

COUNCIL REPORT

M&C No.	M&C 2019-37
Report Date	March 01, 2019
Meeting Date	March 11, 2019
Service Area	Transportation and Environment Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Provincial Request for Deer Nuisance Program

OPEN OR CLOSED SESSION

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

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Tim O'Reilly/ Emilie Murphy</i>	<i>Michael Hugenholtz</i>	<i>John Collin</i>

RECOMMENDATION

Your City Manager recommends that Common Council endorse a request to the provincial Minister of Energy and Resource Development that the Nuisance Deer Management Assistance Program be implemented within the territorial boundaries of The City of Saint John, and further that the Common Clerk be directed to provide the Minister with a copy of this resolution.

EXECUTIVE SUMMARY

In September of 2017, Common Council directed City staff to investigate ways to mitigate problems caused by the deer population, including liaison with the Province. Staff subsequently provided advice that a multi-faceted approach would provide the best means of reducing the deer population and/or managing the associated risks of property damage, vehicle accidents, and the spread of lyme disease. Through a series of Council reports since September 2017, staff sought support for, and followed up on several measures, including:

- Installing traffic warning signs now alert motorists in areas of higher risk deer accidents through the analysis of quality accident data available to the Saint John Police Force,
- Continuing and enhancing public communications that describe the risks of deer population in urban areas and suggests ways citizens can help control the population continues including the impact feeding deer has on encouraging higher urban deer populations, and
- Enhancing a by-law prohibiting feeding to further encourage residents not to feed deer.

City staff refers Council to the attached M&C 2019-18 for further background.

An available Provincial Nuisance Deer Management Assistance Program has also been suggested by staff. This program would encourage a reduction in the population of deer through an enhancement to the current provincial bow hunting regulations.

PREVIOUS RESOLUTION

At its February 25, 2019 meeting Common Council endorsed 3rd Reading of a by-law that would prohibit feeding of deer. Previous resolutions are also referenced in the attached M&C 2019-18.

REPORT

The Executive Summary section of this report and previous Council reports described staff's overall recommended plan to respond to Council's original motion from September 2017.

Staff does want to take this opportunity to reiterate that reducing the urban deer population or managing associated risks is not an easy problem to solve, particularly with any one solution. Best practices used in other jurisdictions highlight limitations of any one solution and identified the need for a multi-faceted approach as has been recommended by City staff for Saint John.

City staff is recommending the final approach to this overall plan, being a request to the Province to allow their Nuisance Deer Management Assistance Program to be implemented in Saint John, first in Millidgeville.

At your February 11, 2019 meeting, members of Council questioned different aspects of the recommended multi-faceted solution. At the suggestion of your City Manager, City staff committed to returning to Council at a future meeting to provide more detailed answers to questions.

Safety of Bow Hunting in Millidgeville as Part of Nuisance Program

One theme of questions asked by Council members at the February 11 meeting included how bow hunting could be safe in the neighbourhood. Specific paraphrased questions included:

1. Are the bow hunters involved in the program qualified?
2. What happens if a bow hunter trespasses on someone's property while hunting?

A suite of measures are in place as part of the Provincial Nuisance Program to help bow hunting be implemented as safely as possible:

- City staff has recommended the program be implemented in a small part of the City (Millidgeville) for the first year (2019) to help manage the program.
- A property owner must give permission for their property to be used for hunting. This allows property owners who wish not to participate in the program for any reason (safety concerns or otherwise) to opt-out without any action being taken.
- Bow hunters must not hunt within 100 metres of a dwelling on a property in which the owner did not give permission.
- The Provincial Department of Energy & Resource Development (DERD) will review each property for safety before it is approved for hunting. For instance, the Department completes site visits where hunting may occur within 100 metres of the dwelling on that property.
- Bow hunters are given map(s) with areas approved for hunting.
- Bow hunters must take a Provincially-endorsed mandatory hunter education course before being considered qualified to be issued a hunting permit. This course includes a practical shooting test to demonstrate accuracy.
- Although the course is taken once by a hunter, the Provincial Department of Energy & Resource Development (DERD) may refuse a hunter a hunting permit in a given year if the individual has obtained a criminal record or has previously violated hunting regulations.
- Property owners who are approved to use their property for hunting also get to choose the qualified hunter.
- Conservation Officers with the Provincial Department of Justice would make a presence during the hunting season to ensure compliance with the program and complete enforcement when necessary, including ensuring hunting is not being completed on unapproved property. These officers would have a better understanding than the Saint John Police Force of the hunting regulations and nuisance program details, including knowing which properties are part of the program.
- The Nuisance Program has been implemented for several years in other parts of the Province to allow opportunities for improvement.
- Although more related to hunting generally (hunting as part of the program can only be completed on approved property), property owners of larger properties (i.e. where bow hunting can occur further than 100 metres of the dwelling on that property) can place signs indicating “No Hunting” or red disks or red painted bands to mark a property as “No Hunting”. It would be a violation of the provincial hunting regulations for a hunter to ignore these signs.

Enforcement of the By-Law Respecting Feeding of Deer

The other theme of questions raised at the February 11 Council meeting considered enforcement of the new by-law, such as:

1. Do planting certain plants or trees that attract deer such as an apple tree be considered a violation?, and
2. How do complaints from a neighbour translate into someone being found in violation of the by-law and pay a fine?

One must “*feed or otherwise purposefully attract deer*” to be considered in violation of the by-law. The City would need to demonstrate in court that someone planted a tree to attract deer, which would be difficult to prove.

Someone must plead guilty or be found guilty in court before being considered in violation of the by-law and pay a fine. Proving guilt would be the City’s responsibility and would likely require multiple pieces of evidence. One complaint by a neighbour that results in a notice requesting compliance would not be sufficient. The neighbour that lodged the complaint would also need to be willing to testify under oath what they witnessed.

As previously reported to Council, resource limitations and competing legal priorities would make it difficult for the City to justify pursuing a charge in court. The additional challenge of limited evidence, sometimes being neighbours’ witness of the act and willingness to testify in court, would further hamper the ability to achieve successful enforcement. To be clear, pursuing successful enforcement in court is not expected. Staff’s consistent recommendation has been to only resource minor enforcement activities, issuing voluntary compliance request letters. In reality, staff believe the best outcome of having the by-law is to help encourage citizens not to feed the deer and achieves one of the several pre-requisites the DERD have identified in considering approving the Nuisance Program for the City.

Opportunities for Further Community Questions

DERD staff would coordinate a public information session with City staff prior to the 2019 hunting season if both Council and the Minister of DERD endorses the Nuisance Program for the City. Members of the community would be able to ask further questions about the program at this meeting. City staff will also ensure information is communicated to the public generally about the program.

STRATEGIC ALIGNMENT

A Nuisance Deer Management Program for the City would support Council’s priority of a Vibrant, Safe City and help improve the liveability of neighbourhoods in Millidgeville and beyond to support residential growth.

SERVICE AND FINANCIAL OUTCOMES

Please refer to M&C 2019-18.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

Please refer to M&C 2019-18 for previously documented input.

The Provincial Department of Energy & Resource Development provided facts and advice for this report.

City staff discussed with the City's Chief of Police the role that the Saint John Police Force may play in this program, specifically related to compliance of bow hunters. Enforcing hunting rules would not be considered a core service that our police force provides. The Chief agrees with the plan to have Provincial Conservation Officers take the lead on related enforcement. The Chief recommends an effective public communications plan to include contacts for the Provincial officers when concerns arise from citizens related to the Nuisance Program. Even though enforcement would reside with the Province and the Police Force would direct calls for service accordingly, the Chief noted the risk of added initial calls for service to the Public Safety Communication Centre and Police Force. The Chief also noted the heightened obligation placed on the the police force to provide quality customer service regardless if the issue at hand is a core police service, including in customer requests related to the Deer Nuisance Program.

ATTACHMENTS

Draft letter to Minister of Energy & Resource Development

M&C 2019-18