

January 26, 2012



City Council Committee Report

To: Mayor & Council

Fr: Heather Kasprick, Deputy Clerk

Re: POA White Paper Report

Recommendation:

Whereas the Ontario Association of Police Service Boards (OAPSB) was requested by the Minister of Community Safety and Correctional Services in 2010 to prepare a White Paper on the growing problem of increasing unpaid fines under the Provincial Offences court system (POA); and

Whereas the OAPSB released its White Paper "Provincial Offences Act –Unpaid Fines, A \$Billion Problem on November 1, 2011; and

Whereas the White Paper identifies a number of gaps in the system and has made recommendations which would significantly improve the ability of municipalities to collect unpaid POA fines;

Now Therefore be it Resolved That the City of Kenora supports the recommendations contained in the Ontario Association of Police Service Boards' White Paper on Unpaid POA Fines and urges the Province of Ontario to take immediate action to begin implementation of the recommendations; and further

That this resolution be circulated to the Minister of Community Safety and Correctional Services, Attorney General, local MPP's, OAPSB, AMO, AMCTO, MFOA, County of Bruce and municipalities responsible for POA.

Background:

Unpaid fines related to Provincial Offences (POA) have been increasing exponentially across the Province. Until 2009 when the Ontario Association of Police Service Boards (OAPSB) began advocating for corrective action as there hadn't been a collective voice on the matter. In fact, the POA Streamlining Paper whose recommendations were endorsed in the Good Government Act in 2009 provided very few tools to assist.

As a result of the concerns of the OAPSB the Minister of Community Safety and Correctional Services requested in 2010 that the OAPSB prepare a white paper on the matter and the Attorney General encouraged this initiative. Thankfully, the OAPSB agreed and began the process of research and development.

There are many stakeholders required in understanding the complexity of the situation and the OAPSB is to be congratulated on its thorough approach and inclusion in the process.

Individual interviews were conducted as well as pulling together a working group this summer to discuss the matter and the MCMA, which I represent the Northwest as a Board Member, was fortunate to be able to participate in both the interviews and the meeting.

Participants in the development of this White Paper include OAPSB, Municipal Court Managers Association (MCMA), Ministry of Transportation (MTO), Ministry of Municipal Affairs and Housing, (MMAH), Ministry of Community Safety and Correctional Services (MCSCS), Ministry of Finance (MOF), Prosecutors' Association of Ontario (PAO), Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), Municipal Finance Officers' Association (MFOA) and senior municipal management.

From the list of stakeholders involved it is easy to understand that the subject is complex, yet the results of the White Paper indicate that not all the solutions being recommended would be difficult to implement.

In a nutshell, POA unpaid fines is a Billion dollar problem which is growing daily. Municipalities simply do not have the tools to manage the problem. The tool provided by the Province previously to mitigate unpaid fines was the application of the fine against property taxes. This only works if the defendant is sole owner of the property. As well, think of the complications of the City of Kenora contacting every municipality within Ontario to request a default in paying a POA fine to be applied against property taxes. It would be administratively impossible without creating significant increases in staffing levels across the board and even then, only successful if there was sole ownership.

Generally speaking, the major challenges are:

- Lack of available data
- Lack of coordination within the provincial government
- Need for greater stakeholder engagement
- Lack of alternative penalties
- Need for simple, flexible payment methodology
- Lack of incentives to pay
- Lack of follow up
- Need for better enforcement powers

By way of example, municipalities have limited access to MTO data base information which makes it difficult to find defaulters. On a corollary note, this is frustrating to the general public because they do not understand that when they change their address information with MTO that the information doesn't flow through the system to POA. As you can imagine they are frustrated by this red tape when they find that their license has been suspended because POA could not notify them that continued default of payment would result in a license suspension.

Other anomalies in the system currently are that defaulting on payment of a parking ticket means an individual cannot renew his license plate, yet defaulting on a speeding infraction or driving without insurance does not.

