REPORT OF THE

STANDING POLICY COMMITTEE ON

PROTECTION AND COMMUNITY SERVICES

DATED MAY 10, 1999

On motion of Councillor Vandal, the Report of the Standing Policy Committee on Protection and Community Services, dated May 10, 1999, was considered clause by clause.

Moved by Councillor Vandal,
That the Consent Agenda, Clauses 1,2,3,4 and 6, be adopted.

Carried.

Minimum Fines and Amendments to The City of Winnipeg Food Services Establishment By-law No. 5160/89 and the Pound By-law No. 2443/79
..Files EH-1.6 (Vol. 3) and EL- 4 (Vol. 29)

613 - 1. The Standing Policy Committee on Protection and Community Services has been advised that this report recommends the implementation of minimum and maximum fines for convictions under The Food Services Establishment By-law No. 5160/89 and The Pound By-law No. 2443/79 pursuant to subsection 149 (1.3) of the City of Winnipeg Act, wherein Council has the power to establish a minimum and maximum penalty for an offence and to establish a minimum and maximum penalty for a second or subsequent offence. Council approval is required for a by-law amendment to impose minimum fines.

On February 21, 1996, Council adopted Clause 12 of the Report of the Executive Policy Committee dated February 7, 1996, which recommended that:

WHEREAS the City of Winnipeg Licence and Zoning By-laws are being constantly violated by a growing number of businesses;

AND WHEREAS many of these businesses see the fines imposed as simply the cost of doing business;

AND WHEREAS our enforcement officers lack the authority to effectively close these businesses down immediately and therefore these businesses operate for months without penalty;

THEREFORE IT WAS RESOLVED that the City of Winnipeg request from the Provincial Government the power to impose minimum fines for violations of the Licence and Zoning By-laws for those businesses who refuse to comply."

On June 29, 1998, amendments to The City of Winnipeg Act came into force which expanded and specified the City's powers to establish penalties for offences. Prior to the amendments, on summary conviction, the available penalties were limited to a maximum fine of $1,000.00 and/or imprisonment for a term of not more than six months for an individual, and a maximum fine of $5,000.00 for a corporation. The City did not previously have the power to legislate or impose minimum fines or maximum fines.

Pursuant to subsection 149 (1.3) of The City of Winnipeg Act, Council has the discretion to establish a minimum and maximum penalty for an offence, which includes the authority to establish progressively higher penalties, that exceed the former limits, for repeat offences. Also pursuant to subsection 149(6), where a corporation commits an offence, each director or officer who authorized, consented to, connived at, or knowingly permitted or acquiesced in, the doing of the act that constitutes the offence, is likewise guilty of the offence and is liable to the penalty. The penalties as established will apply equally to all individuals, corporations and officers or directors of corporations.

Subsection 149 (1.5) of The City of Winnipeg Act provides that where no other penalty is established, a person who is guilty of an offence is liable on summary conviction in the case of an individual, to a fine of not more than $1,000.00, or to imprisonment for a term of not more than six months, or both, and in the case of a corporation, to a fine of not more than $5,000.00. Therefore, the penalties established in subsection 149 (1.5) will apply where minimum fines or maximum amounts are not otherwise stipulated.

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It should be noted that the establishment of minimum fines by the City does not remove the discretion available to a judge in sentencing. Subsection 7(1) of The Summary Convictions Act provides that if a justice is satisfied from the evidence at a trial, or from information received after a plea of guilty, that an offence with which an accused is charged occurred through accident or under circumstances not wholly attributable to the fault of the accused, the justice may:

(a) where a minimum fine is prescribed, impose a fine that is less than the minimum;
(b) reprimand the accused;
(c) suspend the sentence;
(d) grant a conditional or absolute discharge.

Therefore, the establishment through legislation, by Council, of minimum and maximum fines serves to provide a more definitive and effective range of penalties for enforcement and sentencing purposes. While in some instances, a judge may impose a lesser sentence than the minimum fine, in general, a minimum and maximum fine for an offence presents a judge with an appropriate range for the exercise of discretion in sentencing.

This report deals with The Food Services Establishment By-law No. 5160/89 and the Pound By-law No. 2443/79. Although the Executive Policy Committee, in their report of February 7, 1996, referred specifically and only to the Licence By-law 6551/95 and the Zoning By-laws, similar enforcement problems are experienced with the by-laws referred to in this report. Amendments setting minimum fines or progressively higher fines for subsequent convictions relating to recurring offences are required in both by-laws in order to provide for consistent application of enforcement policies.

The Standing Policy Committee on Protection and Community Services recommends:

I. That the City of Winnipeg Food Services By-law No. 5160/89, be amended by repealing Section 37 and substituting it as follows:

37. (1) A person who contravenes a provision of this by-law is guilty of an offence and is liable on summary conviction to the following penalties, which shall not exceed $10,000.00:

(a) for a first offence, to a fine of not less than $50.00;

(b) for a second offence, to a fine of not less than $100.00;

(c) for a third or subsequent offence, to a fine of not less than $200.00.

(2) Notwithstanding the penalties prescribed in subsection (1), an individual may also be liable on summary conviction to imprisonment for a term not exceeding six months or to both imprisonment and a fine as specified herein.

II. That the City of Winnipeg Pound By-law No. 2443/79, be amended as follows:

a) Repeal Sections 15 and 23 and substitute it with the following:

15. No person shall hinder, delay, interfere with, or obstruct a Poundkeeper, License Inspector, or a Police Constable or any other person who is attempting to capture or who has captured any animal in accordance with the provisions of this by-law, or any person engaged in taking an animal to the Pound.

b) Repeal Clause 20(1)(g) and substitute it with the following:

(g) permit a dog to pursue any person or animal.

c) Amend subsection 20(1) by adding the following immediately after (g):

(g.1) permit a dog to bite or wound any person or animal.

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d) Repeal Section 31 and substitute it with:

31. (1) A person who contravenes a provision of this by-law which is specified in subsection (2) is guilty of an offence and is liable on summary conviction to the following penalties, which shall not exceed $5,000.00:

(a) for a first offence, to a fine of not less than $75.00;

(b) for a second offence, to a fine of not less than $150.00;

(c) for a third or subsequent offence, to a fine of not less than $300.00.

(2) The penalties in subsection (1) apply to the following provisions:

(a) Clause 17(a);

(b) Clause 20(1)(g).

31.1. (1) A person who contravenes a provision of this by-law which is specified in subsection (2) is guilty of an offence and is liable on summary conviction to the following penalties, which shall not exceed $5,000.00:

(a) for a first offence, to a fine of not less than $150.00;

(b) for a second offence, to a fine of not less than $300.00;

(c) for a third or subsequent offence, to a fine of not less than $600.00.

(2) The penalties in subsection (1) apply to the following provisions:

(a) Clause 17(a) where the dog has been declared dangerous pursuant to section 20.1;

(b) Clause 20(1)(g.1);

(c) Clauses 20.1(9)(b),(c),(d) and (h);

(d) Subsection 20.2(3).

31.2. A person who contravenes a provision of this by-law, for which no other penalty is provided in sections 31 or 31.1 is guilty of an offence and is liable on summary conviction to the following penalties, which shall not exceed $5,000.00:

(a) for a first offence, to a fine of not less than $50.00;

(b) for a second offence, to a fine of not less than $100.00;

(c) for a third or subsequent offence, to a fine of not less than $200.00.

31.3. Notwithstanding the penalties prescribed in sections 31, 31.1, or 31.2, an individual may also be liable on summary conviction to imprisonment for a term not exceeding six months or to both imprisonment and a fine as specified herein.

III. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing, including the preparation of the aforementioned amending by-laws.

Adopted by consent.

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Recommendations for Amusement Tax Exemption File FL-6 (Vol. 19)

614 - 2. The Standing Policy Committee on Protection and Community Services has considered recommendations received from the Winnipeg Arts Advisory Council for exemption to the Amusement Tax By-law.

The Standing Policy Committee on Protection and Community Services submits draft by-law and recommends:

I. That the following list of exemptions be added to Schedule "E" of the Amusement Tax By-law No. 3107/81, namely:

Assiniboine Chapter, Inc., of Sweet Adelines for:
One Hundred Years of Barber Shop at the Tec Voc High School on December 4, 1999

Manohar Performing Arts of Canada Inc., for:
Tasher Dash: The Kingdom of Cards at the Centre Culturel Franco-Manitobain on June 5 and 6, 1999

Osborne Village Cultural Centre Inc./Gas Station Theatre for:
Beyond the Fringe - Selected Productions from the 1999 Winnipeg Fringe Festival at the Gas Station Theatre on July 15 to 18, 1999

Prairie Theatre Exchange Inc., for the following productions which all take place at Prairie Theatre Exchange:
For the Pleasure of Seeing Her Again on October 20, 1999 to November 7, 1999
Godspell on November 24, 1999 to December 12, 1999
Mom, Dad I'm Living With A White Girl on January 19, 2000 to February 6, 2000
15 Seconds on February 23, 2000 to March 12, 2000
Walking on Water on March 29, 2000 to April 16, 2000
Love You Forever and More on December 18, 1999 to January 2, 2000 and tours to Winnipeg and Manitoba Schools and Communities on January 18, 2000 to March 19, 2000

Royal Winnipeg Ballet School for:
Spring Concert at the Pantages Playhouse Theatre on May 30, 1999
Dance Spectrum at the Pantages Playhouse Theatre on June 6, 1999

II. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing.

Adopted by consent.

Community Incentive Grant Application - Churchill High School Parent Council File PR-2.6(32) (Vol. 5)

615 - 3. On July 22, 1998, Council adopted Clause 3 of the Report of the Standing Policy Committee on Protection and Community Services, dated July 6, 1998, for a Community Incentive Grant for the Churchill High School Parent Council in the amount of $2,000.00, for Stage 4 of the project, to assist with the cost of physical improvements to the school to accommodate the Performing Arts Program, located at 510 Hay Street. In adopting this Clause, Council waived the following criteria:

a) The project is to make a significant contribution to the long-term benefit of the community-at-large in terms of improved facilities;

b) The project is not to compete with or duplicate other community facilities; and

c) The project is to benefit the community-at-large and remain accessible to all members of the community.

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On April 13, 1999, the City Centre Community Committee considered an additional application from the Churchill High School Parent Council. The Community Committee recommended that a Community Incentive Grant be approved in the amount of $10,227.00 for Stage 5 and the final stage of the project to assist with the cost of installing a ceiling support system and electrical work for the Performing Arts Facility upgrade, not to exceed a maximum of fifty percent (50%) of the total project cost for a total Community Incentive Grant of $12,227.00.

This application does not meet the eligibility criteria contained in the Community Incentive Grant Program.

The Standing Policy Committee on Protection and Community Services concurred in the recommendation of the City Centre Community Committee, and recommends:

I. That the following eligibility criteria for the Community Incentive Grant Program, be waived in this instance, namely: -

   a) The project is to make a significant contribution to the long-term benefit of the community-at-large in terms of improved facilities;

   b) The project is not to compete with or duplicate other community facilities; and

   c) The project is to benefit the community-at-large and remain accessible to all members of the community;

II. That a Community Incentive Grant in the amount of $10,227.00, not to exceed a maximum of fifty percent (50%) of the total project cost, be approved to the Churchill High School Parent Council for the purpose requested, subject to the following conditions:

   a) Confirmation of other funding sources;

   b) Approval of final plans and specifications for the project by the Director; and

   c) The applicant entering into a formal agreement with the City of Winnipeg.

III. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing.

Adopted by consent.

Community Incentive Grant Application - Charleswood Historical Society
File PR-2.6(31) (Vol. 6)

616 - 4. The Standing Policy Committee on Protection and Community Services has been advised that the Assiniboia Community Committee, at its meeting on April 20, 1999, considered an application from the Charleswood Historical Society for a Community Incentive Grant in the amount of $4,000.00, to assist with the cost for a "Welcome to Charleswood" sign to be placed facing east at 2799 Roblin Boulevard.

The application does not meet the eligibility criteria contained in the Community Incentive Grant Program.

The Assiniboia Community Committee recommended approval of a Community Incentive Grant to the Charleswood Historical Society in the amount of $4,000.00, for the purpose requested.

The Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Assiniboia Community Committee, and recommends:

I. That the following eligibility criteria for the Community Incentive Grant Program, be waived in this instance, namely: -

   a) The organization is to be a non-profit community recreation and sport organization or a non-profit organization offering recreational services;

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b) The project is to make a significant contribution to the long-term benefit of the community-at-large in terms of improved facilities;

c) The project is not to compete with or duplicate other community facilities; and

d) The project is to benefit the community-at-large and remain accessible to all members of the community.

II. That a Community Incentive Grant in the amount of $4,000.00, not to exceed a maximum of fifty percent (50%) of the total project cost, be approved to the Charleswood Historical Society for the purpose requested, subject to the following conditions:

a) Confirmation of other funding sources;

b) Approval of final plans and specifications for the project by the Director; and

c) The applicant entering into a formal agreement with the City of Winnipeg.

III. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing.

Adopted by consent.

Temporary Closure of the Brookside Cemetery - June 5 and 6, 1999
File PC-1 (Vol. 3)

617 - 5. The Standing Policy Committee on Protection and Community Services has been advised that the Brookside Cemetery has been in continuous operation and open to the public since its inception in 1878 and has not been closed for any lengthy period of time for the past 15 years. The Cemetery is open to the public from 8:00 a.m. to 10:00 p.m. daily.

For the past four years the International Air Show has been successfully held at the Winnipeg International Airport during the first and/or second weekend in June.

Organizers of the Winnipeg International Air Show are again requesting that the Brookside Cemetery be closed during the hours of 7:30 a.m. until 4:30 p.m. on Saturday, June 5 and Sunday, June 6, 1999. By letter dated March 29, 1999, the Canadian Forces and Transport Canada Aviation regulations require that an air display "safety zone" be kept clear of spectators during the flying of any aerobatic performers. A portion of the Brookside Cemetery and the entrance gates happen to lay in this zone.

The safety zone is for the protection of all spectators and for all other persons in the immediate vicinity of the actual Air Show site. The zone was created through the research of the location of fall-out debris of previous Air Show disasters as they have previously occurred.

Air Show organizers have held discussions with the Public Works Department and the Police Service Department. These Departments have recommended that the following routes be closed during this time to vehicular traffic:

Notre Dame Boulevard west from Omands Creek;
Brookside Boulevard from Omands Creek Boulevard north;
Logan Avenue from Omands Creek bridge west.

The Community Services Department intends to post signs at the Cemetery gates and advertise in the local newspapers advising the public of the temporary closure of the Brookside Cemetery during this occasion only. In order to accommodate out-of-town visitors who were not aware of the closure, Cemetery staff and Air Show volunteers would provide a bus to visit the Cemetery grounds during times when the Air Show is not in operation and the associated safety zone is not activated. Otherwise the Cemetery would be closed to all others wishing to enter.

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In addition, the Department intends to monitor the Air Show this year to determine what further action is required for future events of this nature which impact on the Cemetery's normal operation.

Council approval is required for the temporary closure of City of Winnipeg facilities.

