

Adopted by Council at its meeting held August 7, 2012 [M49-2012]

/AA

Windsor, Ontario August 7, 2012

**REPORT NO. 34** of the  
**PUBLIC SAFETY STANDING COMMITTEE**  
of its meeting held July 18, 2012

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**Present:** Councillor Dilkens  
Councillor Gignac  
Councillor Ron Jones, Chair

**Absent:** Councillor Payne

That the following recommendation of the Public Safety Standing Committee  
**BE APPROVED** as follows:

Moved by Councillor Dilkens, seconded by Councillor Gignac

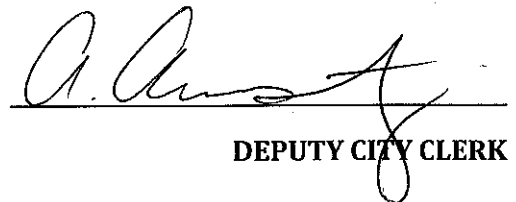
**THAT** City Council **RECEIVE** the following report from the City Solicitor in response to CR488/2007; and further, Administration does not recommend that any by-laws be passed by Council dealing with the regulation or prohibition of the feeding of pigeons or stray animals.

Carried.

**Clerk's Note:** The report authored by the Deputy City Solicitor dated June 4, 2012 entitled "Feeding Pigeons and Stray Animals" is **attached** as background information.

LIVELINK 15989, MHS/9496

  
CHAIRPERSON

  
DEPUTY CITY CLERK

**NOTIFICATION :**

Name	Address	Email Address	Telephone	FAX
Mike Mastromattei	903 Elsmere Ave Windsor N9A 2A8	<a href="mailto:mike@mastromattei.ca">mike@mastromattei.ca</a>	991-4441	



**THE CORPORATION OF THE CITY OF WINDSOR**  
**Public Safety Standing Committee – Administrative Report**

**MISSION STATEMENT:**

*"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"*

<b>LiveLink REPORT #: 15989 MHS/9496</b>	<b>Report Date: June 4, 2012</b>
<b>Author's Name: Wira Vendrasco</b>	<b>Date to Public Safety Standing Committee: July 18, 2012</b>
<b>Author's Phone: 519 255-6100 ext. 6375</b>	<b>Classification #:</b>
<b>Author's E-mail: wvendrasco@city.windsor.on.ca</b>	

**To: Public Safety Standing Committee**

**Subject: Feeding pigeons and stray animals**

**1. RECOMMENDATION: City Wide: X Ward(s):**

That City Council **RECEIVE** the following report from the City Solicitor in response to CR488/2007; and further, Administration does not recommend that any by-laws be passed by council dealing with the regulation or prohibition of the feeding of pigeons or stray animals.

**EXECUTIVE SUMMARY: N/A**

**2. BACKGROUND:**

On June 26, 2006, Council passed Resolution M159-2006 directing the City Solicitor and the Licence Commissioner to draft a regulatory by-law prohibiting the feeding of pigeons and stray animals on private property or rights of way in such a manner or in such quantity as to create a public nuisance. Furthermore, by way of Council Question CQ95-2006, Councillor Halberstadt sought an update to the status of a pigeon feeding by-law.

In response to M159-2006 and CQ95-2006, report #13107 was tabled by council on November 13, 2007 for a 30 day public consultation period. Subsequently on December 17, 2007 council considered the results of the public consultation in report #13186, and the alternative recommendations in report #13187 with attached draft by-law. Council did not accept any of the recommendations in report #13187, but rather by CR488/2007 deferred a decision "until such time as the Legal Department and By-law Enforcement division determine if the existing property standards by-laws are sufficient enough to be applied for this enforcement in terms of complaints about mass feeding of strays and birds".

This report is in response to CR488/2007.

All reports and council resolutions mentioned in this report are attached for ease of reference.

### **3. DISCUSSION:**

Property standards by-laws are passed pursuant to the provisions of s.15.1 of the Building Code Act (BCA). BCA deals with difference aspects of the construction of **new** buildings or structures in accordance with the BCA and Building Code such as review of drawings, issuance of permits and inspections. BCA also deals with the demolition of buildings or structures.

Property standards by-laws deal with **existing** buildings and structures and the lands appurtenant to the buildings and structures. Windsor's Property Standards By-law 147-2011 contains minimum standards that deal with the physical aspects or conditions of existing buildings and appurtenant lands that directly affect the physical condition of the building or structure. Enforcement of this by-law is done by way of Orders to Repair the buildings and structures to meet the minimum standards in the by-law. As a general proposition this by-law does not deal with permitted or prohibited uses or activities of persons on or in the buildings or lands. Where there is non-compliance with a deemed confirmed Order (no appeal by owner to Property Standards Committee) or as confirmed or modified by the committee or a judge (appeal by property owner to Property Standards Committee or court), the municipality may cause the property to be repaired or demolished accordingly.

