

**Environment, Transportation & Public Safety Standing Committee Minutes**

Date: Wednesday, March 29, 2023

Time: 4:30 o'clock p.m.

**Members Present:**

**Councillors**

Ward 2 - Councillor Fabio Costante – Chairperson

Ward 3 - Councillor Renaldo Agostino

Ward 4 – Councillor Mark McKenzie

Ward 8 - Councillor Gary Kaschak

Ward 9 - Councillor Kieran McKenzie

**Clerk's Note:** Councillor Gary Kaschak participated via video conference (Zoom), in accordance with Procedure By-law 98-2011 as amended, which allows for electronic participation.

**ALSO PARTICIPATING ARE THE FOLLOWING FROM ADMINISTRATION:**

Chris Nepszy, Commissioner of Infrastructure Services

Shelby Askin Hager, Commissioner of Legal & Legislative Services

Phong Nguy, Manager of Contracts, Fields Services and Maintenance

Craig Robertston, Supervisor, Licensing / Deputy Licensing Commissioner

Jeff Hagan, Transportation Planning Senior Engineer

Mark Spizzirri, Manager Performance Management and Business Case Development

Anna Ciacelli, Deputy City Clerk / Supervisor of Council Services

**ALSO PARTICIPATING VIA VIDEO CONFERENCE ARE THE FOLLOWING FROM ADMINISTRATION:**

Sandra Gebauer, Council Assistant

# Minutes

## Environment, Transportation & Public Safety Standing Committee

Wednesday, March 29, 2023

Page 2 of 10

---

### 1. CALL TO ORDER

Following the reading of the Land Acknowledgement, the Chairperson calls the meeting of the Environment, Transportation & Public Safety Standing Committee to order at 4:30 o'clock p.m.

### 2. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None disclosed.

### 3. ADOPTION OF THE MINUTES OF THE ETPS STANDING COMMITTEE

#### 3.1. Adoption of the Environment, Transportation & Public Safety Standing Committee Minutes held February 22, 2023

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Renaldo Agostino

That the minutes of the Environment, Transportation & Public Safety Standing Committee meeting held February 22, 2023 (excluding Transit Matters) **BE ADOPTED** as presented.  
Carried.

That the minutes of the Environment, Transportation & Public Safety Standing Committee meeting held February 22, 2023 (Transit Matters only) **BE ADOPTED** as presented.  
Carried.

Report Number: SCM 64/2023

### 4. REQUEST FOR DEFERRALS, REFERRALS OR WITHDRAWALS

None requested.

### 5. COMMUNICATIONS

None requested.

# Minutes

Environment, Transportation & Public Safety Standing Committee  
Wednesday, March 29, 2023

Page 3 of 10

---

## 6. PRESENTATIONS AND DELEGATIONS

### 8.2. Follow-up to CR30/2023 - Essex Terminal Railway Whistling Cessation - Ward 4

#### **Tony De Thomasis, President & CEO, Essex Terminal Railway**

Tony De Thomasis, President & CEO, Essex Terminal Railway appears via video conference before the Environment, Transportation & Public Safety Standing Committee regarding “Follow-up to CR 30/2023 – Essex Terminal Railway Whistling Cessation – Ward 4” and is available for questions.

#### **Jack Weston, Superintendent, Essex Terminal Railway**

Jack Weston, Superintendent, Essex Terminal Railway appears via video conference before the Environment, Transportation & Public Safety Standing Committee regarding “Follow-up to CR 30/2023 – Essex Terminal Railway Whistling Cessation – Ward 4” and is available for questions.

Councillor Mark McKenzie inquires about the minimum decibel levels that the trains have. Mr. Weston indicates that he doesn't have that information available although it does meet Transport Canada requirements, and will provide that information in the near future.

Councillor Mark McKenzie inquires about the increase in the number of trains in the area. Mr. Weston indicates to meet customer demand another shift was added.

Councillor Mark McKenzie inquires about determining whether the train whistle can be moved from the top of the train to the bottom. Mr. Weston indicates that there are specific regulations as to where the whistle has to be mounted which is on the roof, and free of any obstructions.

Councillor Mark McKenzie inquires as to whether administration has applied for funding through the Federal Rail Safety Improvement Plan. Chris Nepszy, Commissioner, Infrastructure Services appears before the Environment, Transportation and Public Safety Standing Committee regarding the administrative report “Follow-up to CR 30/2023-Essex Terminal Railway Whistling Cessation-Ward 4” and indicates that the grant team looks for and applies for all types of grants. Mr. Nepszy provides a brief history and details of previous grant applications for rail crossings which date back to 2016-2017. Mr. Nepszy adds that sometimes railways themselves apply for grants.

