Agenda - Executive Policy Committee - May 21, 2003

REPORTS

Item No. 2 Prohibiting the Use of Wild and Exotic Animals from Entertainment Events within the City of Winnipeg
File EL-10 (Vol. 4)

ADMINISTRATIVE RECOMMENDATION:

That this report be received as information.

Agenda - Executive Policy Committee - May 21, 2003

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 18, 2002, the Executive Policy Committee referred back Clause 1 of the Report of the Standing Policy Committee on Protection and Community Services dated July 8, 2002, to the Chief Administrative Officer for additional information.

On September 4, 2002, the Executive Policy Committee laid over consideration of the Clause to its meeting scheduled for September 18, 2002.

On July 10, 2002, the Executive Policy Committee laid over consideration of the Clause to a special meeting, and requested the Chief Administrative Officer to report back to Committee on what Provincial Legislation governs the City with respect to prohibiting the use of wild and exotic animals from entertainment events, provide a legal perspective on the City's draft by-law; and invite representatives from the Zoo staff to the special meeting to discuss the matter.

STANDING POLICY COMMITTEE RECOMMENDATION:

On July 8, 2002, the Standing Policy Committee on Protection and Community Services recommended to Executive Policy Committee:

I. That By-law No. 3389/83 be amended to include exotic animals, including elephants, whales, dolphins, seals, sea lions, walruses, penguins, among others, that are not typical of domestic or exotic agricultural domestic animal stock.

II. That the use of exotic and wild animals as performing acts be prohibited within the City of Winnipeg.

III. That the current exemptions to By-law No. 3389/83 relating to:

- The Assiniboine Park Zoo
- The Manitoba Museum of Man and Nature
- The University of Manitoba
- The University of Winnipeg
- The Health Sciences Centre
- and all schools to which the Public Schools Act applies,

be retained.

IV. That the following exemptions be added to By-law No. 3389/83:

DECISION MAKING HISTORY continued:

-educational facilities and agricultural displays, including the Fort Whyte Centre
-exhibitions or performances in which individuals ride horses or ponies
-displays or showings of animals in agricultural fairs, exhibitions, or pet shows
-horse races
-rodeos
-use of animals in media or film productions
-Red River Exhibition Park (for agricultural and educational purposes only).

V. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary amending By-law to By-law No. 3389/83 for consideration by Council with the intent of implementing said amending By-law, effective January 1, 2003.

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

Re: Wild and Exotic Animals

For submission to: Executive Policy Committee

Submitted by: City Solicitor/Manager of Legal Services
Director of Community Services
Chief Operating Officer, Animal Services Agency

Report date: May 6, 2003

Recommendation: That this report be received as information.

Report Summary

Key Issues:

- This report summarizes the existing provincial and federal legislation relating to the keeping of animals, as well as the professional ethics and standards for animal care at the Assiniboine Park Zoo, as prescribed by the Canadian Association of Zoos and Aquariums accreditation process.
- A draft by-law to amend By-law No. 3389/83 in accordance with a motion passed by the Standing Policy Committee on Protection and Community Services at its Special Meeting of July 8, 2002 is attached.

Implications of the Recommendation(s):

General Implications

None

ð For the organization overall and/or for other departments

X For the community and/or organizations external to the City of Winnipeg

ð Involves a multi-year contract

Comment:

- Circuses or like shows will no longer be able to include performing animal acts.

- It is proposed that the City of Winnipeg enact the draft by-law to amend by-law No. 3389/83 effective January 1, 2004 thereby allowing organizations and community groups opportunity to pursue alternative entertainment options. However, this proposed date might cause financial hardship to community organizations, if contracts for animal acts have already been secured for 2004.

- The amending by-law may cause existing animal educational organizations to potentially cease operations.

Policy implications

No

X Yes

Comment:

- This report provides further information relative to a proposed draft by-law to amend By-law No. 3389/83 in accordance with a motion passed by the Standing Policy Committee on Protection and Community Services on July 8, 2002.

Financial Implications

X Within approved current and/or capital budget

ð Current and/or capital budget adjustment required

Comment:

- There is no financial impact to the City of Winnipeg.

Report

Recommendation:

That this report be received as information.

Reason for the Report:

At its meeting of September 18, 2002, Executive Policy Committee laid over Clause 1 of the Standing Policy Committee on Protection and Community Services dated July 8, 2002 and the clause was referred back to the Chief Administrative Officer for additional information.

