

# Analyst Briefing Notes

## Budget Committee

(January 28, 2008)

**2008 OPERATING BUDGET**

Executive Summary .....	2
Recommendations .....	4

**Section A: 2007 Budget Variance Analysis .....** 5

2007 Experience .....	5
Impact of 2007 Operating Variance on the 2008 Recommended Budget .....	6

**Section B: 2008 Operating Budget Overview .....** 7

3-Year Operating Budget Overview .....	7
Challenges and Issues.....	8

**Section C: 2008 Recommended Base Budget.....** 10

2008 Recommended Base Budget .....	10
2008 Key Cost Drivers and Reduction Strategies.....	10

**Section D: 2008 Recommended Service Priorities .....** 12

Summary of 2008 New / Enhanced Service Priorities .....	12
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**Section E: Issues for Discussion .....** 14

2008 Operating Budget Issues.....	14
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**Appendices:**

Appendix 1: Summary of Recommended Base Budget Changes from 2007 Approved Budget.....	15
Appendix 2: Summary of Service Level Adjustments .....	16
Appendix 3: Summary of 2008 Recommended New/Enhanced Service Priorities .....	17
Appendix 4: Inflows/Outflows to/from Reserves and Reserve Funds.....	18

Contacts: Judy Broughton, Manager, Financial Planning Division  
Tel: (416) 392-8393

Tom Perdakis, Financial Planning Analyst  
Tel: (416) 397-4478

January 28, 2008

**2008 OPERATING BUDGET****Executive Summary**

- The 2007 preliminary year-end net expenditure of \$19.483 million is \$0.091 million or 0.5% below the 2007 Approved Budget of \$19.574 million as per the 3<sup>rd</sup> Quarter Variance Report. This favourable variance is largely attributable to realized savings from hiring delays and staff leaves of absence.
  - Cost containment savings of \$0.050 million are not expected to continue in 2008.
- Legal Services' 3-Year Operating Budget will support the provision of strategic legal advice, research, opinions and counsel.
  - Legal Services' is facing challenges to provide ongoing legal counsel for regular City matters, while also supporting large, complex City initiatives such as the Climate Change Initiative, supporting the Spadina Subway Extension Project and providing advice on the implementation of the broad and permissive powers under the new City of Toronto Act.
  - Increased service levels are required to respond to increased attendance at OMB hearings; working with clients to facilitate attendance at courts by police officers; representing the City's position in the matters relating to the limousine by-law, as well as representing the City's position at the Federal PILT Advisory Panel on Toronto Port Authority's payments in lieu of taxes.
  - It is difficult to maintain and or enhance services levels, to respond to challenges as noted above, in an environment of financial constraint, particularly when 81% of the budget is salaries and benefits.
- The 2008 Recommended Operating Budget of \$20.903 million net is \$1.329 million or 6.8% over the 2007 Approved Operating Budget. The 2008 Recommended Operating Budget adds 4 additional positions to the 2007 staffing complement and increases service levels for 2008 in response to increased service demands.

**Table 1: 2008 Recommended Budget**

	2007		2008 Recommended Operating Budget			Change - 2008 Recommended from 2007 Approved Budget		FY Incremental Outlook	
	2007 Approved Budget	2007 Projected Actual	2008 Base	2008 New /Enhanced	2008 Operating Budget			2009	2010
	(In \$000s)					\$	%	\$	\$
<b>GROSS EXP.</b>	31,815.9	31,141.4	36,050.5	630.0	36,680.5	4,864.6	15.3	419.8	558.1
<b>REVENUE</b>	12,241.7	11,658.6	15,147.5	630.0	15,777.5	3,535.8	28.9	0.0	0.0
<b>NET EXP.</b>	19,574.2	19,482.8	20,903.0	0.0	20,903.0	1,328.8	6.8	419.8	558.1
<b>Approved Positions</b>	256.0	256.0	256.0	4.0	260.0	4.0	1.6	0.0	0.0
<b>TARGET</b>			<b>19,574.2</b>	<b>19,574.2</b>					
<b>\$ Over / (Under) Program Target</b>			<b>1,328.8</b>	<b>1,328.8</b>					
<b>% Over / (Under) Program Target</b>			<b>6.8%</b>	<b>6.8%</b>					

