

Delegation of Regulation of Parades and the Issuance of Permits

Date:	April 1, 2010
To:	Public Works and Infrastructure Committee
From:	General Manager, Transportation Services
Wards:	All Wards
Reference Number:	Pw10017te.row

SUMMARY

To report on the regulation of parades and to seek Council authority to delegate to the Toronto Police Services Board the authority to regulate parades and issue permits for them. Historically, the Toronto Police Service has issued parade permits pursuant to By-law No. 71, being a by-law "To regulate parades on highways, and for preventing the obstruction thereof during parades or public demonstrations". The authority for By-law No. 71 was previously contained in section 235, paragraph 1 of the former *Municipal Act*, which paragraph authorized boards of commissioners of police to pass by-laws for the regulation of parades and processions, preventing the obstructions of highways during public processions or public demonstrations and various other matters involving traffic and use of roads. However, when *Municipal Act, 2001* came into force, repealing the old *Municipal Act*, it did not contain a similar authority.

RECOMMENDATIONS

The General Manager, Transportation Services recommends that:

1. City Council delegate to the Toronto Police Services Board the authority to regulate parades on highways in the City of Toronto and to prevent the obstruction of highways during parades, including the authority to issue permits for parades; and
2. The Toronto Police Services Board, in carrying out its delegated authority pursuant to Recommendation 1 above, act by way of by-law and that such by-law be drafted by the Toronto Police Services Board in consultation with the General Manager of Transportation Services.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

On December 19, 1985, the former Metropolitan Board of Commissioners of Police (now the Toronto Police Services Board (the “Board”)) enacted and passed By-law No. 71, being a by-law “To regulate parades on highways, and for preventing the obstruction thereof during parades or public demonstrations”. This By-law was subsequently amended in 1986. Under this By-law, the Metropolitan Board of Commissioners of Police delegated to the Chief of Police the authority to consider applications for permission to hold parades and to grant permission for them.

At the time, the authority for By-law No. 71 was contained in section 235, paragraph 1 of the former *Municipal Act* (the “old *Municipal Act*”). This section authorized boards of commissioners of police to pass by-laws for the regulation of parades and processions, preventing the obstruction of highways during public processions or public demonstrations and various other matters involving traffic and use of roads. However, the *Municipal Act, 2001* (the “new *Municipal Act*”), which came into force on January 1, 2003 and repealed the old *Municipal Act*, did not contain a similar authority.

Section 457 of the new *Municipal Act* dealt with transitional issues arising from the repeal of the old *Municipal Act*. This section of the new *Municipal Act* provided that any by-laws that existed on December 31, 2002 which were enacted on the basis of authority repealed by the new *Municipal Act* continued in force until the earlier of their date of repeal, expiration or January 1, 2006.

Accordingly, by virtue of section 457 of the new *Municipal Act*, By-law No. 71 is no longer in force since it was enacted under the authority that was repealed by the new *Municipal Act*. Consequently, any authority to regulate parades and issue permits would now rest with the City of Toronto under its general powers under the *City of Toronto Act, 2006* (“COTA”).

COMMENTS

As discussed above, since approximately 1985, the Toronto Police Service has issued parade permits. The Toronto Police Service has a unit, specifically the Special Events Planning Office, which is responsible for issuing parade permits. There is one civilian member responsible for parades, but the office itself currently has a total of 9 staff.

Staff of the Toronto Police Service has advised that, in 2005, there were approximately 437 parade permits issued; in 2006, there were approximately 413 parade permits issued; in 2007, there were approximately 367 parade permits issued; and, in 2008, there were approximately 409 parade permits issued.

The Special Events Planning Office of the Toronto Police Service has historically assisted applicants with filling out forms, checked to see if the parade route would conflict with other parades, co-ordinated lane closures with City staff and undertaken other related matters. The Toronto Police Service has the processes and staffing in place to deal with parades and the issuance of parade permits.

Unlike the Special Events Planning Office of the Toronto Police Service, Transportation Services does not currently have the mechanisms or staffing in place to deal with the regulation of parades or with the issuance of such a high volume of parade permits.

Section 20 of *COTA* authorizes the City to delegate its powers and duties under the Act to a person or body, subject to certain restrictions. When delegating its powers, the City may make the delegation subject to such conditions and limits as City Council considers appropriate, including requiring that the delegate act by by-law, resolution or otherwise, establishing procedures that the delegate is required to follow, and establishing the accountability of the delegate and the transparency of the delegate's actions and decisions.

Pursuant to *COTA*, legislative and quasi-judicial powers under *COTA* may be delegated to the Board.

Subsection 366(2) of *COTA* also provides that the Police Services Board may pass by-laws providing that a person who contravenes a by-law of the board passed under *COTA* is guilty of an offence.

Given the current lack of City resources to regulate parades and issue parade permits, together with the mechanisms currently in place at the Toronto Police Service, Transportation Services is recommending that the Board be delegated the authority to regulate parades and issue parade permits and that it does so by way of by-law, including setting up a penalty/offence provision within its by-law. Transportation Services is recommending that the Toronto Police Service consult with the General Manager of Transportation Services in the drafting of its by-law.

If the authority is delegated, as recommended, the Board would have to be willing to accept the delegated authority, which can only be determined by the Board itself.

Staff at the Toronto Police Service, the Board, and City Legal have been consulted in the preparation of this report.

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SIGNATURE

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