There are currently requirements in the Property Standards By-law that indicate that all properties are to be kept free of rodents, vermin, termites, injurious insects, harmful pests and conditions that would encourage such pests (Schedule "A" s. 1.40 and 4.1.1) and conditions that promote infestations of birds on vacant non residential lands (Schedule "A" s.4.2.1). The conditions which encourage such pests are related to the physical condition of the building or appurtenant lands, such as openings in buildings, or refuse in buildings or on the lands. The reason for these provisions relate back to the further damage usually done to the physical condition of buildings by such pests.

Section 10(2) of the Municipal Act authorizes municipalities to pass by-laws dealing with animals and s.128 of the Municipal Act authorizes municipalities to pass by-laws dealing with public nuisances. The regulation or prohibition of the feeding of pigeons and stray animals relates to the public nuisance factor that such feedings may cause. That is the rationale provided in report # 13187 and the draft by-law attached to that report. Such a by-law is not directly related to the physical condition or disrepair of buildings which is the mandate of the BCA and Building Code. For that reason it is our view that a by-law regulating or prohibiting the feeding of pigeons or stray animals is appropriately authorized by the Municipal Act and not by the BCA.

The Manager of Compliance and Enforcement indicates that no complaints about this issue have been received.

### **4. RISK ANALYSIS:**

The Municipal Act provision dealing with nuisance is the appropriate enabling legislation for a by-law regulating the feeding of pigeons and stray animals. Using the provisions of the BCA

and Building Code for such a purpose would result in an inappropriate use of the municipality's legislative powers under the BCA.

**5. FINANCIAL MATTERS:**


N/A

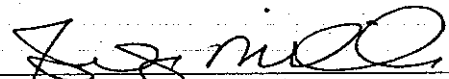
**6. CONSULTATIONS:**

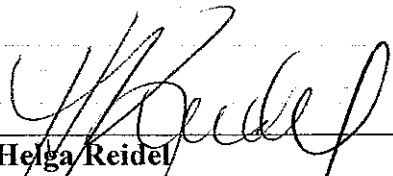
The Chief Building Official and Manager of Compliance and Enforcement.

**7. CONCLUSION:**

Therefore it is our view that the property standards by-law and its enabling legislation BCA are not the appropriate vehicle to for the regulation of the feeding of pigeons and stray animals. Since this issue is not generating complaints a by-law is not warranted.

  
Wira Vendrasco, Deputy City Solicitor  
Manager of Legal Services and Real  
Estate

  
George Wilkki, Corporate Leader Economic  
Development and Public Safety

  
Helga Reidel  
Chief Administrative Officer

**APPENDICES: Reports #13107, 13186 and 13187, and CR488/2007**

**DEPARTMENTS/OTHERS CONSULTED:**

**Name: LeeAnne Doyle, Executive Director/Chief Building Official**  
**Phone #: 519 255-6267 ext. 6444**

**Name: Ann Kalinowski, Manager of Compliance and Enforcement**  
**Phone #: 519 255-6100 ext. 1931**

**NOTIFICATION :**

Name	Address	Email Address	Telephone	FAX

**THE CORPORATION OF THE CITY OF WINDSOR  
CORPORATE SERVICES  
Legal Department – Legal Services Division**

**MISSION STATEMENT:**

*"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"*

LiveLink REPORT #: 13107 MHS/9496	Report Date: October 10, 2007
Author's Name: Jody E. Johnson	Date to Council: November 13, 2007
Author's Phone: 519 255-5100 ext. 6850	Classification #:
Author's E-mail: jjohnson@city.windsor.on.ca	

**TO:** Mayor and Members of City Council

**SUBJECT:** A By-law to prohibit the feeding of pigeons and stray animals

**1. RECOMMENDATION:** City Wide:  Ward(s): \_\_\_\_\_

THAT the Report of the Legal Department-Legal Services Division dated October 10, 2007 titled A By-law to prohibit the feeding of pigeons and stray animals **BE TABLED** for thirty days to allow for public consultation.

**EXECUTIVE SUMMARY:**

N/A

**2. BACKGROUND:**

On June 26, 2006, Council passed Resolution M159-2006 directing the City Solicitor and the Licence Commissioner to draft a regulatory by-law prohibiting the feeding of pigeons and stray animals on private property or rights of way in such a manner or in such quantity as to create a public nuisance. Furthermore, by way of Council Question CQ95-2006, Councillor Halberstadt sought an update to the status of a pigeon feeding By-law. This report and attached draft By-law responds to this issue.

**3. DISCUSSION:**

Prior to 2007, it appears that only one Municipality in Ontario, the City of Hamilton, had enacted any regulations to control the feeding of pigeons or stray animals as a means of addressing nuisance issues. In June, 2007, the Town of Ajax amended its Public Safety and Nuisance By-law to restrict the outdoor feeding of birds and animals in order to minimize the nuisance created by that activity.

When the outdoor feeding of animals takes places, the usual result is that animals are attracted to that food. As a consequence, pigeons and stray animals are often attracted to the food source and

tend to return to and congregate at the location of the feeding. Though such feeding is often well-intentioned, the impact is often more harmful than beneficial. Outdoor feeding of animals often attracts new animals to a neighbourhood, with results that can cause nuisance, such as noise, excrement and conflicts between animals and birds.

When food, including seed, is set out for birds, and in particular pigeons, not only are the birds and pigeons attracted but so are rodents, squirrels and other animals. When a food source becomes available for pigeons and other birds, those birds tend to congregate in the area where the food is placed and they often perch on roof tops, antennae and window sills awaiting the food supply. This can result in the homes in the area being soiled by bird excrement, noise generated by a flock of birds and potential damage to roof structures by large, regular groups of birds. In turn, this can result in a nuisance and inhibit the normal use and enjoyment of property by persons in the area of the feeding.

Should Council enact the proposed By-law, it will likely be seen as a benefit by those who feel they are exposed to nuisance as a result of the feeding of pigeons and stray animals. They will likely be pleased at a reduction in the unwelcome congregation of pigeons and animals on their property. On the other hand, people who habitually feed pigeons and stray animals will likely view the enactment of the By-law as an intrusion on this activity. In particular, those who feed feral cats throughout the City may feel that the end result is the inhumane treatment of the feral cat population.

It is necessary to consider both the right of a person not to be unduly inconvenienced by pigeons or stray animals congregating on their property or causing a nuisance that affects the use of their property and the right of another person to feed pigeons or stray animals. Once the person exercising the right to feed pigeons or stray animals impacts another's enjoyment of their property due to the creation of a nuisance, it is reasonable to attempt to eliminate the feeding activity that results in the nuisance to others.

#### **4. FINANCIAL MATTERS**

Resources will be required to enforce this By-law. Even if enforcement is carried out on a complaint basis, it will still be time consuming and it is not yet known what the demand for enforcement will be. If additional resources are not available for the enforcement of the By-law, existing enforcement resources will be stretched and it is likely that Enforcement Officers will be unable to pursue enforcement of other By-laws. This may result in reduced enforcement of By-laws such as dirty yards, dog bites, business licences, tall grass and weeds.

Costs will include Enforcement Staff time and resources required to respond to complaints and to lay charges under the By-law and the costs related to the prosecution of offences of the By-law. If existing resources are diverted to the enforcement of this By-law, revenue from other By-law offences may be reduced.

In addition, consideration should be given to a public education campaign so that people are aware of the prohibitions in the By-law. This is an important component of the implementation of the By-law because if it is enacted, the City will want to ensure that people understand that the feeding of pigeons and stray animals will not stop immediately. The nuisance effects of feeding should be explained. Public education will inform people that enforcement of the By-law can only proceed if there is sufficient evidence that the By-law is being offended and that the Enforcement result is a ticket or a summons.

## 5. COMMUNITY STRATEGIC PLAN

The draft By-law supports a Diverse and Caring Society. It will help ensure the protection of residents, visitors and property by reducing the potential for nuisance creation as a result of the feeding of pigeons and stray animals.

The draft By-law supports a Clean and Efficient Environment. The enforcement of the draft By-law may reduce the nuisance created by excrement from pigeons and stray animals and may reduce damage to property that occurs when pigeons and stray animals congregate together.

The draft By-law supports the City of Windsor's goal to be a Responsive and Responsible Government. The issue of nuisance created through the feeding of pigeons and stray animals was raised as public input to City Councillors. The draft By-law responds to requests that the City take action to prevent the feeding of pigeons and stray animals on private property and on public rights-of-way as a means to reduce nuisance to other properties.


## 6. CONSULTATIONS:


Diane Sibley – Licence Commissioner.

## 7. CONCLUSION:

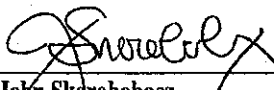
In order to prevent public nuisance caused when pigeons and stray animals spoil, roost or loiter as a result of being fed or attracted to an area, Council can regulate the activity of feeding pigeons and stray animals by By-law and can enforce the By-law provisions to ensure the intended result is achieved.

The draft By-law should be tabled for thirty days to allow for public consultation and input from interested parties.

  
George Wilkki  
City Solicitor

  
Diane Sibley  
Licence Commissioner

  
Helga Reidel  
General Manager of Corporate Services

  
John Skorobohacz  
Chief Administrative Officer

JEJ

### APPENDICES:

Draft By-law – A By-law to Prohibit the Feeding of Pigeons and Stray Animals on Private Property and Public Rights-of-Way.