- The 2008 Recommended Operating Budget of \$20.903 million net is comprised of \$20.903 million net for base funding and \$0.630 million gross and \$0 million net for 4 new/enhanced service priorities.
  - The 2009 Outlook includes a merit and step increase of \$0.509 million and the reduction of one extra working day in 2008 of \$0.089 million. The 2010 Outlook includes a merit and step increase of \$0.558 million.
- The 2008 Recommended Base Budget is \$20.903 million net and is \$1.329 million or 6.8% over the 2007 Approved Budget with gross expenditure increases of \$4.865 million and revenue increases of \$3.359 million.
  - The 2008 key costs are driven by COLA, merit and step increases, fringe adjustments, salary adjustments, the annualization of one position and an additional working day in 2008.
  - The increased expenditures are partially offset by increasing gapping in the amount of \$0.153 million and increasing planning fee revenues in the amount of \$0.045 million.
- To respond to increased demand for legal services for City programs, 4 new positions are being recommended as new service priorities. Funding in the amount of \$0.630 million gross, \$0 net is recommended. The costs will be recovered from the client programs. One new position will be dedicated to Technical Services, two solicitor positions are recommended for Toronto Water and one senior solicitor position for Solid Waste. The responsibilities of the four new staff positions include providing written opinions, day to day legal advice, drafting contracts and legal agreements.
- Legal Services provides strategic and legal advice in the areas of Municipal Law, Prosecution, Litigation, Planning and Development, Litigation, Employment, Administration and Real Estate Law. Legal Services will support major corporate projects including Climate Change, the Green Lane Landfill and the City's new accountability offices including the Lobbyist Registrar's Office and Office of the Ombudsman.

**Recommendations**

The City Manager and Chief Financial Officer recommend that:

1. the 2008 Recommended Operating Budget for Legal Services of \$38.681 million gross and \$20.903 million net, comprised of the following services, be approved:

<u>Service:</u>	<u>Gross (\$000s)</u>	<u>Net (\$000s)</u>
Municipal Law	6,077.0	2,924.0
Litigation	5,653.1	3,171.5
Administration	2,548.2	2,264.2
Planning & Tribunal	4,714.9	3,534.9
Real Estate	4,583.3	3,931.3
Employment	2,561.2	2,511.2
Prosecutions	10,542.7	2,566.0
	<hr/>	<hr/>
Total Program Budget	36,680.5	20,903.0
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## Section A: 2007 Budget Variance Analysis

**Table 2: 2007 Budget Variance Review**

	2006 Actuals	2007 Approved Budget	2007 Projected Actuals*	2007 Appvd. Budget vs Projected Actuals Variance	
(In \$000s)	\$	\$	\$	\$	%
<b>GROSS EXP.</b>	27,929.4	31,815.9	31,141.4	(674.5)	(2.1)
<b>REVENUES</b>	9,335.5	12,241.7	11,658.6	(583.1)	(4.8)
<b>NET EXP.</b>	18,593.9	19,574.2	19,482.8	(91.4)	(0.5)
<b>Approved Positions</b>	252.0	256.0	256.0	0.0	0.0

Source: \*Projected Actuals Based on the September 30, 2007 Review.

### 2007 Experience

Legal Services' projection to year end is \$19.483 million net based on the 3<sup>rd</sup> Quarter Variance Report. This represents a favourable variance of \$0.092 million or 0.5% under the Program's 2007 Approved Operating Budget of \$19.574 million net.

