



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 4000-20

From: Director of Corporate Services

Date: March 8, 2023

Subject: Advanced Budget Approval for Bylaw Enforcement Officer

PURPOSE:

The purpose of this report is to request approval from Council for advanced budget approval to immediately hire a new full time Bylaw Enforcement Officer in anticipation of increased seasonal and general service needs.

CAO RECOMMENDATIONS:

THAT Council provide advanced budget approval to initiate recruitment activities to fill a new regular full time Bylaw Enforcement Officer position prior to the adoption of the 2023 financial plan.

Geoff Garbutt, M.PL., MCIP, RPP
City Manager (CAO)

BACKGROUND:

Over the past two years there has been a notable increase in demand for bylaw compliance services in the community, including but not limited to homelessness response, parking, wood smoke regulation, unsightly premises, environmental investigations, and zoning and building bylaw compliance matters. As previously reported, the City continues to focus on developing and enhancing its bylaw services division to meet the service expectations of Courtenay residents and Council. The Bylaw Services Division is currently comprised of the following positions:

- 1 full-time manager
- 2 full-time BEO's
- Contractor: animal control officer – 2 days per week
- 1 part-time shared clerical resource (0.20 FTE)

In recent years, exacerbated by the COVID-19 pandemic, there has been a significant increase in the number of individuals camping in public spaces. In recognition of provincial case law and the rights of individuals without housing to camp in public spaces, and in balance with public access expectations to shared spaces, the Bylaw Enforcement Division implemented encampment inspection activities. Encampment inspections require two-person teams¹. With the current compliment of two officers, this reallocation of bylaw resources has resulted in decreased service response capabilities to other non-safety related enforcement areas and has limited the resumption of pre-covid-19 activities such as parking enforcement in the downtown core. In 2022, Council approved a one-time budget re-allocation of \$17,000 which enabled Bylaw Services to re-establish a proactive parking program downtown.

In addition to the resumption of historical bylaw enforcement activities and the increased encampment response efforts, a new area of bylaw enforcement was recently approved by Council. On September 26, 2022 Council considered the *Nuisance Bylaw Amendments to Regulate Excessive Wood Smoke staff report* and approved amendments to the following bylaws:

- Prevention of Public Nuisances
- Municipal Ticket Information Bylaw
- Nuisance Abatement and Cost Recovery Bylaw

Based on staff recommendations for resourcing enforcement activities related to wood smoke regulation, Council passed a motion referring the consideration of additional bylaw enforcement officers resources to the 2023 budget process.

DISCUSSION:

A new bylaw enforcement officer position is identified in the 2023 budget, however, due to the timing of anticipated seasonal activities and increased service needs generally, staff are requesting Council approval to hire a new Bylaw Enforcement Officer position as soon as possible.

Anticipated Closure of Extreme Weather Response Shelters

On March 31, 2023 temporary Extreme Weather Response (EWR) shelters will close. As a result, encampment activities are anticipated to increase dramatically in April and continue through to mid-November when the EWR shelters reopen. Based on seasonal impacts and the EWR shelter schedules, the demand for BEO inspections increases from 2-days (November to March) to 5 days per week (April through November) (see attachment A). Daily encampment inspection activities, on average take 3.5 hours per day per officer, which represents 44% of current BEO capacity (full-time, casual, and overtime budgets) during the spring, summer, and fall.

¹ In accordance with the *Bylaw Services Homeless Encampment* standard operating procedure/safe work practices - for employee health and safety reasons - 2-person BEO teams are required when conducting encampment inspections.

Downtown Parking Patrols – Returning to Pre- Covid-19 Service Levels

Based on service expectations from business in the downtown core, the level of service for the proactive parking program is now 4.5 hours per day 5 days per week or 28% of BEO capacity.

