



City of Richmond

Report to Committee

To: Community Safety Committee
From: Don Pearson
Manager, Community Bylaws
Re: **Peace Officer Status**

Date: April 19, 2005
File:

Staff Recommendation

That the report (dated April 19, 2005) from the Manager, Community Bylaws regarding peace officer status for bylaw enforcement staff be received for information.

Don Pearson
Don Pearson
Manager, Community Bylaws
(4269)

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ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER	
Law.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	<i>Joe Enos</i>	
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	REVIEWED BY CAO	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
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Staff Report

Origin

In the Spring of 2004, following problems relating to the issuing of parking tickets in and around schools, Committee requested information on whether it would be advantageous for bylaw staff to have increased enforcement authority.

Analysis

Currently, when an employee is hired as bylaw enforcement officer there is a report forwarded to Council appointing them to the position and providing them the authority to enforce bylaws as provided by Section 36 of the Police Act. This authority gives them the powers of a peace officer for the limited purpose of serving a summons (Section 28 of the Offence Act specifically provides that for the purpose of the service of a summons....a peace officer includes a bylaw enforcement officer).

With respect to the parking issue, the main concern raised was the ability to stop vehicles and demand identification. This is addressed in Section 73 of the Motor Vehicle Act and gives a "peace officer" this authority. The Act further defines a "peace officer" as a "constable or a person who has constable's powers". While not further defined in the Motor Vehicle Act, the Police Act does elaborate on the definition of a constable and police officer and does not include in any definition the expression "bylaw enforcement officer". The Police Act does provide for the appointment of persons as constables or other designated categories such as municipal constable or special municipal constable categories where it may be possible to include bylaw personnel.

In terms of protection for staff during the normal course of their duties, an interesting case occurred in Victoria in 2000. In *Regina v. Turko* where the accused refused to identify himself to bylaw officers and then assaulted the officers, the Provincial Court found that Bylaw Enforcement Officers were Peace Officers while engaged in the duty of enforcing bylaws. In this case the presiding judge stated "I conclude, based on the duties the officers in this case were exercising, that they were Peace Officers engaged in their duties when they attempted to enforce the bylaw against the accused. They were maintaining and preserving the public peace."

Section 2, part c of the Criminal Code reads, in part:

"Peace Officer includes:

a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process."

Turko was convicted of obstruction of a Peace Officer, Section 129(a) and assault of a Peace Officer, Section 270(2) of the Criminal Code.

Two municipalities have programs that relate to commercial vehicles and their enforcement personnel do have the authority to stop vehicles and request identification, but this enforcement action is conducted with the RCMP being present.

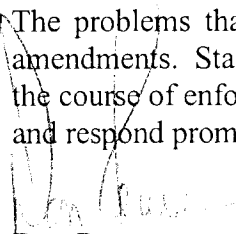
In terms of the parking program, the June 29, 2004 amendments to the Traffic and Parking (Off-Street) Bylaws that clarified the process for the mailing out of tickets have alleviated the problems of delivering tickets to vehicle operators. For other bylaw matters, staff generally receive good cooperation from residents. In those cases where people are uncooperative, any change in status would not likely alter the person's attitude. In all cases where staff either anticipate problems or they develop while on scene, the RCMP are available and respond promptly to any request for assistance from Bylaw staff.

Financial Impact

None

Conclusion

The problems that precipitated this referral have been satisfactorily resolved through the bylaw amendments. Staff are now finding they have sufficient authority to perform their duties. Where in the course of enforcing City bylaws the assistance of the police is required, the RCMP are available and respond promptly to calls for assistance from bylaw staff.



Don Pearson
Manager, Community Bylaws
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DP:dp