

Community Services and Operations Committee
Comité des services communautaires et des opérations

Agenda 16
Ordre du jour 16

Wednesday, September 27, 2000 - 9:15 a.m.
Le mercredi 27 septembre 2000 - 9 h 15

Victoria Hall, First Level
Bytown Pavilion, City Hall

Salle Victoria, niveau 1
Pavillon Bytown, hôtel de ville

**Confirmation of Minutes
Ratification des procès-verbaux**

Minutes 15 (September 13, 2000)

Procès-verbal 15 (Le 13 septembre 2000)

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Councillor/Conseiller Stéphane Émard-Chabot, Chairperson/Président

Councillor/Conseillère Inez Berg, Vice-Chairperson/Vice-présidente

Councillor/Conseillère Elisabeth Arnold

Councillor/Conseillère Diane Deans

Councillor/Conseiller A. Higdon

Councillor/Conseiller Shawn Little

LZF

September 18, 2000

ACS2000-CM-BUS-0011
(File: ACS1300)

Department of Community Services

Ward/Quartier
OT3 - Southgate

- Community Services and Operations Committee / Comité des services communautaires et des opérations
- City Council / Conseil municipal

Action/Exécution

1. Arts Court Management Review Revue de la gestion de la Cour des Arts

Recommendation

That the Arts Court Management model approved by City Council on June 30, 1993 be continued, with some minor changes as outlined in this submission.



September 18, 2000 (12:45p)

Janette Foo
Commissioner of Community Services



September 19, 2000 (11:04a)

Approved by
John S. Burke
Chief Administrative Officer

NZ:cg

Contact: Louise Roy-Brochu - 244-5300 ext. 1-3789

Financial Comment

There are no financial implications as a result of City Council approval of this report. Future capital expenditure requirements will be brought forward in a report to the Council of the New City of Ottawa.



September 19, 2000 (10:32a)

for Marian Simulik
Acting City Treasurer

ML:cds

Executive Report

Reasons Behind Recommendation

The Arts Court Management Strategy was approved by City Council on June 30, 1993. The Strategy identified a management and governance structure for the facility which is jointly operated by the City and the Ottawa Arts Court Foundation (OACF). It delineated the areas of responsibility for the City and the OACF and approved the separation of the Ottawa Art Gallery from the OACF. At that time, City Council directed that the operations and governance of Arts Court be reviewed in subsequent years to ensure that the operation continued to meet the needs of its stakeholders which include the OACF, the City, tenants, users and the public.

To that end, in January 2000, a review of the Arts Court Management Strategy and subsequent Implementation Strategy (October 1993) was begun. The objective of the review was to engage key stakeholders to assess and evaluate the current status of operational and governance issues first identified in the Management Strategy. Those issues were:

- a) separation of the Gallery from the OACF;
- b) OACF operations and mandate;
- c) City of Ottawa operations; and,
- d) Capital financing.

The review would also seek to identify critical issues facing Arts Court in the next five years.

The OACF receives a grant of \$67, 254. (Three-Year Core Funding) from the Cultural Assistance Programme. Rental revenues are recovered by the Department of Community Services and used to offset operating costs, including staff. Maintenance, utilities and service contracts for the building are paid from the budget of the Department of Urban Planning and Public Works.

The following roles and responsibilities were approved by City Council in the 1993 Management Strategy:

- City of Ottawa:
- Role of landlord and associated tenant services
 - Daily operation: public inquiries, reception, security, parking, promotion
 - Maintenance of building: physical plant operations, janitorial services, service contracts
 - Capital financing for annual life-cycle maintenance, and building rehabilitation estimated at \$3.32 million (1993 dollars)

- Ottawa Arts Court Foundation:
- Artistic programming and direction - Arts Court Theatre and other public spaces
 - Marketing
 - Long-term development of Arts Court
 - Fund-raising for operation and long-term development
 - Funding program-related improvements to building
 - Future development of the cultural precinct
- Ottawa Art Gallery:
- To be incorporated as a separate organization

Review 2000 Process

A consultant was contracted to assist in the design of the process, and included the development of an assessment questionnaire and interview process, data gathering, and the convening of a stakeholders meeting.

The stakeholders participating in the review included representatives from the Ottawa Art Gallery, the Ottawa Arts Court Foundation, Arts Court Tenant Advisory Committee and other tenant representatives, as well as the City of Ottawa (Culture, Strategic Business Planning, Asset Management).

Review 2000 Results

a) Management Strategy

In general, all parties have adhered to the principles of the 1993 Management Strategy. However, certain changes came about in response to evolving stakeholder needs and the City's financial constraints. However, there continues to be confusion over the roles and responsibilities of the Ottawa Art Gallery, Ottawa Arts Court Foundation and the City. It is a unique arrangement, one that ensures that the building is maintained and well-run by the City on the one-hand, while creating an arms-length relationship in the area of artistic direction. This continues to be seen as the appropriate model for the operation of this multi-purpose arts facility.

The arts community continues to have high expectations for Arts Court, in keeping with the need for a strong downtown centre for the arts. While the building itself presents major challenges, there have been major improvements over the last twelve years. As a multi-purpose arts facility, Arts Court is attempting to address many competing visions and forms of expression (Theatre, Art Gallery, Offices, rehearsals). It is a unique and daunting challenge for both the City of Ottawa and the Ottawa Arts Court Foundation.

“The concept of this building as a meeting place for the community is valid and important” (2000 Review of the Arts Court Management Model). If Arts Court is to be vital and prosper, the public must be made more aware and engaged in the events that take place there. This is the proper focus for all the players at Arts Court and a challenge that the arts community and Arts Court Foundation must meet together.

