Minutes – Executive Policy Committee - June 13, 2007

REPORTS

Minute No. 383 **Red Tape Commission Report: Recommendation 20.1 – Edit Noise Control By-Law**
File ER-1.2

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the administrative recommendation and recommends to Council:

1. That the amendment to the Noise Control By-law No. 2480/79, as outlined in Appendix A in the report dated April 13, 2007 from the Acting Chief of Police, to ensure that activities normally associated with churches and schools be exempt from the by-law, be approved.

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

DECISION MAKING HISTORY:

Moved by Councillor Wyatt,

That Rule 10.3 of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Wyatt,

That the administrative recommendation be concurred in and forwarded to Council.

Carried

RE: Red Tape Commission Report: Recommendation 20.1 – Edit Noise Control By-Law

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: M. Zacharias, Acting Chief of Police

REPORT DATE: April 13, 2007

RECOMMENDATION:

1. **That Council enact the attached amendment to the Noise Control By-law No. 2480/79 (Appendix "A") to ensure that activities normally associated with churches and schools be exempt from the By-law.**

2. **That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.**

Report Summary

Key Issues:

- The Red Tape Commission Recommendation 20.1 proposes to edit the Noise Control By-law to "make it more objective-based, addressing concerns that longstanding community events – like Sunday morning church services in longstanding church facilities – could be in violation of the by-law."
- This recommendation arose from concerns expressed to the Commission that, while it exempts the ringing of school and church bells, the By-law fails to exempt worship services even where these have been taking place in the same location and at the same time for many years.
- The proposed amendment to the Noise Control By-law (Appendix "A") would exempt activities, such as worship services, that are normally associated with places of worship, religious retreat and religious instruction. It would also exempt activities associated with schools, such as children's play on school yards and school-sponsored activities. It would maintain the exemption for the ringing of school and church bells.

Implications of the Recommendation(s):

General Implications

X None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

Policy Implications

X No

( ) Yes

Comment(s):

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s): The change will exempt the normal activities of places of worship and schools from the Noise Control By-law.

Environmental Implications

X No

( ) Yes

Comment(s):

Human Resources Implications

X No

( ) Yes

Comment(s):

Financial Implications

X Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): There is no Financial Impact.

Report

REASON FOR THE REPORT:

At its meeting of March 22, 2006, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission in an expedited manner, reflecting a list of priorities. One of these Recommendations was Recommendation 20.1, namely:

> ***Recommendation 20.1***
> *Edit the Noise By-Law to make it more objective-based, addressing concerns that longstanding community events – like Sunday morning church services in longstanding church facilities – could be in violation of the by-law.*

It was directed that the report be submitted to Executive Policy Committee for consideration in 2007.

HISTORY:

On November 23, 2004, the Mayor officially established a Red Tape Commission, chaired by former Councillor Franco Magnifico, to review City operations and regulations in order to improve customer service while granting administrators more freedom to innovate.

The Red Tape Commission submitted a final report, dated June 28, 2005, containing 30 general recommendations, each with numerous more detailed sub-recommendations.

At its meeting of March 22, 2006, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission, including Recommendation 20.1.

DISCUSSION:

The City of Winnipeg Noise Control By-Law No. 2480/79 sets out the following provision:

> PEOPLE NOISE

3.2.7. No person shall yell, shout, whistle or sing to the extent that a noise nuisance is created.

The Noise Control By-law sets out numerous exemptions to this general rule. In particular, it specifically exempts the ringing of church or school bells.

Although the Winnipeg Police Service is unaware of any prosecutions that have ever been initiated under the Noise Control By-law respecting worship services, a citizen submission to the Red Tape Commission indicated that complaints under the Noise Control By-law have been made regarding worship services. This submission expressed the concern that a prosecution could be initiated against a religious group for conducting worship services, even where the premises have been used for these purposes for many years. Recommendation 20.1 responds to this concern.

In order to ensure that they are exempt from prosecution under the By-law, this Report proposes to amend the Noise Control By-law to exempt activities like worship services that are normally associated with places of religious worship, religious retreat and religious instruction. (These terms are used in The Municipal Assessment Act and therefore already have a legal meaning.) It also proposes that activities normally associated with private and public schools, such as children playing and school-sponsored activities, should be listed as specifically exempt from the By-law. Finally, this Report proposes to maintain the current exemption on the ringing of church or school bells. Appendix “A” to this Report provides a draft of the amendment being proposed.

Financial Impact Statement

Date: March 28, 2007

Project Name: Noise Bylaw

First Year of Program 2007

	2007	2008	2009	2010	2011
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: No financial impact

Ron Smolik
Controller/Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Legal Services Division

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department:	Winnipeg Police Service
Division:	Organizational Development and Support, Division 32
Prepared by:	M. Musgrove, Research Analyst
File No.	06 – 164

APPENDIX "A"

THE CITY OF WINNIPEG

BY-LAW NO. .

A By-law of THE CITY OF WINNIPEG to amend the Noise Control By-law No. 2480/79.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. The Noise Control By-law No. 2480/79 is amended by repealing subsection 4.1.5 and substituting the following:

4.1.5 The activities normally associated with

(a) places of religious worship, religious retreat and religious instruction that qualify for a partial exemption from real property taxation under clause 22(1)(i) of The Municipal Assessment Act; and

(b) public schools, as that term is used in The Public Schools Act, and private schools, as that term is used in The Education Administration Act,

including worship services, children's play and school sponsored activities on school yards, and the ringing of church or school bells.

DONE AND PASSED, in Council assembled, this day of , 2007.

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Mayor

_____
City Clerk

Approved as to content:

_____
Chief of the Winnipeg Police Service

Certified as to form:

_____
for City Solicitor/Manager of Legal Services