



PUBLIC AGENDA

ADVISORY COMMITTEE ON ANIMAL CONTROL

THURSDAY, May 28, 2015, 11:30 A.M.
COMMITTEE ROOM E, GROUND FLOOR, CITY HALL

Ms. D. Bentley, Chair
Ms. C. Stinn, Vice-Chair
Councillor Z. Jeffries
Ms. A. Ziegler
Dr. E. Hudson
Dr. M. Powell
Dr. D. Hockley
Ms. M. Sim
Ms. M. Gieni
Mr. D. Truscott

1. **CALL TO ORDER**

2. **CONFIRMATION OF AGENDA**

Recommendation

That the agenda be confirmed as presented.

3. **ADOPTION OF MINUTES**

Recommendation

That the Minutes of regular meeting of the Advisory Committee on Animal Control held on April 23, 2015 be adopted.

4. **REPORT OF THE CHAIR (File CK. 225-9)**

Verbal Update – D. Bentley

Recommendation

That the information be received.

5. REPORTS FROM ADMINISTRATION

5.1 Report of Open Space Consultant (File CK. 151-18)

Verbal Update – C. Schafer

Recommendation

That the information be received.

5.2 Court Report – Animal Control Bylaw Prosecutions (File CK. 435-17)

Verbal Update – D. Kowalski

Attached for the Committee's information is the April 2015 report.

Recommendation

That the information be received.

6. PROCESS OF HANDLING BARKING DOG COMPLAINTS (FILE CK. 152-1)

Verbal Update – D. Kowalski

Attached for the Committee's information is the above mentioned report.

Recommendation

That the information be received.

7. ANNUAL BYLAW REVIEW – BYLAW NO. 7860 THE ANIMAL CONTROL BYLAW, 1999 AND BYLAW NO. 8176 – THE DANGEROUS ANIMALS BYLAW, 2003 (File CK. 151-1)

At the meeting of the Committee held January 22, 2015, it was resolved that the Administration provide an update on the status of animal control enforcement at Junor Avenue Park and Chief Whitecap Park.

Integrated Facility Supervisor Babyak will provide a verbal update.

Recommendation

That the information be received.

8. BITE PREVENTION CAMPAIGN (File CK. 151-7)

At the meeting of the Committee held April 23, 2015, the sub-committee indicated that they would provide an update on the campaign.

Recommendation

That the information be received.

9. **PUPPY MILLS (FILE CK. 152-1)**
Verbal Update – E. Alexandrovici

Recommendation

That the information be received.

10. **STATEMENT OF EXPENDITURES (File CK. 1704-5)**

Attached is a current Statement of Expenditures.

Recommendation

That the information be received.

11. **ADJOURNMENT**

435-17

RECEIVED 5.2
MAY 14 2015

Office of the City Solicitor
April 2015 COURT REPORT
Animal Control Bylaw Prosecutions - City of Saskatoon

CITY CLERK'S OFFICE
SASKATOON

Convictions/Orders	2015		2014	
	No.	Average Fine	No.	Average Fine
Cat at Large	1	\$200.00 + \$50.00 surcharge		
Cat at Large			2	\$100.00 + \$50.00 surcharge
Cat With No License	1	\$300.00 + \$60.00 surcharge		
Cat With No License			2	\$250.00 + \$60.00 surcharge
Dog at Large	1	\$100.00 + \$50.00 surcharge	6	\$100.00 + \$50.00 surcharge
Dog at Large				
Dog at Large			1	\$50.00 + \$40.00 surcharge
Dog at Large				
Dog with No License	3	\$250.00 + \$60.00 surcharge	8	\$250.00 + \$60.00 surcharge
Dog with No License				
Dog Collar			1	\$50.00 + \$40.00 surcharge
Dog Barking (Nuisance)			1	\$100.00 + \$50.00 surcharge
Total Convictions/Orders	6		21	
Other Outcomes				
Withdrawn	11		6	
Dismissed	2		1	
Total Other Outcomes	13		7	
Total Charges Before Court	19	\$1,350.00 + \$340.00 surcharges	28	\$3,500.00 + \$1,130.00 surcharges

Only those violations dealt with by the Court are recorded in this report.
The number of fines paid voluntarily are not included.



Derek Kowalski
Solicitor

/sjk

cc: Advisory Committee on Animal Control (Office of the City Clerk)
Eva Alexandrovici, SACA (306-931-9792)
City Solicitor

<i>Charge</i>	<i>Fine</i>	<i>Other</i>
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Dog at Large		
DRL - C23348	\$100.00 - \$50.00 surcharge	Nikita Bunnie
DRL - C23333	Dismissed	Tracy Moosewaypayo
DRL - C21603	Withdrawn	Darcy Wilson
DRL - C21600	Withdrawn	Darcy Wilson
DRL - C23595	Withdrawn	Greg Reece
DRL - C21247	Withdrawn	Greg Reece
DRL - C23335	Withdrawn	Clifford Hall
DRL - C22201	Withdrawn	Violet Sanders
Dog Not Licensed		
DNL - C23332	\$250.00 + \$60.00 surcharge	Tracy Moosewaypayo
DNL - C18816	\$250.00 + \$60.00 surcharge	Violet Sanders
DNL - C22225	\$250.00 + \$60.00 surcharge	Leequan Napope
DNL - C23347	Dismissed	Nikita Bunnie
DNL - C23232	Withdrawn	Jordan Dunkley
DNL - C23233	Withdrawn	Jordan Dunkley
DNL - C21596	Withdrawn	Darcy Wilson
DNL - C21597	Withdrawn	Darcy Wilson
DNL - C21598	Withdrawn	Darcy Wilson
Cat at Large		
CNL - C23721	\$200.00 + \$50.00 surcharge	Carol Bird
Cat Unlicensed		
CRL - C23722	\$300.00 + \$60.00 surcharge	Carol Bird

Process of Handling Barking Dog Complaints

Recommendation

That the Committee recommend to City Council:

1. That the report be received as information; and
2. That City Council consider the proposed amendments to *The Animal Control Bylaw, 1999* outlined in this report.

Topic and Purpose

At its meeting held on November 18, 2013, City Council resolved that the City's current process for handling nuisance barking complaints under Bylaw No. 7860, *The Animal Control Bylaw, 1999* (the "Bylaw"), be referred to the City's Solicitor's Office for additional review.

This report provides information on a new process being implemented by The Saskatoon Animal Control Agency ("SACA") after consultation with the City Solicitor's Office. The intent is that the new process will be implemented over the next number of months. Also, this report discusses possible amendments to the Bylaw.

Report Highlights

1. The City's current process for handling nuisance barking complaints involves completion of both a five-day and seven-day barking log thereby establishing evidence of a nuisance prior to a ticket being issued.
2. Warnings are currently utilized in every case, but their use is not mandated by bylaw.
3. Citizens have raised concerns that the current process is onerous and lengthy.
4. This report offers suggestions of ways to decrease the length of the process while maintaining the integrity of the evidence for prosecutions.

Strategic Goal

The recommendations in this report promote the City's goal of continuous improvement and making Saskatoon the best-managed city in Canada by providing high-quality services to meet the dynamic needs and high expectations of our citizens.

Background

The Bylaw provides for a potential offence if an animal howls or barks so as to create a nuisance. Complaints of this nature are investigated by SACA. The current process is for SACA to provide a complainant with a questionnaire and log, to document the instances of nuisance barking over a five-day period. The investigation then proceeds with SACA reviewing the log to determine whether: to issue a warning to the dog owner; to ask the complainant to complete a seven-day log; or to take no further steps.

In 2014 SACA received 244 howling/barking complaints which resulted in the issuance of 69 warnings after receipt of a five-day log, and 19 tickets after receipt of a seven-day log.

The investigation process is not mandated in the Bylaw, but has developed over time as a way to identify legitimate nuisance complaints, ensure that the correct dog owner is identified and gather sufficient evidence to prove a charge in court and meet the “beyond a reasonable doubt” standard that is required.