Councillor Mark McKenzie inquires as to reasons that these crossings related to this administrative report didn't meet the criteria. Mr. Nepszy indicates that many grants are determined related to safety, in terms of accidents, pedestrian crossings, etc. These particular crossings didn't meet the criteria.

Councillor Mark McKenzie inquires about audits being completed related to rail crossings. Mr. Nepszy indicates that a major audit of all crossings was undertaken by the City in 2015-2016 to

# Minutes

## Environment, Transportation & Public Safety Standing Committee

Wednesday, March 29, 2023

Page 4 of 10

determine whether the crossings met the safety thresholds. As a result of that audit, some stop signs were installed and since that time no formal audits have taken place. Mr. Nepszy adds that pavement marking and signage at all crossings are reviewed on a regular basis.

Councillor Gary Kaschak inquires about why grants would be necessary to install lights and other safety measures and why the railway wouldn't pay for that. Mr. Nepszy indicates that what is required by regulations and what may be different things. Mr. Nepszy adds that what exists currently at those crossings is sufficient according to the regulations, if Council would like to expand on that, grants would be required for funding of those enhancements. Jeff Hagan, Transportation Planning Senior Engineer, appears before the Environment, Transportation and Public Safety Standing Committee regarding the administrative report "Follow-up to CR 30/2023-Essex Terminal Railway Whistling Cessation-Ward 4" and provides information related to cost sharing with the railways.

Councillor Kieran McKenzie inquires about the criteria, to even consider the whistle cessation and factors that impact those decisions quoting the administrative report. Mr. Hagan explains the railway crossing locations and the criteria for consideration of whistling cessation when crossings are very close together and would only apply to certain areas.

Moved by: Councillor Mark McKenzie

Seconded by: Councillor Renaldo Agostino

Decision Number: **ETPS 940**

That the report of the Transportation Planning Senior Engineer entitled "Follow-up to CR30/2023 - Essex Terminal Railway Whistling Cessation - Ward 4," dated February 2, 2023 **BE RECEIVED** for information; and,

That Administration **BE DIRECTED** to continue discussions with Transport Canada, The Transportation Minister, the Member of Parliament and the Federal Government to continue to look into grant funding that is available to fund warning system upgrades at the affected crossings, and fund safety measures in and around these crossings; and,

That Administration **BE REQUESTED** to contact Essex Terminal Railway (ETR) to provide information related to the minimal decibel levels and how far that sound should travel; and,

That the information **BE FORWARDED** to Council when this report is considered at a future Council meeting.

Carried.

Report Number: S 17/2023

Clerk's File: MTR2023

# Minutes

## Environment, Transportation & Public Safety Standing Committee Wednesday, March 29, 2023

Page 5 of 10

---

### 8.4. Panhandling Statistics re Council Question CQ 11-2022 - City Wide

#### **Gemma Smyth, Ward 3 Resident**

Gemma Smyth, Ward 3 resident appears via video conference before the Environment, Transportation & Public Safety Standing Committee regarding “Panhandling Statistics re: Council Question CQ 11-2022 – City Wide” and provides background information related to panhandling in Ward 3, and the difference between panhandlers and those with mental health issues. Ms. Smyth outlines her concerns with potentially enacting this by-law; and concludes by suggesting that the Police already have tools to address aggressive behaviour as part of the *Safe Streets Act*; it isn’t a prudent use of City resources and if tickets are issued they most likely will go unpaid.

#### **Marion Overholt, Executive Director, and Tori Jenkins, Staff Lawyer, Legal Assistance of Windsor**

Marion Overholt, Executive Director, and Tori Jenkins, Staff Lawyer, Legal Assistance of Windsor appear before the Environment, Transportation & Public Safety Standing Committee regarding “Panhandling Statistics re: Council Question CQ 11-2022 – City Wide” and provide a brief overview of their organization. Ms. Jenkins speaks in opposition to enacting the proposed by-law indicating it would target a particular group of people, low income individuals, which may be a violation of rights, and in her opinion is duplication of the *Safe Streets Act*; and concludes by indicating any fines issued would go unpaid; enacting this by-law will overburden by-law officers and resources would be better used to address underlying issues related to this type of behaviour including mental health issues, addiction, homelessness and a lack of affordable housing. Ms. Overholt provides information related to social assistance rates and urges the City to intervene effectively, instead of implementing this by-law. Ms. Overholt concludes by suggesting that funding that would be used to enact this by-law should be put into discretionary benefits for social services clients.

Councillor Kieran McKenzie references the legal risks outlined in the report and requests that Ms. Smyth and Ms. Overholt provide comment. Ms. Smyth indicates that there are a number of risks in the report including some aspect of the *Safe Streets Act* that were contested and anticipates a substantial legal challenge if the by-law is contested. Ms. Jenkins add that she feels there would be legal challenges if the by-law was enacted and the appearance of discrimination should be considered during the legal analysis.

