



## STAFF REPORT ACTION REQUIRED

### Exemption From User Fee Policy- Toronto Parking Authority

<b>Date:</b>	September 30, 2011
<b>To:</b>	Executive Committee
<b>From:</b>	President, The Toronto Parking Authority
<b>Wards:</b>	All
<b>Reference Number:</b>	

#### SUMMARY

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Amendments to Chapter 179-7 and 950-601 of the City of Toronto Municipal Code are being requested. These amendments are being requested in accordance with recommendation 6 of the Report (as amended) entitled 'User Fee Policy' which was adopted by Toronto City Council on September 27, 2011. In adopting the report, Toronto City Council also enacted By-Law No. 1174-2011 which amended Chapter 179-7.D and Chapter 950-601 of the City of Toronto Municipal Code. These Chapters govern the duties and responsibilities of the Toronto Parking Authority. Chapter 179-7.D sets out a process whereby the Toronto Parking Authority may adjust rates and hours of operation at On-Street meters in certain limited situations with the consent of the Ward Councillor but without proceeding through the Standing Committees of Toronto City Council. The amendment to 179-7.D enacted by way of By-Law No. 1174-2011 would make this delegated authority subsequently subject to City Council approval. Chapter 950-601 sets out in detail the duties of the Toronto Parking Authority with respect to operating municipal parking lots, which duties are more generally enumerated in Chapter 179-7 of the Municipal Code. The amendment enacted makes the setting of rates at municipal parking facilities subject to Toronto City Council approval, which reverses the situation that has been in place for the previous 59 years of TPA operation in which this duty was delegated to the Board of Directors of the Authority. The need to report rate changes through Toronto City Council would create difficulties for the Authority to operate in a competitive, market-driven environment and would contradict the objective of the user fee policy with respect to agencies competing in a market driven enterprise. In addition, it is not clear that the 'User Fee Policy' should apply to the TPA as it limits fees to an amount not greater than the cost of delivering the service. Applying the policy would result in a substantial decrease in parking prices.

## **RECOMMENDATIONS**

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**It is recommended that The Executive Committee repeal the amendments to City of Toronto Municipal Code Chapter 179 (D) and 950-601 enacted by way of By-Law 1174-2011. The required amendments are itemized in Appendix 1 to this report.**

### **Economical Impact**

By allowing the Parking Authority to respond quickly to market condition the ability of the Authority to optimize its financial performance will be restored. In addition, the present provisions of Chapter 179-7 and 950-601 of the City of Toronto Municipal Code will ensure that it is extremely difficult for the Toronto Parking Authority to enter into Parking Management Agreements with third party parking facilities which will reduce the overall net revenue generated by the TPA.

### **Decision History**

At their Special Meeting of September 26 and 27, 2011, Toronto City Council adopted By-Law No. 1174-2011 which amended Chapter 179-7(D) and Chapter 950-601 of the City of Toronto Municipal Code. The amendments contained in the recommendations to this report will rescind these amendments and return Chapter 179-7(D) and 950-601 to their form prior to the enactment of By-Law No. 1174-2011.

## **ISSUE BACKGROUND**

### **COMMENTS**

It is not clear as to why the Toronto Parking Authority was considered as part of the “User Fee Policy”. The User Fee Policy specifically directs that:

“The amount of a fee must not exceed the full cost of providing the applicable service.”

The application of this policy to the Toronto Parking Authority would require that the fees currently being charged would need to be substantially reduced to approximately two-thirds of their existing levels on average. It is assumed that this was not an intended outcome. While the wording of the Policy Section does indicate exemptions for market based services it implies that the exemptions would be required where the fees resulted in obtaining revenues below cost, not where revenues exceeded costs. It would have been more appropriate to have excluded the Authority from the policy or, alternatively to have

delayed amending Chapters 179-7.D and 950-601 of the City of Toronto Municipal Code until the exemption date of December 31, 2011. The implications of the amended bylaw and the steps necessary to restore the process to a functional form are discussed herein.

The changes to Chapter 179 and Chapter 950 of the City of Toronto Municipal Code which were enacted by way of By-Law No. 1174-2011 would have the following effects:

- Chapter 179-7(D) sets out a process by which in certain circumstances, and subject to the approval of the Ward Councillor, impacted rates and hours of operations at On-Street meters may be adjusted without reporting through Standing Committee of Council. The amendments would retain this process but subsequently make it subject to Council approval.
- The changes to Chapter 950-601 would make any rate adjustments at off-street facilities subject to City Council approval despite the fact that under Chapter 179-7 the Board of Directors of the Toronto Parking Authority is specifically directed by the City to undertake these adjustments without City Council approval. The two legislative processes contradict one another.

By-Law 1174-2011 was submitted by the City Solicitor in order to enact the changes required to implement the recommendations contained in Item EX10.2, “User Fee Policy”. Recommendation 4 of that report would make all user fees subject to the approval of City Council while Recommendation 6 would allow Local Boards with market driven user fees to apply for an exemption. The exemption request is to be made by December 31, 2011 although by enacting By-Law 1174-2011 the Toronto Parking Authority is now subject to reporting rate changes through Standing Committees of Council in addition to the Board of Directors of the Toronto Parking Authority. The recommended repeal of the amendment to Chapter 179-7.D and 950-601 of the City of Toronto Municipal Code set out in this report would have the effect of exempting the Toronto Parking Authority from the reporting requirement for fee changes in the Off-Street lots and also restoring the ability to undertake charges at On-Street locations under certain limited conditions without reporting through Standing Committees of City Council. This is a system that has been in place and has functioned effectively for the past twelve years.

Throughout its nearly sixty years of managing the City’s portfolio of Off-Street parking facilities, the TPA has always been delegated authority for the setting of rates at their facilities. Indeed, the delegation of rate setting to a non-political body which could treat parking rates as a technical matter of rate setting was one of the core objectives in establishing an authority (local board) model in the first place. This is due to the successful governance strategy which was enacted in 1952. The governance model that has been employed to ensure that the appropriate fees are in place to achieve the Authority’s objective of maximizing turnover to optimize City revenue has a number of components to it.

1. The Board of Directors of the Toronto Parking Authority is directly appointed by City Council and approves any changes to fees in effect at Off-Street facilities;

2. The Toronto Parking Authority must fund its capital and operating program from its own revenues, and therefore, by definition has fees that recover and, in fact, widely exceeds the full cost of services (as per the User Fee Policy adopted by City Council);
3. Toronto City Council must approve the capital and operating budgets for the Authority; and
4. Toronto City Council and the Toronto Parking Authority are bound by the terms of a revenue sharing agreement which is renewed from time to time and sets out the financial expectations that Toronto City Council has for the Toronto Parking Authority.

This framework has been extremely effective over the past 60 years and there would not seem to be a compelling reason to abandon it.

With respect to setting rates at On-Street locations, the legislative framework outlined in Chapter 179-7 (D) is intended to allow the Toronto Parking Authority to respond quickly to localized issues while still ensuring public input through the local Ward Councillors office. Where comprehensive changes to the On-Street program are undertaken, such as in 1999 and 2007, the Authority's practice has been to proceed through the Standing Committees of Council. This has been an effective process and should be retained. It should be noted that this process was most recently considered by the Public Works and Infrastructure Committee in March of 2011 and the section was amended to delegate greater authority to the TPA Board of Directors. Given that the recent amendment was vetted through the Standing Committees of Council, it would seem inappropriate to repeal it without any consultation process.

## **CONTACT**

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## **ATTACHMENTS**