As a result, commencing in April only 28% of BEO capacity will remain to handle all other existing calls for services (i.e., unsightly properties, derelict vehicles, noise, zoning, hedges, weeds/tall grass, parking complaint outside of the downtown core, water sprinkling, fences, illegal dumping, etc.) and a growing number of calls for services including the following: wood burning smoke inspections (new), zoning and building bylaw inspections (i.e., illegal secondary suites, bed and breakfasts, home occupations, etc.), outdoor smoking investigations (anticipated in force by June 2023), encroachment investigations (new), unlawful evening parking, etc. Without the addition of further bylaw enforcement resources, the department's capacity for calls for service investigations will be grossly under resourced commencing in April.

Initiatives in Progress – Metrics, Modernization of the Parks Control Bylaw, and the Bylaw Policy, Compliance Strategy, and Good Neighbour Guide

Metrics: Bylaw Services is developing comprehensive performance metric tracking and reporting systems in order to 'Be Accountable'; to further understand resource requirements; and to improve efficiency, effectiveness, prioritization, quality control, resource allocation, work load equity, etc. The first Bylaw Services performance activities report will be presented to Council by the second quarter of 2023. Bylaw activities tracking will be supported by the addition of new technology, Tempest Calls for Service, that will allow officers to input and access bylaw data in the field, run regular reports and automate some compliance processes.

Modernization of the Parks Control Bylaw: Over the coming months, Council, supported by staff and a lead consultant will consider significant and highly sensitive policies issues related to the Parks Control Bylaw including but not limited to, smoking, use of inhalants, camping, events, and other amendments as identified. The policy issues and decisions are uniquely complex as they will be informed by case law, municipal policy comparison, public opinion (community engagement), harm reduction principles (research and best practices, field experts), operational impacts, community impact and risk.

Bylaw Compliance Policy, Strategy, and Good Neighbour Guide: Developed concurrently with amendments to the Parks Control Bylaw, this project will update the [Bylaw Enforcement Policy](#) that determines the City's approach to bylaw compliance and enforcement priorities. In addition to the Policy, a Bylaw Compliance Strategy and Good Neighbour Guide will also be developed. The Compliance Strategy will outline procedures for the consistent application of bylaws and investigative processes, and the Good Neighbour Guide will be an invaluable public awareness tool on bylaws that will help residents understand their responsibilities as members of the community.

Recognizing that how bylaw compliance activities are undertaking can have a significant impact on the community and its residents, engagement with internal stakeholders, external organizations, community partners and residents will be integral to informing the future of bylaw services.

ADMINISTRATIVE IMPLICATIONS:

Staff time will be required to hire a new BEO, provide training and supervision, source/purchase uniforms and protective vests. This work is part of the regular department operations.

ASSET MANAGEMENT IMPLICATIONS:

Routine encampment inspections and remediation activities will assist in the ongoing maintenance of parks and other public spaces.

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational & governance excellence

- Recognize staff capacity of a finite resources and support staff training and development
- Communicate appropriately with our community in all decisions we make
- Responsibly provide services at level which the people we serve are willing to pay
- ▲ Value community safety and support our protective services

We continually invest in our key relationships

- Consider effective ways to engage with and partner for the health and safety of the community
- ▲ Support improving accessibility to all City services

● **AREA OF CONTROL:** The policy, works and programming matters that fall within Council's jurisdictional authority to act

▲ **AREA OF INFLUENCE:** Matters that fall within shared or agreed jurisdiction between Council and another government or party

■ **AREA OF CONCERN:** Matters of interest that are outside Council's jurisdictional authority to act

OFFICIAL COMMUNITY PLAN REFERENCE:

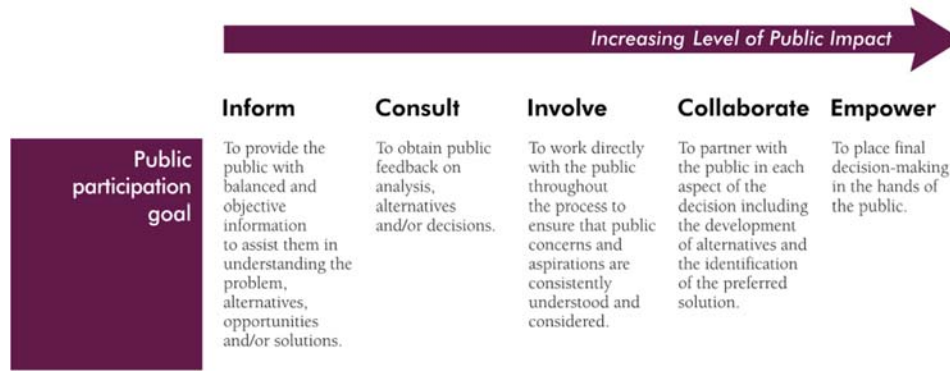
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REGIONAL GROWTH STRATEGY REFERENCE:

N/A

CITIZEN/PUBLIC ENGAGEMENT:

Staff would INFORM the public and continue to COLLABORATE with our community partners based on the IAP2 Spectrum of Public Participation:



OPTIONS:

- Option 1: THAT Council provide advanced budget approval to initiate recruitment activities to fill a new regular full time Bylaw Enforcement Officer position prior to the adoption of the 2023 financial plan. **(Recommended)**
- Option 2: THAT Council DEFER consideration of a new bylaw enforcement officer position to be considered as part of the 2023 budget processes.
- Option 3: THAT Council REFER this item back to staff and provide further direction.

Prepared By:

Peter deGraaf
Manager of Bylaw Services
Prepared by,

Prepared and Reviewed By:

Kate O'Connell, M.P.P.
Director of Corporate Services

Concurrence by,

Geoff Garbutt, M.PL, MCIP, RPP
City Manager (CAO)

Attachments: Bylaw Enforcement and Urban Issues Update, June 27, 2022



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 4000-01

From: Director of Corporate Services

Date: June 27, 2022

Subject: Bylaw Enforcement and Urban Issues Update

PURPOSE: To update Council on the City's response to homeless encampments, to request approval to place no smoking signs in City parks and on trails, to seek approval to amend the 2022 budget to respond to increase bylaw services demands, urban issue remediation services, and to purchase protective vests.

CAO RECOMMENDATIONS:

1. THAT Council approve the placement of non-smoking signs in City parks and along City trails to discourage smoking activities; and,
2. THAT the Corporate Services budget be amended to reflect the necessary reductions in other services to offset a \$25,000 financial variance to increase bylaw services and purchase protective gear; and,
3. THAT the Bylaw Policy Review be brought forward for Council's consideration as part of the 2023 budget process; and,
4. FURTHER THAT the Public Works Services – Parks Division budget be amended to reflect the necessary reductions in other operational services to offset all financial variances required to sustain the current Urban Issues service level.

Geoff Garbutt, M.P.I., MCIP, RPP
Chief Administrative Officer

BACKGROUND:

Issues requiring greater bylaw enforcement attention and response include the investigation of infractions related to the following bylaws: Tree Protection and Management Bylaw, Prevention of Public Nuisances Bylaw, Nuisance Abatement and Cost Recovery Bylaw, Zoning Bylaw, Building Bylaw, Parks Regulation Bylaw, Traffic Bylaw, and the Animal Control Bylaw.

Although the COVID-19 pandemic has exacerbated some bylaw related issues (e.g. urban issues and noise), services requests regarding bylaw compliance have increased generally. Additionally, it is not anticipated that current service demands will reduce to pre-pandemic levels, and are likely remain until appropriate housing is provided and as the City continues to grow. Current bylaw staff are making best efforts to respond to and investigate all bylaw complaints, however, the current volume of complaints has necessitated requires prioritising safety related issues, often resulting in longer response times to non-safety related complaints.

