EXECUTIVE SUMMARY:

At the May 11, 2010 Environment, Infrastructure & Transportation Policies (EITP) Committee a report was presented by Corporate Services for a street closure on Saturday July 31, 2010 to facilitate the proposed Active Living Day in conjunction with one of the semi-annual Downtown Kingston Sidewalk Sales. The event is now being promoted as the Princess Community Street Promenade. At the meeting the EITP Committee requested additional information be brought to Council when the EITP Committee report was being considered. This information report is presented to address the possibility of allowing food establishments within the sections of Princess Street slated for temporary closure, that do not already have a patio license, the opportunity to serve food on the sidewalk during the July 31st event.

RECOMMENDATION:

This report is for information purposes only and should be considered in conjunction with Clause 7. (c) of Meeting 2010-06 of the Environment, Infrastructure & Transportation Policies Committee (Report No. EITP-10-023)

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

<table>
<thead>
<tr>
<th>Commissioner</th>
<th>Status</th>
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<tbody>
<tr>
<td>Cynthia Beach, Sustainability &amp; Growth</td>
<td>✔</td>
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<tr>
<td>Terry Willing, Community Services</td>
<td>✔</td>
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<tr>
<td>Denis Leger, Transportation, Properties &amp; Emergency Services</td>
<td>✔</td>
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<tr>
<td>Jim Keech, President and CEO, Utilities Kingston</td>
<td>✔</td>
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(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

This information report has been provided to assist Council in determining if there should be an exemption to By-Law No. 87-136 "A By-Law To Authorize The Adoption Of Regulations Established For The Purpose Of Dealing With Applications For The Extended Use Of Sidewalks" in order to permit existing restaurants located along the Princess Street corridor, that are located within the street closure being requested for Saturday July 31, 2010, the opportunity to place tables and chairs outside their restaurant for the purpose of selling food.

It is the understanding of staff that the request for the exemption to the by-law is applicable to only existing restaurants (other commercial properties will not be permitted to vend food in front of their business) and this is further interpreted to mean that the restaurant is limited to the area immediately in front of their building.

It is suggested, as with existing patio licenses, that the preparation of food occurs in the kitchen contained within the establishment and that food be delivered to the tables. Alternatively food can be purchased inside the restaurant and taken out to the tables provided in front of the establishment. No alcohol should be permitted in temporary seating areas as alcohol licenses are only provided to establishments that have their seating contained and staff does not support temporary fencing for this event.

It is important to note that the provision of tables and chairs on the sidewalk will impede the flow of pedestrian traffic. The current patios have been designed and constructed to ensure that there is sufficient space to maneuver around the fence. To allow tables and chairs to be placed such that there is less than 1.5m of sidewalk clear of obstructions, a person using a wheelchair or scooter would not be able to access the shops along the street. A person with mobility challenges may not be able to maneuver up and down the curb to get to a store or restaurant if they are directed to the road by the placement of tables and chairs. It should also be considered that the random placement of tables and chairs will be difficult for a person with visual impairments. For these same reasons street furniture such as, “A” frame signs and planters may have to be removed on the day of the event to accommodate pedestrian traffic.

Similarly to the comments in the road closure report, temporary patio operations should be limited to the sidewalks and parking lanes immediately adjacent to the establishment seeking the temporary patio to enable active transportation activity and to allow access for emergency vehicles on the travel lanes. There should be no tables or chairs placed anywhere within the driving lanes of Princess Street.

The Licensing & Enforcement Division has considered the proposal and concluded that as long as the establishment has a current business license to operate a food premise, no additional license will be required. They do however require that the restaurant contact the Health Unit. The Engineering Department contacted the Kingston Frontenac Lennox and Addington Health Unit for comment on their requirements for extending the food service area of a restaurant. The Health Unit will require each restaurant to make application for a Special Occasion Permit. A copy of the application form has been provided in Exhibit “A” for information.

