
Subject: Court Services – 2021 Budget Report

Report to: The Joint Board of Management of the Niagara Region Courts

Report date: Thursday, November 5, 2020

Recommendations

1. That the 2021 Court Services gross operating budget of \$7,109,749 and net budgeted revenue of \$680,174 (decrease in revenue of \$54,244 or 7.4% over the 2020 operating budget) in accordance with the 2021 budget planning framework and as outlined in **Appendix 1, BE APPROVED** and;
2. That this report **BE REFERRED** to the Budget Review Committee of the Whole meeting on December 10, 2020, for consideration as part of the 2021 operating budget deliberations.

Key Facts

- The purpose of the report is to seek approval for the proposed 2021 Operating budget as outlined in Appendix 1.
- The budget has been prepared in consideration with the budget requirements as outlined in the Niagara Region Courts Inter-Municipal agreement.
- Court Services staff administer a high volume of charges under *the Highway Traffic Act, the Trespass to Property Act, the Liquor License Act*, municipal by-laws, other provincial and federal offences and more serious matters such as charges under *the Compulsory Automobile Insurance Act, the Environmental Protection Act, the Fire Prevention and Protection Act and the Alcohol and Gaming Control Act*.
- Staff drafted the 2021 operating budget based on the guidance provided by Council at the June 25th BRCOTW meeting, which outlined that the 2% increase be shared equally with 1% to operating costs and 1% to support capital before addressing the impacts of COVID-19.
- If the Joint Board of Management (“JBM”) and Budget Review Committee of the Whole approves the Court Services 2021 operating budget, the benefits include a 2021 distribution level for net revenue forecasted at \$680,174 to the local area municipalities and \$680,174 to the Region.
- Operating budget guidance of 1% (before COVID-19 budget impacts) was achieved by reducing the annual transfer to the Courts capital reserve by \$56,638 in addition

to budgeting for 1% salary gapping of \$19,047 in alignment with corporate mitigation strategy.

- The 2021 Budget includes \$79,112 of costs related to COVID-19 and \$14,688 in support of Court Services capital program (within the 1% guidance for capital).

Financial Considerations

The net revenue to be allocated, including indirect allocations, but excluding the distribution of net revenue to the LAMs, is budgeted with an overall decrease of 7.4% or \$54,244. This net decrease is in line with Regional Council's budget strategy to not exceed base budget increases of 2% (to be shared equally with 1% to operating and 1% to support capital renewal costs), before addressing the impacts of COVID-19 (as shown in **Table 1** below).

Table 1 – 2021 Court Services Gross & Net Revenue Budget

	Gross Expense	Gross Revenue	Net Revenue to be allocated	50% Allocation	\$ Change	% Change
2020 Budget	7,390,911	(8,859,747)	(1,468,836)	(734,418)		
2021 Base	7,400,143	(8,924,747)	(1,524,604)	(762,302)	(27,884)	3.8%
2021 Mitigations	(79,544)	-	(79,544)	(39,772)	(39,772)	5.4%
2021 One-time	150,000	-	150,000	75,000	75,000	-10.2%
Sub-total 2021 Base Services	7,470,599	(8,924,747)	(1,454,148)	(727,074)	7,344	-1.0%
2021 COVID	79,112	-	79,112	39,556	39,556	-5.4%
2021 Capital financing	14,688	-	14,688	7,344	7,344	-1.0%
Total 2021 Budget	7,564,399	(8,924,747)	(1,360,348)	(680,174)	54,244	-7.4%

Base Operating Budget

The total base budget net revenue, including indirect allocations is budgeted with an overall net increase of 1.0% or \$7,334. The savings above are partially offset by increases in expenses related to the higher revenue projections, including increased Victim Fine Surcharge payments. The total budgeted revenue is proposed to increase by 0.7% or \$65,000. This is supported by the 2019 increase in both infraction and delinquent fine revenue and the increase in charges in January and February 2020 (pre-COVID-19). Staff have therefore estimated a corresponding increase in the budgeted revenue for 2021 based on this historical trending, as well as the following considerations;