The following CHART summarizes the role and responsibilities of each party which came into effect in 1994 and the current or recommended status. Changes are in bold and are explained in greater detail on the next page.

Responsibility	1994	2000 Recommended change, if any
1. Gallery	Separation from OACF	Separate entity from OACF. Remains Municipal Art Gallery.
2. Building Management	2 Daly	2 Daly and 60 Waller site
1. Operations	CITY	CITY
2. Security / Janitorial	CITY	CITY
c) Maintenance, Stationary Engineer	CITY	CITY
3. Building Rehabilitation	CITY	CITY
4. Long Term Development	OACF	OACF AND CITY
5. a) Tenant/Public Services	CITY	CITY
2. Rental Policy Development and Evaluation	OACF	OACF AND CITY
6. a) Artistic Direction (Theatre)	OACF (Theatre Advisory Committee)	OACF AND Theatre Advisory Committee which is to be revived.
2. Artistic Program (Conference Room, Library, Courtroom 3, Meeting Rooms)	OACF	OACF

Responsibility	1994	2000 Recommended change, if any
7. Performing/Literary Arts program and services (incl. Theatre)	Contracted to OACF by City through Purchase of Service Agreement	OACF through Cultural Assistance Program Grant
8. Fundraising a) Operational b) Developmental	OACF/Gallery/Residents OACF	OACF/Gallery/Residents OACF
9. Arts Court Promotion	OACF AND CITY	OACF AND CITY

1. Separation of the Gallery from the OACF

The first issue of the 1993 Management Strategy was the separation of the Gallery from the OACF. This direction has worked exceedingly well, allowing for a more focused approach for both organizations. Despite limited financial resources, the Ottawa Art Gallery has flourished and evolved as the focus of the professional visual arts in the region. It is no longer involved in the management structure of Arts Court, but still maintains its distinct status as the City of Ottawa's Municipal Art Gallery (as adopted in the City's Cultural Policy). Another aspect of its status within the facility is a unique agreement with the City which entrusts the OAG with the care and management of the prestigious Firestone Art Collection.

2. Building Management

The City-owned lot on the 60 Waller site adjacent to 2 Daly has been an added City responsibility which was not foreseen in 1994, yet no additional funds have been allocated for maintaining it. The lot was landscaped several years ago as a temporary measure, since the site was designated for future cultural use. Adequate lighting, landscaping and proper upkeep of the entire grounds at 2 Daly and 60 Waller would do much to improve the appearance of the Arts Court block and would aid in the security aspects of managing the facility. The fact that the lot is used for public programming (Fringe Festival, Public Art Program) reinforces the need for the area to be safe and clean.

3. Building Rehabilitation

No change.

4. Long Term Development

All parties agree that the long term development of the Arts Court block and indeed the entire cultural precinct should not be the sole responsibility of the OACF. It is the City of

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Ottawa's largest programming facility and any long term plan must have the City's support and participation to succeed. For example, the recent upgrade to the Theatre was a well-received initiative by the OACF. With funding assistance from the City and monies raised from other sources, a new lighting grid was installed and the seats replaced.

5.a) Tenant/Public Services

No change.

5.b) Rental Policy Development and Evaluation

While the 1993 Management Strategy indicated that this area be an OACF responsibility, in practice the Rental Policy was developed jointly by OACF and City staff ensuring that due diligence was in place to protect the City against any liability. As a result, any further evaluation or amendments will be accomplished together.

6.a) Artistic Direction (Theatre)

"The development and monitoring of theatre policy and programming could best be done through a Theatre Committee of the OACF" (1993 Management Strategy). The Advisory Committee was discontinued. The Theatre Advisory Committee should be revived with representation from current users and the broader performing arts and literary community in order to improve accessibility and increase the scope of programs in the Theatre.

6.b) Artistic Program (Conference Room, Library, Courtroom 3, Meeting Rooms)

No change.

7. Performing/Literary Arts Program and Services (incl. Theatre)

This service has continued to be contracted to the OACF since 1994 and is so reflected. Because programming and technical services for example, are linked to the artistic direction, this arrangement has continued. This helps ensure a one-stop seamless service in the operation of an artist-run space.

8. Fundraising

No change.

8.a) Operational

No change.

8.b) Developmental

No change.

9. Arts Court Promotion

No change.

Review 2000 Issues

1) *Marketing and Profile for Arts Court*

A Marketing plan should be prepared by Arts Court staff and the Ottawa Arts Centre Foundation to clearly delineate the specific responsibilities of each party and identifies the required resources.

2) *Letter of Agreement between City and OACF*

The 1988 Memorandum of Understanding between the OACF and the City is obsolete. A new agreement should be developed to reflect the Arts Court Management Strategy and to ensure due diligence in terms of liability and accountability.

3) *Five Year Life-Cycle Program*

The 5 year Life-Cycle Program must be renewed. Since 1994, well over \$2 million has been spent by the City on the exterior (roof and windows), air ventilation, mechanical systems, elevators, etc. to modernize and bring the building up to code. This task is not complete, even though the City's Five-Year Life Cycle Program is coming to an end. Arts Court is also a heritage site, which brings added responsibilities.

4) *Accessibility for the disabled*

Arts Court is not fully accessible to people with physical disabilities. A person with a disability should be able to enter this building without assistance.

Issue 1 and 2 will be identified in the 2001 Workplan of the General Manager of Arts Court. Issues 3 and 4 will be brought forward to the attention of the new City of Ottawa since resolutions of these issues requires significant capital dollars.

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Consultation

Consultation with stakeholders listed in this document took place individually and collectively during the course of the Review. This submission has been sent to these stakeholders and the Cultural Leadership Committee. All have been notified of the dates this issue will be before Committee and City Council.

