



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF THE CAO

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

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Author's Phone: 519 736 0012 ext. 2238	Date to Council: February 8, 2023
Author's E-mail: vcritchley@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Contract for Policing Services between the Town of Amherstburg and Windsor Police Services Board

1. **RECOMMENDATION:**

It is recommended that:

1. The report from the CAO dated January 23, 2023, regarding the renewal of the policing contract with Windsor Police Services **BE RECEIVED**; and,
2. The CAO **BE DIRECTED** to exercise the renewal clause in the contract dated October 12, 2018 between the Town of Amherstburg and the Windsor Police Services Board, ("WPSB") for the five-year period commencing January 1, 2024 and ending December 31, 2028.

2. **BACKGROUND:**

On February 26, 2018, Council adopted the following motion:

That:

1. *The report from the CAO dated February 9, 2018 regarding police services for the Town of Amherstburg **BE RECEIVED**;*
2. *The CAO **BE DIRECTED** to finalize the terms and conditions of a contract for policing services with the Windsor Police Services Board/City of Windsor for a term of 20 years commencing January 1, 2019; and,*
3. *The CAO **BE DIRECTED** to bring back a final contract **SUBJECT TO APPROVAL** by the Ontario Civilian Police Commission.*

On October 12, 2018, as contemplated by the above noted resolution, two contracts were entered into, one with the City of Windsor and the other with the WPSB for the provision of policing services to the Town of Amherstburg, “the ‘Agreements’”. Article 2 of the agreement with the WPSB states as follows:

Article 2 – Term:

This Agreement shall run for a period of five (5) years commencing at 12:01a.m. on the 1st day of January. 2019 (the “Commencement Date”). This Agreement shall be renewed automatically for succeeding terms of five (5) years each (a “Renewal Term”) not to exceed a maximum total length of twenty (20) years, unless: (i) either party provides notice to the other party at least eighteen (18) months prior to the expiration of the then current term; or (ii) otherwise terminated pursuant to the terms and provisions herein.

By the terms of this Agreement, if either party had wished not to renew the Agreement, notice was to be given prior to June 30, 2022. However, as Council is aware, due to the staff changes in Administration at the Town, and investigations into the future required replacement of the police radio system, this date was extended by the agreement of both parties to March 31, 2023.

At the time of the initial decision to enter into the Agreements, Council directed that, before a decision was made on the renewal of the Agreements, a public meeting was to be held in order to evaluate the results of the first term and also to allow an opportunity for any member of the public that wished to delegate on the matter to do so

3. DISCUSSION:

In order to fulfill the direction of Council, as stipulated above, this report will consider the following:

1. Levels of service experienced during the first term of the agreements;
2. Financial savings during the first term of the agreements;
3. Notable terms of the proposed renewal of the agreements; and,
4. Options for Council moving forward.

Levels of Service –January 2019-December, 2022

When the Request for Proposals (RFP) for policing services was developed in 2017, the document defined the levels of service that would be acceptable to the Town with a high degree of specificity and required that proponents had to **meet or exceed** the then current service levels being offered by the Amherstburg Police Service (APS).

As per the Agreements, the statistics of Policing Activity are provided to Council on a quarterly basis. Attached for Council’s review, as Appendix “A” are the annual statistics for the WPS-Amherstburg Detachment for the first four years of the first term of the Agreement.

The proposal submitted by the Windsor Police Service (WPS) offered a number of additional services (included in the contract cost structure) which, at the time were not

offered directly by the APS, but were contracted for indirectly through others such as the Ontario Provincial Police (OPP).

In general terms these additional services offered by WPS and included in the service Agreements are in the following areas:

1. Canine Units (24/7)
2. Emergency response (tactical) unit (24/7)
3. Explosive disposal
4. Crime scene/forensic expertise
5. Collision reconstruction
6. Crime Prevention expertise
7. Enhanced training/professional development opportunities
8. State of the art technology and technical support
9. Certified crisis negotiators

In terms of the usage of these services during the first 4 years of the Agreement, the statistics have been provided by the WPS and are attached to this Report as Appendix “B”.