- Mitigation options have been proposed for a total 2021 budget mitigation of \$79,544 as follows:
 - There is a decrease in the Transfer to Reserve proposed annual \$200,000 base amount by \$56,638 to support the 2021 budget guidance and other corporate pressures. This mitigation item will allow Court Services to maintain their operating budget within the 1% guidance. This mitigation strategy will likely cause a budget pressure in 2022/2023 based on the projected multi-year program and services changes expected by Court Services. A business case for this strategy is outlined in **Appendix 2**.
 - Indirect allocations have been mitigated with a resulting reduction of \$3,859 resulting from the Corporate Services Mitigation Strategy.
 - An estimate of salary gapping has been calculated as 1% of applicable compensation related accounts. This translates to an impact of \$19,047. Niagara Region departments have historically budgeted personnel related costs on the premise that positions will be filled for the entire year. This process includes budgeting the total estimated payroll related costs for a position for the entire year. When a position becomes vacant, there is a natural time lag involved to fill the vacancy. This time lag creates a favourable budget variance as the budgeted dollars associated with a position go unspent during the vacancy period. A business case for this strategy is outlined in **Appendix 2**.
- A one-time transfer to the Region's Capital Levy Reserve of \$150,000 is included in the 2021 operating budget to fund the 2021 Court Scheduling Tool Modernization capital project.

Court Services has leveraged the opportunity to collect on some of its delinquent fines through a partnership with all 12 LAMs through the "add to tax roll" initiative. A total of approximately \$1,254,214.51 in delinquent fines has been successfully collected since implementation of this initiative in 2014, which represents an 88% recovery rate. As set out in this report, these funds are split between Niagara Region and all local area municipalities.

COVID-19

Projected increases in expenses related to cleaning supplies and services as well as protective equipment due to COVID-19 pandemic totalling \$79,112 (or a total budget increase of 5.4%) have been included in the 2021 operating budget. A business case for this strategy is outlined in **Appendix 2**.

Capital Financing

Per CSD 41-2020 (2021 Budget Planning report approved by Regional Council) the strategy for the 2021 budget was to present a budget at 2%. Accordingly Staff have included in alignment with this a 1% (\$14,688) increase in the budget to account for increased funding to the capital program (increase transfer to the Courts capital reserve). A business case for this strategy is outlined in **Appendix 2**.

Analysis

Base Operating Budget

The total budgeted net revenue for 2021 is \$1,360,348 to be split between the Niagara Region and the LAMs in accordance with the Inter-municipal Agreement. The amount of \$680,174 is budgeted to be distributed to the LAMs based on the 2021 proportionate share of assessment value for the municipalities.

Infraction Revenue

- The extension of time limitations and the pause on certain enforcement processes as a result of Provincial and Judicial Orders in response to the pandemic has resulted in more than 4000 Part 1 charges sitting on “Fail To Respond” (FTR) dockets awaiting conviction.
- This pause is scheduled to be lifted on December 2, 2020
- FTR convictions entered in December 2020 will become due and payable in January 2021
- The current value exceeds \$700K

Delinquent Revenue

- Over 3000 cases are pending suspension as a result of Provincial and Judicial Orders in response to the pandemic
- The pause on suspensions will be lifted December 2, 2020
- The current value of the cases eligible for suspension exceeds \$3.7 million dollars
- Historically 1/3 of defendants will pay once suspended = \$1.9 million dollars
- Enforcement activities that were mandated to be paused will recommence in December 2020 with revenue realized in 2021.

Under normal circumstances, the funds noted above would have been revenue realized in 2020. Due to the extension of time limitations and paused enforcement actions as a result of Provincial and Judicial Orders in response to the pandemic, Court Services anticipate the revenue will be realized in 2021 and add to the overall 2021 gross revenue figures.

It is important to note that Court Services generates revenue and continues to be self-funded, and therefore is not reliant on the levy budget. Pursuant to the Inter-Municipal agreement, net revenue is shared, with 50% going to the Region and 50% going to the LAMS. The 2021 budget as presented proposes a \$54,244 or 7.4% decrease in net Regional revenue and is within Regional Council's budget planning direction of 1% of the net 2020 base budget.