Disposition

The Department of Community Services will be responsible for implementing this revised procedure upon approval.

September 18, 2000

ACS1999-PW-LTB-0066
(File: TYC3000/0201)

Department of Urban Planning and Public
Works

Ward/Quartier
OT10 - Alta Vista-Canterbury

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
 - City Council / Conseil municipal
- Action/Exécution

2. Cycling - Pathway Connection at Pleasant Park Road **Cyclisme - Lien au sentier du chemin Pleasant Park**

Recommendations

1. That Council APPROVE the construction of a pathway connection from Pleasant Park Road to the Ottawa River (East) Capital Pathway (**Document 1**) on lands owned and managed by the National Capital Commission; and,
2. That City Council enter into a Repair and Maintenance Agreement with the National Capital Commission for the pathway connection based on the terms and conditions included in Document 2; and,
3. That the costs for this project be borne by the City of Ottawa.



September 18, 2000 (2:26p)

Edward Robinson
Commissioner of Urban Planning and Public
Works

DH:lf

Contact: Daphne Hope - 244-5300 ext. 1-3225



September 18, 2000 (3:03p)

Approved by
John S. Burke
Chief Administrative Officer

Financial Comment

Subject to City Council approval, funds in the estimated amount of \$25,000. are available in Comprehensive Cycling Account 99085750 for transfer to a new account 99085766 Pleasant Park Path.



September 18, 2000 (1:54p)

for Marian Similuk
Acting City Treasurer

CP:cds

Executive Report

Reasons Behind Recommendations

Background

The Comprehensive Cycling Plan sets out a Bicycle Route Network and provides direction for implementing cycling facilities which accommodate the travel of cyclists. Pleasant Park Road was not designated as a part of the original Bicycle Route Network, however, subsequent requests by the Ottawa Cycling Advisory Group have been accepted by staff and the road is now accepted as part of the Network.

Recommendation 1

Pleasant Park Road intersects with Riverside Drive at a T-junction. There is a signalized crossing providing access to parkland which borders the Rideau River. The Rideau River (East) Capital Pathway runs along the Rideau River and provides cyclists with an excellent linkage to other destinations, however, there is no direct access from the end of Pleasant Park Road to the Capital Pathway.

The current proposal would see a pathway link constructed from the intersection of Pleasant Park Road at Riverside Drive to the Capital Pathway (**Document 1**). This pathway would cross lands owned and managed by the National Capital Commission. The new pathway would be constructed to multi-use standards (3.0 metres, hard surface). There are no plans to maintain the pathway in the winter which is consistent with the NCC pathway winter maintenance.

The intersection at Riverside Drive is currently signalized however, additional signal heads will need to be installed facing cyclists on the pathway.

Recommendation 2

The NCC requires that the City enter into a Repair and Maintenance Agreement for the upkeep of the pathway [Document 2]. This will be prepared to the satisfaction of all parties.

Recommendation 3

The lands across which the proposed pathway would run are under the jurisdiction of the National Capital Commission. Although the proposed pathway would connect with their Capital Pathway, they have indicated that they do not consider it part of the primary Capital Pathway network and therefore, would not undertake the construction or funding thereof. NCC staff have indicated that they would recommend waiving any Federal Land Use approvals, however, in recognition of the value of the connecting pathway to users of the recreational facility. A request has been made to the NCC in this regard.

The costs for the construction of the proposed pathway, including the addition of a new traffic signal head at the intersection of Pleasant Park Road and Riverside Drive, would, therefore, be borne by the City. Life-cycle maintenance costs would also be borne by the City.

At this time, it is not proposed that the pathway be winter-maintained. Summer maintenance of the pathway would be undertaken by the NCC.

Environmental Impact

While the lands on which the pathway is to be constructed do not belong to the City of Ottawa, the owner of the lands (the National Capital Commission) requires that an Environmental Assessment report be filed with them. The Environmental Assessment report (**Document 3**) was approved by the NCC.

Consultation

The Ottawa Cycling Advisory Group has been consulted on the proposed location of the pathway and support the project.

Disposition

Recommendation 1

The Department of Urban Planning and Public Works to co-ordinate the construction of the pathway including the installation of additional signal heads at the intersection of Pleasant Park Road and Riverside Drive.

Recommendation 2

The Department of Corporate Services (Office of the City Solicitor) will prepare the Repair and Maintenance Agreement.

