

Subject: Shared Servicing Agreement – Shared Appeal Hearing Officer

Recommendation:

BE IT RESOLVED THAT Council receive Report 2021-0197 – Shared Servicing Agreement – Shared Appeal Hearing Officer, for information;

AND THAT Council authorize and direct the Mayor and Town Clerk to execute the said Shared Services Agreement, attached hereto as Appendix 'A';

AND THAT Council direct staff to prepare the necessary By-law for Council's consideration with respect to appointing:

- 1. Rutherford Prosecutions as the Appeal Officer, with respect to Administrative Monetary Penalty System (AMPS) for both parking and non-parking related offences, for the Town of Pelham;**
- 2. The position of Legislative and Committee Coordinator as a Screening Officer, with respect to Administrative Monetary Penalty System (AMPS) for both parking and non-parking related, for the Town of Pelham;**

AND THAT Council direct staff to prepare the necessary By-law to allow:

- 1. Both Screening Officer Reviews and Appeal Officer Reviews to be conducted virtually for both AMPS parking and non-parking related offences.**

Background:

The *Municipal Act, 2001* (the "Act"), allows municipalities to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with the municipality's by-laws.

The Act requires any person who receives a penalty notice to be provided an opportunity to have the administrative penalty reviewed by a Screening Officer appointed by the municipality. Furthermore, the Act requires any person who receives a notice of the decision issued by a Screening Officer to be provided a right to a review of the Screening Officer's decision by a Hearing Officer appointed by the municipality (the "Appeal Hearing Officer").

Currently, the Town Clerk and Deputy Clerk are appointed as the Screening Officers for the Town of Pelham. Historically, the Town of Pelham has had an informal agreement with the City of Port Colborne to share an Appeal Hearing Officer to hear reviews or appeals from decisions of the Screening Officers. The City of Port Colborne would arrange the appeal hearing and charge an administrative fee in addition to the Appeal Hearing Officer's fee.

In the spring of 2021, the Town of Pelham received an appeal from a Screening Officer's decision on a penalty notice issued in relation to a parking violation. As the City of Port Colborne did not have any outstanding appeals, the Town of Pelham's appeal was heard by the Appeal Hearing Officer without any other appeals. The Appeal Hearing Officer charges a minimum ½ day rate regardless of how many appeals are being heard. The current ½-day rate is approximately \$275.00 and allows up to four (4) appeals to be heard. This is considered a standard practice and a reasonable half-day fee.

In an effort to be cost effective, the Town of Pelham has reached out to all Niagara municipalities to determine if there is a desire to implement a Shared Services Agreement for a Shared Appeals Hearing Officer. It was found all Niagara municipalities are using the same Appeals Hearing Officer and most municipalities indicated they wished to participate in a Shared Services Agreement.

The Town of Pelham has been the lead on this project and has presented a draft Shared Services Agreement to the eight (8) sister municipalities wishing to partake in such an arrangement. The proposed arrangement will allow the partner municipalities to group multiple appeals to be heard on designated hearing dates, therefore maximizing the number of matters heard by the Appeal Officer during a ½-day or full day proceeding. Each municipality will equally pay for the services of the Appeal Hearing Officer and will take equal turns 'hosting' the appeals as outlined in the draft Shared Services Agreement. It is anticipated this approach will save each municipality staff time and money given the minimum ½-day charge described above.

The Town of Pelham, Town of Fort Erie, Town of Grimsby, Town of Niagara-on-the-Lake, Town of Lincoln, City of Port Colborne, City of St. Catharines and City of

Thorold are supportive of the Shared Services Agreement and are currently seeking execution of the said agreement.

Analysis:

Staff deem it desirable to enter into a Shared Services Agreement for Appeal Officer Services with partner municipalities as the arrangement will allow the Town of Pelham to coordinate with the other municipalities to ensure that appeals are conducted in a timely and consistent manner, while saving staff resources and money on fees. Staff recommend Council support the proposal and authorize and direct the Town Clerk and Mayor to execute the Shared Services Agreement, attached to this report as Appendix 'A'.