### DEPARTMENTS/OTHERS CONSULTED:

Name: Diane Sibley, Licence Commissioner  
Phone #: 519 255-6222 ext. 6428



NOTIFICATION :				
Name	Address	Email Address	Telephone	FAX
Dorit Girash, Jazzpur Society for Animal Protection	647 Ouellette Avenue Windsor, ON N9A 4J4	info@jazzpur.org dgirash@cogeco.ca		
John Roushorne, Essex County Humane Society	1375 Provincial Road Windsor, ON N9A 6J3			

BY -LAW NUMBER -2007

A BY-LAW TO PROHIBIT THE FEEDING OF  
PIGEONS AND STRAY ANIMALS ON  
PRIVATE PROPERTY AND RIGHTS-OF-WAY

Passed the        day of        , 2007.

WHEREAS Council deems it necessary to prevent public nuisances when pigeons and stray animals spoil, roost, or loiter on property without the occupiers or owners consent, caused when persons feed or attract pigeons and stray animals to their private property but fail to limit or control them from entering, damaging or otherwise causing nuisance to neighboring properties;

AND WHEREAS Paragraph 2 of section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that by-laws may be passed with respect to the health, safety and well being of persons;

AND WHEREAS Paragraph 3 of section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that by-laws may be passed with respect to animals;

AND WHEREAS Paragraph 1 of section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits by-laws for prohibiting and regulating public nuisance, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS it has been determined that it is appropriate to prohibit the feeding of pigeons and stray animals for the purposes of health and safety and to ensure no public nuisance is caused;

AND WHEREAS Council wishes to promote the use and enjoyment of property in a healthy and sanitary manner that is free from unwanted pigeons and stray animals;

THEREFORE the Council of The Corporation of the City of Windsor enacts as follows:

**DEFINITIONS**

1. In this By-law:

- (a) "animal" means any member of the animal kingdom, other than a human;
- (b) "City" means the City of Windsor;
- (c) "feeding" or "feed" includes regular or intermittent supply of food, or allowing the placing or maintenance of a supply of food on a regular or intermittent basis, which food is accessible to or accessed by pigeons or stray animals;
- (d) "Municipal Law Enforcement Officer" means a person designated as a municipal law enforcement officer pursuant to Section 15(l) of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended, and appointed for the purpose of enforcing the provisions of City By-laws;
- (e) "other property" does not include a property which is more than 75 metres from the property line of the property where feed being consumed by pigeons and stray animals is located or property which is more than 75 metres from the property line where the feeding or otherwise attracting of pigeons and stray animals occurs;

- (f) "pigeons" shall include, but are not limited to, racing, runt and tumbler pigeons;
- (g) "Police Officer" means an officer of the Windsor Police Service and includes a special constable;
- (h) "public nuisance" in the absence of evidence to the contrary is deemed to include;
  - (i) pigeons or stray animals that defecate on property, things or persons located there;
  - (ii) pigeons or other stray animals roosting, landing or nesting on property; or
  - (iii) pigeons or other stray animals which cause any interference with the normal use or enjoyment of property.
- (i) "stray animal" means an animal whose owner is unknown or cannot be located, or any such animal whose owner is known but permits the animal to roam at large on the streets, alleys, roads, range or premises of another without permission.
- (j) "their property" in regards to a person, means property which the person owns, occupies or has control over, but does not include property owned or occupied by the Governments of Canada, Ontario, a municipality or local board thereof.

**PROHIBITIONS**

2. No person shall, on their private property or on the public right-of-way, feed or otherwise attract pigeons or stray animals or allow, cause or permit the feeding or attraction of pigeons or stray animals, such that the pigeons or stray animals cause a public nuisance on other property.

**ENFORCEMENT**

3. It shall be the duty of the Police Officers of the Windsor Police Service and Municipal Law Enforcement Officers to enforce the provisions of this By-law.

4. Every person who contravenes any provision of this By-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than Five Thousand Dollars (\$5,000.00), exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

5. This By-law shall come into force and take effect on the day of the final passing thereof.

EDDIE FRANCIS, MAYOR

CLERK

First Reading - , 2007  
 Second Reading - , 2007  
 Third Reading - , 2007

**THE CORPORATION OF THE CITY OF WINDSOR  
CORPORATE SERVICES  
Legal Department – Legal Services Division**

**MISSION STATEMENT:**

*"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"*

LiveLink REPORT #: 13186 MHS/9496	Report Date: December 4, 2007
Author's Name: Jody E. Johnson	Date to Council: December 17, 2007
Author's Phone: 519 255-5100 ext. 6850	Classification #:
Author's E-mail: jjohnson@city.windsor.on.ca	

**TO:** Mayor and Members of City Council

**SUBJECT:** A By-law to prohibit the feeding of pigeons and stray animals – summary of public comments

**1. RECOMMENDATION:** City Wide:  Ward(s): \_\_\_\_\_

THAT the Report of the Legal Department-Legal Services Division dated December 4, 2007 titled A By-law to prohibit the feeding of pigeons and stray animals – summary of public comments **BE RECEIVED** for information.