History:

On July 8, 2002, the Standing Policy Committee on Protection and Community Services held a Special Meeting to consider prohibiting the use of wild and exotic animals from entertainment within the City of Winnipeg. The Committee passed a Motion resolving that the City amend By-law No. 3389/83 to prohibit the use of exotic and wild animals as performing acts, subject to certain exceptions, and requested the City Solicitor/Manager of Legal Services to prepare the necessary amending by-law for consideration by Council with the intent of implementing the new by-law effective January 1, 2003.

At its meeting of July 10, 2002, Executive Policy Committee laid over Clause 1 of the Report of the Standing Policy Committee on Protection and Community Services dated July 8, 2002 and requested the Chief Administrative Officer to report back on legislation governing the City with respect to prohibiting the use of wild and exotic animals in entertainment events, as well as provide a copy of a draft by-law.

Discussion:

A. Governing Legislation:

The following Provincial Acts relate to the keeping of animals:

1. *The Wildlife Act* – which only applies to wild animals that are native to the province.

2. *The Polar Bear Protection Act* – regulates the keeping of polar bears in captivity and requires a permit to possess or export a polar bear.

3. *The Animal Care Act* – which requires the owner or person in possession or control of an animal:

- to ensure that it has an adequate source of food and water;
- that it be provided with adequate medical attention when wounded or ill;
- that it not be confined in an enclosure or area with inadequate space, unsanitary conditions, inadequate ventilation or without providing an opportunity for exercise so as to significantly impair the animal's health or well-being.

The *Act* lists certain "accepted activities" (including agricultural uses, exhibitions and fairs, and zoological displays) and provides somewhat different standards for the care of animals in the course of those activities.

The *Act* provides for the appointment of animal protection officers for the purpose of its administration and enforcement. The *Act* permits the Province to make regulations specifying standards or codes of conduct, practices or procedures respecting animals as well as to prohibit such practices and procedures as the regulation may prescribe. The Animal Care Regulation No. 126/98 was made under those powers and it establishes or adopts standards relating to certain specific activities including kenneling and hobby breeding, farming operations, fairs and exhibitions, animal research and trapping.

As well, Bill C-10 was passed by the House of Commons on October 9, 2002 and has received first and second readings in the Senate. The Bill still requires 3rd reading in the Senate. Bill C-10 would amend and consolidate the Criminal Code provisions on cruelty to animals and would provide that willfully or recklessly causing an animal unnecessary pain, suffering or injury, (including negligently failing to provide adequate food, water, shelter and care) is an offence under the Criminal Code.

B. Animal Care Standards at the Assiniboine Park Zoo:

The Assiniboine Park Zoo's mission states "The Assiniboine Park Zoo is dedicated to the responsible stewardship and enhancement of our natural environment through the presentation of living animals and plants and by providing stimulating, entertaining programs in wildlife education and conservation". Appendix C provides a comprehensive listing of the Assiniboine Park Zoo's objectives respecting animal care.
The Assiniboine Park Zoo operates as an accredited member of the Canadian Association of Zoos and Aquariums (CAZA). The Zoo must be reaccredited every five years. The process of accreditation requires an 'on-site' inspection by a team of peers to consider many aspects of the operation including animal care and treatment.

As a member of this organization the Zoo must follow a number of professional ethics and standards relating to animal care. For example, CAZA has the following position statement relative to the use of wild or exotic animals for performance, shows or acts.

> "CAZA supports the use of wild or exotic animals, for performance, shows or acts only if all of the following conditions are met:

1. The husbandry and training practices in no way negatively affects the physical health or the behavioral health of the animal subjects.
2. The maintenance facilities and husbandry practices for the animal subjects comply with any standards established by legislation and by CAZA.
3. The animal subjects are trained and perform only actions or tasks, which are accepted to be a part of their natural behaviour. Natural behaviour might include the display of working tasks performed by animals considered domestic in other parts of the world provided such tasks comply with all the other provisions written here.
4. The animal subjects are not trained to or perform tasks which may endanger the animal subject
5. Every opportunity is made to appropriately interpret the tasks involved in the act or performance as it relates to the animal's natural behaviour, physiology and anatomy.
6. The animals are treated humanely and with the dignity deserving of all animals."

(Source: CAZA 2001/2002 Members Directory)

C. Effective Date for Enactment of Amending by-law

It is proposed that the City of Winnipeg enact the draft by-law to amend by-law No. 3389/83 effective January 1, 2004 thereby allowing organizations and community groups opportunity to pursue alternative entertainment options.

The City's original by-law and the amending by-law are attached as Appendix A and B respectively.

Financial Impact:

There is no financial impact to the City of Winnipeg. The Department Controllers concur.

This Report Submitted By:

Department: Corporate Services
Division: Legal Services
Prepared by: Doug Buhr
File No. PR.3.4

Department: Community Services
Division: Assiniboine Park Enterprise
Prepared by: Doug Ross

Animal Services Special Operating Agency
Prepared by: Tim Dack

APPENDIX A: By-law No. 3389/83

This document is an office consolidation of by-law amendments which has been prepared for the convenience of the user. The City of Winnipeg expressly disclaims any responsibility for errors or omissions. For a certified copy of the original enactment and amending by-laws, contact City Hall Information Service at 986-2171.

CONSOLIDATION UPDATE: DECEMBER 11, 2002

THE CITY OF WINNIPEG

EXOTIC ANIMAL BY-LAW NO. 3389/83

A By-law of The City of Winnipeg respecting the keeping or harbouring of certain animals.

WHEREAS The City of Winnipeg has the authority to pass by-laws respecting the keeping or harbouring of animals or birds:

amended 8162/2002

NOW THEREFORE THE CITY OF WINNIPEG in Council assembled enacts as follows:

1. Except as may be specifically permitted under *The Wildlife Act* or the regulations under that Act, no person, firm or corporation shall keep or harbour any of the following animals within The City of Winnipeg:

amended 6595/95

(1) All venomous reptiles;

(2) The following species of snakes and lizards, and all their known races:

African Python	Python sebae
Indian Python	Python molurus
Blood or Short-tailed Python	Python curtus
Reticulated Python	Python reticulatus
Timor Python	Python timorensis
Diamond or Carpet	Morelia argus Python
Amethystine Phyton	Liasis amethystinus
Olive Python	Liasis olivaceous
Brown Python	Liasis fuscus
D'Alberts or White-lipped Python	Liasis albertisii
Boa Constrictor	Boa constrictor
Madagascar Boa	Acrantophis madagascariensis

Cuban Boa	Epicrates angulifer
Anaconda	Eunectes murinus
Yellow Anaconda	Eunectes notaeus
Salvadoris Monitor	Varanus salvadorii
Nile Monitor	Varanus niloticus
Pacific Monitor	Varanus indicus
Rough-necked Monitor	Varanus rudicollis
Water or 2 - Banded Monitor	Varanus salvator
Giant Monitor	Varanus giganteus
Bengal or Indian Monitor	Varanus bengalensis
Lace Monitor	Varanus varius
Cape Monitor	Varanus exanthematicus albigularis

(3) All members of the order Crocodilia;

(4) All non-human Primates;

(5) All members of order Carnivora excepting domestic dogs (Canis familiaris), domestic cats (Felis catus) and ferrets.

(6) horses, cattle, hogs, goats, sheep, poultry or bees except where specifically permitted by the applicable zoning by-law, and subject to section 2 of this By-law.

added 3678/84

2. Section 1 shall not apply to the following:

(1) Any travelling show such as a circus or other like show.

(2) The Assiniboine Park Zoo.

(3) The Manitoba Museum.

(4) The University of Manitoba.

(5) The University of Winnipeg.

(6) The Health Sciences Centre.

(7) Any school to which the Public School Act applies.

3. Subsections (2), (3) or (4) of section 1 shall not apply to any person, firm or corporation who at the time of this By-law coming into force and effect is keeping or harbouring any of the animals set forth in said subsections.

4. The Chief Operating Officer of the Animal Services Agency Division and his/her delegates may conduct inspections and take steps to administer and enforce this by-law or remedy a contravention of this by-law in accordance with *The City of Winnipeg Charter*[1] and, for those purposes, have the powers of a "designated employee" under *The City of Winnipeg Charter*.

amended 8162/2002

5. *repealed 8162/2002*

6. (1) Subject to subsection (2), this By-law shall come into force and effect on the date of passing hereof.

(2) Subsections (1) and (5) of Section 1 shall not apply to any person, firm or corporation who at the time of this By-law coming into force and effect is keeping or harbouring any of the animals set forth in said subsections until 30 days have elapsed from the coming into force and effect of this By-law.

