

Ontario Civilian Police Commission

Police Services Act

LONDON POLICE SERVICE BOARD

Applicant

- and -

THE CORPORATION OF THE CITY OF LONDON

Respondent

Notice of Application

A. The Applicant Makes Application for an Order

- (a) Requiring the City to pay to the Board, for 2016, the \$97,184,000 budget estimate submitted by the Board;
- (b) Requiring the City to pay to the Board, for 2017, the \$98,434,000 budget estimate submitted by the Board together with an additional amount to be determined in 2017 in order to provide adequate and effective police services for the City of London in 2017.
- (c) Requiring the City to pay to the Board, for 2018, the \$100,230,000 budget estimate submitted by the Board together with an additional amount to be determined in 2018 in order to provide adequate and effective police services for the City of London in 2018.
- (d) Requiring the City to pay to the Board, for 2019, the \$101,306,000 budget estimate submitted by the Board
 - (i) together with \$3,300,000, being the current estimate of the “Market Value Adjustment” (salary increase) that will take effect on December 1, 2018 under the current collective agreement and
 - (ii) together with an additional amount to be determined in 2019 in order to provide adequate and effective police services for the City of London in 2019.
- (e) Setting a date for a procedural pre-hearing conference as contemplated by the Commission’s Rule 14 and giving directions for the giving of notice of such procedural pre-hearing conference; and
- (f) Providing an opportunity for mediation following the identification of parties and issues at such procedural pre-hearing conference.



- B. The Grounds for the Application are summarized as follows:
1. In preparing budget estimates for submission to London City Council, the applicant (the “**Board**”)
 - 1.1 Relied upon the London Police Service Administration, headed by the Police Chief, to make recommendations on the basis of providing “adequate and effective police services” for the City of London having regard for the *Police Services Act* (the “**Act**”) and its regulations as well as best policing practices;
 - 1.2 Held public meetings with stakeholders with respect to policing needs in the City of London;
 - 1.3 Interviewed division and unit commanders regularly to understand their functioning and to question methods of operation and need for resources;
 - 1.4 Adhered to the City’s direction that budget estimates were to be presented for each of 2016, 2017, 2018 and 2019.
 2. When preparing budget estimates to recommend to the Board, the Chief and the Police Service Administration (together the “**Police Service**”) has a process which involves a holistic and comprehensive review of what is needed to provide “adequate and effective police services” for the City of London.
 3. The Board understands the need to balance cost-efficiency with adequate and effective police service delivery. It is a challenge which entails constant and continuous evaluation and reallocation of resources to ensure that they are being used in the most cost-effective and operationally sound manner. All of this involves making informed judgements about what is acceptable risk. The budget estimates presented by the Board to the City is the result of that exercise.
 4. In the opinion of the Police Service, the budget estimates presented to the City of London represents the funding required to provide the appropriate level of policing required to satisfy the service contemplated by the Act.
 5. For 2015 the cost of maintaining the London Police Service and of providing it with equipment and facilities was \$94,187,889. This amount does not include the expenses of the Board. For 2015 actual expenditures were within 3% of budget which is considered acceptable by City guidelines. This variance from budget in 2015 was a surplus of \$709,909, primarily the result of unanticipated retirements that year.
 6. The 2015 surplus was applied, in part, to the Sick Leave Reserve Fund to fund the sick time of members hired pre-1982 who will retire in the coming years and are eligible for pay-out of unused sick time. The balance of 2015 surplus was placed in the Unfunded Liability Reserve Fund recommended by the City for unfunded liabilities and significant operational or capital urgent contingencies and emergencies. The City recommends that the Unfunded Liability Reserve should be funded to a minimum of approximately \$6.7 million in 2015. It is currently half that amount.

7. In May 2015 the City Administration, on instructions from City Council, issued a policy document entitled “2016 to 2019 Operating and Capital Budget Development Guidelines” (the “**City Guidelines**”). The City Guidelines indicated that City Council had approved an overall City of London 2016-2019 average annual tax levy increase between 2.2% and 2.9%. The Guidelines were provided to the Police Service Administration with advice that the City had set a target for the London Police Service of a 1% increase per year for 2016 through 2019. When setting these targets, the City had little or no regard for the Act and its regulations and in addition the expectation from City Council was a 4 year budget submission and approval for 2016 to 2019 Operating and Capital Budgets.
8. In response to the City Guidelines, budget estimates were presented for each year from 2016 through to 2019. That submission was made in a timely manner in accordance with the City’s budget protocols and the Board participated in the City’s budget process as and when asked.
9. The Police budget estimates submitted to the City were as follows:
 - 9.1 For 2016 - \$97,184,000
 - 9.2 For 2017 - \$98,434,000
 - 9.3 For 2018 - \$100,230,000
 - 9.4 For 2019 - \$101,306,000
10. The budget estimate for 2019 does NOT include obligations between the Board and the London Police Association under the 2015-2018 Collective Agreement. That collective agreement provides for a “Market Value Adjustment” (salary increase) on December 1, 2018 using a formula based on comparable police salaries negotiated elsewhere. While it is not possible to quantify the amount of this obligation it is in the range of \$3,300,000. Such amount cannot be determined until the end of 2018.
11. The Board has asked the City for confirmation that the City would recognize the Market Value Adjustment in addition to the amount submitted by the Board for 2019. No such assurance has been given. It must be taken into account.
12. The Board understands that, on March 10, 2016, City Council set the following Operating Budget for the Police Service:
 - 12.1 For 2016 - \$96,284,000, a \$900,000 reduction of the submitted estimate;
 - 12.2 For 2017 - \$97,449,000, a \$985,000 reduction from the submitted estimate;
 - 12.3 For 2018 - \$99,161,000, a \$1,069,000 reduction from the submitted estimate;
 - 12.4 For 2019 - \$100,163,000, a \$1,143,000 reduction from the submitted estimate.
13. The Board has not received from the City a documented statement to this effect other than a letter from the City Clerk dated March 11, 2016 certifying that at its March 10, 2016 meeting City Council resolved

