intent to proceed with implementing a bylaw adjudication. At that time, staff will also request Council's approval of a bylaw dispute adjudication bylaw. This bylaw will allow for the implementation of a bylaw adjudication system in the City of Vancouver.

FINANCIAL IMPLICATIONS

The design and development work needed to prepare the City for the possible implementation of a bylaw adjudication system will cost an estimated \$873,000. It is proposed that this project be funded through a loan from the Capital Financing Fund, with repayment of the loan to be achieved within one year of implementation of the bylaw adjudication program through the increased revenue projected from the collection of currently unpaid parking tickets.

Once a bylaw adjudication system is implemented, the City will incur an additional annual operating expense, however, despite this additional expense, the following net revenue increases are projected:

	2011 (in \$ M)	2014 (in \$ M)
Bylaw Adjudication System (see assumptions)		
Revenue - total	19.8	23.9
Operating expense	2.0	1.6
Revenue - net	17.8	22.3
Court-based System		
Revenue - net	16.4	19.2
Revenue - net increase	1.4	3.1
Project Cost	0.873	n/a
Revenue - net increase (after CFF payback)	0.57	n/a

Assumptions:

Based on the experience of other municipalities that have implemented bylaw adjudication, the following assumptions were used in estimating the above values:

- The current voluntary payment rate is 76%. With bylaw adjudication, the bylaw notice payment rate will increase over time to 85% by 2014.
- That of the 76% that are paid, 84% are paid within the discount period and 16% are paid at the full fine rate (i.e. after the discount period). This payment pattern is expected to remain unchanged.
- That the number of unpaid bylaw notices will decrease as the payment rate increases.
- That the collection agency will successfully collect on 30% of the unpaid bylaw notices and that the fee for collection will be 70% of the ticket value.

Based on these assumptions, staff anticipate that the requested loan can be paid off within one year of implementing a bylaw adjudication system.

PERSONNEL IMPLICATIONS

It is anticipated that there will be minimal staff impact by the implementation of a bylaw adjudication system. The specific details of the impact will be determined during the course of the design work.

CONCLUSION

On an annual basis, the City of Vancouver issues almost 450,000 parking-related bylaw infractions under the Parking Meter, and Street and Traffic Bylaws. The current court-based processes for dispute resolution are complex, resource intensive, and can be very lengthy and costly. In light of the fact that many of the parking-related bylaw infractions are minor in nature, continuing to proceed under the Provincial Court process with respect to those infractions is not justifiable. Staff are requesting that Council approve, in principle, the establishment of a Bylaw Dispute Adjudication System. Further, staff are requesting \$873,000 from the Capital Financing Fund to support the design and development work necessary for the City to implement a bylaw adjudication system. Staff anticipate that the loan can be paid back to the Capital Financing Fund within one year of implementing a bylaw adjudication system.

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