List of Supporting Documentation

Document 1 - Proposed Pathway

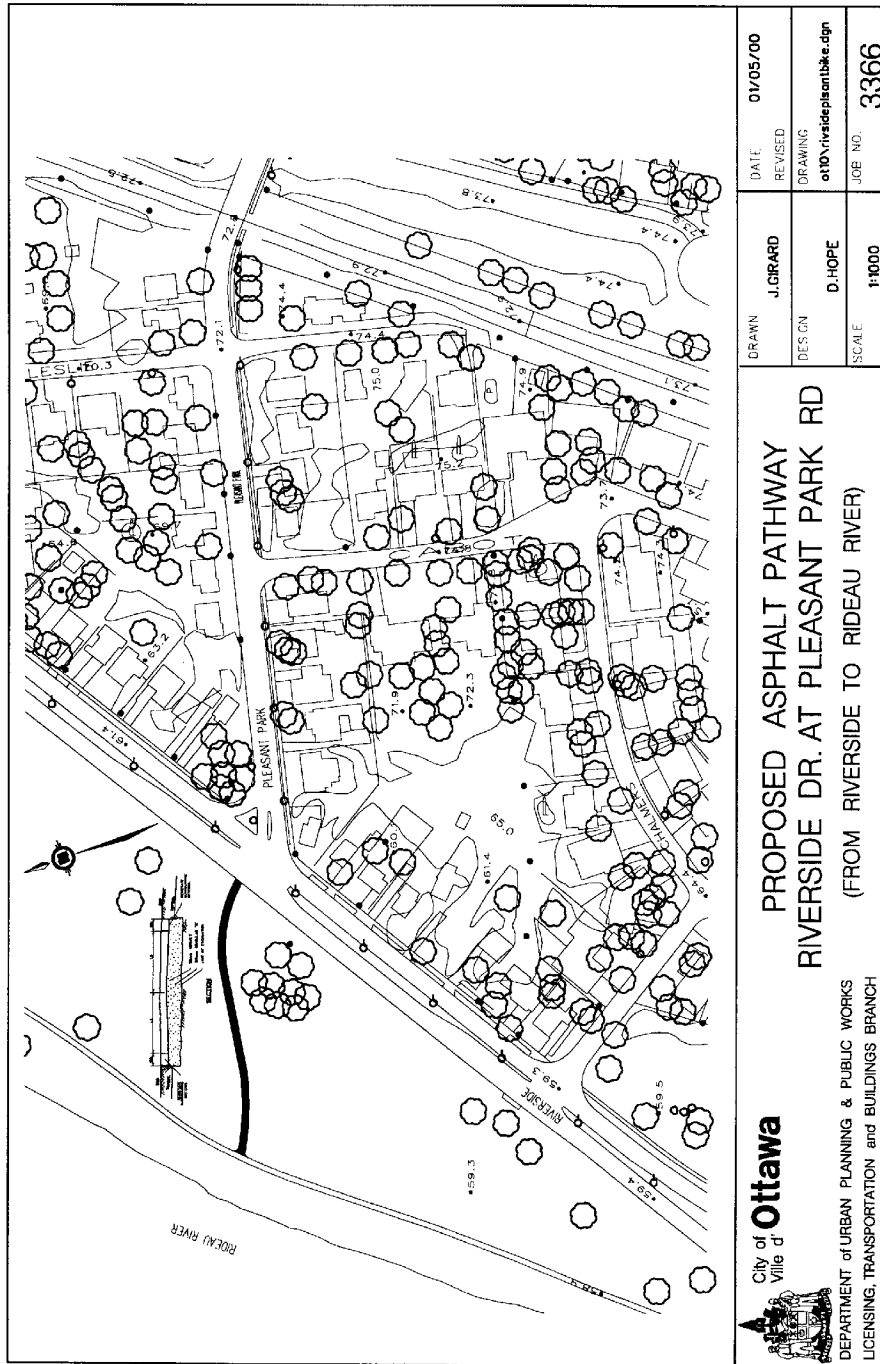
Document 2 - Repair and Maintenance Agreement between the NCC and City of Ottawa

Document 3 - Environmental Assessment Report

Part II - Supporting Documentation

PROPOSED PATHWAY CONNECTION

Document 1



REPAIR AND MAINTENANCE AGREEMENT
BETWEEN THE NCC AND CITY OF OTTAWA - TO
FOLLOW

ENVIRONMENTAL ASSESSMENT REPORT**NATIONAL CAPITAL COMMISSION**

Environmental Assessment

Project Name:

NCC File: CP 2114-36

Proposed Pathway at the Intersection of Pleasant Park Road and Riverside Drive

Project Manager:

Daphne Hope
Department of Urban Planning and Public Works
City of Ottawa
111 Sussex Drive
Ottawa, Ontario K1N 5A1

Project Description:

The proposed project is the construction of a pathway that will link the Rideau River (East) Pathway with the intersection of Pleasant Park Road and Riverside Drive. The motivation behind this project is to provide a more formalized thoroughfare, whose intended use and design is for travel. This will increase the usage intended for the park, and reduce the damage being caused to the greenspace by current usage. The alternative to this project is to leave the site as is, where pedestrians and cyclists can continue to use the ruts in the grass as pathways.

Description of the Environment:

The proposed site for the pathway is in parkland along the Rideau river. It consists mainly of flat grassland, with tree clusters spaced widely apart. Its current uses include various recreational activities, namely cycling (along the existing pathway), walking, and organized sports such as ultimate frisbee. There are two existing informal paths (dirt ruts in the grass) beginning at the Riverside/Pleasant Park intersection, that are the result of repeated pedestrian/cyclist movement from the intersection in question to the existing pathway.

Approximate Date of Implementation:

Late Summer/Early Fall 2000 - Contingent on CSOC and NCC approval.

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Work Schedule:

This project, barring extreme weather conditions, should be complete within one week of its initiation. This time line allows for a reasonable number of rain days.

Environmental Requirements:

Due to the proximity to a body of water, the Canadian Environmental Act does apply to this project.

Features and Resources Present:

The proposed area lies on a former landfill site, and as a result, potential contaminants may be present. There is no heritage/historical/archeological designation for the site. Existing flora consists mainly of grass, with trees sparsely planted in small groves.

Description of Project Activities:

- Access by excavation equipment and trucks
- Digging (removal of topsoil)
- Filling (crushed stone base)
- Paving (asphalt paving)

Potential Adverse Environmental Effects:

- Exposing (uncovering) waste
- Top-soil run-off due to adverse weather conditions
- Effects resulting from truck and equipment access and usage

Level of Public Concern:

The initial interest in this project was derived from the Ottawa Cycling Advisory Group (OCAG). They identified Pleasant Park as a desired addition to the Bicycle Route Network, as outlined in the City of Ottawa's Comprehensive Cycling Plan. Part of this designation required that there be a formalized connection between Pleasant Park and the Rideau River (East) Pathway. Furthermore, the addition of a pathway enhances the safety for cyclists traveling across the park. Other users of the park, namely those who use it for organized sports, will not be hindered by the existence of the path, as it does not pass through the open space typically used for these purposes.

