

KENORA POLICE SERVICE
Application for Consent to Abolishment

Presiding OCCPS Members:

Murray W. Chitra, Chair
Roy B. Conacher, Member

Appearances:

Persons attending the hearing included representatives from: the City of Kenora, Consultants on Police Services Inc., the OPP, Kenora Police Services Board, Kenora Police Service, Kenora Police Association, Ministry of Community Safety and Correctional Services, area First Nations, and various citizens.

Heard:

September 11, 2008

Date of Decision:

December 18, 2008

DISBANDMENT - Application for consent to abolishment of municipal police service - Municipal restructuring resulting in amalgamation of all services except policing - Hybrid policing arrangement in place - City opting for single provider and accepting OPP bid - Application for injunction to prohibit disbandment brought by Police Services Board - Court dismissing application - Consent granted subject to conditions.

ADEQUACY AND EFFECTIVENESS - Disbandment - Hybrid policing arrangement in place - Municipal council opting for single service provider and choosing OPP proposal - Commission's role not to second guess a decision clearly within mandate of municipal council - Commission's role to ensure proposal provides adequate and effective policing and to ensure severance arrangements in place - Proposed uniform complement should be increased by five officers - With addition of five officers and completion of renovations, proposal permitting City to continue meeting requirements of *Police Services Act* and Reg. 3/99.

SEVERANCE - Application for consent to abolishment of municipal police service - City accepting OPP proposal for policing - Commission's role to ensure proposal meets adequacy and effectiveness requirements and that severance arrangements in place for employees subject to termination - All uniform officers offered employment with OPP - Number of civilian employees reduced - OPP directed to establish process for filling civilian vacancies - Board directed to enter into severance negotiations with Chief and Deputy Chief - Board to enter into negotiations with Association to resolve outstanding pension issues - Application granted subject to fulfillment of these and other conditions.

Summary of Reasons for Decision

The City of Kenora applied to the Commission for its consent to the abolishment of the City's municipal police force.

The City was created by the amalgamation of the former Town of Kenora and Townships of Keewatin and Jaffray-Melnick. All municipal services were amalgamated except for policing. The former Town was being policed by a municipal police force, while the townships were policed by the OPP. This hybrid arrangement was left in place following amalgamation.

The City was policed by a total of 47.12 uniform officers from the municipal service and the OPP. The service employed a number of civilian staff: 2 special constables, 12 guards, 2 officer workers, 9 dispatchers and 4 by-law enforcement officers. The OPP provided .7 contract civilian positions. The service and OPP had separate stations or facilities. Both forces were well equipped and had their own dispatching. OPP dispatching was located in the Provincial Communications Centre in Thunder Bay.

As a result of industrial decline, a loss of residents and a reduction in municipal revenues, the City decided to review the hybrid arrangement. Consultants were retained. After considerable public discussion, the consultants recommended the City move to a single police service provider. Accordingly, an RFP was prepared. Both the OPP and the Kenora Police Service submitted proposals. The City accepted the OPP proposal.

The City then wrote to the Commission asking for its consent to disbandment of the municipal police force. The Commission requested information from the City and the Kenora Police Services Board, and scheduled a public meeting in Kenora. Meanwhile, the Kenora Police Services Board brought an application in the Ontario Superior Court of Justice for an injunction prohibiting the abolishment of the force. The application was dismissed by Justice G.P. Smith (see JR-DSB #08-02), who ruled that only the municipal council had the authority to decide to disband; the board's consent was not required.¹

The Commission held the public meeting as scheduled, at which time the OPP presented its proposal. The Commission heard oral submissions and received a written submission. These submissions raised a number of concerns with the substance and process of the proposal.

The OPP detachment had a current complement of 47 uniform officers. The OPP proposal called for an integrated detachment of 82 officers: 42.56 allocated to the City and 39.44 to the other areas within the detachment. Existing patrol zones would be maintained, with 7 constables per platoon. The proposal also called for 11 civilian support staff: 7 allocated to the City and 4 to other detachment areas.

¹ This ruling has been appealed by the Board.

