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**Subject:** Court Services – 2022 Budget Report

**Report to:** Budget Review Committee of the Whole

**Report date:** Thursday, November 25, 2021

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## Recommendations

1. That Report CSD 77-2021, dated November 25, 2021, respecting Court Services – 2022 Budget Report, **BE RECEIVED**; and
2. That the 2022 Court Services gross operating budget of \$8,067,487 and net budgeted revenue of \$639,040 (decrease in revenue of \$41,134 or 6.1% over the 2021 net operating budget) **BE APPROVED** in principle subject to consideration of the total tax levy for Niagara Region on December 9, 2021.

## Key Facts

- The purpose of the report is to seek approval for the proposed 2022 Operating budget, as outlined in Appendix 1 to Report CSD 77-2021. The 2022 operating budget is aligned with the budget strategy presented to Council at the June 17, 2021, Budget Review Committee of the Whole (“BRCOTW”) meeting, which outlined that base services be addressed within 2.0% in alignment with the core CPI target before addressing the impacts of COVID-19. This budget proposes a net revenue increase of 20.6% for base services, which represents a decrease on the Niagara Region consolidated levy.
- The Niagara Region consolidated levy operating budget is addressing the consolidated impacts of COVID-19 and mitigation options for the Region’s share of these costs, which may include Provincial funding as well as one-time funding from reserves.
- The budget has been prepared in consideration with the budget requirements as outlined in the Niagara Region Courts Inter-Municipal Agreement.
- This 2022 operating budget was approved by the Joint Board of Management Niagara Region Courts on October 21, 2021.
- 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*.

- As a result of the COVID-19 pandemic, Court Services are also administering and prosecuting charges related to the pandemic under the *Quarantine Act*, *Reopening Ontario Act* and the *Emergency Management and Civil Protection Act* (EMCPA).
- If the BRCOTW approves the Court Services 2022 operating budget, the benefits include a 2022 distribution level for net revenue forecasted at \$639,040 to the local area municipalities (“LAMs”) and \$639,040 to the Region.
- The 2022 budget includes \$442,076 of costs related to COVID-19, including support for the prosecution of charges related to the pandemic.

## Financial Considerations

The net revenue to be allocated to the Region, net of the distribution of net revenue to the LAMs, is budgeted with an overall decrease of 6.1% or \$41,134. There is a \$140,348 (20.6%) increase in the net revenue allocated to the Region without the \$181,482 to address the impacts of COVID-19, which aligns with Regional Council’s budget strategy to not exceed base budget increases of 2% before addressing the impacts of COVID-19, as shown in Table 1 below.

**Table 1 – 2022 Court Services Gross and Net Revenue Budget**

Budget Request Type	Gross Expense \$	Gross Revenue \$	Net Revenue to be Allocated	50% Allocation	\$ Change	% Change
2021 Budget	5,690,537	(7,129,997)	(1,439,460)	(719,730)		
2021 COVID-19	79,112	0	79,112	39,556		
<b>Total 2021 Budget</b>	<b>5,769,649</b>	<b>(7,129,997)</b>	<b>(1,360,348)</b>	<b>(680,174)</b>		
2022 Base Budget	6,986,371	(8,706,527)	(1,720,156)	(860,078)	(140,348)	-20.6%
2022 COVID-19	442,076	0	442,076	221,038	181,482	26.7%
<b>Total 2022 Budget</b>	<b>7,428,447</b>	<b>(8,706,527)</b>	<b>(1,278,080)</b>	<b>(639,040)</b>	<b>41,134</b>	<b>6.1%</b>

## Base Operating Budget

The total base budget net revenue, including indirect allocations is budgeted with an overall net revenue increase of 20.6% or \$140,348, which represents a decrease to the Regional levy. The 2022 base budget reflects the changes to operations that have occurred or are anticipated, including the following drivers:

### Compensation

- Decrease of \$80,423 is driven by the delay in the implementation of the Vision Zero program (\$29,168) and savings related to the reduction of 1.0 FTE and changes in the structure of positions within Courts Administration. These savings are partially offset by the request for an additional Court Administration Clerk FTE (\$65,436) to support the work arising from changes in legislation, namely Bill 177. Certain tasks that were previously performed by a Justice of the Peace are now able to be completed by a Clerk of the Court, that are aimed at modernizing and streamlining POA court processes, and will allow the courts to process Failure to Respond (FTR) convictions and payment extension requests, effective November 1, 2021.