Mitigation Measures:

- Visual identification of soil properties to ensure that no landfill waste is exposed to surface, and to remove any waste exposed as a result of construction to a current landfill site.
- Maintenance of site during construction. More specifically, ensuring minimal disruption to vegetation in the area, and control of any removed top-soil by installing a sediment control fence down grade from the construction. This will prevent run-off into the river in the event of heavy rains.
- Emergency plans to ensure of contingencies against leaks/spills from machinery and vehicles used during construction.

Significance of Remaining Environmental Effects (after mitigation):

- The intention is to apply erosion control measures to reduce the significance of any remaining environmental effects.
- Once pathway is complete, areas of bare soil will be re-seeded.
- Any damage due to vehicle access will be reinstated with topsoil and grass seed.
- Accumulative impacts due to increased pedestrian/cyclist traffic should also be considered, however, given this traffic will be directed along a pathway instead of on the grass, these impacts should prove to be of a positive nature overall.

Monitoring requirements:

A representative from the city will perform site checks during construction to ensure that best environmental management practices are being upheld. This will include verifying the proper use of erosion control measures, and ensuring appropriate soil conditions for the access of vehicles.

Federal & Provincial Permits or Permission to be Obtained:

Subject to approval by the National Capital Commission.

Screening Conclusions:

In essence, the benefits of implementing this project far outweigh the environmental impacts arising from its construction. Most of the above mentioned concerns are only potential effects, and in fact, are not likely occurrences. As long as the proper mitigation measures are performed, the negative effects on the environment will be minimal. Furthermore, the positive effects on the parkland, in terms of its usefulness and value to the public entirely justify its implementation.

Signatures and Approvals:

September 12, 2000

ACS2000-PW-LTB-0036
(File: JLD1100/2755)

Department of Urban Planning and Public
Works

Ward/Quartier
City Wide

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
 - City Council / Conseil municipal
- Action/Exécution

3. Animals - Dogs - Licenses - Harmonization **Animaux - Chiens - Permis - Harmonisation**

Recommendation

That, in response to a Region-wide initiative to have identical dog licensing regulations in place by Day 1 in the amalgamated municipality, City of Ottawa Licensing By-law No. L-6, including Schedule 10 (Dogs), be amended to:

- reduce the annual license fee for a sterilized dog and for a dog under six months of age from \$16 to \$15 beginning with the May 2001 license period;
- reduce the annual license fee for an unsterilized dog from \$32 to \$25 beginning with the May 2001 license period;
- exempt from the foregoing fees license applications related to service dogs.



September 18, 2000 (7:57a)

Edward Robinson
Commissioner of Urban Planning and Public
Works

JLB:jlb

Contact: Jules Bouvier - 244-5300 ext. 1-3383



September 18, 2000 (9:49a)

Approved by
John S. Burke
Chief Administrative Officer

Financial Comment

Subject to City Council approval of these recommendations, a shortfall in annual dog license fee revenue estimated at \$16,000 for 2001, will be offset by an overall increase in dog license sales due to anticipated greater compliance for the new City of Ottawa. The operating revenue estimates for 2001 and subsequent years will be adjusted accordingly.



September 15, 2000 (1:53p)

for Marian Simulik
Acting City Treasurer

CP:cds

Executive Report

Reasons Behind Recommendation

Collectively, the eleven lower-tier municipalities of this Region license 26,000 dogs. Annual license fees and expiry dates differ from city to city. If fees and expiry dates continue to vary from location to location in the new City of Ottawa, even for a short period of time, there will be criticism, charges of inequitable treatment, and reluctant or reduced compliance until all residents are subject to the same fees and regulations. Moreover, since dog licenses in most of the amalgamating municipalities expire and must be renewed in December of this year for the upcoming year, there will be no opportunity for the Council of the new City to standardize regulations before 2001 licenses have to be issued.

Consequently, staff of the lower-tier municipalities have agreed that it is desirable to have harmonized dog licensing regulations in place for all residents of the new City of Ottawa by Day 1, and that that objective can only be accomplished by way of amendment to the existing dog licensing by-laws of the eleven municipalities. Recommendations similar to those proposed by this report will be made to the other local City Councils so that by January 1, 2001 all Ottawa dog licenses will be issued with identical fees and expiry dates applying.

Dog License Fees

Across the municipalities, annual license fees for sterilized dogs and for pups too young to be sterilized range from \$14.00 to \$20.00; annual license fees for unsterilized dogs range from \$14.00 to \$32.00. The proposed fee structure (\$15 for pups and sterilized dogs, \$25 for unsterilized dogs), derived after considerable discussion among municipal staffs, represents the average of existing fees for sterilized dogs, and a modest reduction in the unsterilized

license fee for current Ottawa residents.

Beginning with the 2001 license, dog owners living in the current City of Ottawa will benefit from a \$1.00 decrease in license fees per pup or sterilized dog, and a \$7.00 decrease in license fees per unsterilized dog. Lower fees in Ottawa may result in more licensed dogs.

The difference in license fee between sterilized dogs and unsterilized dogs is intended to promote sterilization which reduces the unwanted pet population and keeps animal control costs in check. Although for current Ottawa residents the differential will be reduced in 2001 by \$7.00 (from \$32.00 to \$25.00), that decrease is not expected to weaken significantly the sterilization message. For those municipalities that do not currently have a differential fee structure, Ottawa's \$32.00 unsterilized fee was considered too high a starting point; \$25.00 was agreed upon as a more reasonable introductory fee but one that still imposes a premium (\$10.00) on the unsterilized dog license significant enough to encourage sterilization.

