



## memorandum

**DATE:** SEPTEMBER 9, 2014

**TO:** MAYOR AND MEMBERS OF COUNCIL

**FROM:** MARYLEE FARRUGIA  
COMMISSIONER OF LEGAL &  
ADMINISTRATIVE SERVICES/CITY SOLICITOR

GUS MICHAELS  
DIRECTOR OF BY-LAW COMPLIANCE

**RE:** COMMUNICATION – COUNCIL – SEPTEMBER 9, 2014

ITEM 65, REPORT 36, COMMITTEE OF THE WHOLE  
REQUEST FOR AN AMENDMENT TO BY-LAW 53-2002

C	21
Item #	65
Report No.	36 (cw)
Council -	September 9/14

On September 2, 2014, Rob Mileto from Heroes, Toys, Comics & Collectibles made a deputation requesting an exemption to Animal Control By-law 53-2002, as amended. In anticipation of this deputation, Staff provided a communication to Committee, which is attached. This communication provides additional information regarding Staff's recommendation as to why the exemption request should be denied. Further to the deputation, Committee of the Whole directed the following:

That staff provide a report to the Council meeting of September 9, 2014, addressing the request of the deputant and clarifying the issues raised

The following issues were raised:

1. That he has had the animals prior to the passage of Animal Control By-law
2. That he donates money to charity
3. That Wildlife Ontario and OSCP are fine with the animals
4. The impact of any exemption on charges before the courts

In response to these issues, and pursuant we provide the following:

- **Grandfathering inappropriate**

The notion of grandfathering, or legal non-conforming status, is a concept particular to zoning matters, and has no bearing for other by-laws. It is within Council's purview to ban the keeping of the exotic animals, notwithstanding that the owner of such animals may have possessed such animals prior to the by-law being passed. For the reasons stated in the attached communication the interests of the deputant in keeping his exotic animals when weighed against the public interest, weighs heavily against any type of grandfathering in these circumstances. As noted in the attached communication, the trend provincially is to further regulate these animals, not a relaxation of regulation. Pending this provincial review, Staff are reviewing the expansion of the prohibited species list so as to further protect the public interest. Staff will be reporting to a future Committee of the Whole in this respect.

- **Donation of money is not a relevant consideration**


As noted in the attached communication, any charity initiatives of the deputant are laudable, but this does not change Staff's opinion that the public interest weighs against the keeping of such animals.

- **OSPCA has complained to the City regarding deputant**

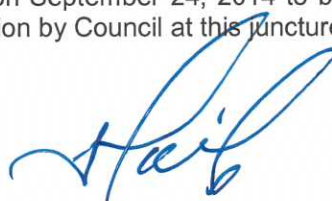
We are unaware of the nature of any inspections or the nature of any approval by the OSPCA of the keeping of the exotic animals, if any. In any event, it is clearly within the mandate of the City to ban to keeping of such animals, irrespective of any approval by these organizations. The current charges before the Courts were as a result of the complaint from the OSPCA.

- **Impact on charges before the Courts**

The charges before the Courts are returnable on September 24, 2014 to be spoken to and relate to an investigation from 2012. Any change or exemption by Council at this juncture may affect the outcome.

  
for

Marylee Farrugia  
Commissioner of Legal &  
Administrative Services/City Solicitor



Gus Michaels  
Director of By-law Compliance

Copy to : Barb Cribbett  
Interim City Manager  
  
Heather A. Wilson  
Director of Legal Services

**DATE:** AUGUST 27, 2014

**TO:** MAYOR AND MEMBERS OF COUNCIL

**FROM:** MARYLEE FARRUGIA  
COMMISSIONER OF LEGAL &  
ADMINISTRATIVE SERVICES/CITY SOLICITOR

GUS MICHAELS  
DIRECTOR OF BY-LAW COMPLIANCE

**RE:** COMMUNICATION – DEPUTATION – SEPTEMBER 2, 2014


DEPUTATION #2, COMMITTEE OF THE WHOLE  
REQUEST FOR AN AMENDMENT TO BY-LAW 53-2002

---

The deputant has been charged with keeping exotic animals contrary to Part 11(1) of Animal Care and Control By-law 53-2002, as amended (hereinafter the "By-law"). The charges are currently before the Courts, and the next appearance is scheduled for September 24, 2014. We are advised by the prosecutor that that charges have been adjourned to this date so as to give the deputant an opportunity to seek an exemption under the By-law.

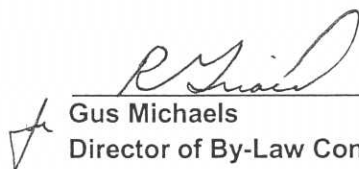
The keeping of exotic animals, such as the alligators and lemurs owned by the deputant, are prohibited by the By-law, save and except for some very limited exceptions found in Part 11(3). The purpose of the prohibition is two-fold: to protect members of the public due to the inherent danger of these animals, and the protection of the animals themselves as these animals require special care and enclosures that the general public is likely not willing or able to provide. The exceptions in the By-law ensure that this dual purpose is not compromised, as the enumerated organizations including the premises of the OSPCA or research facilities governed by the *Animals for Research Act*, or circumstances ensure that the exotic animals are handled by those who have significant demonstrated expertise and experience.

While the charitable initiatives of the deputant are laudable, we are not satisfied that the deputant possesses this requisite expertise and experience. Even if he could demonstrate experience and expertise, this request is contrary to the current trend across the Province to further restrict exotic pet ownership. The provincial government is currently reviewing exotic pet ownership laws with a view to a possible province wide regulation. The genesis of this review was the tragic deaths of a 4 and 6 year old caused by python in New Brunswick in August 2013. In light of the foregoing, we cannot support the deputant's request to amend the By-law.



---

MaryLee Farrugia  
Commissioner of Legal & Administrative  
Services/City Solicitor



---

Gus Michaels  
Director of By-Law Compliance

Copy to: Barb Cribbett  
Interim City Manager

Chris Bendick  
Legal Counsel