In addition to the above noted “regular” and “augmented” levels of service provided by WPS during the first term of the Agreements, WPS also introduced and provided to Amherstburg residents a number of technological initiatives through many online tools that were not formerly available due to resourcing and budget constraints. Examples of these online reporting tools include:

1. Online Crime Reporting
2. Police Record Checks
3. Traffic Complaints
4. Autism Registry
5. Vulnerable Persons Registry
6. Bicycle Registry
7. Sexual Assault Reporting
8. Media Portal
9. Interactive Crime Reporting

Finally, in preparing its Strategic Plan for 2023-2024, WPS conducted a community survey in Amherstburg. The results of the survey, together with a comparison of the survey results done in 2020, are attached as Appendix “C”. Highlights of the survey include:

- 90% of residents surveyed said they feel safe overall in the Town
- 80+% of residents surveyed have a favourable opinion of the WPS
- 75% of residents surveyed are satisfied with the overall performance of the WPS

In addition, the ongoing relationship between Administration, Council and the WPS has been open and productive with no ongoing issues regarding service levels being raised.

Financial Savings During First Term of the Agreement

During the first 5 years of the Agreement with the WPSB, the costs of policing in Amherstburg were as follows:

	2019	2020	2021	2022	2023	Avg. 5 Year Cost	Avg. Cost Per Person 2023
Pop. 23,854	\$5,482,568**	\$5,287,253	\$5,411,932	\$5,397,437	\$5,533,808	\$5,422,600	\$232
Annual % Change	---	(3.6%)	2.3%	(0.27%)	2.5%	---	

***2019 included transitional costs*

The average projected annual cost of the APS for the years 2019-2023, had it continued, which was calculated in the 2018 report to council in order to compare “apples to apples” when reviewing the WPSB Proposal, was \$5,771,041. In order to further substantiate this number a comparison of two similar sized municipalities that have their own police forces was undertaken. As only the data for 2019-2021 was available, and in order to find a comparable 5 year average cost, the same percentage increases/decreases incurred in Amherstburg were added for the years 2022 and 2023 to the costs of the comparator municipalities. The chart below is illustrative of the annual costs, the average cost over 5 years and the average cost per person for 2023.

	2019	2020	2021	2022	2023	Avg. 5 Year Cost	Avg. Cost Per Person 2023
Lasalle Pop. 34,023	\$7,497,261	\$7,589,645	\$8,041,208	\$8,019,497	\$8,219,984	\$7,873,519	\$241.60
Strathroy/Caradoc Pop. 23,871	\$5,473,321	\$5,677,854	\$5,763,072	\$5,747,512	\$5,891,200	\$5,710,592	\$246.79

Based on this data, Strathroy/Caradoc would be the closest comparator to the Town of Amherstburg based on population size. As stated above the average projected annual cost for the APS for the years 2019-2023 was \$5,771,041 and when compared to the average 5 year policing cost for Strathroy/Caradoc, being \$5,710,592, the costs projected for the APS appear reasonable. Therefore, the average annual savings experienced by the Town during the first term of the Agreement are as follows:

Average Annual Cost of APS	\$5,771,041
Average Annual Cost of WPS	\$5,442,600
Average Annual Savings	\$ 348,441
Total Average Savings over 5 Year Term	\$1,742,205

In addition, Amherstburg has also benefitted in accessing skilled and trained police services without the cost of recruitment & retention, ensuring staffing levels to cover for training and vacation days, reduced insurance costs, and risk mitigation through the transfer of risk to WPS.

Notable Terms of the Proposed Renewal of the Agreements

As is set out above, unless either party notifies the other of its intention to terminate the Agreements prior to March 31, 2023, the Agreements will automatically renew on the same terms and conditions.

While this clause confirms that the intention of the parties on a renewal is not to re-negotiate the terms of the Agreements, two articles in the Agreement with the WPSB are of particular note:

a) Article 9 – Cost of Service:

Article 9.2 sets out how the cost of service will be calculated after the initial term of the Agreement and states as follows:

9.2 *Following the conclusion of the Initial Term, the fees for the Contracted Services shall be determined as per Article 9.3 for “Estimated Operating Fees” and Article 9.4 for “Estimated Capital Costs” and the cost principles as set out in Schedule 9.2 attached hereto. The fees for Contracted Services following the conclusion of the Initial term will include both an operating cost component as contemplated by Section 9.3 and a capital cost component as contemplated by Section 9.4.*

Of particular importance in the terms of the Cost Principles set out in Schedule 9.2 is article 3 which guarantees Amherstburg budgetary parity with the WPS Operating Budget in each contract year of any renewal term. The article states:

Subject to the exceptions noted in Section 4 of this Schedule 9.2. budgetary parity for the purposes of each Contract Year in a Renewal Term would result in equal adjustments to the cost of the Contracted Services and the Police Service's annual operating budget. For example: a 2 % increase in the operating budget for the Police Service in any given Contract Year after the fifth (5'h) Contract Year would result in a 2% increase to the cost of the Contracted Services for that Contract Year.