License Expiry Date

In Ottawa, dog licenses expire each year on April 30. After testing several different expiry dates over the years, the Department finds that April 30 has been the most effective, coinciding as it does with warmer weather, an increase in dogs outdoors, and the beginning of the summer student programme which enhances the enforcement resources available to undertake routine license checks. License checks undertaken on the heels of an expiry date are the most productive in that they identify early in the new license term owners who have forgotten to renew their licenses, and they turn up new dog owners who have never obtained a license and who can then do so at the beginning of a license period.

Staff of the other municipalities, most of which issue dog licenses that expire on December 31, agree that April 30 is an appropriate expiry date, and will make that recommendation to their respective Councils. Since Ottawa licenses expire on that date already, no amendment to existing regulation is required, and none has been proposed.

Service Dogs

For many years, the Ottawa by-law has exempted from the dog license fee -- but not from the licensing requirement -- applications for licenses related to guide dogs, meaning seeing-eye dogs. Despite requests from time to time from individual residents and from health advocacy agencies, that provision has not been up-dated to reflect the more recent emergence of other types of "working" dogs such as hearing-ear dogs and dogs that assist persons with mobility impairments.

The dog licensing by-laws of the other municipalities offer free dog licenses in relation to all such service dogs. Municipal staffs agree that that is a practice that should continue in the new City, and it is therefore proposed to amend Ottawa's regulation to harmonize it with the by-laws already in place elsewhere in the Region.

Consultation

No consultation with the general public was undertaken. However, the recommendation was discussed with the Ottawa Transition Board's By-law, Licensing and Enforcement Restructuring Team, membership of which includes municipal staff, a Humane Society representative, and two citizen-volunteers. The Team agrees that harmonized dog licensing regulation by Day 1 is desirable, and it supports the fee structure, expiry date, and service dog provisions as proposed.

In due course, all local animal control by-laws -- including dog licensing -- will be the object of a more significant harmonization exercise under the direction of the staff and Council of the new City. At that time presumably, there will be opportunities extended to the public to comment on animal control regulations.

Disposition

Office of the City Solicitor to process the amending by-law to City Council for enactment.

Department of Urban Planning and Public Works Licensing, Transportation and Buildings Branch to administer and enforce.

September 15, 2000

ACS2000-PW-LTB-0039
(File: JVN3560/0210)

Department of Urban Planning and Public
Works

Ward/Quartier
City Wide

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
- City Council / Conseil municipal

Action/Exécution

4. Animals - Dogs - Regulation to Leash/Muzzle Dogs that Have Bitten or Attacked

Animaux - Chiens - Règlement municipal obligeant de tenir en laisse et de museler les chiens qui ont mordu ou attaqué

Recommendations

1. That Dog-at-Large By-law Number 83-92 be amended as set out in Document 1 to:
 - a. require the leashing or muzzling or both of a dog that has bitten or attacked a person or domestic animal upon the dog owner being served with a notice to do so pursuant to the by-law;
 - b. provide that the dog owner in receipt of such a notice may request a hearing to show cause as to why the dog should not be controlled as instructed;
 - c. designate the City of Ottawa License Committee as the Animal Control Tribunal;
 - d. authorize the Animal Control Tribunal to conduct such hearings on behalf of City Council, and to take such final and binding decisions as the evidence supports to either uphold the instructions of the notice or to exempt the dog owner from compliance with all or some of them.

2. That, where there is cogent evidence that a dog poses a significant safety risk to the community, the Department of Urban Planning and Public Works take such action as is necessary and appropriate to have submitted to the Ontario Court of Justice an application for a destruction order pursuant to the Dog Owners' Liability Act.



September 18, 2000 (2:22p)

Edward Robinson
Commissioner of Urban Planning and Public
Works

JB:jb

Contact: Jules Bouvier - 244-5300 ext. 1-3383



September 18, 2000 (3:16p)

Approved by
John S. Burke
Chief Administrative Officer

Financial Comment

There are no direct financial implications associated with the recommendations.



September 18, 2000 (1:58p)

for Marian Simulik
Acting City Treasurer

CP:cds

Executive Report

Reasons Behind Recommendations

Recommendation 1

On May 26, 1999, the Community Services and Operations Committee directed as follows:

That pursuant to the authority granted by Section 210 paragraph 10 of The Municipal Act of Ontario, the Department of Urban Planning and Public Works consider a by-law to require the muzzling or leashing of dogs that have bitten, and report back to the Community Services and Operations Committee with recommendations.

Paragraph 10 of Section 210 of *The Municipal Act of Ontario* provides that a municipal council may pass a by-law “[f]or requiring the muzzling or leashing of a dog after it has bitten

a person or a domestic animal, but the owner of the dog may request and is entitled to a hearing by the council or a committee thereof or the animal control official of the municipality if so delegated by council, which or who may exempt the owner from the muzzling or leashing requirement, or both.” It is proposed that Ottawa exercise that Municipal Act power by enacting the by-law set out in Document 1.

The essential mechanics of the by-law would be these: Animal Control staff, upon being satisfied that a dog bit or attacked a person or domestic animal without provocation, would issue a notice requiring the muzzling or leashing or both of the dog when not inside the owner’s dwelling; the restraint requirements would take effect upon issuance of the notice and would continue in place for the life of the dog; the dog owner would be entitled to a hearing, as *The Municipal Act* requires, to demonstrate why the dog should not be subject to the restraints prescribed; the hearing could be requested by the dog owner within fourteen days of having received the notice, or at any later time if there has been a substantive change in relevant circumstances from the dog owner’s perspective (obedience training, a move from urban to rural, an aging dog with more docile temperament, a newly fenced yard, for example); the notice would be in force and effect until exemption hearings were concluded; hearings would be conducted by a tribunal of City Councillors; the decisions of the tribunal would be final. Issuance of notices would not preclude the laying of by-law charges (with fines) as an additional penalty; and breaches of notices could result in charges and related Court proceedings.