### Administrative

- Decrease of \$154,250 mainly related to reduced adjudication costs, due to the availability of judicial resources (\$45,000). Also impacting this decrease are savings due to adjustments for the delay in implementation of the Vision Zero program, including adjudication and Victim Fine Surcharge (total \$128,295).

### Operational and Supply

- Overall decrease of \$50,365 mainly driven by a reduction in the amount paid to other POA courts for amounts collected on their behalf, due to the movement towards on-line payments (\$165,000). Also contributing to the decrease is a reduction in the cost of armoured car service, due to revised pricing within the new contract (\$10,500) and savings due to adjustments for the delay in implementation of the Vision Zero program (\$11,160).
- Offsetting these savings is an increase in the base net revenue amount to be distributed to the LAMs (\$140,348), which is reflected as a cost to the Courts within the budget.

#### Equipment, Vehicles and Technology

- Increase of \$8,100 related to annual software licensing and support costs included in the budget for 2022.

#### Financial Expenditures

- Decrease of \$25,000 due to decrease in collection charges paid to a third party agency based on current rate trends and anticipated delinquent fine collections.

#### Transfer to Funds

- The 2021 budget included a one-time transfer to the Region's Capital Levy Reserve of \$150,000 to fund the 2021 Court Scheduling Tool Modernization capital project, which is not included in the 2022 budget. In addition, there was a one-time decrease of \$41,950 to the transfer to the Courts Facility Renewal Reserve as a mitigation measure to bring the overall increase to 2% in alignment with the budget planning strategy. The 2022 budget includes the full amount of the proposed annual \$200,000 transfer to the Courts Facility Renewal Reserve to fund the future replacement of the courthouse or other capital needs.

#### Other Revenue

- The 2022 budget reflects an overall decrease of \$218,220 due to decreases in the budgeted delinquent fine revenue (\$53,000) based on what is anticipated to be collected, which has been impacted by trial and conviction delays, as well as a decrease in infraction revenue related to the adjustments for the delay in implementation of the Vision Zero program (\$168,620). These decreases are offset slightly by an increase in the municipal prosecution revenue that is recovered from the LAMs for matters prosecuted on their behalf (\$3,400).

#### Indirect Allocations and Capital Financing Allocations

- The 2022 budget reflects an overall increase of \$52,350 in the allocation of program support costs, including an increase in building maintenance costs for the operations of the courthouse, an increase in IT operations costs and an increase in the capital levy allocation for program support.

## COVID-19

Projected increase in expenses due to the COVID-19 pandemic total \$442,076 (or a total budget increase of 26.7%). They relate to additional staffing (\$378,176), Part III prosecution time (\$14,300), cleaning supplies and services (\$39,000), IT-related costs to facilitate new virtual Zoom court trials (\$5,600) and personal protective equipment (\$5,000), have been included in the 2022 operating budget, shared 50% with the LAMs in accordance with our Inter-Municipal Agreement (total cost of \$221,038).

This budget request includes 6.0 temporary FTEs for a one-year period to support the necessary changes to operations at the courthouse in response to COVID-19 and the movement to virtual Zoom trials, as well as the administration and prosecution of pandemic-related charges. The staffing requests include a prosecutor, courtroom clerk, court administration clerk, two court customer service representatives and a screener for the entrance of the courthouse, as detailed in the business case presented in the 2022 Budget Detail.

## Analysis

The total budgeted net revenue for 2022 is \$1,278,080, to be split between the Niagara Region and the LAMs in accordance with the Inter-Municipal Agreement. The amount of \$639,040 is budgeted to be distributed to the LAMs based on the 2022 proportionate share of assessment value for the municipalities.

## Revenue

- The extension of time limitations and the pause on certain enforcement processes due to Provincial and Judicial Orders in response to the pandemic has resulted in a backlog of 5,732 Part 1 charges sitting on “Fail To Respond” (FTR) dockets awaiting conviction (at the time of writing this report). This pause was lifted on February 26, 2021. The current value exceeds \$1.43 million.
- Judicial resourcing challenges have delayed the processing and conviction of FTR docket matter backlog.
- As of November 1, 2021, legislative changes (Bill 177) will enable the Clerk of the Court to be able to convict FTR matters, which will assist in addressing the backlog of charges.
- The court backlog that has grown over the course of the COVID-19 pandemic is another significant impact to infraction revenue.