The Agreement calls for each party to appoint the same Appeal Hearing Officer. All municipalities within the Niagara Region currently engage Ms. Janet Rutherford of Rutherford Prosecution Services as their Appeal Hearing Officer. Each municipal partner wishes to continue using Ms. Rutherford as their Appeal Hearing Officer; therefore, staff recommend the Town of Pelham appoint Ms. Janet Rutherford of Rutherford Prosecution Services as the Town's Appeal Hearing Officer.

The Shared Services Agreement further calls for the option of allowing residents to participate in a hearing virtually, in addition to the in-person option. Staff support this approach as many residents have become familiar with and prefer participating virtually. Staff are of the view that a virtual option will encourage residents to attend at a scheduled hearing and will minimize the number of "no-shows" and/or requests to change the date of a hearing. It is important to note that the in-person option will remain available for residents who prefer to proceed in that manner for any reason. Staff recommend Council allow both screening reviews and appeal reviews to be conducted virtually, in addition to in-person.

Currently, only the Town Clerk and Deputy Clerk are appointed as the Town of Pelham's Screening Officers. Historically, only parking violation tickets were reviewed; however, non-parking violations have now been added to the AMPS system and therefore, additional workload is expected. Staff recommend Council appoint the position of Legislative and Committee Coordinator as an additional Screening Officer for the Town of Pelham. This will help ease the workload of the Town Clerk and Deputy Clerk. In addition to easing workload, sharing such responsibilities is also important for professional development and succession planning.

Financial Considerations:

Pursuant to the Shared Services Agreement, all municipal partners, including the Town of Pelham, will be required to pay an annual fee to cover all expenses of the program. The initial term of the agreement will be three (3) years and the annual fee is approximately \$750.00. Annual fees collected from all municipal partners will be allocated to a general ledger account and any surplus at the end of the year will be equally deducted against the next year's annual fee. Therefore, it is possible that the Town of Pelham will pay less than \$750.00 in years two (2) and three (3) of the Shared Services Agreement.

The proposed Shared Services Agreement will allow the Town of Pelham to partake in six (6) bi-monthly appeal hearing dates. If the Town of Pelham does not partake in this Agreement, it will be required to pay the Appeal Hearing Officer separately for any appeals that are heard. As stated, the minimum fee to arrange a hearing is approximately \$275.00. If the Town of Pelham arranges, on its own, three (3) separate hearing dates it will pay \$825.00. This assumes that (i) the Town of Pelham requires no more than a ½-day hearing on any occasion; and (ii) the Appeal Hearing Officer does not increase her rates. Generally speaking, however, in order for the Town of Pelham to recoup the annual fee and save money, it would need to partake in at least three (3) hearings annually.

At this time it is unknown how many appeals the Town of Pelham may have during the term of the proposed Shared Services Agreement; however, it is likely the number of appeals will be greater than in the past as more non-parking tickets are issued and with greater fines.

Over the three-year term, the Town of Pelham will be able to better evaluate the potential savings of this Shared Services Agreement.

Alternatives Reviewed:

The Town of Pelham is not required to enter into a Shared Services Agreement; however, not joining the initiative is not recommended. It is best practice to work together with our sister municipalities to provide services to residents when feasible. The Town of Pelham will further benefit from cost sharing.

Strategic Plan Relationship: Financial Sustainability

The proposed Shared Services Agreement for an Appeal Hearing Officer is a cooperative way in which sister municipalities can work together and share costs, while providing important services to residents. Entering into the Shared Services

Agreement will allow the Town of Pelham to ensure its residents have the opportunity to seek a quick and timely appeal, while saving money.

Consultation:

Jennifer Stirton, Town Solicitor

Bob Lymburner, Fire Chief

Other Pertinent Reports/Attachments:

Draft Shared Services Agreement – Shared Appeal Officer

Prepared and Recommended by:

Holly Willford, B.A.
Town Clerk

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer