
*For the Eighth Meeting of the Firearms Regulation Task Force
to be held on **Thursday, January 12th, 2006**
in Committee Room C-41 (Fourth Floor), Tom Davies Square **4:30 p.m.***

(PLEASE ENSURE CELL PHONES AND PAGERS ARE TURNED OFF)

Place Tom Davies Square is wheelchair accessible. Please speak to the City Clerk prior to the meeting if you require a hearing amplification device. Persons requiring assistance are requested to contact the City Clerk's Office at least 24 hours in advance of the meeting if special arrangements are required. Please call (705) 671-2489, extension 2475. Telecommunications Device for the Deaf (TTY) (705) 688-3919. Copies of Agendas can be viewed on the City's web site at www.greatersudbury.ca.

SANDWICHES AND DRINKS WILL BE SERVED

1. **Call Meeting to Order.**
2. **Declarations of Pecuniary Interest**

MINUTES

PAGE NO.

1. Report No. 7, Firearms Regulation Task Force Minutes of December 1st, 20051
(RESOLUTION PREPARED - MINUTES ADOPTED)

COMMITTEE REPORT

1. Draft 3, Report to Council, Firearms Regulation Tax Force2 - 11
(FOR DIRECTION)

ADJOURNMENT

(RESOLUTION PREPARED)

TASK FORCE MEMBERS

Councillor Bradley (*Ward 2*)
Councillor Dupuis (*Ward 3*)
Gary Lampi
Michael Pilon
Jean (Jack) Rivet
Dr. Darren Stinson
Roy Polsky,
(*Representative, Ontario Federation of
Anglers & Hunters, Zone D and its affiliate
local clubs*)

RESOURCE PERSONS (NON-VOTING)

Bryan Gutjahr, *Manager of By-law
Enforcement Services*

Sgt. Joe Williams, *Greater Sudbury Police
Services*

Steve Massé, *Conservation Officer
(Enforcement - Sudbury District), Ministry
of Natural Resources.*

AGENDA/MINUTES DISTRIBUTION

Mayor and Members of Council
M. Mieto
C. Matheson
D. Nadorozny
A. Stephen
C. Hallsworth
R. Swiddle

Angie Haché
City Clerk

Franca Bortolussi
Planning Committee Secretary

**THE SEVENTH MEETING OF THE FIREARMS REGULATION TASK FORCE
OF THE CITY OF GREATER SUDBURY**

Committee Room C-41
Tom Davies Square

Wednesday, December 1st, 2005
Commencement: 4:30 p.m.
Adjournment: 5:50 p.m.

DR. DARREN STINSON IN THE CHAIR

<u>Task Force</u>	G. Lampi; R. Polsky; J. Rivet
<u>Resource Personnel</u>	Bryan Gutjahr; Steve Massé
<u>Others</u>	F. Bortolussi, Committee Secretary
<u>Declarations of Pecuniary Interest</u>	None declared.

MINUTES

Report # 6 FRTF Minutes of <u>October 5th, 2005</u>	The following recommendation was presented: 2005-13 Polsky-Rivit: THAT Report #6, Firearms Regulation Task Force Minutes of October 5th, 2005, be adopted.
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CARRIED

ITEMS FOR DISCUSSION

<u>Report to Council (Second Draft)</u>	The Chair explained all the changes made to the first draft of the Report to Council. The Task Force discussed the draft report and agreed to a few minor corrections and amendments. The Task Force agreed that the Report would be presented to Council at the Priorities Meeting of February 1st, 2005. They also agreed that one more meeting should be held to review the final draft before presenting the Report to Council.
<u>Next Meeting</u>	The next meeting has been set for January 12th, 2005 at 4:30 p.m.
<u>Adjournment</u>	2005-12 Polsky-Rivit: THAT we do now adjourn. Time: 5:50 p.m.

CARRIED

SECRETARY

DR. DARREN STINSON

FIREARM DISCHARGE TASK FORCE REPORT TO COUNCIL DRAFT 3

BACKGROUND:

As a result of the amalgamation of the former municipalities that made up the former Regional Municipality of Sudbury and several previously unorganized townships into the City of Greater Sudbury, the Province of Ontario has ordered the City of Greater Sudbury to begin the process of creating one by-law to replace all of the by-laws of the former municipalities.

In February 2005, a draft Firearm Discharge By-law was provided to Council for their consideration. As a result of the extremely large volume of negative comment towards the by-law as written, the Council of the City of Greater Sudbury struck a task force to research such a by-law and to obtain public comment of such a By-law.

