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PROVINCIAL OFFENCES COURT LOCATIONS

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated May 13, 2009, from the Commissioner of Corporate Services as amended to read as follows:

1. Council approve the option of consolidating the *Provincial Offences Act* courts at the Tannery with any courts that may be built at the proposed Central Service Centre in Newmarket and also maintain the court facilities at the South Service Centre in Richmond Hill.

1. RECOMMENDATION

It is recommended that:

1. Council approve the option to consolidate the two existing *Provincial Offences Act* Court locations onto one site in Newmarket.

2. PURPOSE

At its meeting March 5, 2009 Finance and Administration Committee requested a report providing options on the potential locations for the Regional *Provincial Offences Act* Courts.

3. BACKGROUND

Council endorsed the development of a Central Service Centre in Newmarket

At its March 26, 2009 meeting Regional Council approved the proposal to use the south limits of the property at 17250 Yonge Street to construct a new Central Service Centre. The centre will replace older outdated facilities in Newmarket as well as most leased premises and provide better service to our customers, and taxpayers on an official Regional and Transit Corridor. The costs savings over the next 20 years are expected in the range of \$35 million. Staff were authorized to issue a design RFP to retain architects and prepare tender documents.

Council wanted more information on Regional Courts consolidation

Council wished to consider the question of the consolidation of the Regional *Provincial Offences Act* (POA) program onto one site. Options were requested as to locations where

the Courts might operate mindful of customer service and other limitations. The discussion included whether the POA courts should also or alternatively be located in the southern portion of the Region.

The authority to locate courts rests with the Judiciary and the Ministry of Attorney General

The Region assumed the POA program as part of local service realignment in 1999. This was one of the first such transfers in the Province devolving responsibilities from the Ministry of the Attorney General. The Criminal Courts at 50 Eagle Street in Newmarket handles all criminal charges, all young persons' charges and all POA appeals for York Region. It is the centre for custodial transportation and holding for all courts in the area. The Regional POA program handles adult charges laid under Provincial Statutes and includes Municipal By-law infractions, Highway Traffic Act and various Provincial Statutes (e.g. under MOE, MNR and MTO Acts).

As part of the Transfer Agreement that was signed in 1999 with all 10 partner municipalities (Section 5.3.2) the Region agreed to continue to provide the "same services" as formerly provided by the Ministry of the Attorney General (MAG), unless we otherwise agreed in a Local Side Agreement (LSA). The LSA states we are to continue operating at the Tannery location by assuming the lease (Section 4.1, LSA). The Region continues to operate four court rooms at leased premises known as the Tannery on Davis Drive in the Town of Newmarket. An additional court room has been approved by Council at this site to open August 2009.

Council requested an additional Court be established in Richmond Hill

As part of the budget deliberations in 2000, Council directed staff to obtain approval to create an additional POA court based at the South Service Centre in Richmond Hill. Staff received the consent of the Ministry of the Attorney General and of the Judiciary to do so in 2001. The basis for the request was to provide residents in the southern part of the Region with closer access for some types of cases, thereby limiting inconvenience of travel to Newmarket and related lost time. The Region has two court rooms and an Intake Court at this leased location.

Customer service is being provided on behalf of neighbouring jurisdictions

Every POA court location in Ontario is obliged to take payments and handle various inquiries on behalf of all other court locations throughout the province. This enables court users to obtain local counter service in the location of their choice rather than travelling to whichever court office is holding their court file. With the opening of the Richmond Hill court location, it quickly became apparent that numerous defendants and agents from neighbouring jurisdictions (notably Toronto) were arriving at the new building in Richmond Hill to take advantage of the convenient location and free parking. Program financial statements show that over 41% of payments made at Richmond Hill in 2008

were in respect of non-York court cases. The ratio is very different at the Newmarket court facility where under 15% of payments received in 2008 were in respect of non-York court cases.

4. ANALYSIS AND OPTIONS

Opening new court location must be acceptable to the Judiciary

The consent of both the Ministry of the Attorney General and the Judiciary is required to create a Court location. Ministry approvals deal with such matters as construction standards and other procedural matters, but the Judiciary's consent is a major factor respecting the assignment of sitting Justices of the Peace. The Judiciary assigns resources from the Newmarket seat of justice and Regional Justices of the Peace must serve two roles – POA Courts and Provincial Criminal Courts. Travel time is a consideration for the effective deployment of these resources.