DISCUSSION:

Complex Bylaw Enforcement Investigations

Over the past year the City has undertaken two of the most significant bylaw enforcement actions in its history. In 2021 the Bylaw Services Division sought an Order of Council to declare a long standing non-compliant property a nuisance. In spite of repeated opportunities to bring the property into compliance with City bylaws, the house remained non-compliant and was a cause of great stress to the neighbourhood in which it was located. Through the Nuisance Order, Bylaw Services Division recovered \$22,556 in nuisance abatement costs and the subject property was subsequently sold to a new owner and has been in compliance with City bylaws since the sale. In late 2021, the Bylaw Services Division began an investigation into a significant violation of the Tree Protection and Management Bylaw regarding the removal of trees adjacent to a protected waterway that resulted in the issuance of MTI tickets to two parties representing a total penalty of \$214,000. The City is currently working with provincial partners towards site remediation.

Response to Urban Issues

Increasing throughout 2021, the Bylaw Services Division has worked with Public Works Services and external community partners such as the Comox Valley Coalition to End Homelessness and the Comox Valley Transition Society to respond to the significant increase in homelessness and related urban issues. In the November 1, 2021 report to Council entitled “Bylaw Enforcement Update Regarding Homeless Encampments on City Properties” homeless rates were estimated as follows:

- 54 individuals at a local hotel (BC Housing Community Shelter Expansion)
- 89 people on the waiting list for the Junction Supportive Housing
- 96 unique individuals who accessed overnight shelter at Connect

Since November 2021, several factors have changed impacting the urban issue service demands. Extreme Weather Response shelter and the overnight warming centre are no longer in operation. Additionally, the Connect Day Centre was closed for the month of April and has gradually reopened with funding from the Strengthening Communities Services Grant as of May 2nd. The loss of overnight support services, lack of supportive/shelter rate housing and a continued increase in homelessness has resulted in a significant increased the number of homeless encampments and the number of individuals located within them.

As the number and size of encampments has increased, the City has responded by increasing the resources allocated to urban issues response. Whereas at the beginning of 2022 routine encampment inspections and clean-up efforts were limited to one or two sites, Bylaw Enforcement Officers and Public Works Services’ Urban Issues Response Team are now attending up to 7-9 encampment locations daily from 8:30 a.m. to 1:00 p.m. Monday through Friday. Some locations

are inspected/cleaned-up daily and others less frequently. Encampment responses and remediation require resources from Bylaw Services (minimum safety requirement of 2 officers), Public Work Services and the RCMP as needed.

Maintaining public parks and spaces is important to ensure all members of the community are able to access and enjoy shared spaces safely. Funded through the new Urban Issues budget (approved by Council in 2022) the Public Works Services' Urban Response Team attend each site along with the Bylaw Enforcement Officers and conduct remediation activities of vacated camping sites or hot spots (see Image Sets 1-6 below). In addition to daily cleaning and site support, a portion of the 2022 Urban Issue budget is allocated to contracted services that undertake larger scale remediation activities in locations that are difficult to access, have grown to an excessive size or are of significant enough risk that the City deems the technical expertise of the contractor necessary (e.g. Millard Park and the unimproved area of Condensory Park). In 2022, \$75,000 was approved by Council to respond to urban issues and funding has also been used to cover the cost of increased safety & security, including; patrols in the downtown core, lighting improvements, fencing replacement and improvements, Crime Prevention through Environmental Design (CPTED)/landscape enhancements, etc.

Image Set 1: Before Clean Up, Millard Park



Image Set 2: After Clean Up, Millard Park



Image Set 3: Before Clean Up, City Hall



Image 4: After Clean Up, City Hall



Image 5: Before Clean Up, Comox Road



Image 6: After Clean Up, Comox Road



With the introduction of the Council supported Urban Issues service level, Public Works Services (PWS) has been able to successfully deploy two dedicated seasonal employees in support of Bylaw Services and our community. This new service level has also enabled activities such as; daily cleanup of City Hall, City Parks and Greenspaces, site restoration, Crime Prevention through Environmental Design (CPTED) improvements at City Hall and security improvements in our Downtown.

These temporary PWS employees are tasked to this work for approximately 20 hrs each per week (May – Oct). Following this seasonal work term, permanent PW staff will continue to support Bylaw Services at City Hall throughout November and December, on an as and when requirement basis.

