



DATE: June 16, 2014 **REPORT NO. CS2014-071**

TO: Chair and Members
Committee of the Whole – Operations and Administration

FROM: L. Wolfe, City Clerk
Director of Clerk’s Services

PREPARED BY: R. Levac, Manager
Licensing & Administrative Services/Deputy Clerk

1.0 TYPE OF REPORT **CONSENT ITEM** [X]
ITEM FOR CONSIDERATION []

2.0 TOPIC – Business Licensing Review - Buskers

3.0 RECOMMENDATION

THAT Report CS2014-071 with regard to a Business Licensing review of buskers BE RECEIVED.

4.0 PURPOSE

The purpose of this report is to update City Council on the findings of a review of the operation of buskers within the City of Brantford.

5.0 BACKGROUND

In April, 2012, the following resolution was approved by City Council: “that Staff be requested to review and report back on an appropriate Policy and/or By-law relating to the operation of buskers in the municipality.”

Subsequent to the passing of this resolution, the Business Licensing By-law underwent a comprehensive review and received final Council approval on November 18, 2013. During this process, Council was advised that any new categories to be considered and/or reviewed by staff would follow in Phase 3 of the work plan as indicated in Report #CS2013-129. This report on buskers is one such item to be reviewed by staff for Council’s consideration as part of the Phase 3 Review.

6.0 CORPORATE POLICY CONTEXT

Brantford's Community Vision is *Brantford – proud, vibrant, progressive ... a "GRAND" community for living, learning, working and playing.*

In Brantford's Community Strategic Plan under the category Economic Vitality and Innovation, Section 1.7 states;

Expand tourism opportunities and benefits to the community

- Develop a link from the arts, cultural, sports and heritage assets of the City to the tourism opportunities and benefits of the community.

In many municipalities buskers are viewed as an integral component of the municipal fabric by enhancing the arts and cultural experiences offered to their citizens.

7.0 INPUT FROM OTHER SOURCES

Consultation or input for this report was obtained from the following sources; other municipalities, Program Manager for Brantford Downtown BIA (DBBIA), members of the By-law Enforcement Review Team (BERT), Parks & Recreation, Brantford Farmers' Market, Tourism & Marketing, Town & Gown Committee, Legal, and Business Licensing team members.

8.0 ANALYSIS

Merriam Webster's Dictionary defines busker as "*a person who entertains in a public space for donations*". As defined in Wikipedia: The Free Encyclopedia, "*a busker is one who provides entertainment in the public realm typically for a voluntary gratuity from audience members. There have been performances in public places for gratuities in every major culture in the world, dating back to antiquity. A busker includes, but is not limited to, musicians, acrobats, jugglers, mimes, magicians and other performers. Other terms for a busker include street entertainers, street performer, minstrel or troubadour*".

The activity of busking is transient in nature and normally short term, lasting under an hour in many cases. However, there are planned events such as BuskerFest which was held last year in Brantford for the first time by a neighbourhood association in Eagle Place. The event is scheduled again this year from Aug. 29 – Sept. 1, and has been reviewed by the Special Events Advisory Team.

It should also be noted that busking and buskers differ from panhandlers in that they do not actively solicit funds from passersby but work on a voluntary donation basis from their audiences. During the review it was apparent that most of the complaints filed with the City relate to panhandling and not busking. In discussions with staff from the various departments involved in by-law compliance, it would appear the complaint numbers relating to busker activity are very low.

Under current practices most complaints are received by Police Services or staff from the Public Works, Clerk's – Business Licensing or Building Departments, depending on the nature of the complaint. Various pieces of legislation are utilized to gain compliance and co-operation from the individuals involved in the complaint, either busking or panhandling. These include; Provincially - *Safe Streets Act, 1999* and *Trespass to Property Act*. The latter is more commonly used when the issue pertains to private property. Municipal By-laws include the Roads By-law (Public Works), Licensing By-law (Clerk's) and Noise By-law (Building). It should be noted there are no provisions under the Zoning By-law to define or deal with the activity of busking. This is directly related to the fact the Planning Act addresses property matters and does not permit regulating activities of individual persons.