Councillor Kieran McKenzie reiterates that no other municipality in Ontario has enacted this type of by-law and that this may add to the risk of fighting tickets. Ms. Jenkins agrees and adds that many community groups may also come forward in her opinion and she guarantees that the City would be challenged if this by-law is enacted.

Councillor Kieran McKenzie asks Ms. Overholt about the education portion she referred to. Ms. Overholt indicates that there should be a greater focus on the educational aspect, utilizing

# Minutes

## Environment, Transportation & Public Safety Standing Committee Wednesday, March 29, 2023

Page 6 of 10

someone with training, such as an outreach worker to educate on services. Ms. Overholt indicates that if by-law officers along with outreach workers are deployed, it appears as opposing forces. The *Safe Streets Act* would cover these concerns, and there would be no need for a new by-law. Ms. Overholt indicates that if it is a safety concern, police will be called.

Councillor Kieran McKenzie inquires about the financial Impact of enacting the proposed by-law. Shelby Askin Hager, Commissioner, Legal & Legislative Services appears before the Environment, Transportation & Public Safety Standing Committee regarding “Panhandling Statistics re: Council Question CQ 11-2022 – City Wide” and indicates they would not be adding resources, enforcement would fall under standard daily duties and if there was a change required, that request would come back to council.

Councillor Kieran McKenzie inquires about the enforcement. Ms. Hager indicates the enforcement officers would go out and provide information and educate and if other resources were required they would provide them through the social services team. Craig Robertson, Deputy Licence Commissioner appears before the Environment, Transportation & Public Safety Standing Committee regarding “Panhandling Statistics re: Council Question CQ 11-2022 – City Wide” and provides information related to the ticketing process, provides details related to examples of information that would be provided, and connecting them with social services, and outreach staff if required.

Councillor Kieran McKenzie inquires whether it is administration’s opinion that they would write less tickets compared to the *Safe Streets Act*. Ms. Hager explains the request by Council to work towards reducing aggressive panhandling and the goal of the by-law officers would be to gain compliance, enforcing all City by-laws.

Councillor Kieran McKenzie, inquires about what enforcement measures would be decreased in order to allocate staff to aggressive panhandling complaints. Ms. Hager indicates that all items fall in the queue and are prioritized accordingly.

Councillor Kieran McKenzie inquires as to the set fines of the tickets being issued. Mr. Robertson indicates that the Attorney General sets the fines. Ms. Askin Hager indicates it would fall under the Provincial Offences Act, which doesn’t really work on a cost recovery model as the City is working on behalf of other member municipalities and then they split according to the agreed upon amounts.

Councillor Kieran McKenzie inquires about the statistics in the report. Ms. Askin Hager indicates that the statistics were provided by the Provincial Offences Department.

Councillor Gary Kaschak inquires about the reasons that fines were not being paid. Ms. Askin Hager indicates that there may be a number of reasons that people don’t pay fines, if it’s a panhandler perhaps they don’t have a substantial income, may not be a property owner or maintain a stable job, which makes it challenging to collect fines.

# Minutes

## Environment, Transportation & Public Safety Standing Committee Wednesday, March 29, 2023

Page 7 of 10

Councillor Renaldo Agostino inquires as to the intent of issuing the fine, if it may go unpaid. Ms. Askin Hager indicates that administration was tasked with providing a regulatory framework to prohibit aggressive panhandling, for the safety of others.

Councillor Renaldo Agostino indicates he has witnessed aggressive panhandling behaviour and doesn't want the businesses and homeowners in the area to be negatively impacted because of what's happening and feels the issues should be addressed, perhaps suggestions that don't include ticketing might be useful.

Councillor Kieran McKenzie inquires about the fines and unrecoverable debt. Ms. Hager indicates that when fines are collected they come in as a revenue, not a debt, with the more fines collected the higher the revenues that are shared with the member municipalities. If the fines are not collected it would be less revenue for the group.

Councillor Mark McKenzie indicates that the focus should be on the assistance instead of issuing tickets. Ms. Askin Hager indicates administration was providing the information as directed by Council.

Councillor Fabio Costante inquires about how aggressive panhandling behaviour is identified, and whether it is part of the *Safe Streets Act*. Ms. Askin Hager indicates that it is.

Councillor Fabio Costante inquires as to the deployment of by-law officers. Mr. Robertson provides details as to how the officers are being assigned around the City which is now a similar approach to how the Building Department deploys their officers, with a targeted approach to certain areas to assign resources where there is more need, while maintaining a complaint driven model.