This clause ensures that the future contract rates in each renewal year will be in line with the same cost increases being experienced by the WPS and that the Town of Amherstburg will not be unfairly or unreasonably charged.

b) Article 14 – Communications

Article 14.1 sets out the role of the Town on the WPSB and states:

14.1 The following shall determine the role of the Town with respect to the Board:

(a) The City shall appoint the Mayor or his/her designate to the Board for the remaining term of Council until November 14, 2022, starting with the commencement of this Agreement on January 1, 2019.

- (b) The City may consider the appointment of the Mayor or his or her designate for subsequent terms of Council provided that the City is providing police services to the Town.*
- (c) If at any time during the Initial Term or any Renewal Term, the Mayor or his or her designate is not appointed to the Board, the City agrees to allow the Mayor, or his or her designate to become an advisor to the Board, as contemplated by the Act with the full ability to attend all meetings of the Board.*

For further clarification regarding 14.1(c), “all meetings of the Board” shall include in-camera meetings and the advisor shall also receive all reports and correspondence as a full member of the Board would receive, subject to the advisor signing a confidentiality and non-disclosure agreement.

As Council is aware, the former Mayor was appointed to the WPSB in accordance with article 14.1(a) of the Agreement and Mayor Prue has now been appointed as an advisor to the WPSB pursuant to article 14.1(c) of the Agreement.

It is important to note that the Agreement with the WPSB was negotiated between February 26, 2018 and October 12, 2018, which predated the 2018 Municipal Election. Therefore, apart from the former Mayor and Deputy Mayor, no members of the 2018-2022 term of Council, or the present Council, were privy to the negotiations or the updates that were provided to the members of the 2014-2018 term of Council.

In addition, no current members of Administration were involved in the negotiations and accordingly, the writer of this report reviewed all reports that were presented to Council regarding the negotiations surrounding the Agreement, both in regular and in camera sessions. Of particular relevance to the issue of the appointment of the Mayor (or designate) to the WPSB was an in camera report dated June 25, 2018, a copy of which has been provided to Council for consideration in closed session.

Of further note is that the RFP submission that was made by the WPSB, and upon which the 2018 Town Council approval for negotiations for an Agreement with the WPSB was based, proposed that the Mayor (or Councillor) would automatically become an ‘advisor’ to the WPSB, which is now the arrangement reflected in the Agreement.

Further, this “advisor” role is specifically contemplated in section 6.1 of the *Police Services Act* in situations where a municipality enters into a contract with another for the provision of police services. That section states as follows:

Municipal agreements for providing police services

6.1 (1) *The councils of two municipalities may enter into an agreement for the provision of police services for one municipality by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality.*

Advisors to board

(2) The council of a municipality that receives police services pursuant to an agreement made under subsection (1) may select a person to advise the other municipality's board with respect to objectives and priorities for police services in the municipality that receives the police services.

Term of office

(3) The term of office for a person selected to advise another municipality's board shall be as set by the council when the person is selected, but shall not exceed the term of office of the council that selected him or her.

Ultimately, the current wording of Article 14.1 was negotiated and agreed to by both Parties.

Options Moving Forward:

Pursuant to section 5(1) the *Police Services Act*, there are six (6) options for the delivery of policing services available to a municipality. These options are:

- 1. The council may establish a police force, the members of which shall be appointed by the board under clause 31 (1) (a).*
- 2. The council may enter into an agreement under section 33 with one or more other councils to constitute a joint board and the joint board may appoint the members of a police force under clause 31 (1) (a).*
- 3. The council may enter into an agreement under section 6 with one or more other councils to amalgamate their police forces.*
- 4. The council may enter into an agreement under section 6.1 with the council of another municipality to have its police services provided by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality.*
- 5. The council may enter into an agreement under section 10, alone or jointly with one or more other councils, to have police services provided by the Ontario Provincial Police.*
- 6. With the Commission's approval, the council may adopt a different method of providing police services. 1997, c. 8, s. 4.*

Reviewing these possible methods of service delivery, the Town now has three clear options available:

Option 1 – Re-establish the Amherstburg Police Service;

Option 2 – Issue an RFP for Police Services; or

Option 3 – Renew the Agreement with the WPSB for the 5 year term commencing January 1, 2024 and concluding December 31, 2028

Option 1 – Re-establish the Amherstburg Police Service

Re-establishing the APS is an option that is before Council. In analyzing this option there are several considerations Council should be aware of:

1. Time Constraints - as Council is aware, once the decision was made to pursue the Agreement with the WPSB on February 26, 2018, the total transition time for the provision of policing services from the APS to the WPS was approximately 10 months. The timeframe from today to the expiration of the first term of the Agreement on December 31, 2023 is also 10 months, however the work involved in re-establishing a police force is much more intensive than the work to wind a service down and have another established police force provide service. For example, a police chief would need to be hired as soon as possible in order to oversee the transition. In addition, recruitment would have to start immediately in order to ensure that service would be in place on January 1, 2024. While some WPS officers might be interested in these positions, that is not guaranteed. Further, a new Collective Agreement would need to be negotiated which could take considerable time.
2. Increased Annual Policing Costs - as reported above, the anticipated annual cost of a standalone police force for the Town of Amherstburg would be approximately \$348,411 more than the cost of the current contract with the WPSB. This amount equates to an approximate increase of 1-1.5% on the tax base. In addition, many of the enhanced services which are now provided by the WPSB would either no longer be in place, or further costs would be incurred to implement these services in addition to the base additional cost.
3. Lost Opportunity to Share Costs for Renewed Radio Infrastructure - as was reported to Council when the decision was made in 2018 to negotiate an agreement with the WPSB, the current Amherstburg radio system does not offer the level of redundancy and resilience in first responder communications that is now required and the Town will need to make significant additional capital upgrades to its existing radio infrastructure. The capital cost of this project is projected to be in the range of \$500,000 to \$2,000,000, however, if the Town were to renew the contract with the WPSB there would be an opportunity for reduced costs as a result of sharing existing WPSB radio infrastructure and resources.
4. Start-up costs – there will be one time costs associated with re-establishing the APS. A complete analysis of these costs has not been undertaken, however some of these costs would include but are not limited to:
 - Human Resources and IT consultancy costs to assist with recruitment as the current staff have no capacity for a project of this size in addition to their current workload

- Staff costs associated with the re-integration of the APS payroll into the Town financial systems
 - Replacement of any capital assets transferred back to the Town that are at end of life (a full analysis has not been done of these assets at this time)
 - Replacement of Radio Infrastructure – as noted above the immediate capital cost of this issue alone is estimated at between \$500,000 and \$2,000,000 depending on what option for replacement is chosen.
5. Funds Available in the Police Reserve Account – at the time of the transition to the WPSB Agreement, Council discussed the concept of transferring the annual savings experienced to the Police Reserve account as “seed” money should the Town ever wish to re-establish its own police force or choose another alternate service delivery model for policing. A history of the activity in the Police Reserve from 2019 to present is as follows:
- 2019 -Opening balance of \$344,776
-No further activity
- 2020 -Draft budget recommended a transfer to reserves of \$564,000
-Recommended amount was decreased to \$100,000 during budget deliberations
-End balance of \$451,394 (including interest)
- 2021 -Council approved a transfer of \$100,000 to the reserve
-End balance of \$557,806 (including interest)
- 2022 - Budget did not include any transfers to the reserve

Therefore, the current funds available in the Police Reserve are \$557,806 plus some accumulated interest for 2022. This amount will not be sufficient to cover the costs for re-establishing the APS as outlined above as the capital cost for the required replacement of the police radio contract alone will use all of these funds.

Weighed against these considerations are the possible benefits to be gained by re-establishing the APS. The results of the recent WPS survey suggest that the majority of Amherstburg residents are satisfied with the current policing arrangement from a service perspective. Certainly, a town operated and governed police force could produce the same level of satisfaction, however at this point, level of service does not appear to be a driving concern and the cost of policing would certainly rise with the re-establishment of the APS.

Re-establishing the APS would allow the Town to participate in the direct governance of the police force through the establishment of a Police Services Board, which would be comprised of two members of Council, two provincial appointees and one citizen. As has been explained, the Town currently has an advisory, non-voting, role on the WPSB, is able to participate in all open and in camera meetings of the Board and in all discussions and debate.

Considering all of the factors set out above, particularly the cost implications of re-establishing the APS, this option is NOT recommended by Administration.

Option 2 – Issue an RFP for Police Services

This option would involve the preparation of an RFP for Policing Services, which could be delivered in one of three of ways:

- By an agreement under section 33 of *Police Act* with another Council to constitute a joint police service board in order to govern a joint police force (the only possible partnership in Essex County would be with the Town of Lasalle as the policing in all other municipalities is delivered by the OPP);
- By an agreement with another Council to have police services delivered by the police services board of another municipality. This is what the Town currently has in place with the WPSB. It is conceivable that the Town of Lasalle might also be interested in such an arrangement; or
- Council could enter into an agreement with the OPP for the provision of police services.