Typically, complaints related to panhandling are addressed by Police Services under the Provincial *Safe Streets Act, 1999*. This legislation was initially introduced as a result of public concern related to the issue of "squeegee kids" and their aggressive solicitation for donations (panhandlers). Buskers do not tend to aggressively solicit monies but rather adopt a passive approach such as leaving their instrument case open to receive voluntary contributions/donations.

Complaints typically are first referred to Police Services when the matter is on private property such as malls. Public Works address issues related to the Roads By-law to ensure there are no impediments to public access and right-of-ways on municipal streets/sidewalks. Clerk's – Business Licensing staff deal mainly with matters that arise as a result of panhandling or the selling of goods without a license, and the Building Department addresses any Noise By-law issues that may be related to a busker(s) use of amplified or percussion devices that are deemed to be causing a disturbance.

Based on consultation with the various stakeholders, there does not appear to be any significant concerns with the busking activities in the City at this time. On the contrary, there was strong support and encouragement for busking activity. Some of the positive aspects of the busking activities include support of the arts and cultural experiences, opportunity and support for individuals seeking exposure of their skills and talents as well as economic opportunities for individuals such as students as a means of support for their education expenses.

The following was provided on behalf of the DBBIA by the Program Manager:

"Considering the issue within the current context of busker activity and past business comments, it is my opinion, on behalf of the DBBIA, that regulating Buskers within the DBBIA area is not a priority. There does not seem to be a significant issue at this time. As with most priorities within the DBBIA, this could change, and the DBBIA does reserve the right to reconsider this opinion at a later time."

In consultation with the Acting Manager of Tourism & Marketing the following information was submitted;

"I have not had any experiences, concerns or comments specifically on the subject of buskers, however I do think this area is very relevant to the Municipal Cultural Plan Update, which was approved unanimously at Committee of the Whole – Community Services on May 12th.

The Acting Manager of Tourism & Marketing noted the following in reference to the Municipal Cultural Plan: "Strategic action 3H: Create and facilitate increased opportunities to showcase local art, heritage, artists, writers and performers in municipal facilities, at civic events, and in public spaces", is particularly relevant to busking. Strategic action 4C is also specific to reducing barriers and fostering an inclusive environment. Art in public spaces contributes to enhancing pride of place and contributes to developing a distinct sense of place and community, and I would hope that we would not seek to create legislative barriers to celebrating local culture, particularly if rare instances of problematic behavior can be managed through other existing channels."

Anecdotally, when discussed at a Town & Gown Committee meeting one of the members recited a personal experience of her child helping to pay for her university education through busking (playing a musical instrument). Also, the Brantford Farmers' Market recognizes and permits busker activities in keeping with an old North American tradition of providing entertainment at local markets.

As noted in Section 7 this item was raised at a meeting of the By-law Enforcement Review Team (BERT) which is comprised of representatives from departments that have or require By-law enforcement. This item will continue to be monitored and if this activity generates increased concern or complaints, staff will report back to Council for further direction.

9.0 FINANCIAL IMPLICATIONS

There is no financial impact related to the recommendation in this report.

10.0 CONCLUSION

The review of the operation of buskers in the City of Brantford indicates there is limited to no serious concerns that cannot and have not been addressed through the enforcement of current legislation and/or By-laws. Establishing a policy or By-law for an activity that has not been shown to be unmanageable using current enforcement options is not warranted at this time. Further, as noted above, such action could have a negative impact on the direction the municipality has chosen in the context of the Cultural Master Plan Update.

Lori Wolfe
City Clerk/Director of Clerk's Services

Darryl Lee
General Manager, Corporate Services

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Agreement(s) or other documents to be signed by Mayor and/or City Clerk	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Is the necessary by-law or agreement being sent concurrently to Council?	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no