In-person court matters have been adjourned since March 16, 2020, with no resumption date for in-person matters presently set. Early Resolution guilty pleas, Judicial Pre-Trial, and all other non-trial matters resumed in 2020. As a result of significant efforts on the part of the Court Services team to meet MAG guidelines, Niagara was the first POA Courthouse in Ontario to commence virtual Part I trials as of April 12, 2021. However, inability to address in-person matters affects the rate at which matters can be addressed, as virtual court is more complex and requires more time dedicated per matter.

- Judicial resourcing challenges also impact infraction revenue, as it limits the number of matters which can be addressed by the courts based on court closures or adjournments.
- An extended wait time for trials means a longer timeline between the charges being addressed and payment being realized upon conviction. In 2019, pre-pandemic, the average time to trial for Part I matters was 200 days. As of October 1, 2021, the average time to trial for Part I matters is 421 days.
- There are currently more than 1,200 pandemic-related charges awaiting prosecution that were laid under the Quarantine Act, Reopening Ontario Act and Emergency Management and Civil Protection Act (EMCPA). Due to the nature of these matters, the majority are being set for trial. The matters contain a larger than average amount of disclosure and will require additional resources to address them in a timely and effective manner. Although it is a function of Niagara's Court Services to prosecute these charges, which create pressures on prosecution resources and court time, many of them are dedicated fines, which will not generate additional net revenue for Niagara but will instead be payable to the Province and Federal Government.
- Another impact to infraction revenue is the rate of new charges laid. While 2020 was an anomaly year due to the pandemic and 2019 saw a very large increase in charges, current charging trends are similar to the lower rates from 2018, which was more reflective of a "typical" year.
- Court Services has continued to leverage the opportunity to collect on some of its delinquent fines through a partnership with all 12 of the LAMs through the "add to tax roll" initiative. A total of \$1,335,040 in delinquent fines has been successfully collected since implementation of this initiative in 2014, which represents an 86% recovery rate. As set out in the report, these funds are split between Niagara Region and all local area municipalities.

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 2022 budget as presented proposes a \$41,134 or 6.1% decrease in net Regional revenue with a corresponding decrease in the net revenue distributed to the LAMs. The Region's portion of the COVID-related costs will be funded through a transfer from the Taxpayer Relief Reserve in alignment with the corporate strategy to fund these incremental COVID-19 costs, pending any additional confirmed provincial funding for these cost pressures, which results in an overall net revenue increase of 19.5% or \$140,348 for the Region.

### Vision Zero Road Safety Program Change

In 2020, the Vision Zero program on certain Regional roads was approved and is now planned to launch in early 2022. 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"). Infractions issued under Vision Zero will be processed through the Niagara Region Provincial Offences Court. 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.

As a result of COVID-19, discussions with the LAMs in relation to the program and requested amendments to the Inter-Municipal agreement were delayed. Updates on the status of the program was provided in Report JBM-C 2-2021 dated January 28, 2021, in addition to a further verbal update provided at the JBM meeting on August 19, 2021.

The 2021 budget was based on 9 months of operations for RLC and ASE. Based on the estimated revisions to the timelines for 2022, staff do not foresee operations starting until May 2022. As a result, the 2022 base budget has been revised to include the budget as approved in 2020 and 2021, pro-rated to adjust for a May 1st start compared to April 1st used within the 2021 budget (budgeted as cost neutral, meaning revenues are equal to expenses). Staff expect to update the 2023 budget based on actuals operating results in 2022.

## 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 expenditures may 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 in light of operational adjustments required as a consequence of legislative changes (Bill 177) and the COVID-19 pandemic.

## **Relationship to Council Strategic Priorities**

The 2022 operating budget supports the Council Strategic Priority of Sustainable and Engaging Government through the provision of a fiscally sustainable budget in accordance with the Inter-Municipal Agreement.



## **Other Pertinent Reports**

JBM-C 8-2020 – Court Services – 2021 Budget Report

CSD 80-2020 – Court Services – 2021 Budget Report

PW 64-2019 – Public Works – Vision Zero Road Safety Program

JBM-C 2-2021 – Vision Zero Update

CSD 40-2021 – 2022 Budget Planning and Timetable

JBM-C 10-2021 – Court Services 2022 Operating Budget

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## **Appendices**

Appendix 1                      Court Services Schedule of Revenues and Expenditures