The Mandate of this task force is as follows:

1. Review and advise on the necessity, feasibility or desirability of regulating the discharge of firearms within the boundaries of the City of Greater Sudbury, and for which Council has direct responsibility.
2. Issues the Task Force may examine and advise upon include, but are not limited to:
 - a. the need for a by-law or regulations governing this discharge of firearms;
 - b. the desirability of regulating the discharge of firearms either in the whole or in various parts of the City of Greater Sudbury;
 - c. whether or not exemptions should be included in any such by-law and how such exemptions may be administered; and
 - d. whether or not a need exists for further Citizen review and oversight for the regulation of firearms in the City of Greater Sudbury.
3. Review and advise Council with regard to the discharge of firearms by persons engaged in farming or their agents, when firearms are discharged for the purpose of protecting livestock or crops.
4. Review and advise on any proposals with regard to areas of the City of Greater Sudbury that may be considered as open or closed to the discharge of firearms for hunting, with primary consideration being the public's safety.
5. Recommend how the City can develop, maintain and promote a Code of Behaviour for hunters and other recreational users in farming and wildlife habitat areas.

The members of this task force include:

Voting Members

- Dr. Darren Stinson, Chair
- Roy Polsky, Vice-Chair
- Councillor Ron Bradley
- Councillor Ron Dupuis
- Gary Lampi
- Michael Pilon
- Jean (Jack) Rivet

Resource (non-voting) Members

- Bryan Gutjahr, Manager of By-law Enforcement Services
- Sgt. Joe Williams, Greater Sudbury Police Service
- Steve Massé, Conservation Officer, Ministry of Natural Resources

The Task Force met several times over the spring and early summer of 2005. It held public input meetings in every ward in September 2005. It deliberated over its report to Council during the autumn of 2005.

The following report is a culmination of all of the presentations made to the Task Force as well as recommendations from the Public Input Meetings.

THE ISSUES:

1. The Task Force assumed that the primary issue for the need for a Firearm Discharge By-law is public safety.
2. The use of firearms by trained licensed individuals (i.e. hunters and trappers) is legal and moreover is a protected legal activity under the Heritage Hunting and Fishing Act, S.O. 2002.
3. The City of Greater Sudbury is a very unique municipality in Ontario. The City likes to refer to itself as a “City of Lakes” with hundreds of lakes within its boundaries. It must be recognized that with the large number of lakes there goes along a vast amount of Crown land that traditionally has been hunted by law abiding hunters since long before the inception of the Greater City or even its predecessors. Large tracts of this Crown land lay outside a reasonable distance from residences, industrial or commercial properties and must stay available for hunting.
4. The City of Greater Sudbury is made up of seven former municipalities that each had very different firearm discharge by-laws and several unorganized townships that had no by-law whatsoever. As a result, the Task Force must consider what is in the best interest of all residents of all of these areas.
5. Within the boundaries of the City of Greater Sudbury there are a large amount of land that is used for agricultural purposes; be it the growing and harvesting of crops for human and animal consumption or the raising of livestock. The use of firearms is essential in the operation of the majority of agricultural endeavours.

THE RESEARCH:

The Task Force invited the non-voting resources members to make presentations to the Task Force representing the concerns of the organizations/institutions that they represent.

The City of Greater Sudbury By-law Enforcement Manager, Mr. Brian Gutjahr advised the task Force that his department refers all complaints regarding the discharge of firearms to the Greater Sudbury Police Service.

Sergeant Joe Williams of the Greater Sudbury Police Service did a presentation advising the Task Force of the particulars of the ballistics of the various common calibers and types of firearms used by most hunters. An overview of the firearm section of the Criminal Code of Canada was discussed. Sergeant Williams also advised that there are on average 2-3 firearm discharge complaints annually and that these occur in areas traditionally used by hunters and most occur during the beginning of the hunting season. To his recollection there has not been any fines laid as a result of contraventions of any of the by-laws in the former municipalities that now make up the City of Greater Sudbury.

Mr. Ken Moxam, the president of the Sudbury Trapper's Council, addressed the Task Force and advised that his organization would require exemptions in the by-law for "trapping cabins" just as there are exemptions for "hunting cabins" in the "draft by-law". He also noted that his organization is contracted by the City of Greater Sudbury for the purpose of trapping nuisance animals that may be causing damage or threatening damage to City infrastructure. As such, they would need an exemption to be able to dispatch an animal humanely if necessary during the course of their duties under contract by the City.