**EXECUTIVE SUMMARY:**

N/A

**2. BACKGROUND:**

On November 13, 2007, Council considered a report and draft By-law prepared by Administration regarding the feeding of pigeons and stray animal (LiveLink Report #13107), and passed Resolution CR441/2007, which states:

That the report of the Legal Department – Legal Services Division dated October 10, 2007 titled A By-law to prohibit the feeding of pigeons and stray animals **BE TABLED** for thirty days to allow for public consultation.

This Council Report serves as a companion report to LiveLink Report #13107, considered by Council November 13, 2007.

### 3. DISCUSSION:

Thirty-seven members of the public have provided formal comment to the City of Windsor on the draft By-law via letters, emails and telephone calls (to both 311 and the Legal Department – Legal Services Division). Of those thirty-seven, fifteen expressed support for the By-law and twenty-two expressed opposition to it. Not all of those that provided input gave detailed reasons for their position and many simply provided comment to the extent that they either supported or opposed it.

However, some people chose to provide comment as to why they supported or opposed the By-law. Those who expressed support for the By-law and gave details provided the following reasons:

- Support a ban on the feeding of cats;
- The birds make too much mess and the feeding shouldn't be allowed;
- Problems in an apartment building where one neighbour attracts pigeons to the balconies;
- Like the By-law and want to see it promoted;
- Feels pigeon feeding is a public nuisance;
- Pigeons make too much mess and cause health issues, concerned about building structure of apartment building due to pigeon mess.

Those who expressed opposition to the By-law and gave details provided the following reasons:

- Would like to see any bans only in designated areas;
- Concerned about the well-being of stray cats;
- Concern over animals (expressed by multiple persons);
- Wants the By-law to apply to the feeding of pigeons only;
- Concern for the well being of animals as living things;
- Wants to see the focus on other issues;
- Bird feeding is legitimate hobby;
- Feels the By-law is unenforceable.

At the Council meeting held November 13, 2007, Councillor Valentinis suggested that the title of the draft By-law be changed from "A By-law to prohibit the feeding of pigeons and stray animals" to "A By-law to regulate the feeding of pigeons and stray animals".

### 4. FINANCIAL MATTERS

N/A

### 5. COMMUNITY STRATEGIC PLAN

N/A

### 6. CONSULTATIONS:

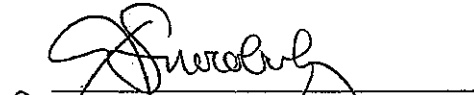
N/A

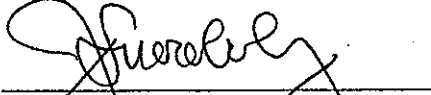
**7. CONCLUSION:**

Thirty-five members of the public formally contacted the City of Windsor to provide input on the draft By-law to prohibit the feeding of pigeons and stray animals. Thirteen people expressed support for the draft By-law and twenty-two expressed opposition to it. Of those people who provided reason for their position, those reasons were diverse.

  
George Wilkki  
City Solicitor

  
Diane Sibley  
Licence Commissioner

  
Helga Reidel  
General Manager of Corporate Services  
JEL

  
John Skorobohacz  
Chief Administrative Officer

**APPENDICES:**

**DEPARTMENTS/OTHERS CONSULTED:**  
Name:  
Phone #:

**THE CORPORATION OF THE CITY OF WINDSOR  
CORPORATE SERVICES  
Legal Department – Legal Services Division**



**MISSION STATEMENT:**

*"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"*

LiveLink REPORT #: 13187 MHS/9496	Report Date: December 4, 2007
Author's Name: Jody E. Johnson	Date to Council: December 17, 2007
Author's Phone: 519 255-5100 ext. 6850	Classification #:
Author's E-mail: jjohnson@city.windsor.on.ca	

**TO:** Mayor and Members of City Council

**SUBJECT:** A By-law to prohibit the feeding of pigeons and stray animals

**1. RECOMMENDATION:** City Wide:  Ward(s): \_\_\_\_\_

THAT the Report of the Legal Department-Legal Services Division dated October 10, 2007 titled A By-law to prohibit the feeding of pigeons and stray animals **BE APPROVED** and, further, that the City Solicitor **BE REQUESTED** to prepare the necessary by-law for consideration at a future meeting of Council.

OR

THAT the Report of the Legal Department-Legal Services Division dated October 10, 2007 titled A By-law to prohibit the feeding of pigeons and stray animals **BE NOTED AND FILED**.

**EXECUTIVE SUMMARY:**

N/A

**2. BACKGROUND:**

On November 13, 2007, Council considered a report and draft By-law prepared by Administration regarding the feeding of pigeons and stray animal (LiveLink Report #13107), and passed Resolution CR441/2007, which states:

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### **3. DISCUSSION:**

Prior to 2007, it appears that only one Municipality in Ontario, the City of Hamilton, had enacted any regulations to control the feeding of pigeons or stray animals as a means of addressing nuisance issues. In June, 2007, the Town of Ajax amended its Public Safety and Nuisance By-law to restrict the outdoor feeding of birds and animals in order to minimize the nuisance created by that activity.