There are three main scenarios for consideration

Based on Council's direction staff have investigated the following;

1. Consolidate operations at one location in Newmarket.
2. Leave a court presence at the South Service Centre as well as a Newmarket site.
3. Consolidate operations at one location in Richmond Hill.

Option 1 – Consolidation in Newmarket

The Region engaged external consultants PSTG Inc. who interviewed a wide range of stakeholders as part of the field research for their report on future accommodation options for the courts. This included direct input from all of the major enforcement agencies (representing more than 95% of the charges filed in our courts).

Speaking directly to "Impact of geographic location on program efficiency and effectiveness" the consultants found that proximity to the Provincial courts at Eagle Street was very important, and stated among numerous recommendations;

1. There is, and will continue to be, a need for increased courtroom facilities and resources;
2. The current court facilities are inadequate and do not meet many York Region and Ministry of the Attorney General operating standards. While the facilities may be able to accommodate short-term modifications to meet current pressures, they cannot be renovated enough to meet the longer term increased courtroom, judicial, courtroom support, administrative, public, parking and holding area needs.

3. There will be a need for 6 to 8 courtrooms by 2026. In addition, there will be a need for significant numbers of additional judiciary, prosecutorial, administrative support and courtroom support staff.
4. The Region has to increase its court facilities in the short term in order to avoid overloading the POA court system.
5. A single site would be more efficient for POA operations.

Space is available on Region owned land in Newmarket

As part of preliminary site plan considerations the Region has made allowances to build a Regional POA Court as part of the site development for a Central Service Centre. This would be a purpose-built facility to required specifications and could be sized to meet current and future requirements. Parking would be designed into the site plan as well as being available to defendants using Regional transit. Purchasing costs for land is not required.

Certain cases are only dealt with in Newmarket

All traffic charges laid by the Ontario Provincial Police, plus the most serious of the traffic charges laid by York Regional Police must be processed at Newmarket where Provincial Prosecutors are on site and the appeal court is close to hand. Even for the least serious offences, if a defendant wishes to appeal against a court decision made in Richmond Hill, or if the defendant is a young person (i.e. under 16 years at the time of the alleged offence), or if the defendant is charged under the Federal Contraventions Act, they can only receive service at the seat of justice in Newmarket. Newmarket is the designated location for Federal Contraventions charges, for which the Region receives significant Federal funding (including three full-time bilingual staff members). The funding is specifically allocated to the Newmarket facility only.

Option 2 – Operate courts in Newmarket and in Richmond Hill

The existing facility in Richmond Hill at the South Service Center is an authorized site for POA operations both by the Judiciary and the Ministry of the Attorney General. It is currently providing service on a limited basis (largely for municipal By-Law charges and the less serious of the traffic charges laid by York Regional Police). Of the 157,422 charges filed in York Region in 2008, approximately 80,000 charges were handled in Richmond Hill. Although there are only two trial courtrooms in Richmond Hill (as compared to three trial courtrooms currently in Newmarket) the relatively minor nature of the vast majority of the charges scheduled for Richmond Hill enables a high percentage of early resolution at that site. There is an intake court offering those charged with an offence an opportunity to mitigate a fine assuming a guilty plea. This is known as ‘walk in first attendance’.

The Richmond Hill location provides access for residents charged with bylaw infractions in the southern municipalities as well as ‘part one’ (less serious) tickets mainly under the Highway Traffic Act. For more serious charges the defendant (whether a local resident or not) must still travel to Newmarket for trials and appeals.

Option 3 – Consolidation in Richmond Hill

Based on informal discussion with the Judiciary it appears they would not be supportive in establishing POA courts outside Newmarket or establishing additional court locations beyond the two we currently have as it impacts on their ability to staff more locations with Justices of the Peace. Additional Regional staff resources would be required as well. Because the Judiciary are the main deciding factor on court locations this precludes relocating the Newmarket POA court away from the seat of justice and in effect eliminates option 3 for consideration. The Federal government would also prohibit the Region from assigning resources for French Language Services to Richmond Hill or any other place in York Region (pursuant to Newmarket's special designation under the Blais decision with respect to the *Official Languages Act*).