- Under-expenditures of \$0.675 million gross are primarily attributed to savings in salary and benefits due to hiring delays and higher than expected staff leaves of absence (\$0.419 million) as well as cost containment savings (\$0.050 million) from deferred spending on training, equipment and office supplies.
- A decrease in revenues is primarily due to lower than expected recoveries from Insurance Claims defence (\$0.305 million) and recoveries from Police Services (\$0.280 million).

### 2007 Cost Containment Savings

- Legal Services expects to achieve cost containment savings of \$0.050 million in 2007 through the measures itemized in the table below.

Net Cost Containment Savings	2007 (\$000s) Savings	2008 (\$000s) Continued Savings	Comments
Hiring Freeze Savings:			
<b>Sub-total</b>	<b>0.0</b>	<b>0.0</b>	
Service Level Adjustments:			
<b>Sub-total</b>	<b>0.0</b>	<b>0.0</b>	
Discretionary Savings:			
Reduced training, equipment and office supplies	50.0		
<b>Sub-total</b>	<b>50.0</b>	<b>0.0</b>	
<b>TOTAL COST CONTAINMENT</b>	<b>50.0</b>	<b>0.0</b>	

## Impact of 2007 Operating Variance on the 2008 Recommended Budget

- There are no operating impacts of the 2007 Operating Variance on the 2008 Recommended Budget. Cost containment measures achieved in 2007 are not recommended to continue into 2008.

## Section B: 2008 Operating Budget Overview

### 3-Year Operating Budget Overview

- The 3-Year Operating Budget will enable Legal Services to focus on defending and supporting the City's interests and initiatives in a timely and cost-effective manner. This includes providing independent legal advice, participating in interdisciplinary committees and providing strategic legal research, advice, opinions and counsel.

- The mission of Legal Services is:

To provide the highest quality of legal services to the Corporation and to function as a strategic resource to Council, staff and agencies, boards and commissions.

- The Legal Services Program is comprised of the following seven service areas:

*Municipal Law* – provides expert legal advice and opinions related to issues within City operations. Challenges for Municipal Law include: providing advice to implement the broad and permissive powers under the new City of Toronto Act and providing strategic advice to implement the new Lobbyist Registry.

*Real Estate* – provides assistance and advice on a wide-range of diverse and sophisticated real estate transactions for the City.

*Prosecution* – is responsible for the prosecution of a wide range of high profile offences committed under City by-laws and Provincial statutes.

*Planning and Development* – provides advice to City Council and staff on the use and development of land and policy related matters such as the City's Official Plan and the redevelopment of the waterfront.

*Litigation* – deals with matters of public policy, such as Municipal bylaw and Charter challenges, Human Rights, Environmental law, Police and Licensing.

*Employment* – deals with issues arising from collective agreements between the City and its two major unions.

*Administration* - provides administrative support and assistance to all services of Legal Services.

- The 3-Year Operating Budget supports the accomplishment of the following Service Objectives:
  - Defend the interests of the City of Toronto in a timely and cost-effective manner.
  - Provide independent legal advice, participate in interdisciplinary committees and providing strategic legal research.

- Effectively represent the City and its Agencies, Boards and Commissions in matters related to Employment law.
  - Drafting contracts and opinions related to various issues dealing with the City's operations.
  - Provide expert advice and services in the area of real estate law including land purchases, sales, expropriations, leasing and licensing, discharges, tax sales and road closings.
  - Effectively represent and defend the City of Toronto in litigation matters and Charter challenges to City by-laws and actions.
  - Prosecute violations of provincial statutes and regulatory by-laws, provide training to City inspectors, and negotiate agreements respecting provincial offences.
  - Providing assistance and strategic advice related to planning and development law (Official Plan and zoning by-laws) and representing the City's interests at the Ontario Municipal Board and Alcohol and Gaming Commission.
- The 2008 Recommended Operating Budget for Legal Services is \$20.903 million. This is \$1.329 million (6.8%) over the Program's net target of \$19.574 million. The 2008 Recommended Budget incorporates base expenditures which include merit and step increases, cost of living adjustments and additional salary and fringe adjustments and attempts to minimize their effects by recommending gapping increases and increased planning fee recoveries.
  - Legal Service's 2008 Recommended Operating Budget will add 4 additional positions to the Program. All of these pertain to new and enhanced services recommended for the 2008. The Division's staffing complement would thus increase from 256 to 260 approved positions; thereby enhancing services levels for 2008.
  - The 2009 Outlook includes an incremental increase of \$0.509 million for merit and step increase and a reduction of \$0.089 million for the reversal of one extra working day in 2008. The 2010 Outlook includes a merit and step increase of \$0.558 million.