When the outdoor feeding of animals takes place, the usual result is that animals are attracted to that food. As a consequence, pigeons and stray animals are often attracted to the food source and tend to return to and congregate at the location of the feeding. Though such feeding is often well-intentioned, the impact is often more harmful than beneficial. Outdoor feeding of animals often attracts new animals to a neighbourhood, with results that can cause nuisance, such as noise, excrement and conflicts between animals and birds.

When food, including seed, is set out for birds, and in particular pigeons, not only are the birds and pigeons attracted but so are rodents, squirrels and other animals. When a food source becomes available for pigeons and other birds, those birds tend to congregate in the area where the food is placed and they often perch on roof tops, antennae and window sills awaiting the food supply. This can result in the homes in the area being soiled by bird excrement, noise generated by a flock of birds and potential damage to roof structures by large, regular groups of birds. In turn, this can result in a nuisance and inhibit the normal use and enjoyment of property by persons in the area of the feeding.

Should Council enact the proposed By-law, it will likely be seen as a benefit by those who feel they are exposed to nuisance as a result of the feeding of pigeons and stray animals. They will likely be pleased at a reduction in the unwelcome congregation of pigeons and animals on their property. On the other hand, people who habitually feed pigeons and stray animals will likely view the enactment of the By-law as an intrusion on this activity. In particular, those who feed feral cats throughout the City may feel that the end result is the inhumane treatment of the feral cat population.

It is necessary to consider both the right of a person not to be unduly inconvenienced by pigeons or stray animals congregating on their property or causing a nuisance that affects the use of their property and the right of another person to feed pigeons or stray animals. Once the person exercising the right to feed pigeons or stray animals impacts another's enjoyment of their property due to the creation of a nuisance, it is reasonable to attempt to eliminate the feeding activity that results in the nuisance to others.



#### **4. FINANCIAL MATTERS**

Resources will be required to enforce this By-law. Even if enforcement is carried out on a complaint basis, it will still be time consuming and it is not yet known what the demand for enforcement will be. If additional resources are not available for the enforcement of the By-law, existing enforcement resources will be stretched and it is likely that Enforcement Officers will be unable to pursue enforcement of other By-laws. This may result in reduced enforcement of By-laws such as dirty yards, dog bites, business licences, tall grass and weeds.

Costs will include Enforcement Staff time and resources required to respond to complaints and to lay charges under the By-law and the costs related to the prosecution of offences of the By-law. If existing resources are diverted to the enforcement of this By-law, revenue from other By-law offences may be reduced.

In addition, consideration should be given to a public education campaign so that people are aware of the prohibitions in the By-law. This is an important component of the implementation of the By-law because if it is enacted, the City will want to ensure that people understand that the feeding of pigeons and stray animals will not stop immediately. The nuisance effects of feeding should be explained. Public education will inform people that enforcement of the By-law can only proceed if there is sufficient evidence that the By-law is being offended and that the Enforcement result is a ticket or a summons.

#### **5. COMMUNITY STRATEGIC PLAN**

The draft By-law supports a Diverse and Caring Society. It will help ensure the protection of residents, visitors and property by reducing the potential for nuisance creation as a result of the feeding of pigeons and stray animals.

The draft By-law supports a Clean and Efficient Environment. The enforcement of the draft By-law may reduce the nuisance created by excrement from pigeons and stray animals and may reduce damage to property that occurs when pigeons and stray animals congregate together.

The draft By-law supports the City of Windsor's goal to be a Responsive and Responsible Government. The issue of nuisance created through the feeding of pigeons and stray animals was raised as public input to City Councillors. The draft By-law responds to requests that the City take action to prevent the feeding of pigeons and stray animals on private property and on public rights-of-way as a means to reduce nuisance to other properties.

#### **6. CONSULTATIONS:**

Diane Sibley – Licence Commissioner.

#### **7. CONCLUSION:**

In order to prevent public nuisance caused when pigeons and stray animals spoil, roost or loiter as a result of being fed or attracted to an area, Council can regulate the activity of feeding pigeons and stray animals by By-law and can enforce the By-law provisions to ensure the intended result is achieved.

The draft By-law should be tabled for thirty days to allow for public consultation and input from interested parties.

*per Patrick Bevil*

George Wilkki  
City Solicitor

*A. Armstrong*

Diane Sibley  
Licence Commissioner

*Helga Reidel*

Helga Reidel  
General Manager of Corporate Services

*John Skorobohacz*

John Skorobohacz  
Chief Administrative Officer

J.E.J.

**APPENDICES:**

Draft By-law – A By-law to Prohibit the Feeding of Pigeons and Stray Animals on Private Property and Public Rights-of -Way.