7. This by-law shall be known as the "**Exotic Animal By-law**".

added 8162/2002

DONE AND PASSED, in Council assembled, this 17th day of February, 1983.

1 See sections 180-181 and sections 183-188 of The City of Winnipeg Charter for information about some of the key powers given to designated employees.

APPENDIX B: Draft Amendment to By-law No. 3389/83

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of The City of Winnipeg to amend The Exotic Animal By-law No. 3389/83.

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

1. The Exotic Animal By-law No. 3389/83 is amended:

(a) by repealing subsection 1(6) and substituting the following:

"(6) Whether tame or wild, any and all members of the Orders Artiodactyla or Perissodactyla and all types of horses, donkeys, asses, mules, cattle, goats, swine, sheep, poultry, llamas, alpacas, reindeer, ostriches, emus, rheas, cassowaries and bees (apidae), except where specifically permitted by the applicable zoning by-law, or where they are part of a travelling show such as a circus, carnival or other like event."

(b) by adding the following subsections at the end of Section 1:

(7) All members of the order Edentata (sloths and anteaters) except the armadillos (giant armadillo (Cabossous sp.), hairy armadillo (Chaetophractus sp.), lesser armadillo (Zaedyus pichiy), nine-banded armadillo (Dasypus novemcinctus), pink fairy armadillo (Chlamyphorus truncates), seven-banded armadillo (Dasypus sp), six-banded armadillo (Euphractus sexcinctus), three-banded armadillo (Tolypeutes sp.)

(8) All members of the order Pholidota (pangolins).

(9) All members of the order Cetacea (whales, dolphins).

(10) All members of the order Pinnipedia (seals, sea lion, walrus).

(11) All members of the order Sirenea (manatee).

(12) All members of the order Proboscidea (elephants).

(13) All members of the order Sphenisciformes (penguins).

(c) by repealing subsection 2(1) and by adding the following at the end of Section 2:

"(8) educational facilities and agricultural displays, including the Fort Whyte Centre.
(9) individuals riding horses or ponies in an exhibition or performance.
(10) displays or showings of animals in agricultural fairs or pet shows.
(11) horse races.
(12) rodeos.
(13) the use of animals in media or film productions.
(14) Red River Exhibition Park (for agricultural and educational purposes only).
(15) Assiniboia Downs.

2. This By-law comes into force and effect on January 1, 2004.

DONE AND PASSED in Council assembled, this day of A.D. 2003.

Mayor

City Clerk

Certified as to form:

City Solicitor/
Manager of Legal Services

APPENDIX C: Assiniboine Park Zoo – Mission Statement

APPENDIX C: Assiniboine Park Zoo – Mission Statement

Mission: The Assiniboine Park Zoo is dedicated to the responsible stewardship and enhancement of our natural environment through the presentation (exhibition) of living animals and plants and by providing stimulating, entertaining programs in wildlife education and conservation.

Objectives: Assiniboine Park Zoo will...

- practice a high standard of animal husbandry, and will treat all animals humanely and with respect.
- contribute to the conservation of wildlife through captive breeding programs and other conservation initiatives.
- offer a memorable recreational experience and an effective and entertaining educational experience for all ages and abilities.
- support continuing animal research.
- value its visitors. Its facilities will be well maintained, safe, and convenient. The zoo will welcome its visitors through courteous, knowledgeable, and helpful personnel.
- operate in a clearly defined partnership with the Zoological Society of Manitoba.
- cooperate with educational institutions, other zoos, and other organizations to further the goals of the zoo.
- provide animal exhibit design which creates a natural environment responsive to the animal?s welfare, the visitor?s enjoyment, education, and safety, and the staff?s safety.
- have personnel who will be skilled in zoo management, animal husbandry, and visitor services.
- have and effective and efficient management structure.
- develop supplementary funding opportunities for the zoo.
- be a major attraction and source of pride for the City of Winnipeg.
- have concessions that reflect the mission and goals of APZ
- recognize that all staff are an integral part of the zoo. The working environment will provide a clear vision of expected results, the means required to succeed, and the opportunity to impact positively on the zoo.
- develop and maintain an innovative long range plan consistent with the mission statement and goals.
- maintain and upgrade existing facilities in addition to developing new facilities.

Report of the Standing Policy Committee on Protection and Community Services dated July 8, 2002

Prohibiting the Use of Wild and Exotic Animals from Entertainment Events within the City of Winnipeg
File EL-10 (Vol. 3)

1. On November 5, 2001, the Standing Policy Committee on Protection and Community Services requested the Administration and the City Solicitor/Manager of Legal Services to prepare the necessary amending by-law to prohibit the use of exotic and wild animals as performing acts within the City of Winnipeg and to report back to the Standing Policy Committee thereon.