Councillor Fabio Costante inquires as to how the complaint driven process would work here for this situation. Administration indicates it would work the same as other by-law complaints people would call into 311 to report the issues and the calls would be prioritized and investigated, similar to other enforcement issues.

Moved by: Councillor Renaldo Agostino  
Seconded by: Councillor Mark McKenzie

Decision Number: **ETPS 942**

That the attached additional information relating to panhandling regulation and statistics **BE RECEIVED**; and,

That by-law \*\*\*, being a by-law to regulate panhandling, **BE CONSIDERED**, and, if advisable, **BE PASSED**; and,

That administration **BE DIRECTED** to provide more information related to other options to issuing fines, including but not limited to outreach, to address the aggressive panhandling behaviour, for Councils consideration.

# Minutes

## Environment, Transportation & Public Safety Standing Committee

Wednesday, March 29, 2023

Page 8 of 10

---

Carried.

Councillor Kieran McKenzie and Councillor Fabio Costante voting nay.

Report Number: S 31/2023

Clerk's File: ACOQ2023

## 7. COMMITTEE MATTERS

### 7.1. Minutes of the Essex-Windsor Solid Waste Authority Regular Board Meeting held September 14, 2022

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Gary Kaschak

Decision Number: **ETPS 937**

That the Minutes of the Essex-Windsor Solid Waste Authority Regular Board meeting held September 14, 2022 **BE RECEIVED.**

Carried.

Report Number: SCM 56/2023

Clerk's File: MB2023

### 7.2. Minutes of the Essex-Windsor Solid Waste Authority Regular Board Meeting held February 7, 2023

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Gary Kaschak

Decision Number: **ETPS 938**

That the Minutes of the Essex-Windsor Solid Waste Authority Regular Board meeting held February 7, 2023 **BE RECEIVED.**

Carried.

Report Number: SCM 91/2023

Clerk's File: MB2023



# Minutes

## Environment, Transportation & Public Safety Standing Committee Wednesday, March 29, 2023

Page 9 of 10

---

### 8. ADMINISTRATIVE ITEMS

#### 8.1. CQ 18-2021 Truck Routes Progress Update- City-wide

Councillor Gary Kaschak inquires as to approximately when the Committee will receive the report through the consultant. Mr. Nepszy indicates the tender process is proceeding and administration should provide some preliminary findings later this year. Mr. Nepszy adds that the truck study has evolved and requires an in depth engineering evaluation as well.

Moved by: Councillor Kieran McKenzie  
Seconded by: Councillor Gary Kaschak

Decision Number: **ETPS 939**

That the report of the Transportation Planning Senior Engineer dated March 8, 2023 entitled "CQ 18-2021 Truck Routes Progress Update," **BE RECEIVED** for information.

Carried.

Report Number: S 30/2023  
Clerk's File: ST2023

#### 8.3. South National Street (Pilette to Jefferson) Traffic Calming - Ward 8

Councillor Gary Kaschak indicates that he was disappointed to see that the required response rate was not received for this traffic calming initiative as we would have liked to see it move forward. Administration provides information related to the study and funding.

Councillor Kieran McKenzie inquires about the funding in the account and whether they are uncommitted funds. Mr. Hagan indicates that the fund contains uncommitted funding that is available.

Moved by: Councillor Gary Kaschak  
Seconded by: Councillor Renaldo Agostino

Decision Number: **ETPS 941**

That the report of the Transportation Planning Senior Engineer dated March 1, 2023 entitled "South National Street (Pilette to Jefferson) Traffic Calming," **BE RECEIVED** for information; and,

That Administration **BE DIRECTED** to report back to Council with costs, and feasibility of adding traffic calming measures including physical separators with barriers along South National Street,

# Minutes

## Environment, Transportation & Public Safety Standing Committee

Wednesday, March 29, 2023

Page 10 of 10

---

enhancing the cyclist crossing at South National Street and Balfour Avenue and explore a pedestrian crossover at West Minster Avenue and South National Street into the Riverside area.  
Carried.

Report Number: S 27/2023  
Clerk's File: ST/13863

### 9. TRANSIT BOARD ITEMS

None presented.

### 10. ADOPTION OF TRANSIT BOARD MINUTES

None presented.

### 11. QUESTION PERIOD

None registered.

### 12. ADJOURNMENT

Moved by: Councillor Renaldo Agostino  
Seconded by: Councillor Mark McKenzie

There being no further business, the Environment, Transportation & Public Safety Standing Committee is adjourned at 6:12 o'clock p.m. The next meeting of the Environment, Transportation & Public Safety Standing Committee will be held April 26, 2023.  
Carried.

---

Ward 2 – Councillor Costante  
(Chairperson)

---

Deputy City Clerk /  
Supervisor of Council Services