Report

Nuisance

Section 15 of the Bylaw provides that “No owner of a cat or dog shall permit the cat or dog to bark or howl so as to create a nuisance”.

“Nuisance” is a legal concept referring to a condition or situation that unreasonably interferes with the use or enjoyment of property. The concept of reasonableness is incorporated into the meaning of “nuisance”. Therefore, the court assesses the evidence provided to determine whether an animal’s bark or howl meets the threshold of “nuisance” by causing an unreasonable disturbance to a reasonable person. Each case is fact specific and requires neighbour/complainant evidence.

Current Process

Under the City’s current process, notice of violation tickets are issued where there is sufficient evidence to satisfy the nuisance threshold. This means that a complainant must provide proof that the barking or howling of the animal was of a sufficient duration and volume to show an unreasonable disturbance. This is accomplished through the recording of a barking log. The current process for the issuance of nuisance barking tickets is set out under Attachment 1.

The City’s process for issuing nuisance tickets has, in some situations, been described as onerous by complainants. At its meeting held on November 18, 2013, City Council asked that the process for issuing nuisance tickets be reviewed along with potential alternatives to provide for a more expedited process.

Solutions

In review of the current process for the issuing of nuisance tickets, a primary consideration must be the securing of proper evidence to ensure a conviction can be reasonably obtained if the matter proceeds to trial. Evidence gathering changes made to expedite the issuance of tickets which jeopardize the quality of the evidence being gathered may compromise the entire process, making prosecutions difficult if not impossible. Therefore, a careful balance between expediency and diligence is necessary.

The Administration has discussed the matter with SACA. SACA intends to implement the following changes to their process. These amendments to their processes will be implemented on a case by case basis at SACA's discretion and will continue to ensure proper evidence to secure a conviction in court and provide change from the current *one-size fits all* approach.

Changes to SACA Processes

SACA would receive a nuisance barking/howling complaint, and based on the complainant information and their experience and investigation, would select from one of the following means of enforcement:

1. Plain and Obvious Cases: SACA receives a complaint and some documentation from a complainant and investigates and finds that the dog/cat nuisance identity is not in issue, evidence available clearly supports a charge under the Bylaw. A ticket would be delivered to the owner along with educational information on the Bylaw. To follow-up the complainant would be asked to keep either a five or seven-day log to record any further incidences of concern.
2. Cases Requiring Additional Evidence: SACA receives a complaint and some documentation from the complainant and if the dog/cat nuisance identity is not in issue, and the matter requires further evidence to support a charge, a warning would be delivered to the owner. The complainant would be asked to keep either a five or seven-day log to record any further incidences of concern. If the situation is not remedied, then a ticket could be issued upon SACA's receipt and review of the log.
3. Cases Requiring Some Evidence: SACA would receive a complaint and based on the information received would determine that the evidence does not support immediate action being taken but, based on the circumstances, would ask the complainant to keep either a five or seven-day log to record any incidences. SACA would follow-up on receipt of the completed log, as circumstances warrant, with either a further log request, a warning to the owner or a ticket.

In the alternative, SACA would receive the complaint and counsel the complainant on how to approach the owner of the dog or cat and provide general information on such issues to see if the matter can be resolved amicably and without further Bylaw enforcement procedures. However, a record of the incident would be kept.

For all these scenarios, if SACA deems it appropriate under the circumstances, the five or seven-day log may be shortened to help expedite the process.

Potential Bylaw Amendments

Bylaw amendments may be made to complement the changes being applied to SACA's enforcement process.