As Council is aware, for a formal patio license request each restaurant owner is required to make a submission to the Engineering Department for a patio license. The process includes the provision of a drawing so that staff can review and ensure that the placement of the patio does not create design challenges for the public right of way. For the temporary patios being considered for this event, it is suggested that in order to manage the space and ensure accessibility, each restaurant interested in participating in the event be required to provide the Engineering Department with a scaled drawing of their desired serving area. A “permit” could then be issued, which includes the drawing of the temporary patio layout, to be posted in the window of the restaurant. This will assist in limiting the “creep” that might occur throughout the day and provide by-law officers as well as City Police knowledge of who has authority to have a temporary patio and the approved layout. For a complete submission, it is recommended that the approval from the Health Unit as well as confirmation from Licensing & Enforcement that they have a current business license to operate the patio also be included in the submission.
In order for a restaurant to operate a patio within the road allowance, the owner must confirm that they have $2,000,000 in liability insurance and the City is named as an additional insured. This will provide a level of protection to the City in the event a patron or a passerby of the restaurant has an “accident” while on City property that may be deemed a result of the patio. Should Council conclude to permit the restaurants to use the right of way, consideration should be given to the requirement of the restaurants to have liability insurance for the event.

It is important to note that there may be establishments, which due to their location, may not be able to provide seating areas for their patrons as there may not be sufficient space adjacent to their business. In order to allow for time to review there should be a submission cutoff date. Any restaurant considering the option of opening a temporary patio should advise the Engineering Department no later than June 18, 2010. This would allow the opportunity to complete a cursory review of the location and advise the proponent if the patio is feasible considering the availability of space and time for the applicant to communicate with the Health Unit and their insurance company prior to a formal submission. Formal submissions should be provided no later than July 5, 2010. No submissions should be accepted after the July 5, 2010 deadline. It is suggested that communication be sent to the Downtown Kingston BIA requesting their assistance in notifying their membership of the process.

Should Council conclude to proceed with allowing the restaurants to place tables and chairs on the right of way, a draft by-law has been attached as exhibit “B” for consideration.

EXISTING POLICY/BY LAW:

By-law No. 87-136 “A By-Law To Authorize The Adoption Of Regulations Established For The Purpose Of Dealing With Applications For The Extended Use Of Sidewalks”. This by-law contains the regulations and design requirements for establishing a patio on the right of way.

NOTICE PROVISIONS:

Not Applicable

ACCESSIBILITY CONSIDERATIONS:

The provision of additional chairs and tables on the City sidewalk may impact accessibility along Princess Street. When an establishment opens a patio in the right of way they are required to ensure they maintain a similar width of sidewalk around the patio when it is constructed. In several cases this results in the applicant having to construct an extension to the sidewalk around the location for the patio. For this event, should Council approve the by-law exemption, it may be more appropriate for the seating areas to be established in parking stalls if one is available in front of a restaurant. If there is an existing extended sidewalk that is not encumbered with street furniture then that area could also be used for tables and chairs.

FINANCIAL CONSIDERATIONS:

Council is considering authorizing $10,000 from the 2010 Working Fund Reserve to assist with this event. This amount did not consider the time and effort that would be required to review temporary patio licenses. The current application fee for a patio license is $356.06. If there were 10 applications for patio licenses that total cost would be $3,560. Therefore it is suggested that Council consider an additional $3500 dollars be allocated to this event from the working fund reserve. Staff will track each application and the fund will be charged accordingly at the end of the event.
CONTACTS:

Mark Van Buren, Director of Engineering, ext. 3218
Kim Brown, Manager, Infrastructure & Development, ext. 3132

OTHER CITY OF KINGSTON STAFF CONSULTED:

Kim Leonard, Manager, Building & Licensing, ext. 3222
Barry Kaplan, Accessibility Coordinator, ext. 3182
Alan McLeod, Senior Legal Council, ext. 1237

EXHIBITS ATTACHED:

Exhibit “A” Health Unit Form
Exhibit “B” Draft By-Law
SPECIAL OCCASION PERMIT (Food Service)