In 1983, the City passed By-law No. 3389/83 which prevents the keeping or harbouring of certain animals within the city limits, including venomous reptiles, certain snakes and lizards, crocodiles, non-human primates and all carnivorous animals (eg. lions, tigers, etc.) except for domestic dogs and cats. The by-law also prevents the keeping of horses, cattle, hogs, goats, sheep and poultry except where the applicable zoning by-law permits them to be kept.

By-law No. 3389/83, however, exempts traveling shows such as circuses or other like shows, the Assiniboine Park Zoo, the Manitoba Museum of Man and Nature, the University of Manitoba, the University of Winnipeg, the Health Sciences Centre, and any school to which the Public Schools Act applies.

In order to implement the Standing Policy Committee's recommendation, it is proposed that By-law No. 3389/83 would be amended to expand the list of prohibited animals to include elephants, whales, dolphins, seals, sea lions, walruses, penguins, llamas, alpacas and ostriches amongst others. This option was determined to be more effective than the alternative of attempting to define exactly what was meant by "performing acts" or "educational acts" which would present difficulties in enforcement.

The exemption for traveling shows, such as circuses, would be removed from By-law No. 3389/83 and the current exemptions relating to the Assiniboine Park Zoo, the Manitoba Museum of Man and Nature, the Health Sciences Centre, the University of Manitoba, the University of Winnipeg and all schools to which the *Public Schools Act* applies would be retained.

Under these amendments, circuses or like shows would no longer be able to include performing animal acts. The Community Services Department notes that, with that restriction, circuses such as the Shrine Circus may move their shows out of Winnipeg, with a potential negative impact on Winnipeg's tourism economy.

The by-law may also potentially affect existing animal educational organizations.

On July 8, 2002, the Standing Policy Committee on Protection and Community Services heard representation from sixteen (16) persons in support of prohibiting the use of wild and exotic animals from entertainment events within the City of Winnipeg, and six (6) persons in opposition thereto.

The Standing Policy Committee on Protection and Community Services also considered the following issues, namely:

1. Whether the current exemptions relating to the Assiniboine Park Zoo, the Manitoba Museum of Man and Nature, the Health Sciences Centre, the University of Manitoba, the University of Winnipeg and all schools to which the *Public Schools Act* applies should remain in the by-law.

2. Whether the following exemptions should be added to the by-law:

    - Exhibitions or performances in which individuals ride horses or ponies
    - Displays or showings of animals in agricultural fairs, exhibitions, or pet shows
    - Horse races
    - Rodeos
    - The use of animals in media or film productions

3. A proposal that any by-law amendments would come into effect on January 1, 2003. This would allow affected organizations and community groups some lead time to pursue alternative entertainment options. The Standing Policy Committee also noted that the Community Services Department notes that the by-law amendments may affect some organizations if they have entered into contracts for 2003 involving animal acts.

With respect to the financial impact on the City of Winnipeg, the Community Services Department Controller has reviewed this matter and indicates that there are no financial implications.

The Standing Policy Committee on Protection and Community Services therefore recommends:

I. That By-law No. 3389/83 be amended to include exotic animals, including elephants, whales, dolphins, seals, sea lions, walruses, penguins, among others, that are not typical of domestic or exotic agricultural domestic animal stock.

II. That the use of exotic and wild animals as performing acts be prohibited within the City of Winnipeg.

III. That the current exemptions to By-law No. 3389/83 relating to:

- The Assiniboine Park Zoo
- The Manitoba Museum of Man and Nature
- The University of Manitoba
- The University of Winnipeg
- The Health Sciences Centre
- and all schools to which the Public Schools Act applies,

be retained.

IV. That the following exemptions be added to By-law No. 3389/83:

-educational facilities and agricultural displays, including the Fort Whyte Centre
-exhibitions or performances in which individuals ride horses or ponies
-displays or showings of animals in agricultural fairs, exhibitions, or pet shows
-horse races
-rodeos
-use of animals in media or film productions
-Red River Exhibition Park (for agricultural and educational purposes only).

VI. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary amending By-law to By-law No. 3389/83 for consideration by Council with the intent of implementing said amending By-law, effective January 1, 2003.

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