Site restorations continue to be provided by contract services (JOMA Environmental) for reactive cleanups and support for encampment sites restoration works. These services are currently demand based, however with 2022 seeing a higher level of service demand the year-to-date expenditures sits at near ~75% of the available budget. Staff estimate, based on historical demand, that we are likely to require another 4 to 6 cleanups before the end of 2022, likely bringing our total expected expenditure over budget.

Contracted Services also include our Needle Box Collection & Parks Hazard Sweep Program. This established program includes the scheduled inspection and collection of needles from the seven (7) public needle box locations and a sweep of seventeen (17) identified hotspot locations in Community and Neighbourhood Parks on a weekly basis for sharps and other drug paraphernalia.

Maintaining safe and accessible public spaces is crucially dependent upon Bylaw Services working in tandem with the Urban Issues Response Team (Public Works Services) and is best achieved through routine response and regular garbage removal. In the event that encampment sites are not remediated on a regular basis, debris accumulates rapidly and the City's ability to address health and safety issues both for individuals experiencing homelessness and other members of the public will be greatly diminished. Additionally, the time and effort required to address the cumulative impact of debris and encampment growth will further decrease Bylaw Services' capacity.

Overall, the time and resources allocated to urban issues response by both the Bylaw Services Division and Public Works Services has increased beyond the originally anticipated budget amounts. If approved, the budget amendment recommendations would allow both Public Works Services and

Bylaw Services Division to sustain the current model of urban issues response, and would also allow Bylaw Services to address customer service challenges through the addition of casual resources.

Council Strategic Priorities – Bylaw Services Update

Parks and Public Space Regulation Bylaw: The Bylaw Services Division will soon begin working on bylaw updates that will amend City bylaws to reflect case law outcomes, most notably the BC Supreme Court ruling *Abbotsford (City) v. Shantz*, 2015 BCSC 1909 as delivered by Chief Justice Christopher Hinkson, who found that bylaws prohibiting homeless people from sleeping in public places overnight violates Section 7 of *Charter of Rights and Freedoms*, which protects individuals' safety and security of person:

“Bylaws passed by the City [Abbotsford] which prohibit sleeping or being in a park overnight without permits or erecting a temporary shelter without permits violate the guarantee the right to life, liberty and security”.

– Chief Justice Hinkson

In practice, the City's bylaw response to homeless individuals camping in public spaces is consistent with the BC Supreme Court ruling, however amendments to City bylaws are required to reflect current practices and to ensure alignment with legal outcomes. Bylaw amendments reflective of recent case law are anticipated to be completed before the end of 2022.

Smoking Bylaw: Smoking regulation in parks and public spaces are intended to be incorporated into the new Parks and Public Space Regulation Bylaw. However, prior to the consideration of smoking regulation enforceable by bylaw, in recognition of the public's desire to enjoy shared spaces in a healthy manner and to protect the environment and decreased fire hazards, staff recommend the placement of non-smoking signs throughout City parks and trails. Although not enforceable by bylaw at this time, raising awareness and requesting individuals voluntarily avoid smoking in parks and other public spaces is likely to decrease smoking activities in spite of non-enforcement at this time.

Bylaw Service Review and Policy Update: Conducting a Bylaw Services Review and policy update is a significant undertaking as it requires internal and external stakeholder engagement, an environmental scan of other municipalities, and a review of professional resource guides and relevant case law. Due to increased daily operational demands, the need to focus on the development of standard operating procedures in response to emerging issues, this item will be addressed in 2023. However, other foundational work integral to the policy review is currently underway including complaint management and tracking (follow up), enhanced staff training and development, the creation of a metrics reporting framework, and enhanced records management processes.

FINANCIAL IMPLICATIONS:

To address growing community concerns including urban issues, parking related complaints, additional casual bylaw staff are required. Additionally, to ensure the safety of the Bylaw Officers further funding is required to purchase protective vests. Increasing bylaw staffing levels and

purchasing protective vest are estimated to result in a \$25,000 budget variance. It is therefore recommended that the Corporate Services budget be amended to reflect a reduction in other operational services to offset the projected variance.