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
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<tbody>
<tr>
<td>Name of Event</td>
<td></td>
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<tr>
<td>Dates of Event</td>
<td></td>
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<tr>
<td>Time</td>
<td></td>
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<tr>
<td>Location/Address of Event</td>
<td></td>
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<tr>
<td>Group Sponsoring Event</td>
<td></td>
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<tr>
<td>Contact Person</td>
<td></td>
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<tr>
<td>Mailing Address</td>
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<tr>
<td>Postal Code</td>
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<tr>
<td>Telephone # (Home) (Work)</td>
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<tr>
<td>Number of anticipated participants</td>
<td></td>
</tr>
<tr>
<td>Is this function strictly for members, personally invited guests?</td>
<td></td>
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<tr>
<td>Is this function for the general public?</td>
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<tr>
<td>Name of Caterer:</td>
<td></td>
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<td>Contact Person:</td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td></td>
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<tr>
<td>Telephone:</td>
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<tr>
<td>Foods to be served:</td>
<td></td>
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<tr>
<td>Foods obtained from:</td>
<td></td>
</tr>
<tr>
<td>Where will foods be prepared?</td>
<td></td>
</tr>
<tr>
<td>Who will be preparing foods? (Names of Individuals)</td>
<td></td>
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<tr>
<td>Are there refrigerators to store foods?</td>
<td></td>
</tr>
<tr>
<td>If not, how will food be kept cold?</td>
<td></td>
</tr>
<tr>
<td>Are there ovens to cook foods and hold these foods at proper temperatures?</td>
<td></td>
</tr>
<tr>
<td>If not, how will foods be kept hot?</td>
<td></td>
</tr>
</tbody>
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ENVIRONMENTAL HEALTH FAX: (613) 549-7738
Indicate type of utensils: Disposable ______ Washable Multi-Use ______
Is there a dishwasher ___ or sinks ___ to properly clean utensils?
If not, how will utensils be cleaned?

Sanitary Facilities
Number of toilets/urinals and hand basins available for each sex.

Male: Toilets _______ Urinals _______
      Hand basin __________
Female: Toilets __________
       Hand basins __________
Will portable toilets be provided? Yes _______ No _______
Signature: __________________________________________________
Date: ______________________________________________________

FOR OFFICE USE ONLY

Recommendations or Comments:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

Date: ____________________ Public Health Inspector: ____________________ Supervisor: ________________

Personal information on this special occasion permit form is collected under the authority of the Health Protection and Promotion Act and will be used for the administration of Public Health programs. Any questions about the collection of this information should be directed to the Director, Environmental Health, KFL&A Public Health, 221 Portsmouth Avenue, Kingston, Ontario K7M 1V3, 613-549-1232 ext. 243, 1-800-267-7875

#7-30-110 Rev. 1/05
S:\Environmental Health Dept\FORMS\FOODSAFE\Special Occasion Permit.doc
By-Law No. 2010-

A BY-LAW TO AMEND BY-LAW NO. 87-136 “A BY-LAW TO AUTHORIZE THE ADOPTION OF REGULATIONS ESTABLISHED FOR THE PURPOSE OF DEALING WITH APPLICATIONS FOR THE EXTENDED USE OF SIDEWALKS”.

PASSED: -

WHEREAS the City of Kingston issues annual licenses for the extended use of sidewalks as outlined in By-Law No. 87-136 “A By-Law To Authorize The Adoption Of Regulations Established For The Purpose Of Dealing With Applications For The Extended Use Of Sidewalks”

AND WHEREAS the Council of the Corporation of the City of Kingston has authorized the closure of Princess Street from Division Street to Ontario Street for the Promenade

AND WHEREAS the Council of the Corporation of the City of Kingston deems it appropriate to waive the requirements of By-Law 87-136 Schedules “A” and “D” for the Princess Community Promenade Event scheduled on Saturday July 31, 2010 from 10:00 am to 7:00 pm

NOW THEREFORE BE IT BE RESOLVED THAT notwithstanding the provision of By-law No. 87-136

1) only existing licensed restaurants within the Princess Street closure scheduled for July 31, 2010 from 10:00 a.m. to 7:00 p.m. be permitted to submit a request to the Engineering Department no later than June 15, 2010; and

2) the submission will be required to include a drawing of the proposed patio layout to be reviewed and approved by the Engineering Department; and

3) a copy of the approved patio drawing be posted in the window of the establishment; and

4) confirmation from the KFL&A Health Unit that their proposal to operate a temporary patio outside their establishment has been approved; and

5) confirmation from Licensing and Enforcement of a current business license, and

1) the applicant provides proof of $2,000,000 in general liability insurance naming the City as additional insured which shall be provided to the municipality by July 20, 2010.

GIVEN ALL THREE READINGS AND FINALLY PASSED:

CITY CLERK

MAYOR