Council Direction:

The Economic Development and Planning Committee, on November 22, 2007, directed staff to investigate if the City should license tow trucks to prevent Tow Truck Operators from taking vehicles to repair businesses outside of Hamilton.

Staff reported on January 20, 2009 to the Economic Development and Planning Committee, in Report PED09019, recommending no action with respect to establishing a tow truck licensing program because, while municipal by-laws may be passed for valid municipal purposes, the Courts have indicated that economic objectives may not be valid municipal purposes, and that a By-law passed with the primary objective of conferring a competitive advantage in relation to private enterprise would not likely survive a legal challenge. The Economic Development and Planning Committee referred the matter back to staff “for a report on a process to undertake a thorough and comprehensive review of the tow truck industry”.

On January 19, 2010, the Economic Development and Planning Committee dealt with Report PED09019(a) and approved the following:

a) That staff be directed to undertake a comprehensive investigation including stakeholder consultation and report back to the Economic Development and Planning Committee respecting the necessity and financial viability of licensing tow trucks and other roadside service providers in the City of Hamilton (City).
b) That stakeholder consultation associated with investigating the necessity and financial viability of licensing tow trucks and other roadside service providers include:

- staff arranged meetings with the Hamilton Police Service (HPS), the Collision Repair Trade Association, the Provincial Towing Association of Ontario, Canadian Automobile Association, the Insurance Industry and individual local tow truck owners/operators; and

- publicizing through advertisements in the Hamilton Spectator, The Brabant Publications and on the City’s web site, that the City is accepting public written submissions respecting the need to license tow trucks and other roadside service providers in the City of Hamilton.

Information:

In May 2010, the publicizing was undertaken through advertisements in the Hamilton Spectator, Brabant Newspaper and on the City’s web site, that the City is accepting public written submissions respecting the need to license tow trucks and other roadside service providers in the City of Hamilton.

Two public meetings were advertised, one on May 19th 2010, at the Dominic Agostino Riverdale Community Centre and another on May 26th 2010 at Michelangelo’s Banquet Centre. Staff had discussions with the HPS, the Collision Repair Trade Association, Canadian Automobile Association, HPS contracted tow truck owner/operators and individual local tow truck owners/operators.

The meetings showed there is conflict between private tow truck operators, the Canadian Automobile Association, car repair businesses and HPS contracted tow truck operators. If the City introduces the licensing of private tow trucks, the tow truck owners/operators believe that they should then have a part in removing damaged vehicles involved in motor vehicle collisions. HPS contracted tow truck operators, who are screened and audited by the HPS, feel that the City should not permit independent tow truck owner/operators from towing vehicles at collision scenes. Although repeatedly explained that the purpose of the licensing of tow trucks is to ensure motoring and public safety, not the removal of damaged vehicles from collisions scenes. Solicitation at motor vehicle collision scenes remains a tenuous point that impacts all tow truck operators. Thus the meeting had to be guided toward tow truck safety and regulation to ensure the safety of the motoring public.

The result of meetings including emails and telephone conversations with industry members shows a large divide. HPS contracted tow truck operators believe that they should not license their tow trucks as they are heavily audited by the HPS and they wish an exemption if licensing of tow trucks moves forward. Independent tow truck owners see the licensing of tow trucks as an opportunity to enter into collision solicitation,
however, they are already audited by the Province of Ontario for safety checks and they feel that having additional licensing would impact negatively on their businesses.

A Private Members Bill to address towing solicitation, known as the Towing Industry Act Bill, is no longer being pursued and the proposed legislation has died on the legislative table.

Information has been received from tow truck owners that the City should look at towing vehicles to a centralized compound (a cooling off compound) before any vehicles are towed to their final destinations. Staff will be contacting similar sized cities across Canada to see if such a system can be utilized in Hamilton. Other municipalities will be contacted to see how they address the issue of unlicensed tow trucks operating within their jurisdictions.

Staff will report back to the Committee on these findings by the 2nd quarter of 2011.

MH/GW/dt