Re: Standing Policy Committee on Protection and Community Services
- Sept. 12
Item #1. Amendment to the City of Winnipeg Traffic By-law No. 1573/77

As a private citizen of this City, I appeared before the Standing Committee and requested that it **delay approval** of the proposed amendment to Traffic By-law 1573/77 and requested that the Legal Services Department provide **a new draft amendment** which will:

- Accomplish the stated objective of **allowing** bicycle groups who wish to "hold a parade" to do so in accordance with the stringent requirements of the Chief of Police set out in Sections 9-13 of the By-law:
  - Must be under the direction or control of a marshal or organizer.
  - Must be duly permitted by the Chief of Police.
  - Must apply for the permit at least 48 hours beforehand.
  - Must specify the nature of the parade, the time, the places of formation and dispersal, the exact route to be followed, and the time required for the parade to pass.
  - Pay costs required to publish notice of the parade and necessary diversions of traffic.
  - Subject to the authority of the Chief of Police to refuse a permit if the parade may unduly disrupt traffic, result in conflicts with other events, or pose an undue security or public safety concern, and to suggest an alternative parade plan instead.

- But **not** establish the requirement that "any group of bicyclists numbering ten (10) or more stopped or moving anywhere on a street" be deemed to be a parade requiring a parade permit and all its restrictions as above.
  - **If the amendment as proposed is approved, it will outlaw any such group of cyclists on the street without a Police-approved permit, and render the individuals subject to the penalties found in Section 53.(1) – a fine not exceeding $1,000.00 for each cyclist.**

I feared that the ulterior motive behind this apparently benign proposed amendment is an attempt to suppress the rights of citizen cyclists to freedom of expression and assembly.

At the very least, I requested that the Committee lay the matter over until its next meeting, to enable citizen bicyclists to learn about the proposal and to come forward and express their views on what I believe to be a serious restriction on their freedoms.

The Committee still approved the proposed amendment, and it appeared on the published EPC Agenda for today.

When some people said they didn't believe that the proposed amendment would have the restrictive effect I am concerned about, I suggested that they should read the amendment in the context of the complete By-law being amended, **which every legislator should always do.**

The recommended amendment is as follows:

Traffic By-law amended
1. The definition **"parade"** in the Traffic By-law No. 1573/77 is amended by adding **"any group of cyclists numbering ten (10) or more stopped or moving anywhere on a street,"** immediately prior to "or any group of vehicles."

Section 2(2) of the By-law now states that:

"parade" means any procession or body of pedestrians excepting members of Her Majesty's Armed Forces, numbering more than thirty (30) standing, marching, or walking anywhere on a street, or any group of vehicles except a funeral procession or vehicles of Her Majesty's Armed Forces, numbering ten (10) or more stopped or moving anywhere on a street.

If amended as proposed, it will then read as follows:

"parade" means any procession or body of pedestrians excepting members of Her Majesty's Armed Forces, numbering more than thirty (30) standing, marching, or walking anywhere on a street, **"any group of cyclists numbering ten (10) or more stopped or moving anywhere on a street,"** or any group of vehicles except a funeral procession or vehicles of Her Majesty's Armed Forces, numbering ten (10) or more stopped or moving anywhere on a street.

(Therefore, any such group of cyclists becomes a "parade." What does that mean?)

PARADES
9. No person shall hold, take part in, or be a member of a parade unless
(a) the parade is under the direction or control of a marshal or organizer, and
(b) the parade has been duly permitted by the Chief of Police.
10. A person desiring to hold a parade shall apply in writing to the Chief of Police for a permit therefore not less than forty-eight hours before the time set for the commencement of the parade, and shall when making his request, specify the nature of the parade, the day and hour at which it is to be held, the places of formation and dispersal, the exact route to be followed, the estimated length of time for the parade to pass a given point and pay such sums of money as the Chief of Police shall require for the purpose of publishing due notice of the parade and such diversion of traffic as he shall deem necessary as a result thereof.

11. (1) The Chief of Police must issue a parade permit where
(a) the applicant has complied with section 10;

(b) the proposed parade would not violate a law, regulation or by-law;
(c) adequate security and traffic control can reasonably be provided by the Winnipeg Police Service or the applicant is able to offer a reasonable alternative; or
(d) the time, date or route of the proposed parade
(i) is unlikely to unduly disrupt traffic along the parade route;
(ii) is unlikely to result in conflicts with other events or parades taking place; or
(iii) does not poses undue security or public safety concerns.
(2) Where the Chief of Police refuses to issue a parade permit, he or she must propose a reasonable alternative date, time or route for the parade.
(3) The Chief of Police may issue a parade permit subject to conditions that will ensure that the parade meets the criteria set out in subsection (1), and a failure to comply with any conditions imposed invalidates the permit.
(4) The Chief of Police may withdraw the permit prior to or during the parade where information unknown to the Chief when issuing the permit indicates that the parade will fail to meet the criteria set out in subsection (1), and no person may take part in or continue to take part in a parade where the parade permit has been withdrawn.

(If the participants in a "parade" violate any of the above provisions of the By-law, they are liable to be charged and face a fine if convicted.)

PENALTY
53. (1) Every person found guilty of a breach of any provision of this by-law, unless a penalty or fine is specifically provided therefor, shall be liable to a fine not exceeding $1,000.00 in the case of an individual, or not exceeding $5,000.00 in the case of a corporation, in addition to costs.

If this was really just an unintended consequence of poor legislative drafting and ineffective legislative oversight, then the proposed amendment should be redrafted to accomplish its explicit aim of allowing cyclists to become a "parade" if they wish, but not compel them to do so.

I am <u>now</u> advised that the proposed amendment will be removed from the EPC Agenda for September 18, and that the whole matter will await an overall review of the Traffic By-law by the Department of Public Works.

If this means that some groups of cyclists who <u>do</u> want to hold a “parade” will be prevented from doing so, for an extended period of time, then I think the City’s Legal Department should be told to draft a better “bicycle parade” amendment now, which does not have such apparently unintended negative consequences.