SUBJECT: Moratorium on Outdoor Patio Boulevard Encroachment Fees (PW05040a) - (City Wide)

Public Works, Infrastructure & Environment Outstanding Business List

RECOMMENDATION:

(a) That the existing moratorium on outdoor patio boulevard encroachment fees for outdoor boulevard cafes be removed effective May 1, 2006.

(b) That the outdoor boulevard patio season be extended from the existing period of May 1st to October 31st to a “year round” or 12 month term.

(c) That the item relating to Patio Fees be removed from the Public Works, Infrastructure & Environment Committee Outstanding Business List.

Scott Stewart, C.E.T.
General Manager
Public Works

EXECUTIVE SUMMARY:

A moratorium on outdoor patio boulevard encroachment fees was originally established for the downtown core for the 1998 and 1999 patio seasons. The intent of the moratorium was to encourage activity, increase pedestrian traffic and contribute to the beautification of the City of Hamilton downtown core. This moratorium has now been in effect for eight years and has expanded city wide. There are presently 39 outdoor...
patios encroaching on City property and there were 28 existing patio encroachments in place in 1998 when the moratorium on Patio encroachment fees was first introduced.

**BACKGROUND:**

The information/recommendations contained within this report have city wide implications although they relate primarily to matters, facilities, programming and property located within Ward 2.

A moratorium on fees for outdoor patio boulevards in the downtown core was originally established for the 1998 and 1999 patio seasons. This moratorium was extended to 2000 and then extended again to the 2001 patio seasons. A further moratorium on fees for outdoor patio boulevards throughout the entire City was established for 2002, which remains in effect. The intent of the moratorium was to encourage patio activity, increase pedestrian traffic and contribute to the beautification of the Hamilton downtown core. While during the term of the moratorium the number of patio encroachments has increased from 28 to 39 City wide it is unclear as to what impact if any, the moratorium may have had on the increase. It is clear though that the moratorium has resulted in lost permit fee revenues of approximately $14,000 annually.

In addition, staff have received many requests from patio encroachment permit holders for the extension of the six month permit term to twelve months, thus enabling year round operation as weather permits. Any illegal (off season) patio operation places staff in difficult position relative to policy enforcement which is exacerbated by permanent patio installations vis a vis the requirement to remove equipment and fencing during the off season. Therefore, the extension of the season to a twelve month period is recommended as a means of increasing program compliance.

**ANALYSIS/RATIONALE:**

To reinstate a revenue generating source and to legalize patio use year round.

**ALTERNATIVES FOR CONSIDERATION:**

The alternative to removing the moratorium on outdoor boulevard patio encroachment fees is to continue to maintain the moratorium on these fees. This alternative is not supported as:

1. there is no evidence that the moratorium has been a significant factor in sponsoring growth in patio establishments.
2. the moratorium results in a significant revenue loss to the department.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

The Traffic Engineering & Operations Section conducted a survey involving ten Ontario cities, to determine what fees they charged and how they implement their outdoor patio boulevard programs. Of the ten cities surveyed, nine of these cities charge an annual outdoor patio boulevard encroachment fee, where a patio extends onto the municipal property. The City of Hamilton’s annual outdoor patio boulevard fee is “in line” with the other Ontario cities surveyed. The City of Hamilton was ranked in the middle of the survey as having the fifth highest yearly average patio fee when compared to the ten Ontario cities surveyed (high $1000 vs. low $25). The average City of Hamilton outdoor patio boulevard fee is approximately $358, when averaged out among the 39 patios
presently encroaching on City property. The Patio Boulevard Encroachment fee is calculated on 5% of the total area on City property based on fair market value determined by the City of Hamilton Real Estate Division. The total revenue generated with the removal of the City wide moratorium on outdoor patio boulevard encroachments fees would be approximately $14,000 annually.

POLICIES AFFECTING PROPOSAL:

The Council approved Technical Specifications & Guidelines for Outdoor Boulevards Cafés within the Road Allowance.

RELEVANT CONSULTATION:

A presentation was made to the Hamilton Association of BIA’s (HABIA) advising them about the removal of the existing moratorium and extension of the outdoor boulevard patio season, which they indicated opposition on both items. A survey of ten Ontario cities was undertaken to determine consistencies.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Arts, culture, archeological and cultural heritage are supported and enhanced.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No