## **Challenges and Issues**

Challenges for the Real Estate related legal services include providing strategic support for the Spadina Subway Extension, providing strategic advice to implement Council's directive to maximize value derived from surplus transit properties and advising on the delegation of real estate matters to Standing Committees and appropriate staff.

Challenges facing the Planning and Development legal services include completing outstanding official plan appeals, providing strategic advice and representation to preserve the City's cultural and employment districts and managing the increasing number of OMB hearings with the resources available.

Litigation services are required in matters relating to the limousine by-law, representing the City's position at the Court of Appeal with respect to Imperial Parking Canada (private parking tickets) as well as representing the City's position at the Federal PILT Advisory Panel on Toronto Port Authority's payments in lieu of taxes.



Challenges for Employment legal services include providing strategic advice to the Employee and Labour Relations Committee and representing the City at the Employment Standards Act wages appeal before the Ontario Labour Relations Board.

**Strategic Priorities**

- Legal Services will continue to provide strategic legal research, advice and opinions to facilitate major corporate initiatives, including participating in implementing major corporate projects which include Climate Change Initiatives, the Lobbyist Registry and the Ombudsperson's Office. Resources will continue to be prioritized according to the needs and interests of the Corporation that will have the most impact to the City it serves. Specific emphasis will be placed on providing proactive strategic legal advice, achieving a high rate of client satisfaction, and delivering services in a timely and effective manner.
- The new City of Toronto Act will provide greater powers for the City. It is anticipated that there will be an increased demand for legal services in implementing the City's new and expanded powers.

### Section C: 2008 Recommended Base Budget

**Table 3: 2008 Recommended Base Budget**

(In \$000s)	2007 Approved. Budget	2008 Recommended Base	Change 2008 Recommended Base vs. 2007 Approved Budget		FY Incremental Outlook	
					2009	2010
	\$	\$	\$	%	\$	\$
<b>GROSS EXP.</b>	31,815.9	36,050.5	4,234.6	13.3	419.8	558.1
<b>REVENUE</b>	12,241.7	15,147.5	2,905.8	23.7	0.0	0.0
<b>NET EXP.</b>	19,574.2	20,903.0	1,328.8	6.8	419.8	558.1
<b>Approved Positions</b>	256.0	256.0	0.0	0.0	0.0	0.0
<b>NET TARGET</b>		<b>19,574.2</b>			<b>0.0</b>	<b>0.0</b>
<b>\$ Over / (Under) Program Target</b>		<b>1,328.8</b>			<b>419.8</b>	<b>558.1</b>
<b>% Over / (Under) Program Target</b>		<b>6.8%</b>			<b>2.14%</b>	<b>2.85%</b>

### 2008 Recommended Base Budget

- The 2008 Recommended Base Budget of \$36.051 million gross compared to the 2007 Approved Budget reflects a gross expenditure increase of \$4.234 million or 13.3% and a net expenditure increase of \$1.329 million or 6.8%.
- An additional \$1.788 million in expenditures is recommended for Legal Services' Base Budget for non-discretionary costs such as COLA and merit and step increases. These are partially offset by efficiency savings and increased planning fee recoveries, totaling \$0.198 million.

