

Committee of the Whole (2) Report

DATE: Tuesday, June 16, 2020

WARD(S): ALL

TITLE: TRANSFER OF PART III PROSECUTIONS FROM PROVINCE TO YORK REGION

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

To seek Council's approval to delegate the authority to enter into agreements with the Province to amend the Memorandum of Understanding and the Local Side Agreement (subject to certain restrictions). These agreements relate to prosecutions of By-law offences for the City of Vaughan, and recent legislative changes require amendment to these agreements.

Report Highlights

- The *Provincial Offence Act* ("POA") has been amended to allow the Province to enter into agreements with municipalities to prosecute Part III charges. These are primarily charges for offences under the *Highway Traffic Act*, *Compulsory Automobile Insurance Act*, and the *Dog Owners' Liability Act*.
- In order to facilitate the transfer of prosecution of Part III offences, the existing Memorandum of Understanding and Local Side Agreement must be amended.
- York Region is requesting resolutions from its local municipalities to delegate authority to execute these agreements with the province to the Region on the local municipalities' behalf.

Recommendation

1. That Council adopt the resolution attached hereto as "Attachment 1", delegating the authority to York Region to enter into amending agreements with the Province to amend the Memorandum of Understanding and Local Side Agreement, so long as these agreements are in a form satisfactory to Vaughan's City Solicitor.

Background

Province transferred Provincial Offences Court program to Municipalities in 1999

In 1999, the Province, York Region and the nine local municipalities signed the Memorandum of Understanding and the Local Side Agreement which transferred to operation of the Provincial Offences Court and the prosecution of charges laid using the process under Parts I and II of the POA to York Region.

Part I offences involve an officer issuing a ticket to a defendant with three options available – pay the set fine (plus costs and victim fine surcharge), complete a walk-in guilty plea, or request a trial. Part II offences involves parking tickets. The Province retained the prosecution of charges laid using the process under Part III of the POA, except for those offences previously prosecuted by municipalities, such as municipal by-law charges. Part III proceedings are commenced by swearing an Information and serving a summons requiring a defendant to appear in court and involve more serious charges.

Provincial Offences Act amended to allow for transfer of Part III prosecutions

On Dec 14, 2017, Bill 177 (*Stronger, Fairer Ontario Act (Budget Measures) 2017*) received Royal Assent. Sections 162 and 173 of the POA were amended to allow the Province to enter into agreements with municipalities to prosecute some additional Part III charges, such as offences under the *Highway Traffic Act*, *Compulsory Automobile Insurance Act*, and the *Dog Owners' Liability Act*.

York Region currently prosecutes Part III charges under municipal by-laws, and some Provincial statutes and regulations including the *Building Code Act*, *Fire Protection and Prevention Act*, *Health Protection and Promotion Act*, and *Smoke Free Ontario Act*. Other Part III charges laid under various other Provincial statutes and regulations are prosecuted by the ministry responsible for the Act and are not included in the transfer (e.g. Ministry of Labour, Ministry of Transportation, and Ministry of the Environment).

Authorization to execute amending agreements required

The transfer of Part III offences from the Province to York Region will require the Province and local municipalities to sign amending agreements to the Memorandum of Understanding as well as the Local Side Agreement.

Authorization to sign these agreements has now been given by York Region Council. York Region is now seeking resolutions from the nine local municipalities in the suggested form (see Attachment 1) to delegate authority to York Region to enter into amending agreements with the Province to amend the Memorandum of Understanding and the Local Side Agreement on behalf of the local municipalities.

Previous Reports/Authority

N/A

Analysis and Options

Provisions contained in the draft agreement would facilitate the transfer

The draft amending agreement to the Memorandum of Understanding contains provisions that would transfer the prosecution of proceedings commenced under Part III of the POA from the Province to York Region, with the exception of certain Part III proceedings.

The draft amending agreement to the Local Side Agreement contain provisions that would transfer files from the Province to York Region, with an effective date for the transfer to be agreed upon.

Delegation of authority to York Region will allow for efficient transfer of Part III proceedings

As mentioned above, York Region is seeking resolutions from the nine local municipalities in the suggested form (see Attachment 1) to delegate authority to York Region to enter into amending agreements with the Province to amend the Memorandum of Understanding and the Local Side Agreement on behalf of the local municipalities.

Staff have reviewed the draft Local Side Agreement and Memorandum of Understanding provided by the Region, and do not have concerns with the form of agreement. Additionally, because the download of Part III prosecutions is largely a matter between the Province and York Region, staff see relatively little risk in delegating authority to York Region to sign the agreements on the City of Vaughan's behalf. Having said that, to ensure the City's interests are best protected, staff suggest a minor modification to York Region's draft resolution to confirm that the final Local Side Agreement and Memorandum of Understanding amending agreements be in a form satisfactory to Vaughan's City Solicitor.

Financial Impact

There is no expected financial impact to the City of Vaughan as a result of the transfer, because the POA program is operated at the expense of York Region.

Broader Regional Impacts/Considerations

York Region believes the transfer of Part III prosecutions from the Province to York Region will create efficiencies in the operation of the Provincial Offences Court. York Region also believes that the transfer of Part III prosecutions to York Region will enhance the delivery of court services to the community through a more efficient and streamlined process.

Conclusion

The Province is seeking to transfer the prosecution of proceedings commenced under Part III of the POA, except for certain offences. The transfer will improve the functioning of the POA court and make it more user friendly for the public to deal with one prosecution office. Amending agreements to the Memorandum of Understanding and Local Side Agreement must be executed by York Region and the nine local municipalities for the transfer to occur.

York Regional Council has recently provided its approval for the Memorandum of Understanding and Local Side Agreement to be executed. York Region is now seeking resolutions from the nine local municipalities to delegate authority to York Region to execute the amending agreements. Staff are generally supportive of this request, subject to one minor amendment, which allows the City Solicitor to approve the final form of the agreements.

For more information, please contact: Wendy Law, Deputy City Manager, Administrative Services and City Solicitor, ext. 8700

Attachments

1. Resolution of Council.

Prepared by

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