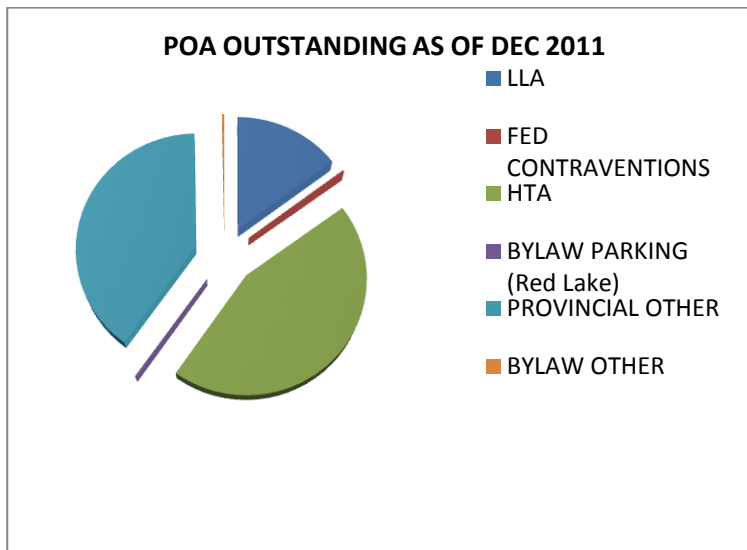
Of interest, out of the work done by the OAPSB is the fact that 91% of the defaulters are from Ontario.

As noted earlier in the report, not all recommendations would be difficult to implement with provincial support. The key recommendations being put forward in the White Paper are:

- Provide better data for decision making
- Improve inter-ministry collaboration and information sharing
- Embrace stakeholders by holding regular discussion forums and acting on their suggestions
- Allow courts to assess ability to pay and offer alternative sentences
- Provide better "customer" service to those persons paying fines
- Provide more "carrots and sticks", including discounts for early fine payment, stiffer late penalties and payments in accordance with the chronological order of sentencing
- Help municipalities to follow up on outstanding fines ("ask them, and they might pay")
- Institute stronger, meaningful collection sanctions for fine defaulters, including broader driver's license and license plate denial, vehicle impoundment and garnishment of income tax refunds.

As noted in the report, unpaid POA fines are a Billion dollar problem that is growing daily.

Putting this in perspective, the unpaid fines within the City of Kenora court area (1561) which includes Red Lake/Sioux Narrows/Nestor Falls are approximately \$2,298,252!! This amount includes the actual fine plus the added administration costs but excludes the victim fine surcharge which is a receivable to the Province. These dollar amounts do not include defendants who are awaiting trials, nor does it include the over \$1,965,712 in written off old receivables (older than December 31, 2004). A pie chart below demonstrates to you the type of current charges that have the largest outstanding receivables for our court area (Kenora, Red Lake, Sioux Narrows/Nestor Falls):



Unpaid fines negatively impact all taxpayers as POA revenue offsets the City's levy. A portion of all POA fines is paid to the Province as well, so it goes without saying that improving the collection of POA fines also has a financial benefit for the Province as it works to balance its budget.

There will not be any additional staff required on the part of the City as a result of the recommendations contained within the White Paper. Some staff time may be involved with continued stakeholder engagement which would mean me continuing to be involved through my MCMA Board via teleconference calls and direct meetings.

Legal and IT matters related to the recommendations will be the responsibility of the Province.

Council's support of the recommendations contained within the White Paper will provide more voice to the need for the Province to make changes which will support improved collections of defaulted POA fines. This will improve processes to enhance financial sustainability.

The City has traditionally been supportive of councillors and staff participating in provincial initiatives and development of the OAPSB White Paper has included this. This type of community engagement ensures that the voice of Northwestern Ontario is heard and understood and enables the City to be aware of emerging issues. Through my representation on the MCMA board, we are continuing our discussions and partnerships with all other parties involved to come to resolve with the province in moving this forward.

Budget:

N/A

Communication Plan/Notice By-law Requirements: N/A