**DEPARTMENTS/OTHERS CONSULTED:**

Name: Diane Sibley, Licence Commissioner  
Phone #: 519 255-6222 ext. 6428

**NOTIFICATION :**

Name	Address	Email Address	Telephone	FAX
Dorit Girash, Jazzpur Society for Animal Protection	647 Ouellette Avenue Windsor, ON N9A 4J4	info@jazzpur.org dgirash@cogeco.ca		
John Roushorne, Essex County Humane Society	1375 Provincial Road Windsor, ON N9A 6J3			

BY - LAW NUMBER -2007

A BY-LAW TO PROHIBIT THE FEEDING OF PIGEONS AND  
STRAY ANIMALS ON PRIVATE PROPERTY AND RIGHTS-OF-  
WAY

Passed the        day of        , 2007.

WHEREAS Council deems it necessary to prevent public nuisances when pigeons and stray animals spoil, roost, or loiter on property without the occupiers or owners consent, caused when persons feed or attract pigeons and stray animals to their private property but fail to limit or control them from entering, damaging or otherwise causing nuisance to neighboring properties;

AND WHEREAS Paragraph 2 of section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that by-laws may be passed with respect to the health, safety and well being of persons;

AND WHEREAS Paragraph 3 of section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that by-laws may be passed with respect to animals;

AND WHEREAS Paragraph 1 of section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits by-laws for prohibiting and regulating public nuisance, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS it has been determined that it is appropriate to prohibit the feeding of pigeons and stray animals for the purposes of health and safety and to ensure no public nuisance is caused;

AND WHEREAS Council wishes to promote the use and enjoyment of property in a healthy and sanitary manner that is free from unwanted pigeons and stray animals;

THEREFORE the Council of The Corporation of the City of Windsor enacts as follows:

**DEFINITIONS**

1. In this By-law:

- (a) "animal" means any member of the animal kingdom, other than a human;
- (b) "City" means the City of Windsor;
- (c) "feeding" or "feed" includes regular or intermittent supply of food, or allowing the placing or maintenance of a supply of food on a regular or intermittent basis, which food is accessible to or accessed by pigeons or stray animals;
- (d) "Municipal Law Enforcement Officer" means a person designated as a municipal law enforcement officer pursuant to Section 15(1) of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended, and appointed for the purpose of enforcing the provisions of City By-laws;

- (e) "other property" does not include a property which is more than 75 metres from the property line of the property where feed being consumed by pigeons and stray animals is located or property which is more than 75 metres from the property line where the feeding or otherwise attracting of pigeons and stray animals occurs;
- (f) "pigeons" shall include, but are not limited to, racing, runt and tumbler pigeons;
- (g) "Police Officer" means an officer of the Windsor Police Service and includes a special constable;
- (h) "public nuisance" in the absence of evidence to the contrary is deemed to include:
  - (i) pigeons or stray animals that defecate on property, things or persons located there;
  - (ii) pigeons or other stray animals roosting, landing or nesting on property; or
  - (iii) pigeons or other stray animals which cause any interference with the normal use or enjoyment of property.
- (i) "stray animal" means an animal whose owner is unknown or cannot be located, or any such animal whose owner is known but permits the animal to roam at large on the streets, alleys, roads, range or premises of another without permission.
- (j) "their property" in regards to a person, means property which the person owns, occupies or has control over, but does not include property owned or occupied by the Governments of Canada, Ontario, a municipality or local board thereof.

## PROHIBITIONS

2. No person shall, on their private property or on the public right-of-way, feed or otherwise attract pigeons or stray animals or allow, cause or permit the feeding or attraction of pigeons or stray animals, such that the pigeons or stray animals cause a public nuisance on other property.

## ENFORCEMENT

3. It shall be the duty of the Police Officers of the Windsor Police Service and Municipal Law Enforcement Officers to enforce the provisions of this By-law.

4. Every person who contravenes any provision of this By-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than Five Thousand Dollars (\$5,000.00), exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

5. This By-law shall come into force and take effect on the day of the final passing thereof.

**EDDIE FRANCIS, MAYOR**

**CLERK**

First Reading - ,2007  
Second Reading - ,2007  
Third Reading - ,2007

Valentinis

Marra

CR4880/0200701

That the report of the City Solicitor dated December 4, 2007 entitled "A By-Law to prohibit the feeding of pigeons and stray animals? BE DEFERRED until such time as the Legal Department and By-law Enforcement division determine if the existing property standards by-laws are sufficient enough to be applied for this enforcement in terms of complaints about mass feeding of strays and pigeons.

Carried.