Mr. Steve Masse, conservation officer for the Ministry of Natural Resources (MNR) and Acting Enforcement Supervisor for the Sudbury District of the MNR advised the Task Force of the importance of the large tracts of Crown land within the boundaries of the City of Greater Sudbury that is used by a large segment of the population. He also discussed the protection of property issue, especially of golf courses from nuisance species such as geese and the legal issuance of permits to reduce the population of such species on these properties that fall within the boundaries of the City of Greater Sudbury. Any restrictive by-law could prevent such property owners from protecting there property.

Mr. Greg Farrant of the Ontario Federation of Anglers and Hunters gave the Task Force an overview of the safety of hunting and recreational shooting. He discussed the training that hunters must go through before becoming licensed. Mr. Farrant continued to advise the Task Force of the implications of a restrictive by-law, not only on restricting a legal and protected heritage activity (hunting) but also on the economy.

Messrs. Gilles Goudreau and Ken Lynn representing the Bear Outfitters discussed that a restrictive by-law would significantly restrict the ability of many bear guides to continue their work as many bear baits are located within the restricted zone in the “proposed by-law”. The outfitters advised the Task Force of the significant economic impact to the Community of the influx of thousands of bear hunters that would leave Sudbury and move on to other more welcoming communities.

Mr. Vance McPhee, President of the Crean Hill Gun Club made a presentation to the Task Force on behalf of the shooting sports enthusiasts. He advised that the proposed by-law with no exemptions for shooting clubs would prevent members of the shooting clubs in the City of Greater Sudbury from pursuing their activity despite the stringent rules that they must adhere to in order to maintain their permits to operate. Another issue brought up was the continued encroachment on these establishments by new residential properties that then could make some of the clubs in contravention of any restrictive by-law.

Mr. Brian Ramakko discussed with the Task Force the economic importance of hunting to the businesses in the City of Greater Sudbury. This included outdoor stores, restaurants, gas stations and automobile maintenance shops, hotels and motels, grocery stores, convenience stores, etc. A restrictive by-law may cause much of this money to flow to other communities that are more receptive to the shooting sports. He commented that Sudbury is in a unique position to become more inviting to people that participate in the shooting sports rather than to turn them away through restrictive by-laws. Mr. Ramakko also advised that it precisely this lifestyle that Sudbury can offer (hunting and fishing opportunities within the City) that is helping to recruit and retain much needed professionals (especially physicians) to the City.

Mr. Oliver Barriault, a much respected hunting and firearm educator, advised the Task Force in detail the training that hunters in Ontario must go through in order to be licensed. He also advised of the training that Canadian citizens must go through in order to be able to own a firearm.

The Task Force also accepted and received several written submissions from citizens during its investigation.

The Task Force also held public input meetings in every Ward. During these meetings, it was very evident that the hunting population is very emotional when it comes to attempts to restrict their activity. This emotion is understandable given the large number of real or perceived restrictions on this demographic; be it the federal gun registry or the cancellation of the spring bear hunt or the moose tag allegation system.

Approximately 137 citizens attended the meetings. Generally the most common sentiment was frustration towards the perceived further restrictions on hunting activities. Another strong sentiment was that those who were in attendance felt that the majority of complaints were actually noise complaints. There were many comments regarding what was considered to be poor advertising of the public information meetings. Other comments included:

1. request for exemptions for the registered biathlon teams for their training and that restrictive by-laws would prevent the City of Greater Sudbury from being a potential host city for district, provincial, national and international biathlon events
2. any discharge by-law should not affect the tracts of Crown land within the City of Greater Sudbury
3. many requested at all the meetings that all existing by-laws remain as is
4. distance limitations from homes, buildings, structures etc. should be defined depending the types of firearm being used, i.e. different distance for shotgun and rifle
5. bows and crossbows, pellet guns, paintball guns (air guns), should be excluded from any by-law
6. present laws in Ontario and Canada adequately cover the discharge of firearms, another level of "bureaucracy" is unnecessary
7. any by-law should not restrict a resident from enjoying the use of his property (i.e. acreage in the rural areas that the resident currently hunts on)
8. signage should be erected to advise residents of a restricted hunting area and active hunting areas
9. many concerns regarding the encroachment of dwellings into traditional hunting areas
10. farmers must be able to protect livestock and crops
11. exemptions should be made for dog training
12. encroachment of dwellings near registered ranges and shooting clubs was discussed and therefore exemptions should be considered if the club was pre-existing and has met all the requirements of the Chief Firearms Inspector of Ontario
13. exemptions should be made for archery classes in schools

DISCUSSION:

The Task Force considered carefully all of the comments and recommendations of all of the concerned parties with which it met. It is the opinion of the Task Force that reasonable due diligence has been exercised in collecting information to provide reasonable advice to Council.