Nuisance Criteria

The Bylaw may be amended to include criteria specifying what constitutes a "nuisance" similar to those under Bylaw No. 8244, *The Noise Bylaw, 2003*. As an example, section 15 of the Bylaw may be amended to include criteria similar to the following:

"Barking or Howling

15. Factors for determining whether barking or howling has become a nuisance include, but are not limited to, the following:
 - (a) the proximity of the barking or howling to sleeping facilities;
 - (b) the land use, nature and zoning of the area from which the barking or howling emanates and the area where it is received or perceived;
 - (c) the time of day or night the barking or howling occurs;
 - (d) the duration of the barking or howling;
 - (e) the volume of the barking or howling; and
 - (f) whether the barking or howling is recurrent, intermittent or constant."

The proposed amendment may help SACA better ascertain when barking or howling has reached the level of nuisance and consequently, when warnings may be bypassed or the ticketing process accelerated.

The list of criteria could also be provided to complainants, to help reduce complaints which cannot be substantiated. Potential offenders may also benefit from this

information which may help educate and proactively reduce nuisance/eliminate barking or howling.

Deemed Violations

Additionally, or in the alternative, the Bylaw may be amended to include deemed violations such as those found under section 6 of Bylaw No. 8244, *The Noise Bylaw, 2003*. As an example, section 15 of the Bylaw could be amended to include a provision which deems barking or howling after 11:00 p.m. for durations of 15 minutes or longer, or for intermittent periods of over one-half hour as being a nuisance. Other deeming provisions could potentially be added as well, with the hope being that such sections would act both as a deterrent and a way to expedite the ticketing process when appropriate. Deeming provisions would allow for direct ticketing without use of a barking log, but would still require the testimony of a complainant if the matter were challenged in court.

Due Date for Follow-up and/or Project Completion

The City Solicitor's Office would attend to any proposed amendments to the Bylaw in 2015, and the changes to SACA's processes will simply proceed immediately.

Public Notice

Public Notice pursuant to section 3 of Policy No. C01-021, Public Notice Policy, is not required.

Attachment

1. Saskatoon Animal Control Agency's Current Process – Issuance of Nuisance Barking Tickets.

Report Approval

Written by: Derek Kowalski, Solicitor
Approved by: Patricia Warwick, City Solicitor

Saskatoon Animal Control Agency's Current Process - Issuance of Nuisance Barking Tickets

1. The first step in the process is the issuance of a complaint which results in Saskatoon Animal Control Agency ("SACA") mailing out a five-day barking log to the complainant. The complainant provides SACA with the five-day barking log. If the log is properly completed and a potential nuisance is found, SACA visits the owner of the animal to suggest remedies and provide a written warning. Tickets are not issued at this stage. Rather, warnings are issued along with information packages for educational purposes. Warnings are not required as precursors to a ticket under the Bylaw.
2. Next, SACA provides a seven-day barking log to the complainant and asks that the same process be followed. If the problem persists, upon receipt and review of the seven-day barking log, SACA re-attends at the animal owner's home and a ticket is issued. On borderline cases, SACA will consult with the City Solicitor's Office to weigh-in on the existence of a nuisance based on the evidence.
3. Notice of violation tickets for nuisance barking are \$100, \$200 and \$300 for first, second and third offences, respectively. These are minimum fines under the Bylaw meaning that, in cases with aggravating factors or for repeat offenders, court-imposed fines may be significantly higher.
4. It should be noted that complaints of acute barking late at night may be handled under Bylaw No. 8244, *The Noise Bylaw, 2003*, by the Saskatoon Police Service, under which tickets may be issued immediately upon inspection.

01-5597-103 ADVISORY COMMITTEE ON ANIMAL CONTROL (2015)

			Committee Expenses			
DATE	NUMBER	DESCRIPTION	DEBIT	CREDIT	BALANCE	G/L
January		Opening Balance			21,300.00	
23-Mar	R541970	Dogpoopbags.com	3,893.12	176.96	21,300.00	x
					21,300.00	
					21,300.00	
					21,300.00	
					21,300.00	
					21,300.00	
					21,300.00	

- \$5,500 - Pet Wellness Brochure
- \$6,000 - Pet Rewards Program
- \$6,000 - Educational Campaigns
- \$2,500 - Pet Scoop Bags
- \$1,300 - Other Initiatives

10.
OK-1104-5