Report Number 13187 MHS/9496 5

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ABSTRACT ? SV ? DEFERRED LIST

**AUG 07 2012**

**ADDITIONAL  
INFORMATION**

re: REPORT NO. 34

**PUBLIC SAFETY STANDING CMTE**

**From:** Mike Mastromattei [mailto:mike@mastromattei.ca]

**Sent:** August 7, 2012 11:17 AM

**To:** Mayor; Dilkens, Drew; Jones, Ron; Valentinis, Fulvio; Halberstadt, Alan; Sleiman, Ed; Gignac, Jo-Anne (Councillor); Hatfield, Percy; Marra, Bill; Payne, Hilary; Maghnieh, Al

**Cc:** clerks

**Subject:** August 7 Council meeting, Public Safety Report 34

Members of Council,

I attended the July 18th meeting of the Public Safety Standing Committee as a delegate to address Report 34: Feeding Pigeons and Stray Animals. While I relayed the details of my personal experience dealing with the results of this activity, including significant time and financial expense, the message was twofold. First, that complaints about mass feeding of animals have been made since Council deferred a decision via CR488/2007:

"until such time as the Legal Department and By-law enforcement division determine if the existing property standards by-laws are sufficient enough to be applied for this enforcement in terms of complaints about mass feeding of strays and birds."

Second, that despite repeated efforts to utilize existing property standards by-laws to deal with this issue over the course of years, very little success was achieved in actually lodging a complaint. At times, city staff actively discouraged and criticized these efforts. In one instance where a complaint was successfully lodged, the investigation was fruitless because the Compliance Officer was not given proper contact details and the existence of evidence (pictures) was omitted.

I was, therefore, taken somewhat by surprise when the committee subsequently sent the report to Council for consideration without correction. The implicit corollary to my presentation, that the report is factually incorrect, did not appear to receive any consideration. Specifically, the statement

"The Manager of Compliance and Enforcement indicates that no complaints about this issue have been received."

makes a representation that is not correct. It is the only consideration used to determine the Administration's recommendation:

"Since this issue is not generating complaints a by-law is not warranted."

It is my hope that, by drawing attention to this error, simple diligence will compel these committee members and Council to return the report to Committee for correction.

Finally, should Council decide to approve the recommendation of Administration that no by-laws be passed, I would like to point out that land owners within the municipality may

be forced to utilize Section 31 of the Fish and Wildlife Protection Act, 1997. It can be found at:

[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_97f41\\_e.htm#BK35](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97f41_e.htm#BK35)

I believe all stakeholders would agree this solution is not ideal, nor will it be successful over the medium to long term without addressing the source of an unnaturally large wildlife population. I encourage Council to embrace the message from every recognized animal welfare and environmental conservation group: Don't feed the wildlife!

Sincerely,

Mike Mastromattei

## PROTECTION OF PROPERTY

### Protection of property

**31. (1)** If a person believes on reasonable grounds that wildlife is damaging or is about to damage the person's property, the person may, on the person's land,

- (a) harass the wildlife for the purpose of deterring it from damaging the person's property; or
- (b) capture or kill the wildlife. 1997, c. 41, s. 31 (1).

### Agents

**(2)** The person may use an agent to harass, capture or kill the wildlife under subsection (1) if the agent has the authorization of the Minister or belongs to a class of agents prescribed by the regulations. 1997, c. 41, s. 31 (2).

### Exceptions

**(3)** Subsection (1) does not apply to,

- (a) a moose or woodland caribou; or
- (b) a white-tailed deer, an American elk or other wildlife prescribed by the regulations, unless the person harasses, captures or kills the wildlife in accordance with the authorization of the Minister.

(c) Repealed: 2009, c. 33, Sched. 22, s. 2 (15).

1997, c. 41, s. 31 (3); 2009, c. 33, Sched. 22, s. 2 (15).

### Scope of authority

**(4)** A person who harasses, captures or kills wildlife under this section shall not harass, capture or kill more wildlife than is necessary to protect the property. 1997, c. 41, s. 31 (4).

### Unnecessary suffering

**(5)** A person who harasses, captures or kills wildlife under this section shall not cause it unnecessary suffering. 1997, c. 41, s. 31 (5).

### Certain provisions do not apply

**(6)** Sections 5 and 6, clauses 11 (1) (a) to (d), section 27 and such other provisions of this Act and the regulations as are prescribed by the regulations do not apply to a person who harasses, captures or kills wildlife under this section. 1997, c. 41, s. 31 (6).

### Night hunting

**(7)** Section 20 does not apply to a person who, under this section, harasses, captures or kills wildlife, other than white-tailed deer, American elk or wildlife prescribed for the purpose of clause (3) (b). 2009, c. 33, Sched. 22, s. 2 (16).

### Capture and release

**(8)** Subsection 40 (1) and section 46 do not apply to a person who captures wildlife under this section and releases it in accordance with the regulations or in accordance with an authorization of the Minister. 1997, c. 41, s. 31 (8).

### Trapping bears

**(9)** Section 21 does not apply to an agent acting under subsection (2) who traps a black bear if the agent has the authorization of the Minister to trap black bears. 1997, c. 41, s. 31 (9).



**Disposal**

(10) A white-tailed deer, American elk or other wildlife prescribed by the regulations that is captured or killed under this section shall be disposed of in accordance with the directions of the Minister. 1997, c. 41, s. 31 (10); 2009, c. 33, Sched. 22, s. 2 (17).