It is proposed that the conduct of any hearings requested, and the taking of final decisions arising from them, be delegated to a tribunal of City Councillors to be known as the Animal Control Tribunal. Although *The Municipal Act* provides that Council may delegate to the City’s animal control official (staff) the power to hold hearings and to grant exemptions from leash/muzzle notices, it will be that official and his/her office issuing the notices in the first instance, and it is therefore appropriate to have an independent body hear the exemption requests. Alternatively, City Council could retain the power to conduct hearings and take decisions; however, such proceedings, which are administrative in nature and which would include the calling of witnesses and the submission of evidence from staff and the public, have not customarily been considered a good fit with the policy-setting responsibilities of the Council.

It is proposed furthermore that the Animal Control Tribunal match in composition the membership of License Committee, the latter committee being well-suited to take on the responsibilities of the Animal Control Tribunal. License Committee is a tribunal of CSOC members delegated the power to conduct hearings and to take final decisions in relation to certain licensing matters, including the refusal, suspension and revocation of business and taxi licenses. That committee also acts as the Designated Space Programme Committee to conduct hearings and to take decisions in relation to matters arising from the City’s Designated Space Programme By-law, a unique downtown street vending programme distinct from the Licensing By-law. Those existing responsibilities develop in License Committee members a knowledge of by-law administration and a facility in the conduct of

fair and objective hearings that are a good fit with the animal control responsibilities it is proposed to assign them by way of this report.

Gloucester, Nepean, Cumberland, Vanier, Goulbourn and Osgoode have had by-laws in place for some time that make use of the leash/muzzle powers of *The Municipal Act*. Animal control officials in those municipalities report that the regulation is an effective animal control tool: more than the financial penalty associated with a ticket, a leash/muzzle notice assists in preventing repeat dog bites by imposing permanent restraints upon a biting dog; and orders can be issued with expedition by City staff upon the conclusion of an investigation. Restraint notices are the remedy of choice among dog bite victims, who want to ensure that the dog will not bite again but who most often prefer not to engage in protracted Court proceedings.

Recommendation 2

In August of 1999, in anticipation of this report, Councillor Bickford wrote the CSOC Chair recommending that City Council resolve, as a matter of policy, that where there is evidence that a dog poses a serious danger to the community Animal Control staff will take appropriate action, including making application under the *Dog Owners' Liability Act* (*DOLA*), to seek destruction of the dog. That recommendation was forwarded to the Department which undertook to address it in this report.

The *Dog Owners Liability Act* is a Provincial Act that grants unlimited authority to the Court to issue orders to the owner of a dog that has bitten or attacked to ensure that the animal is controlled (leashed, muzzled, confined) or destroyed. The Court can also order restitution to the victim under the *DOLA*. The City provides victims of dog bites/attacks with all the documents and information necessary to proceed under the *DOLA* but does not itself initiate applications for orders. The onus is on the complainant (the victim) to attend at Court to swear to a statement, and to attend at trial to prove the facts justifying the Order sought.

If Recommendation 1 of this report is approved, there will no longer be a requirement to initiate *DOLA* proceedings as a way to impose leashing or muzzling, the City's newly amended by-law providing a more expedient mechanism to achieve that end. The City's only interest in initiating proceedings under the *DOLA* then would be to obtain destruction orders.

The Department has no objection to a policy that would have it initiate destruction proceedings pursuant to the *DOLA* where appropriate, and agrees with Councillor Bickford's argument that, more than the victims, public officials have a duty to take action to protect the community (victims should neither bear that responsibility alone nor be the ones who decide whether or not such protective measures will be pursued). For those reasons, the Department makes the recommendation it does.

It should be understood however that, in relation to a destruction application under the *DOLA*, the Court will require clear and cogent evidence of a dangerous and incorrigible dog,

and that such evidence is really only available from the victims themselves. When the City is in the position of having to initiate a destruction order, it means that the victims have declined to do so, and would presumably have to be subpoenaed to make the case. Historically, victims have declined to apply for destruction orders for strongly held personal reasons, an objection to killing or fear of retaliation chief among them. The Court may take a dim view of the City subpoenaing such reluctant witnesses. In any event, but for those reasons especially, the Department will evaluate each case carefully before committing the resources required to pursue *DOLA* destruction orders.

Consultation

Although no consultation with the general public was undertaken in relation to the report specifically, Recommendation 1 does reflect the opinion of many Ottawa dog bite victims, expressed over the course of the last five years to investigating Animal Control Officers, that leash/muzzle notices should be issued by the City as one of the most efficient and effective ways of helping to ensure that dogs that have bitten do not bite again.

Recommendation 1 was discussed with the Ottawa Transition Board's By-law, Licensing and Enforcement Restructuring Team, membership of which includes municipal staff, a Humane Society representative and two citizen-volunteers. The Team supports the recommendation as an animal control best practice, and expects it to be recommended to the Council of the new City as part of the animal control by-law harmonization exercise.

Disposition

Office of the City Solicitor to process the amending by-law to City Council for enactment.

Department of Urban Planning and Public Works Licensing, Transportation and Buildings Branch to administer and enforce.

List of Supporting Documentation

Document 1 - By-law to Amend Dog-at-Large By-law Number 83-92

Part II - Supporting Documentation

Document 1

BY-LAW NUMBER

A by-law of The Corporation of the City of Ottawa amending By-law Number 83-92.