In order to adequately respond to the escalating cost and associated demands of the current Urban Issues service level, PWS is projecting to require offsetting operational funds to further support and sustain the said levels. Therefore, it is further recommended that the Public Works Services – Parks Division budget be amended to reflect the necessary reductions in other operational services to offset all financial variances required to sustain the current Urban Issues service level.

ADMINISTRATIVE IMPLICATIONS:

Staff time will be required to hire and schedule additional casual bylaw staff, provide training and supervision, source/purchase uniforms and protective vests.

ASSET MANAGEMENT IMPLICATIONS:

Routine encampment inspections and remediation activities will assist in the ongoing maintenance of parks and other public spaces.

STRATEGIC PRIORITIES REFERENCE:

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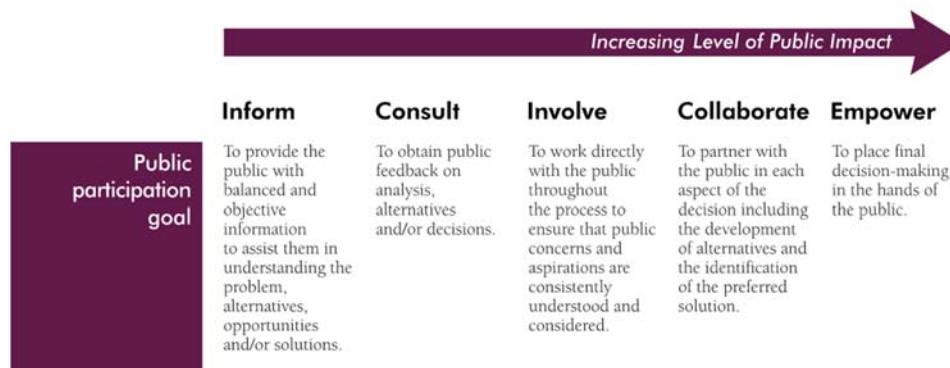
N/A

REGIONAL GROWTH STRATEGY REFERENCE:

N/A

CITIZEN/PUBLIC ENGAGEMENT:

Staff would INFORM the public and continue to COLLABORATE with our community partners including the Comox Valley Coalition to End Homelessness, the Comox Valley Transition Society and the RCMP based on the IAP2 Spectrum of Public Participation:



OPTIONS:

- Option 1:
1. THAT Council approve the placement of non-smoking signs in City parks and along City trails to discourage smoking activities; and,
 2. THAT \$20,000 be reallocated from the Corporate Services' professional services budget to the Bylaw Services Division to fund additional casual staff resources and purchase protective gear; and,
 3. THAT the Bylaw Policy Review be brought forward for Council's consideration as part of the 2023 budget process; and,
 4. FURTHER THAT the Public Works Services – Parks Division budget be amended to reflect the necessary reductions in other operational services to offset all financial variances required to sustain the current Urban Issues service level.
(Recommended)
- Option 2:
1. THAT Council approve the placement of non-smoking signs in City parks and along City trails to discourage smoking activities; and,
 2. THAT Council direct staff to redeploy existing bylaw enforcement resources to address a greater range of bylaw compliants by decreasing the frequency of urban issue response activities; and,
 3. THAT the Bylaw Policy Review be prioritized with the expectation that the policy review be initiated in 2022.
 4. FURTHER THAT current Urban Issues service level be reduced to remain within its fiscal boundaries.
- Option 3: THAT refer this item back to staff and provide further direction.

Prepared By:



Peter deGraaf
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Prepared by,

Prepared and Reviewed By:



Kate O'Connell MPP
Director of Corporate Services

Reviewed by:



Kyle Shaw, ASCT, CPWI, CWP, CWWP
Dir. of Public Works Services

Concurrence by,



Geoff Garbutt, M.PL, MCIP, RPP
Chief Administrative Officer