

Tree Protection Enforcement

Date: August 25 2017

To: Budget Committee

From: General Manager, Parks, Forestry and Recreation

Wards: All

SUMMARY

The purpose of this report is to increase the Operating Budget for Parks, Forestry and Recreation to accommodate the cost of extending six temporary positions for eight months, from July 2017 to February 2018, to address the volume of complaints regarding by-law infractions under the Street Tree and Private Tree By-laws (City of Toronto Municipal Code, Chapter 813, Trees, Articles II and III) and Ravine and Natural Feature Protection By-law (City of Toronto Municipal Code, Chapter 658, Ravine and Natural Feature Protection).

In order to maintain the service levels realized through the temporary program and provide an opportunity for further improvement Parks, Forestry and Recreation will be including a request in the 2018 Operating Budget submission to create seven permanent full-time positions to address the ongoing need for tree protection enforcement.

The cost of both the temporary response and the permanent program for tree protection enforcement are expected to be funded by contravention inspection fees generated under the by-laws for this purpose.

RECOMMENDATIONS

The General Manager, Parks, Forestry and Recreation recommends that:

1. City Council approve the extension of six temporary positions for a duration of eight months from July 2017 to February 2018, for a temporary initiative to address the increase in complaints under the Municipal Tree Protection By-Laws and adjust the Operating Budget for Parks, Forestry and Recreation to include associated expenditure increase of \$0.394 million gross and \$0 net, to be fully recovered by contravention inspection fees generated under the by-laws for this purpose.

2. City Council refer the creation of seven permanent full-time positions to address the need for tree protection enforcement under the Municipal Tree Protection By-Laws for consideration in the 2018 Operating Budget Process.

FINANCIAL IMPACT

The 2017 Urban Forestry operating budget includes a revenue target of \$0.160 million to offset the cost of two permanent staff positions that were created through the 2015 Operating Budget to support administration of the tree by-laws and implementation of contravention inspection fees.

On December 13, 2016 City Council amended item EX20.29, a report titled, "Urban Forestry – Increase in Complaints under the Municipal Tree Protection Bylaws" which approved an additional temporary six positions for a duration of six months from January 2017 to June 2017, for a temporary initiative to address the increase in complaints and permit applications under the Municipal Tree Protection By-Laws. The temporary initiative has an associated gross expenditure of \$0.284 million, \$0 net, to be fully recovered by permit and contravention inspection fees generated under the by-laws for this purpose.

The cost to extend the six positions which includes five temporary Arborist Inspectors and one temporary Supervisor of Tree Protection and Plan Review, for a period of eight months, July 2017 to February 2018, to continue addressing the increased workload is \$0.394 million, \$0 net to be fully funded through the collection of permit and contravention inspection fees.

Cost to Extend Temporary Positions	Duration	Cost
July - December 2017	6 months	\$ 297,562.00
January - February 2018	2 months	\$ 96,681.00
TOTAL	8 months	\$ 394,243.00

Between January and June 2017, contravention investigations resulted in the application of \$0.469 million in contravention inspection fees, an average of \$0.078 per month. It is expected that fees will continue to be applied at the same volumes through the end of 2017 and into 2018 which will result in total projected revenue \$0.938 million by the end of 2017 and an additional \$0.156 million in January and February of 2018.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of March 10, 2015, City Council, through item EX3.4, "2015 Operating and Capital Budgets," approved the addition of by-law contravention inspection fees for Parks, Forestry and Recreation to the Fees and Charges By-law (Municipal Code,

Chapter 441, Fees and Charges, Schedule E). The fees were introduced as a mechanism to enhance the enforcement function of the Tree By-laws including the Ravine and Natural Feature Protection By-law.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX3.4>

At its meeting of December 9, 2015, City Council amended item PE8.5, "Revisions to the Tree Bylaws," which reviewed various aspects of the tree by-laws in order to improve by-law effectiveness, allow for better customer service and reduce service delays. Among other things, the report resulted in amendments to the tree by-laws to specifically reference the collection of contravention inspection fees and to align with the Fees and Charges By-law.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PE8.5>

At its meeting of October 19, 2016, the Parks and Environment Committee adopted item PE14.3, entitled, "Improving Enforcement of the City's Tree By-laws" which requested the General Manager, Parks, Forestry and Recreation to include, as part of the report back in 2017 on the impact of the 2015 revisions to the Tree By-laws, options for further improvements to enforcement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PE14.3>

At its meeting of December 13, 2016 City Council, through item EX20.29, "Urban Forestry – Increase in Complaints under the Municipal Tree Protection Bylaws," approved the hiring of six temporary positions for a duration of six months from January to June 2017 for a temporary initiative to address the increase in complaints and permit applications under the Municipal Tree Protection By-Laws with a requirement to report back on the progress of the response through the 2017 Second Quarter Operating Variance Report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX20.29>

COMMENTS

In 2013, City Council set the target of increasing Toronto's tree canopy to 40%. One of the fundamental components of the plan to achieve this goal is the protection of existing natural resources.

Since the creation of the Tree By-laws (City of Toronto Municipal Code, Chapter 813, Trees, Articles II and III) and Ravine and Natural Feature Protection By-law (City of Toronto Municipal Code, Chapter 658, Ravine and Natural Feature Protection), their administration has been primarily based on an educational and compliance model. As a result, thousands of property owners, developers and builders have been educated on the importance of protecting and enhancing the city's urban forest.