### 2008 Key Cost Drivers and Reduction Strategies

- The additional \$1.788 million in expenditures recommended for the Program's Base Budget is needed to fund the annualized costs, merit and step increases, union settlements and wage increases for exempt staff as well as other base changes.
- An additional \$2.600 million gross is required to ensure that Police Officers appear at Court by scheduling off duty Officers. The \$2.600 million charge is offset by an inter-departmental recovery increase of \$2.600 million resulting in a net zero impact.
- The major cost drivers in Legal Services' 2008 Recommended Operating Budget include:
  - COLA - \$0.571 million
  - Merit - \$0.559 million

- Salary and fringe benefit adjustments, as a result of a detailed review of 2007 actual costs - \$0.460 million
- The following efficiencies are recommended, thereby generating savings of \$0.198 million:
  - A 0.4% gapping increase (\$0.153 million)
  - Increasing planning fees (\$0.045 million)

**2009 and 2010 Outlook: Net Incremental Impact**

The 2009 Outlook totals \$0.420 million; includes a merit and step increase of \$0.509 million and the reversal of funding for one extra working day in 2008 of \$0.089 million. The 2010 Outlook includes a merit and step increase of \$0.558 million.

### Section D: 2008 Recommended Service Priorities

**Table 4: Summary of 2008 New / Enhanced Service Priorities (In \$000s)**

Priority	Description	2008 Recommended		Rec. New Positions	Net Incremental Impact	
		Gross Exp.	Net Exp.		2009	2010
		\$	\$		#	\$
	(a) Enhanced Service Priorities - Council Approved:					
	(b) Enhanced Service Priorities - Program Initiated:					
	Sub-Total Enhanced Services	0.0	0.0	0.0	0.0	0.0
	(a) New Service Priorities - Council Approved:					
	(b) New Service Priorities - Program Initiated:					
	1 One Solicitor dedicated to Solid Waste	105.7	0.0	1.0		
	2 Two Solicitors dedicated to Toronto Water	345.3	0.0	1.0		
	3 Additional Solicitor for Technical Services	179.0	0.0	1.0		
	Sub-Total New Service Priorities	630.0	0.0	3.0	0.0	0.0
	Total Recommended New / Enhanced Service Priorities	630.0	0.0	3.0	0.0	0.0

#### Recommended New Service Priorities – Program Initiated:

##### *Two New Solicitors for Toronto Water (\$0.245 million gross, \$0 million net)*

Funding in the amount of \$0.245 million gross and \$0 net for two new Solicitors is recommended to provide strategic legal advice, draft contracts and legal agreements for increased legal service requirements for Toronto Water's Capital Works Program. One person is currently on contract and will be converted to permanent status. The second new permanent position is expected to start in April 2008. There is no net incremental impact in 2009 as these positions will be fully funded from Toronto Water.

***Solicitor for Solid Waste (\$0.106 million gross, \$0 million net)***

Funding in the amount of \$0.106 million gross and \$0 net for one Senior Solicitor for Solid Waste is recommended to provide legal written opinions and draft legal agreements. The new staff position is currently on contract and will be converted to permanent to maintain the current work being done on the Climate Change Initiative. There is no 2009 incremental impact as a result of this recommendation as this position will be fully funded from Solid Waste revenue.

***Solicitor for Technical Services (\$0.179 million gross, \$0 million net)***

The 2008 recommended funding of \$0.179 million gross and \$0 net is for one Solicitor position is required to assist Technical Services in providing legal advice and drafting legal agreements. This is a permanent position that will start in April 2008. There is no 2009 incremental impact as a result of this recommendation as this position will be fully funded from the Technical Services 2008 Recommended Operating Budget.

**Section E: Issues for Discussion****2008 Operating Budget Issues*****Budget Compared to Guideline***

The 2008 Recommended Budget of \$20.903 million net reflects an increase of \$1.328 million or 6.8% over the 2008 budget target.