The current OPP detachment facility and the municipal police station would both be used, with renovations to the latter. Both facilities would be open to the public during normal business hours. All dispatching would take place from the Centre in Thunder Bay.

Employment of the service's 4 by-law enforcement officers would be transferred to the City. All uniform officers would be offered employment with the OPP. Part-time contract guards would be moved to the OPP call out roster. The proposal called for the creation of 6 civilian positions: 2 clerical, 2 data entry and 2 special constables. These positions would be offered to civilian members of the service.

The existing Board would be replaced by a board which would exercise the powers under s. 10(3) of the *Police Services Act*.

Held, application granted subject to conditions.

The role of the Commission under s. 40 was two-fold: to ensure the adequacy and effectiveness of policing under the alternate service delivery model, and to ensure that severance arrangements were in place for any members who were subject to termination. The first role related to issues of community safety and provincial standards, while the second required the Commission to assess whether employees who were adversely affected by a change in delivery of policing services were being treated fairly.

Section 4 of the *PSA* prescribed certain indicia of adequacy and effectiveness. One of these was staffing. In that regard, the OPP proposal represented a loss of 4.56 officers from the current City complement. The City had a high crime rate: 2.6 times the provincial average. The reduction in complement would mean too high a workload in light of these factors: each officer would have to respond to 1:54.6 crimes per year, which exceeded the workload benchmark approved by the Commission in previous disbandment decisions, 1:43 to 1:51.

Instead of reducing the complement by 9.7%, the complement should be increased by five for a total of 47.56 officers. Four of these should be front line constables, one assigned to each of the detachment's four platoons, bringing the number of constables per shift to eight. The fifth officer should be assigned a community services role, working with First Nations and other community groups.

Under the proposal both buildings would continue to be used. Although both would be open to the public only during normal business hours, citizens would continue to have 24-hour policing coverage. All dispatching would be done from the Centre in Thunder Bay. Previous examinations of the Thunder Bay Centre had revealed that it was more than adequate, and there was no reason to believe that this would not also be the case for the City.

With the addition of five officers and the completion of renovations to the existing municipal police building, the proposal would permit the City to continue providing

adequate and effective policing, in compliance with the requirements of the *PSA* and Ontario Regulation 3/99.

Under the proposal some civilian members of the service would lose their employment. At the public meeting reference was made to the collective agreement, which dealt with severance. Neither the Chief nor the Deputy Chief had any agreement with respect to severance pay. In addition, a possible pension shortfall for transferred members had been identified. To date the Board had not discussed these issues with its employees. The Board was under a statutory duty to do so, and to facilitate a smooth transition.

The application for consent to abolishment was granted, subject to conditions which included:

- the addition of five constables
- completion of renovations to the City facility
- the OPP providing and processing applications for transfer of uniform members
- the OPP establishing a process for filling the six civilian vacancies
- the Board entering into good faith severance negotiations with the Chief and Deputy Chief, failing which the parties were directed to proceed to arbitration
- the Board entering into good faith negotiations with the Association to resolve outstanding pension issues for transferred employees, failing which the parties were directed to proceed to arbitration
- the Board providing City Council and the OPP with information to assist in an orderly disbandment, and
- the Board providing the Commission with a report within 60 days outlining the steps it had taken to comply with these directions.

Statutes cited

Police Services Act R.S.O. 1990, c.P.15 as amended, ss. 4, 5, 6, 10 and 40
O. Reg. 3/99

Authorities cited

Kenora Police Services Board v. Ontario Civilian Commission on Police Services and City of Kenora (Ont. Sup. Ct. #CV-08-108, Oct. 9, 2008, OCCPS JR-DSB#08-02)
Municipality of Chatham-Kent (Aug. 14, 1998, OCCPS)
Township of Atikokan (July 20, 2005, OCCPS)
Town of Goderich (Oct. 27, 1997, OCCPS)
City of Temiskaming Shores (June 15, 2007, OCCPS DSB#07-01)
City of Orillia (Jan. 17, 1996, OCCPS)
Township of Red Rock (May 26, 2000, OCCPS)
Township of Terrace Bay (July 31, 2001, OCCPS)