Tree Protection Service Levels

While most individuals respect and follow the tree by-laws, numerous contraventions are reported and investigated each year. Contravention inspection fees were first introduced in 2015 as a mechanism to enhance the enforcement function of the Tree By-laws including the Ravine and Natural Feature Protection By-law. The fees provided funding to create two new positions to support administration of the tree by-laws and

implementation of the fees. The 2017 Urban Forestry operating budget includes a revenue target of \$0.160 million to offset the cost of these two permanent staff positions.

Between 2011 and 2016, the number of complaints reported under the tree by-laws increased by 71% city-wide. In 2016, complaints intensified such that Urban Forestry did not have the resources to respond to the increasing demand for investigations or the increasing amount of applications (62% permit application increase between 2011 and 2016). As a result, only 52% of alleged contraventions were being investigated with an average staff response time of 43 days.

To address the increased volume of work, City Council approved the hiring of six additional temporary positions including five Arborist Inspectors and one Supervisor. The temporary measure was approved for a period of six months from January to June 2017 at a cost of \$0.284 million, \$0 net to be fully funded through the collection of permit and contravention inspection fees. Until the creation of the temporary positions, reports of tree by-law contraventions were investigated by the same staff who perform the review of planning applications and tree permit applications.

Performance measure and revenue targets for 2017 were adjusted to reflect the additional investment and projected achievements of the temporary positions. As shown in the following table, as of June 2017, 89% of complaints have been investigated with an average response time of eight (8) days which represents a 71% increase in responsiveness and 82% reduction in wait time compared with 2016. Investigations to date have also resulted in applying \$0.469 million in contravention inspection fees which offsets costs for the additional staff.

Tree Protection Service Levels	2016		2017 6 months (Jan-Jun)		2017 Full Year	
	Target	Actual	Target	Actual	Target	Projection
	# Contravention Service Requests	NA	1,616	800	938	1,600
# of Investigations	1,356	841	678	833	1,356	1,666
% of Service Requests Investigated	NA	52%	85%	89%	85%	89%
Average Response Time (# of days)	NA	43	NA	8	6	6
# of Fees Applied	271	475	552	745	1,103	1,490
Contravention Inspection Fee Revenue (\$)	245,405.00	289,000.00	364,258.02	468,861.06	741,815.04	937,722.12

In addition to applying contravention inspection fees, the investigations to date have resulted in the issuance of over 300 stop work orders, 350 orders to comply and the performance of remedial or corrective action at 54 sites. The \$0.040 million cost for remedial work, which includes installation of tree protection hoarding, removing debris from tree protection zones and tree pruning and emergency tree removal, is being recovered through the add to tax process.

The volume of complaints and alleged tree by-law contraventions requiring investigation has not subsided and is projected to continue at increased levels. Although performance between January and June 2017 reflects significant improvements to customer service compared to 2016, given the demand, these service levels are not

sustainable without the additional six temporary positions. The recommended extension of these positions until the end of February 2018 and subsequent implementation of permanent positions in March 2018 is expected to maintain the service levels realized through the temporary program and provide an opportunity for further improvement.

Proposed Proactive Tree Protection Enforcement Program

Through the 2018 Operating Budget submission, Urban Forestry will be proposing to establish a permanent proactive tree protection enforcement program starting in March 2018 with seven new permanent staff including five Urban Forestry Standards Officers, one Support Assistant A and one Supervisor Tree Protection and Plan Review. The total 2018 cost of \$0.696 million gross, \$0 net, including salaries, benefits, and fleet will be fully funded through contravention inspection fees generated under the by-laws for this purpose.

The change in service levels from 2016 to 2018 will include:

- An additional 400 contravention investigations completed
- An additional 1,200 contravention fees applied
- 95% of contravention service requests being investigated
- 3 day (72 hour) average response time

Tree Protection Service Level Targets	2016*	2017 Full Year	2018 Proposed
# Contravention Service Requests	NA	1,600	1,850
# of Investigations	1,356	1,356	1,758
% of Service Requests Investigated	NA	85%	95%
Average Response Time (# of days)	NA	8	3
# of Fees Applied	271	1,103	1,550
Budgeted Revenue	\$ 245,405.00	\$ 741,815.04	\$ 955,559.49

* 2016 revenue target includes budgeted funding requirement of \$156,656.50 (est. 2015) as well as a funding requirement of \$89,012 to offset the cost of additional resources approved for November-December 2016.

Although the 2017 temporary program included Arborist Inspectors to respond to tree by-law contraventions it is more appropriate that new permanent positions specifically created for enforcement activities are Urban Forestry Standards Officers. In addition to the requirement for specific arboricultural knowledge to complete site inspections, the Urban Forestry Standards Officer position requires additional credentials including the International Society of Arboriculture Tree Risk Assessment Qualification as well as training and experience in prosecutions. This position provides the strongest skillset to enforce the tree protection by-laws.

It is hoped that enhanced enforcement of the tree by-laws would in time, foster increased voluntary compliance. Program performance and resources will continue to be reviewed annually.

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SIGNATURE

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