

COUNCIL REPORT

M&C No.	2019-38
Report Date	February 21, 2019
Meeting Date	February 25, 2019
Service Area	Corporate Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: A By-Law Respecting Closing of Roads, Streets or Highways in The City of Saint John

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
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RECOMMENDATION

It is recommended that Common Council give first and second reading to a By-Law Respecting the Closing of Roads, Streets or Highways in The City of Saint John.

EXECUTIVE SUMMARY

The Municipalities Act while in effect set out in detail the process to be followed prior to a Council's closing a public street. A street closing under that process was accomplished by Council's enacting a by-law identifying the street or portion thereof in question. However, the Local Governance Act ("LGA") which repealed and replaces the Municipalities Act does not stipulate the process to be followed. Rather, the LGA simply enables a council to adopt a by-law respecting: "(p) subject to the Highway Act, (ii) the temporary and permanent opening and closing of roads, streets and highways,". The attached proposed by-law would, if enacted, assure from a legal perspective the legitimacy and effectiveness of any Council decision to close a public street or portion thereof.

PREVIOUS RESOLUTION

N/A

STRATEGIC ALIGNMENT

A Street Closing By-Law supports Council decisions which align with the Council priorities of growth and prosperity and valued service delivery.

REPORT

The Municipalities Act stipulated certain conditions precedent to the closing of a public street:

1. publication of a notice of Council's intention to consider the passing of a by-law to close a street,
2. the fixing by Council of the time and place for consideration of objections to the by-law; and to hear from those wishing to speak to the proposed closing, and
3. as well as hearing and considering any written objections received as well as any verbal representations from persons wishing to speak for or against the proposed closing.

The LGA by contrast simply enables a Council to: "10(1) ... make by-laws for municipal purposes respecting

(p) subject to the Highway Act,

(ii) the temporary and permanent opening and closing of roads, streets and highways"

The proposed by-law in large part mimics the process as had been stipulated by the now repealed Municipalities Act. The only significant change is that the publication of notice will be satisfied by posting on the City's website for 14 days prior to the scheduled hearing to be conducted by Council. This contrasts with the earlier requirement that publication be by way of newspaper notice.

The matter of a possible street closing will reach Council in the same fashion as has been the case for many years, i.e. a recommendation will be made by the City Manager that Common Council consider enacting a by-law which would close an identified public street or portion thereof.

If Council accepts the recommendation, the Common Clerk would be directed to advertise that decision for the stipulated period of time;

Council would at the time and date stipulated in the Notice consider any written objections received and hear from anyone wishing to speak in favour of or opposition to the proposed closing; and

Finally, Common Council would decide whether to enact a by-law effecting the closing of the street in question.

SERVICE AND FINANCIAL OUTCOMES

The consideration of a requested street closing is oft times associated with proposed development or City infrastructure initiatives.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The text of the proposed by-law has been distributed to the Transportation and Environment, Growth and Community Development and Finance and Administration (Real Property Division) service areas for review and any comments or questions received have been accounted for in the submitted text.

ATTACHMENTS

Draft of the text of the proposed Street Closing By-Law.