The demand for Legal Services to provide proactive legal advice to City programs has increased tremendously primarily as a result of Commissioner Bellamy's report on the Toronto Computer Leasing Inquiry, the Toronto External Contracts Inquiry, and the new City of Toronto Act. This increase in demand is driven in part, by the following:

- the Spadina Subway Extension Project
- the Green Lane Landfill Purchase
- the implementation of 3-1-1 and the selection of the preferred proponent
- supporting the Climate Change Initiative
- advice on implementing broad and permissive powers under the new City of Toronto Act
- advising the Employee and Labour Relations Committees regarding planning and development law (Official Plan and zoning by-laws)
- advice on real estate matters to Standing Committee regarding purchases, sales and expropriations
- advice regarding planning and development law (Official Plan and zoning by-laws) with respect to Waterfront Secondary Plan and proposed conversions of employment lands to residential uses.
- advice with respect to the new Lobbyist Registry

As a result of the increased service demands, the Legal Services 2008 Recommended Operating Budget is 6.8% over target. Any reductions would severely impact Legal Services' ability to meet its service demands, particularly given that 81% of its budget is comprised of salaries and benefits.

# Appendix 1

## Summary of Recommended Base Budget Changes From 2007 Approved Budget

(In \$000s)	Summary of 2008 Base Budget Adjustments				Net Incremental Outlook	
	Approved Positions	Gross Expenditures	Revenues	Net	2009	2010
		\$	\$	\$	\$	\$
<b>2007 Council Approved Operating Budget</b>	<b>256.0</b>	<b>31,808.3</b>	<b>12,241.7</b>	<b>19,566.6</b>		
Reallocation of Insurance from Non-Program Corporate adjustments		7.6		7.6		
<b>2007 Approved Operating Budget</b>	<b>256.0</b>	<b>31,815.9</b>	<b>12,241.7</b>	<b>19,574.2</b>		
Prior year impacts		198.3		198.3		
Zero base items						
Economic factors		1,589.6		1,589.6	419.8	558.1
<b>Adjusted Base Budget</b>	<b>256.0</b>	<b>33,603.8</b>	<b>12,241.7</b>	<b>21,362.1</b>	<b>419.8</b>	<b>558.1</b>
Other base changes						
Base revenue changes		2,600.0	2,860.4	(260.4)		
Recommended Service Level Adjustments:						
Service efficiencies		(153.3)		(153.3)		
Revenue adjustments			45.4	(45.4)		
Minor service impact						
Major service impact						
<b>Total Recommended Base Adjustments</b>		<b>2,446.7</b>	<b>2,905.8</b>	<b>(459.1)</b>		
<b>2008 Recommended Base Budget</b>	<b>256.0</b>	<b>36,050.5</b>	<b>15,147.5</b>	<b>20,903.0</b>	<b>419.8</b>	<b>558.1</b>
<b>2008 Program Operating Target</b>	<b>256.0</b>	<b>31,815.9</b>	<b>12,241.7</b>	<b>19,574.2</b>		
<b>% Over (Under) Program Target</b>				<b>6.8%</b>	<b>2.1%</b>	<b>2.85%</b>
<b>% Over (Under) 2007 Appvd. Budget</b>				<b>6.8%</b>	<b>2.1%</b>	<b>2.85%</b>

**Appendix 2**  
**Summary of Service Level Adjustments**



**Appendix 3**

**Summary of 2008 Recommended New / Enhanced Service Priorities**

## Appendix 4

### Inflows / Outflows to / from Reserves & Reserve Funds

Reserve / Reserve Fund Name	Reserve / Reserve Fund Number	Balance as of December 2007	Proposed Withdrawals (-) / Contributions (+)		
			2008	2009	2010
		\$	\$	\$	\$
Insurance Reserve Fund	XR1010	28,136.6	56.6	56.6	56.6
<b>Total Reserve / Reserve Fund Draws / Contributions</b>		<b>28,136.6</b>	<b>56.6</b>	<b>56.6</b>	<b>56.6</b>