The Task Force has been very sensitive to the uniqueness of the City of Greater Sudbury; not only in terms of its geography with large tracts of Crown land within its boundaries but also to the fact that every former municipality that has been amalgamated into the City had very different firearm discharge by-laws as well as the fact that several unorganized townships that have entered the City had no by-law whatsoever.

It was very interesting to note that no citizen of any of the previous municipalities received a Provincial Offences Act fine regarding the discharge of a firearm in recent memory. This raises the question as to whether or not there is a safety issue with regards to firearm discharge within the City of Greater Sudbury.

The number of complaints to the Greater Sudbury Police Service is a very small number and, after investigation, no charges have been laid as the complaints are mostly due to increased noise during the start of hunting season after a long summer of not hearing firearms discharge. The non-hunting public is usually not aware of the opening dates of most hunting seasons. It is conceivable that if awareness of these dates were increased then these complaint numbers would probably be reduced further.

The Task Force was educated in the Criminal Code of Canada sections relevant to firearms and their use. We also became further acquainted with the Fish and Wildlife Conservation Act, S.O. 1997 of the Province of Ontario as well as the firearms discharge by-laws of all the former municipalities.

It is the opinion of the Task Force that these by-laws added a further unused and unnecessary level of control and bureaucracy to the discharge of firearms. This opinion was formulated after it became evident that firearm complaints made to the City of Greater Sudbury By-law Enforcement Department are referred to the Greater Sudbury Police Service due to the nature of the complaint. It is apparent that after investigation by a police officer that if the discharge of a firearm was dangerous to the public then Criminal Code charges would be laid.

There are those however, that say a firearms discharge by-law could allow for a police officer to use a lesser punitive measure in the example of an adolescent who inappropriately discharges a pellet or BB gun. This would only be true if air guns would be included in the definition of firearm in the by-law. The Task Force considered this scenario and felt that, although there is some merit, it does not warrant a by-law by itself.

The Task Force began to realize that even the present by-laws are ambiguous at best. The drafting of a new by-law would require an intimate knowledge of the geography of the City of Greater Sudbury. When this is taken into account, it is the opinion of the Task Force that there would need to be so many exemptions that the by-law would be extremely difficult to interpret and enforce.

OPTIONS:

The mandate of the task Force is as follows:

1. Review and advise on the necessity, feasibility or desirability of regulating the discharge of firearms within the boundaries of the City of Greater Sudbury, and for which Council has direct responsibility.
2. Issues the Task Force may examine and advise upon include, but are not limited to:
 - a. the need for a by-law or regulations governing this discharge of firearms;
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- c. whether or not exemptions should be included in any such by-law and how such exemptions may be administered; and
 - d. whether or not a need exists for further Citizen review and oversight for the regulation of firearms in the City of Greater Sudbury.
- 3. Review and advise Council with regard to the discharge of firearms by persons engaged in farming or their agents, when firearms are discharged for the purpose of protecting livestock or crops.
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 - 5. Recommend how the City can develop, maintain and promote a Code of Behaviour for hunters and other recreational users in farming and wildlife habitat areas.

This report will deal with part five (5) first then parts one (1) to four (4) in two separate recommendations.

The fifth item in the Task Force's mandate is to consider the development of a "Code of Behaviour for Hunters" and other recreational users in farming and wildlife habitats. The Task Force considered this item and is of the opinion that the provincial Fish and Wildlife Conservation Act adequately covers the concern regarding the behaviour of hunters during the activity of hunting. Moreover, the Ontario Federation of Anglers and Hunters has a Code of Ethics for its members to abide by. It is the belief of the Task Force that the City of Greater Sudbury has no place recommending what is reasonable behaviour for hunters.

OPTION #1

After considering all of the submissions provided to the Task Force, the Task Force has concluded that one option for the Council of the City of Greater Sudbury to consider is to repeal all existing by-laws with no new firearms by-law to be implemented.

The Task Force is of the opinion that the Criminal Code of Canada adequately covers the discharge of firearms in public places through several sections, including but not limited to:

- a) Section 86.(1) - Careless use
- b) Section 87.(1) - Pointing firearm
- c) Section 88.(1) - Possession of weapon for dangerous purposes
- d) Section 175.(1) - Discharging in public place

The Task Force also has been advised that the Fish and Wildlife Conservation Act has sections in it that provide for protecting the public safety including but not necessarily limited to:

- a) Section 14 ...a person may not hunt with a firearm in an area prescribed by regulation as being unsafe
- b) Section 16 ...a person that is in the possession of a firearm for the purpose of hunting or trapping shall not discharge or handle the firearm or cause it to be discharged or handled without due care and attention or without reasonable consideration for people or property
- c) Section 17 ...restricts firearms to be loaded within or on vehicles in game inhabited areas
- d) Section 10 ...trespassing (while hunting)

Considering that the Task Force has been advised that there has not been any fines levied by police or by-law enforcement officers for the discharge of firearms in the former municipalities contrary to their respective by-laws, the Task Force feels that a municipal by-law is a redundant form of legislation that truly is not necessary in the City of Greater Sudbury.