It should be noted that when the Town issued RFP-PP-PS-17-15 for policing services on July 10, 2017, it was the culmination of 14 months of preparatory work which had commenced on March 7, 2016. Once the RFP closed in October, 2017, there was further review and consultation before the decision to proceed to negotiate an Agreement with the WPSB was made on February 26, 2018, some four months later. Subsequent to that, there were eight months of negotiations before the necessary approvals were obtained and the Agreement was executed on October 12, 2018. WPS then commenced providing policing service to the Town on January 1, 2019. Therefore, from start to finish, the process took some 33 months to complete. Also of interest, although not pre-determinative of any future process, is the fact that, when the RFP for policing services was issued in 2017, the only submission received was from the WPSB although both the Town of LaSalle and the OPP were invited to bid.

While it is not anticipated that the process would take the same amount of time moving forward, a reasonable time frame for an RFP to be issued and a transition to occur would be 18 months, which is why that time frame was negotiated as an “off ramp” in the current Agreement. As there are now only 10 months until the end of the first term with the WPSB, it is the view of Administration that there is not sufficient time to successfully administer a full and transparent RFP, contract negotiation and transition of service process. For all of the above noted reasons, this option is NOT recommended.

Option 3 – Renew the Agreement with the WPSB for a 5 year term (January 2024-December 31, 2028)

Option 3 is to renew the Agreement with the WPSB for a further five-year term (January 1, 2024 - December 31, 2028). Having considered the financial and operational benefits this option provides, Administration recommends this option. Should Council wish to investigate alternate options for police services for the Town of Amherstburg, which may

be pursued in the future, it could also direct Administration to complete those investigations and to bring a further report back to Council regarding the same.

4. RISK ANALYSIS:

There are several risk factors to consider in this matter:

There is political risk associated with a decision on this issue regardless of the outcome. When this issue was initially dealt with there were members of the community that were very opposed to a change in policing and some still hold this view. However, the recent WPS survey suggests an overall satisfaction with policing in the community and so this risk must be weighed against all others.

A risk associated with financial impact to the Town of Amherstburg. Renewing the Agreement with the WPSB provides Amherstburg the greatest opportunity to maintain service levels in a fiscally responsible manner. To date, a savings of 1.7M has been achieved. These savings have assisted in keeping the tax rate low, and have allowed Council to invest in other community priorities. Moving away from this Agreement will result in higher policing costs for the same level of service.

A risk associated with the loss of control or input in the way the police service is run (governance). Although there may be the perception that transitioning to an “advisory” role on the WPSB presents risk to the Town, this risk has been mitigated in several ways. Firstly, the Agreement with the WPSB contains defined levels of service which are maintained and monitored through a legal binding contract. Any deviations from that contract must be approved by the Town. Additionally, the role of “advisor” to the WPSB does allow the Mayor to attend all in camera and open meetings of the WPSB and to participate fully in debate on all issues. There is an argument that this role will not provide Amherstburg with sufficient representation at the Board level however, with the legal protection that the Agreement provides, the WPSB is required to ensure that WPS has required the services available to Amherstburg to ensure contract compliance. Further, the *Police Services Act* legislates the requirement for adequate and effective policing services and requirements therein.

5. FINANCIAL MATTERS:

The financial considerations associated with all options have been canvassed throughout the report.

6. CONSULTATIONS:

Director of Corporate Services/CFO

7. CONCLUSION:

Considering all of the options available to Council, Administration recommends renewal of the policing agreement with WPSB. Should Council wish to investigate alternate

options for police services for the Town of Amherstburg, which may be pursued in the future, it could also direct Administration to complete those investigations and to bring a further report back to Council regarding the same.


Valerie Critchley
Chief Administrative Officer

Attachments:

Appendix A – Policing Statistics in the Town of Amherstburg 2019-2022

Appendix B – Special Unit Usage Statistics

Appendix C – Service Satisfaction Survey

Report Approval Details

Document Title:	Renewal of Policing Services Contract with Windsor Police Services.docx
Attachments:	- Appendix A - Policing Statistics in the Town of Amherstburg 2019-2022.pdf - Appendix B - Special Unit Usage Statistics.pdf - Appendix C - Service Satisfaction Survey - Forum Research Inc.pdf
Final Approval Date:	Feb 3, 2023

This report and all of its attachments were approved and signed as outlined below:



Tracy Prince



Valerie Critchley



Kevin Fox