The Standing Policy Committee on Protection and Community Services recommends:

I. That the Brookside Cemetery be temporarily closed to the public from 7:30 a.m. to 4:30 p.m. on Saturday, June 5 and Sunday, June 6, 1999, subject to the following conditions:

(a) The organizers of the Winnipeg International Air Show agree to the collection of all paper streamers and products that litter the Brookside Cemetery after the Air Show.

(b) The organizers of the Winnipeg International Air Show agree to make and appropriately display signage three weeks in advance of the event advising that the Brookside Cemetery will be temporarily closed during the Air Show.

II. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing.

Moved by Councillor Vandal,
Adoption of the clause.

In amendment,

Moved by Councillor Eadie,
Seconded by Councillor Gerbasi,

THAT the clause be amended by adding a new Recommendation II as follows:

"II. Pursuant to the Cemeteries By-law No. 1996/78, authority be delegated to the Cemeteries and Golf Courses Coordinator for the approval of all future requests for the temporary closure of cemeteries."

AND THAT Recommendation II in the original clause be renumbered as "III".

The amendment was put and declared carried.

The motion for the adoption of the clause, as amended, was put and declared carried.

Restructuring of the Branches within the Winnipeg Police Service
Files GF-2 (Vol. 50), GL-5.6.1 (Vol. 2)

618 - 6. The Standing Policy Committee on Protection and Community Services has been advised that since the 1974 amalgamation of Police Departments in the City, the Winnipeg Police Department has operated under an organizational structure of three branches, which are comprised as follows: Operations, Support Services and Administration. Under the present structure a Deputy Chief of Police heads each Branch, as identified in Appendix "A".

The 1995 re-organization of the Police Department resulted in a name change to the Winnipeg Police Service and kept intact the three branch structure. Other significant changes resulted in this re-organization which resulted in a flattening of the senior level of management with the reduction of a number of Inspector positions and the elimination of the rank of Superintendent.

As a result of a Collective Agreement between the City and the Winnipeg Police Senior Officers' Association, which was adopted by Council on March 24, 1999, the actual number of Senior Officers will be reduced by a voluntary retirement incentive program. If the objective of this program is met, the Police Service's Senior Officer

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complement will be at the authorized level.

On November 2, 1998, Chief Jack Ewatski was appointed Chief of Police. He immediately developed his vision for the Service which includes a commitment to making the Service more efficient and effective. This commitment includes an organizational review to study aspects of service delivery and organizational structure.

In order to achieve greater efficiencies and effectiveness it is proposed to re-structure the Service by means of aligning like functions under two, instead of three branches. Each branch will remain under the leadership of a Deputy Chief of Police, as identified in Appendix "B".

Issues relative to added responsibilities and greater span of control have been addressed and factored into the restructuring plan.

This re-structuring will not only allow for a more effective Executive of the Service but will also offer a savings in terms of salary and benefits with the reduction of one Deputy Chief position, as identified in the Financial Impact.

The Organizational By-law No. 7100/97 provides Council the authority relative to departmental organizational change.

The Standing Policy Committee on Protection and Community Services recommends:

I. That City Council approve a restructuring of the branches within the Winnipeg Police Service including the elimination of one Deputy Chief of Police position.

II. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing.

Copies of the documents referred to in the above clause are on file in the office of the City Clerk.

Adopted by consent.

STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES

CONSIDERATION OF BY-LAWS

619 - On motion of Councillor Vandal, the following by-laws were read a first, second and third time, the rule being suspended for the third reading of each by-law, and were passed and ordered to be signed and sealed, namely:

By-law No. 7461/99, a by-law of The City of Winnipeg to amend By-law No. 5160/89, being the Food Service Establishment By-law File EH-1.6 (Vol. 3)

By-law No. 7462/99, a by-law of The City of Winnipeg to amend By-law No. 2443/79, being The Pound By-law File EL-4 (Vol. 29)

By-law No. 7463/99, a by-law of The City of Winnipeg to amend the Amusement Tax By-law No. 3107/81 File FL-6 (Vol. 19)