

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

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| TO: Chair and Members Economic Development and Planning Committee | WARD(S) AFFECTED: CITY WIDE |
| COMMITTEE DATE: March 23, 2010 | |
| SUBJECT/REPORT NO: Harmonized Animal Control By-law (PED09303(a)) (City Wide) (Outstanding Business List Item) | |
| SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department | PREPARED BY: Paul Buckle (905) 546-2424 Ext. 2597 |
| SIGNATURE: | |

RECOMMENDATION:

- (a) That, in addition to the 30 days for public written submissions already approved by City Council, staff be authorized to continue with further comprehensive public/stakeholder consultation, and to prepare for the Economic Development and Planning Committee's consideration in 2011, a supplemental report summarizing all the public/stakeholder comments/issues, as well as a draft Animal Control By-law, as such might be revised in response to said consultation and the issues raised;
- (b) That, in advance of the comprehensive new Animal Control By-law, staff be authorized and directed to review and report on the following time sensitive matters:
 - (i) The regulations respecting cats being "at large" as compared to trespassing on private property;
 - (ii) A regulation prohibiting the owning, keeping or harbouring of any vicious or dangerous animal within the City;

- (iii) A regulation prohibiting animals such as livestock, exotic animals and/or normally wild animals that have been tamed, from being at large in the City;
- (iv) That an existing exemption in the City's Noise By-law respecting barking dogs in rural areas be limited to working farm dogs.

EXECUTIVE SUMMARY

In October 2009, staff submitted Report PED09303 which included a draft Animal Control By-law for the purpose of providing a framework or "context" to facilitate discussion and public input with a view to developing a single "harmonized" Animal Control By-law for the "amalgamated" City to replace the eight existing by-laws respecting the keeping and control of Animals. Staff were directed to accept written submissions for a thirty day period, commencing subsequent to the submission of the subject report, which period was adjusted to accommodate the City's "holiday shut down".

Staff have received over 140 written submissions and petitions respecting the draft by-law and understand that more submissions are in the offing. Staff and Ward Councillors have also attended two public meetings organized by interested stakeholder groups and additional stakeholder meetings have been scheduled to take place shortly after the submission deadline of this report.

Furthermore, the Hamilton/Burlington Society for the Prevention of Cruelty to Animals (HSPCA) has just recently appointed Mr. Keith Scott as their new Chief Executive Officer and he has not yet had an opportunity to acquaint himself with the draft by-law or discuss the by-law with staff, to ascertain whether any aspect of the by-law adversely affects his operations.

In view of the forgoing, and in consideration of the fact that a number of the received submissions have included requests for private meetings from parties having a special interest in the subject by-law, such as Pet Shop owners, Veterinarians, and Animal Rescue groups, staff respectfully requests that direction be given to undertake further study of the matter and to withhold the submission of any prospective by-law until all the particulars respecting this contentious issue have been, in staff's view, sufficiently investigated. Should such direction be given staff will, working with the Office of the City Clerk, notify those persons who have already made submissions as to the extension to 2011. Based upon the information currently at hand, staff expects that a comprehensive "harmonized" by-law, satisfactory to the City Solicitor, would likely be available for consideration by Council in the first Quarter of 2011.

Staff is also recommending that authorization and direction be given to submit, in advance of the comprehensive “harmonized” by-law, report(s) dealing with the following four pressing matters:

- The existing prohibitions against cats being at large in all communities excepting the former municipality of Ancaster, conflict with ongoing “Trap, Neuter and Return (Release)” programs currently in effect under the guidance of the HSPCA and other private rescue groups. In an effort to manage, to some degree, the City’s stray and feral cat population and, thereby, mitigate the cat euthanasia crisis, the subject existing prohibitions should, in staff’s view, be expeditiously amended; and,
- There is no general provision that prohibits the keeping of dangerous or vicious animals in the City, save and except for vicious dogs. Having consulted with Public Health Services, it is felt appropriate to recommend the implementation of such a prohibition; and,
- There is no general provision prohibiting animals such as livestock, exotic animals or normally wild animals that have been “tamed” from being at large in the City. It is, therefore, appropriate to recommend the implementation of such a prohibition; and,
- At present the City’s Noise By-law includes a provision that exempts working farm dogs from the regulation prohibiting barking. Due to the language of the exemption, it prevents enforcement of the prohibition within many recently developed residential areas within the rural communities and, since the exemption serves no purpose in a residential development, staff recommends an appropriate amendment to improve the language of this exemption.

It is staff’s opinion that these four matters are of sufficient urgency as to warrant the submission of separate reports/recommendations in advance of the comprehensive, harmonized, Animal Control By-law.

Alternatives for Consideration – See Page 5

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| FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only) |
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Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

- On January 01, 2001, the former municipalities of the Town of Ancaster, the Town of Dundas, the Town of Flamborough, the Township of Glanbrook, the City of Hamilton and the City of Stoney Creek were amalgamated and the "New" City of Hamilton came into being, leaving in its wake, in accordance with the City of Hamilton Act, 1999, eight different by-laws to regulate matters respecting the keeping and control of animals.
- On January 01, 2003, the City of Hamilton assumed responsibility for the enforcement of said by-laws from the HSPCA, as part of a realignment of responsibilities for animal related matters, and the City continued to engage the services of private sector contractors for the provision of animal control services in the geographic areas formerly known as Flamborough and Glanbrook.
- On October 26, 2009, staff recommended that public consultation be undertaken with a view to the eventual implementation of a single "harmonized" Animal Control By-law that would repeal and replace the eight existing by-laws regulating the keeping and control of animals.
- Notwithstanding staff's original position that such public consultation should be limited to a period of 30 days, staff is now of the opinion that a more in depth and thorough consultation is in order.

POLICY IMPLICATIONS

A single, comprehensive and harmonized by-law respecting the keeping and control of animals will provide for more effective protection of the safety of the public which supports Council's vision of Hamilton as being the best place to raise a child. Exercising due care and attention in the research and development of such a by-law speaks to staff's and Council's commitment to provide the most effective services that are reasonably possible.

RELEVANT CONSULTATION

Enforcement staff of the HSPCA and representatives of the Animal Rescue Cooperative, Coyote Watch Canada and the City's Infectious Disease Control Section of the Public Health Services Division have been consulted and concur with the recommendations.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The recommendation to withhold the introduction of a comprehensive harmonized animal control by-law until further public consultation has been undertaken is in keeping with the Corporation's philosophies respecting "transparency" and an "engaged" constituency.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

The Committee might choose to limit public consultation and advance the progress of a Harmonized Animal Control By-law.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

The recommendations support:

Financial Sustainability

- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner (i.e., they promote the delivery of efficient municipal services only subsequent to sufficient consultation).

Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies (i.e., specifically with the Hamilton/Burlington Society for the Prevention of Cruelty to Animals and the Ministry of Natural Resources).

Healthy Community

- ◆ Provide for Public Safety (since an effective and constituent supported Animal Control By-law promotes the overall well being of the community).

APPENDICES / SCHEDULES

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