Notwithstanding restrictions by the Judiciary and federal Government if the Region could have considered this option as viable a new purpose build facility would have had to be built. The Region would have to acquire land at market value to construct a new facility which would be an additional cost.

Trends in court expansion elsewhere in Ontario

In other parts of Ontario where expansion of court capacity has occurred in the past few years, there has been a tendency to create large consolidated courthouses at the existing seat of justice for the Region concerned. The following table provides a sense of scale for those jurisdictions in southern Ontario that come close to the volume of charges York must address:

Jurisdictions in Southern Ontario

<i>Municipality</i>	<i>Location</i>	<i># court rooms</i>
Durham	Whitby	4 + 1 intake
Mississauga	Mississauga	4 + 1 intake
Brampton	Brampton	7 + 1 intake 2 spare

Toronto which is the largest POA court in the Province is not shown as they have not yet consolidated. They have numerous sites across the city. York is the second largest POA court in the Province handling 157,422 charges in 2008.

Consultations have occurred with key stakeholders

In addition to the interviews conducted by consultants, a separate consultation meeting took place with York Regional Police on April 8, 2009. The issue of possible consolidation was also presented to the York Region POA Courts Stakeholder Group on April 7, 2009 to keep court users updated of the ongoing dialogue and invite comments. Discussions with the Ministry of Attorney General are planned to determine if there is any objections to the consolidation and/or relocation of the sites as well as their interest in a co-location with their operations. At this time there are no major objections received to consolidation. York Regional Police have some issues deploying Officers from the south to attend court in Newmarket.

5. FINANCIAL IMPLICATIONS

Property Services Branch engaged a real estate financial consultant (E. Mooney & Associates) to examine the comparative financial cost factors involved in a decision to consolidate the POA Courts from the South Services Centre as compared to leaving the existing two Courts in the Richmond Hill leased facility. In the event Courts are relocated from the SSC the Region has plans to backfill the space they leave.

Table 1 shows the results of the Net Present Value (NPV) analysis. The analysis shows that on a discounted basis (using debenture and discount rates of 6%) the NPV of the leasing scenario over 20 years costs \$7,000,000 whereas the consolidation of the Courts into the CSC development costs \$5,000,000. The analysis assumed that, if the Courts were relocated to Newmarket from Richmond Hill, the vacant space would be backfilled by another Regional user. The data clearly indicates there are economies to be found in consolidation especially if it is to a location where the Region already owns property on which the facility is to be built.

Table 1
Net Present Value Analysis Over 20 Years

Location	
Option 2 – Continue at South Service Centre and also Central Service Centre	\$7,000,000
Option 1 – Consolidation into a Central Service Centre only	\$5,000,000
Net Savings	\$2,000,000

On this component alone the Region will save \$2M in costs over 20 years and still have a residual value in the building. If the Region sold the Central Service Centre buildings at that time then the value, exclusive of the value of land, is estimated to be a rate of \$400 per square foot.

Attachment 1 provides further information on the impact of revenues by municipality as well as the number of charges per agency type.

6. LOCAL MUNICIPAL IMPACT

Relocating the current POA Court from Richmond Hill currently located in the South Services Centre may inconvenience some residents from the southern tier of the Region. Regardless, some but not all types of court matters can be dealt with at Richmond Hill but some cannot and residents must travel to Newmarket for trial. In the consolidated model, all defendants would be required to travel to Newmarket for a Court appearance and to participate in the First Attendance program option. Subject to agreement from the judiciary and MAG. First Attendance intake court can be maintained in isolation of standard court appearances but this would still mean most bylaw matters and those wishing a trial must proceed to Newmarket affecting residents, by-law enforcement and Police personnel. While payment options exist to pay via internet and mail, those wishing to pay in person would not be able to do so at the South Service Centre if the court office is relocated.

7. CONCLUSION

Staff have investigated three options and found that only two would be acceptable to the Judiciary and Ministry of Attorney General that decide location of POA courts. Of the two remaining feasible options staff recommend centralization of the POA operation given substantial cost savings to the taxpayer, and improvement in operational efficiencies. In certain types of cases some inconvenience would result to Regional residents in the south for those charged with by-law infractions in their municipality or with lesser infractions under the Highway Traffic Act.

For more information on this report, please contact Norman Scarratt, Director, Court Services at Ext. 3250.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the June 11, 2009 meeting.)

Analysis of Caseload