The Council of The Corporation of the City of Ottawa enacts as follows:

1. Section 1 of By-law Number 83-92 entitled "A by-law of The Corporation of the City of Ottawa to prohibit the running at large of dogs in the City of Ottawa", as amended, is amended as follows:

- (a) by renumbering paragraphs (aa), (ab), (a), (b), (c), (d), (e), (f), (g) and (h) as paragraphs (b), (c), (d), (f), (g), (i), (j), (k), (l) and (n) respectively.
- (b) by adding thereto immediately preceding paragraph (b) the following paragraph:
 - (a) "Animal Control Tribunal" means the committee of council known as the License Committee;
- (c) by adding thereto immediately following paragraph (d) the following paragraph:
 - (e) "Commissioner" means the Commissioner of Urban Planning and Public Works of the Corporation or authorized assistants;
- (d) by adding thereto immediately following paragraph (g) the following paragraph:
 - (h) "muzzle" means a humane fastening or covering device of adequate strength placed over a dog's mouth to prevent it from biting and the words "muzzled" and "muzzling" have a similar meaning;
- (e) by adding thereto immediately following paragraph (l) the following paragraph:
 - (m) "vicious" in respect of a dog means a dog that has bitten or attacked without provocation a person or a domestic animal;

2. The said By-law Number 83-92 is amended by adding thereto, immediately after Section 1, the following section:

1A. A committee of any three (3) members of council who are members of the License Committee established pursuant to By-law Number L-6, or any by-law enacted in substitution therefor, is hereby constituted as the Animal Control Tribunal and is authorized to administer the provisions of Sections 19 and 20 of this by-law on behalf of the Corporation.

3. Section 18 of the said By-law Number 83-92 is repealed and the following sections substituted therefor:

18. Where the Commissioner is informed upon complaint and confirms that a dog is vicious, the Commissioner shall serve notice upon the owner of the vicious dog requiring the owner to comply with any or all of the requirements set out in Sections 19 and 20 upon receipt of such notice to comply.

19. Every owner of a vicious dog shall at all times when the vicious dog is not in the owner's dwelling unit but otherwise within the boundaries of the owner's premises, ensure that:

- (a) the vicious dog is muzzled so as to prevent it from biting a person or domestic animal, and
- (b) the vicious dog is securely leashed on a leash which does not allow it to go beyond the property line of the owner's lands.

20. Every owner of a vicious dog shall at all times when the vicious dog is not within the boundaries of the owner's premises,

- (a) keep the vicious dog under the effective control of an adult person and under leash, such leash not to exceed two (2 m) metres in length, and
- (b) keep the vicious dog muzzled.

21. Every owner of a vicious dog shall notify the Commissioner within two (2) working days of any change in ownership or residence of the vicious dog and provide the Commissioner with the new address and telephone number of the owner.

22. Where the owner of a vicious dog is informed that he or she must comply with Sections 19 and 20, the owner is entitled to a hearing by the Animal Control Tribunal who may exempt the owner from the muzzling or leashing requirement, or both such requirements.

23. (1) Where the owner of a vicious dog requests in writing to the Commissioner a hearing by the Animal Control Tribunal,
- (a) within fourteen (14) days of receiving the notice to comply, or
 - (b) at any time if the circumstances respecting the vicious dog have changed,
- the Commissioner shall advise the Executive Assistant to the Animal Control Tribunal of the request for a hearing and obtain a hearing date.
- (2) Upon determination of the hearing date, the Commissioner shall give notice in writing to the owner of the vicious dog, said notice to:
- (a) include a statement,
 - (i) as to the time, date, place and purpose of the hearing, and
 - (ii) that if the owner of a vicious dog does not attend the hearing the Committee may proceed in his or her absence and he or she will not be entitled to any further notice, and
 - (b) be served personally or by registered mail to the owner of a vicious dog at his or her address last on file with the Commissioner.
24. (1) The Animal Control Tribunal shall hold the hearing pursuant to the provisions of the Statutory Powers Procedure Act at the time, date and place set out in the notice referred to in Section 23.
- (2) The Corporation shall be represented at the hearing by either the Commissioner or the City Solicitor, or the assistant, who is entitled to adduce evidence and submit argument.
- (3) The owner of the vicious dog may, at the hearing,
- (a) be represented by counsel or an agent,
 - (b) call and examine witnesses and present his or her arguments and submissions, and
 - (c) conduct cross-examination of witnesses reasonably required for a full and fair disclosure.
- (4) The Animal Control Tribunal may:
- (a) exempt the owner of the vicious dog from the muzzling or leashing requirement, or both, or
 - (b) confirm the muzzling or leashing requirement, or both.

- (5) The Animal Control Tribunal shall give its decision in writing to the Commissioner within seven (7) days of the date of the completion of the hearing.
 - (6) The Commissioner, in receipt of the decision referred to in subsection (5) hereof, shall forthwith notify the owner of the vicious dog of the decision by serving a copy personally or by registered mail to;
 - (a) the owner of the vicious dog at the address last known to the Commissioner, or
 - (b) the counsel or agent of the owner of the vicious dog, if any, at his or her address as stated to the Animal Control Tribunal.
 - (6) All hearings shall be public hearings unless the owner of a vicious dog requests that the hearing be held in camera and the Animal Control Tribunal may approve the request by a simple majority.
 - (7) The Animal Control Tribunal's decision shall be final and binding.
25. Every person who fails to obey a Notice sent pursuant to Section 18 is guilty of an offence.

GIVEN under the corporate seal of the City of Ottawa this 4th day of October, 2000.

CITY CLERK

ACTING MAYOR