That the net 2016-2019 Multi-Year Operating Budget for the following services within Protective Services BE ADOPTED:

- i) Page 139 (Cerlox) Page 110 (Binder) – Animal Services -- (not applicable)
- ii) Page 140 (Cerlox) Page 113 (Binder) – By-law Enforcement and Property Standards -- (not applicable)
- iii) Page 141 (Cerlox) Page 116 (Binder) – Corporate Security and Emergency Management -- (not applicable)
- iv) Page 142 (Cerlox) Page 121 (Binder) – Fire Services -- (not applicable)
- v) Page 144 (Cerlox) Page 126 (Binder) – London Police Services - \$393,056,000; it being noted that:
 - i) the Mayor is requested to submit a letter to the Minister of Community Safety and Correctional Services requesting that changes be made to the Police Services Act that would provide opportunities to modernize and improve cost efficiency in the delivery of police services and enhance governance, and to provide a copy to the Association of Municipalities of Ontario and the Ontario Association of Chiefs of Police and the Police Association of Ontario: it being noted that it is the City of London's understanding that the stakeholders have had conversations and want to encourage the implementation of these changes;
 - ii) the Civic Administration is directed to report back to the Corporate Services Committee with recommended submission to the Province of Ontario with respect to proposed changes to the Police Services Act.

it being further noted that on January 29, 2016 the Strategic Priorities and Policy Committee heard the attached presentation from J. Eberhard, Chair, London Police Services Board, P. Paolatto, Member, London Police Services Board, J. Pare, Chief of Police, and on March 1, 2016 the attached presentation from P. Paolatto, Member, London Police Services Board with respect to the London Police Services 2016-2019 Multi-Year Operating and Capital Budgets.

- 14. The \$393,056,000 amount referred to in the City's resolution has no meaning to the Board.
- 15. Aside from the City Guidelines, no reasons were given for the reductions which the Board understands were made on March 10, 2016.
- 16. During the budget development process, the Administration identified a number of new positions that it determined would be required to address staffing pressures and workload demands, and provide adequate and effecting policing over the four-year budget cycle. After further review and the identification of specific gaps in service, thirteen (13)

positions were determined to be a priority and required for 2016 in order to maintain police services at an adequate level. Comprehensive business cases were then developed to further demonstrate the specific requirement and provide supporting rationale for each position.

As a result of meetings between the LPS Administration, the Board, and Civic Administration it was determined that an opportunity existed to apply for funding for some of the thirteen (13) new positions through Assessment Growth. As a result of consultations with Civic Administration, a decision was made to request funding for six (6) positions in the baseline budget, and seven (7) positions through Assessment Growth, recognizing that both requests would require Council approval. The City have recommended and approved for London Police Service, in addition to the approved budget amounts, Assessment Growth funds, in the order of \$911,212 in 2016 as requested. The Board has not received from the City a documented statement about the \$911,212 upon which the Board can rely on 2016.

17. The City's Assessment Growth funding is discretionary determination having regard for population growth and increases in assessments. Whatever may come from it in 2016 does not address the shortfall in subsequent years. In any event, the Board cannot rely upon verbal assurances of discretionary additional funds which are not part of the approved budget and for which there are is no comfort beyond 2016.
18. While the Board has respected the City's request for estimates for four years and has used best efforts to respond, the future is sufficiently uncertain about policing needs in London that, beyond 2016, it is not wise to lock in estimates three years in advance. For the years 2017, 2018 and 2019, there should be a determination in each year of how to provide adequate and effective police services for the City of London for that year and the cost of doing so. Such determination can be made by agreement between the Board and the City for each year or by the Commission.
19. The Commission is therefore asked to order the City to pay to the Board, for 2016 the \$97,184,000 budget estimate submitted by the Board.
20. The Commission is also asked to order the City to pay to the Board, for 2017, the \$98,434,000 budget estimate submitted by the Board together with an additional amount to be determined in 2017 in order to provide adequate and effective police services for the City of London in 2017.
21. The Commission is also asked to order the City to pay to the Board, for 2018, the \$100,230,000 budget estimate submitted by the Board together with an additional amount to be determined in 2018 in order to provide adequate and effective police services for the City of London in 2018.
22. The Commission is also asked to order the City to pay to the Board, for 2019, the \$101,306,000 budget estimate submitted by the Board
 - 22.1 together with \$3,300,000, being the current estimate of the "Market Value Adjustment" (salary increase) that will take effect on December 1, 2018 under the current collective agreement and

- 22.2 together with an additional amount to be determined in 2019 in order to provide adequate and effective police services for the City of London in 2019.
23. The Board asks the Commission to schedule a procedural pre-hearing conference as contemplated by the Commissions Rule 14 and that, once parties and issues have been identified, the Commission provide an opportunity for and encouragement of mediation.

Dated at London, Ontario April 21, 2016

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