The concern of public safety, the Task Force believes, is more than adequately covered by the existing laws of the land. The Task Force considered the following scenario:

A complaint is lodged regarding a resident discharging a firearm in his back yard during the activity of target shooting pop cans off of his fence that separates his and the neighbour's property. It is inconceivable to the members of the Task Force that, in such a blatant disregard for the safety of the neighbourhood, an investigating police officer will only give a prescribed fine under the Provincial Offences Act for a contravention of a City by-law. In fact, the Task Force feels that the resident would be charged with Criminal Code infractions.

The same scenario can be used for a hunter that is shooting game within a distance of a residence that would be considered unsafe. The investigating conservation officer would not lay a City ordinance infraction but would instead lay a charge prescribed in the Fish and Wildlife Conservation Act under its safety provisions.

OPTION #2:

The second and last option of the Task Force would be to repeal all existing by-laws and replace them with one by-law with a very long list of exemptions.

This new by-law would require an acceptable definition of a firearm. The Task Force recommends using the Criminal Code definition for standardization purposes. The definition is found in Section 2. - A barreled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm. Council would have to consider whether or not include bows and crossbows into the definition of firearm. The Task Force recommends that they should be included and that the definition for such weapons in the Fish and Wildlife Conservation Act be used as the City definition in its by-law. The

Fish and Wildlife Conservation Act defines a bow under the definition of a firearm ('firearm' includes an air gun, pellet gun, bow and crossbow) and the Criminal Code of Canada defines a crossbow as a bow and bowstring mounted on a stock that is designed to propel an arrow, bolt or similar projectile guided by a barrel or groove that is capable of causing serious bodily harm or death.

Any such by-law would have to have a separation of distances from residences, industrial buildings, farm buildings and the like for shotguns and rifles. The Task Force, after much deliberation, feels that 300 metres for shotguns and 1.0 km for rifles are maximum distances that are reasonable.

Bows and crossbows should be limited to the distances as per shotguns.

Council would have to consider the type of buildings that it would have to describe as those from which the distance is measured. The Task Force recommends that Council consider residences, commercial, agricultural and industrial buildings within the City of Greater Sudbury. Council must consider exemptions that include but are not restricted to:

1. seasonal residences
2. hunting camps
3. trapping cabins
4. shooting ranges and clubs
5. Own home i.e. Provided that prescribed distances are met from neighbouring buildings then the by-law would not restrict property owners from using their own property for the purpose of shooting sports

Council would have to consider exemptions for the discharge of firearms for the purpose of protection of property and person.

Agricultural exemptions must be made for farmers to protect livestock and crops. These exemptions should include such businesses as golf courses as well.

Ceremonial discharge of firearms such as those that may occur during memorial services, funerals, and military services must be exempted.

Exemptions must be considered for police officers, Conservation officers, animal control officers and nuisance trappers under contract by the City in the performance of there prescribed occupations.

Further exemptions should be made for trappers to be able to humanely dispatch animals that are trapped on legally registered trap lines within the prescribed distances.

Council needs further exemptions for licensed shooting clubs as well as protection from further encroachment by residential building.

Council should take a leadership role to ensure that biathlon clubs are assisted in finding training facilities with licensed clubs.

Exemptions must be considered for dog training purposes so that Greater Sudbury can continue to host regional, provincial and national trials.

Many school and summer camps offer archery lessons within the City of Greater Sudbury. These must have exemptions to allow for the continued instruction of these skills provided appropriate safety measures have been taken.

Any by-law must be easy to understand and must be enforceable. It must be fair to all residents by not being too restrictive to those residents from former unorganized townships who had no firearms discharge by-laws and those from municipalities with very liberal by-laws yet is more lenient for those from municipalities with fairly restrictive by-laws (i.e. Nickel Centre).

If Council were to consider a single by-law then there must be an opportunity for oversight and review as it is highly likely that the need for further exemptions will come to light after such a by-law is passed.

RECOMMENDATION:

After much consideration and deliberation the City of Greater Sudbury Firearms Discharge Task Force recommends that Council accept Option #1 and repeal all existing firearm discharge by-laws presently in existence and allow the present federal and provincial legislation to govern the use of firearms in the City of Greater Sudbury.