2021 Capital Funding Request

A 2021 capital budget request of \$150,000 has been submitted in conjunction with IT Services' capital budget requests, with the intention to replace the current scheduling tool with an upgraded application. JBM-C 6-2020 - 2021 Capital Budget - Court Scheduling Tool Modernization Project was brought forward and subsequently approved by Joint Board of Management on August 13, 2020, to be funded as part of the 2021 Capital Budget for Court Services with recommended funding from the 2021 Court Services Operating Budget. The costs will not impact the base operating budget, however will be mitigated through the adjustment of the 2021 Transfer to Courts capital reserve, as outlined below.

Vision Zero Road Safety Program Change

In 2020, the Vision Zero program on certain Regional roads was approved and is planned to launch in early 2021. The Vision Zero program is comprised of a number of traffic safety initiatives led by the Region's Transportation Services department including red light cameras ("RLC") and automated speed enforcement ("ASE"). Authorization was received to implement the RLC and ASE initiatives under Vision Zero, subject to successful negotiations with the LAMs to amend the Inter-Municipal Agreement with respect to the sharing of both the revenues and the costs associated with the implementation and operation of the Vision Zero program to ensure that the program is financially sustainable to the Region. Infractions issued under Vision Zero will be processed through the Niagara Region Provincial Offences Court.

As a result of COVID-19, discussions with LAMs in relation to the program and requested amendments to the Inter-Municipal agreement were delayed. An update on the status of the program is provided in Report JBM-C 12-2020 dated November 5, 2020.

The 2020 budget was based on 6 months of operations for RLC and 9 months for ASE. Based on the estimated timelines for 2021 staff do not foresee operations exceeding the timelines used to estimate 2020 budget and as a result, the 2021 base budget includes the budget as approved in 2020 (budgeted as cost neutral, meaning revenue = expenses). Staff expect to update the 2022 budget based on actuals operating results in 2021.

Niagara Region Courts Inter-Municipal Agreement

The budget has been prepared in consideration with the budget requirements as outlined in the Niagara Region Courts Inter-Municipal agreement. The Niagara Region Courts Inter-municipal Agreement (the “Inter-municipal Agreement”) provides that:

Section 7 – Budget

7.1 The Manager, on behalf of the Agent, shall prepare an annual budget for the Program setting out estimated operating and capital costs, and projected revenue from fines, fees, applicable grants, subsidies and other revenues. The budget shall be submitted to the Board for approval. Following Board endorsement, the budget shall be submitted to Regional Council for approval.

Section 8 – Apportionment of Costs and Revenue

8.1 The Agent shall be entitled to recover its costs from the gross revenues generated by the transfer of POA administration. Gross revenues shall not include Part II Parking revenues, as otherwise provided for in Section 6 of this Agreement.

8.2 The Region shall receive 50% of the net revenues.

8.3 All Municipalities, with the exception of the Region, shall receive 50% of net revenues, and it shall be distributed on the basis of assessment.

Alternatives Reviewed

Further reduction in discretionary expenses would result in the Niagara Region not being able to meet its obligations under the Memorandum of Understanding with the Ministry of the Attorney General to properly administer the Provincial Offences Court in Niagara.

Relationship to Council Strategic Priorities

The 2021 Budget was prepared in alignment with Regional Council guidance and Strategic Priorities.

Other Pertinent Reports

JBM-C 9-2019 Court Services – 2020 Budget Report
PW 64-2019 Public Works – Vision Zero Road Safety Program
JBM-C 6-2020 - 2021 Capital Budget - Court Scheduling Tool Modernization Project
CSD 41-2020 – Budget Planning

Prepared by:

Miranda Vink
Manager, Court Services
Corporate Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Blair Hutchings, Program Financial Analyst and Beth Brens, Manager, Financial Support. Reviewed by Donna Gibbs, Director, Legal and Court Services and Helen Chamberlain, Director of Financial Management and Planning.

Appendices

Appendix I	Schedule of Expenditures and Revenue; Courts 2019 Actuals; 2020 budget and Q3 Forecast and 2021 budget
Appendix II	Operating Business Case – COVID-19 Operating Business Case – Mitigation Operating Business Case – Salary Gapping Operating Business Case – Capital Financing