Council Direction:

On November 14, 2012, City Council, in approving Report 12-032 of the General Issues Committee directed as follows:

“14. Establishment of a Specialized By-law Enforcement Unit (Item 9.2)

Whereas a 2008 Consultant report recommended that Municipal Law Enforcement Officers’ hours of operation "for safety reasons should not exceed 1:00 a.m., at which time responding to noise complaints would become the responsibility of the Police”;

And whereas police are not always available to immediately respond to nighttime noise complaints because of demand for higher priority calls for service.

Therefore Be It Resolved:

That City staff investigate the practices of other municipalities and, in consultation with the Hamilton Police Service, be directed to investigate and report to the Planning Committee on the feasibility of establishing a specialized enforcement unit, fully equipped and highly trained in self-defense and conflict
resolution, in order to provide an appropriate level of service to overnight noise complaints.”

Information:

A 2007 Operational Review by Internal Audit contained 48 recommendations to correct deficiencies in the City’s by-law enforcement and business licensing programs (formerly the Standards and Licensing Section). One significant recommendation of Internal Audit was:

“That the effectiveness of using inspectors in the Standards and Licensing Section to respond to noise complaints be reviewed in consultation with the Hamilton Police Service.”

City Council endorsed management’s response and action plan, and approved $25,000 in one-time funding as part of the 2007 budget process to undertake a study of the effectiveness in responding to noise complaints.

In September 2007, BMA Management Consulting Inc. (BMA) was retained and conducted the aforementioned study, which involved extensive consultation with staff from across the Division, consultation with the Hamilton Police Service, focus group sessions with members of Council and an investigation of practices employed in other municipalities (Brampton, Calgary, Edmonton, Guelph, Kingston, Kitchener, London, Mississauga, Oshawa, Ottawa, Waterloo and Windsor).

On May 12, 2008, City Council, in approving Report 08-019 of the (former) Committee of the Whole received BMA’s Report which included a number of recommendations including the following two directly related to noise enforcement:

“That a separate Special Enforcement section be established within By-law Enforcement to deal directly with noise complaints, after-hour vital service complaints, multi-agency task force blitzes and other activity required to be performed after normal business hours.

That the Special Enforcement section operate 7 days a week, subject to Council determination of service levels and respond to noise complaints up until 1 am, after which, because of the increased safety risks, the complaint becomes the responsibility of the police.”

BMA’s Report justifies transferring the responsibility for responding to noise complaints at 1:00 am because “…the vast majority of the calls after 1:00 am require Police involvement and therefore, this reduces the duplication of efforts and escalates to the most appropriate level of enforcement”. BMA also noted a financial efficiency in that having the Police respond would also allow the elimination of “stand-by” pay for Municipal Law Enforcement Officers (MLEO).
In recommending that the Police respond to noise complaints BMA further concluded that "while staff and Council support the transfer of responsibility for significant noise complaints to the Police Services which is the practice employed in a number of municipalities, based on the Police's priority based system, noise complaints would continue to be treated as a low priority and may not meet community expectations for effective enforcement."

Council approved a team-based approach to enforcement (May 14, 2008), as well as a comprehensive by-law enforcement strategy including by-law prioritization, more effective enforcement efforts, minimizing non-value added work to allow more focus on priority issues and a public awareness campaign (November 26, 2008). In terms of noise response protocol, Council approved normal “after-hours” enforcement as being from 4:30 pm to 1:30 am unless part of a special project or joint enforcement effort with the Hamilton Police Service or other enforcement agencies.

The Hamilton Police service has a Priority Response System which classifies noise complaints as a Priority Level 4, while higher priority calls for service are responded to first. Noise calls are answered in time, depending on priority call volumes and Officers available to respond to Level 4 calls. In most cases noise calls are responded to but at a later time, when their calls for service levels drop.

While the BMA report recognized that at that time “… based on the Police’s priority based system, noise complaints would continue to be treated as a low priority and may not meet community expectations for effective enforcement.” it is evident that the current model for responding to after-hours noise complaints may no longer be serving the Community well as more complaints are being readily received from the public and members of Council.

Staff met with representatives of the Hamilton Police Service, and were advised that the Police support the status quo arrangement and would not support providing specialized training or special status under the Police Services Act to create a specialized and qualified City staff enforcement team.

The Police have, however, asked that City staff be allowed to work until 4:00 am and be the primary response to overnight noise complaints. Staff has given due consideration to this request, and do not support it for the following reasons:

- additional financial and staff resources would be required to return to the practice of having MLEOs on “stand by” or assigned to overnight shifts unless priorities are changed to divert attention away from other by-law enforcement activities;

- as noted in the 2008 BMA report “the vast majority of the calls after 1:00 am require Police involvement …”. Therefore, assigning MLEOs to be first/sole responders to after-hours noise complaints, would create additional costs to the tax
payers, and would be both inefficient and ineffective as they would, more often than not, need to request and await Police back-up before responding to a call;

- unless the Police are able and willing to provide specialized training and empowerment to MLEOs, there would be concerns about the risks to MLEO personal safety being the sole responders to noise complaints overnight. Under Health and Safety Legislation, staff can refuse to work if a situation, in their opinion, poses an immediate threat to their personal health or safety.

In summary, while there may be higher expectations for service delivery with respect to noise calls overnight, unless the Hamilton Police Service is prepared to assist by providing specialized training or special status under the *Police Services Act* to create a specialized and qualified City staff enforcement team, staff recommend no further action.

MH/dt