



City of  
**Peterborough**

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**To:** Members of the General Committee

**From:** Sandra Clancy, Chief Administrative Officer

**Meeting Date:** March 2, 2020

**Subject:** Report CAO20-001  
Delegation By-law

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## **Purpose**

A report to recommend a Delegation By-law which includes repealing several specific subject matter delegation by-laws and to appoint a Deputy Chief Administrative Officer.

## **Recommendations**

That Council approve the recommendations outlined in Report CAO20-001 dated March 2, 2020, of the Chief Administrative Officer as follows:

- a) That Council pass a Delegation By-law in the form comprising Appendix A to Report CAO20-001 dated March 2, 2020 of the Chief Administrative Officer; and
- b) That Richard Freymond be appointed Deputy Chief Administrative Officer.

## **Budget and Financial Implications**

There are no budget or financial implications directly related to this report's recommendation.

## Background

### Role of Council

The **Municipal Act, 2001** describes the role of Council as follows:

- to represent the public and to consider the well-being and interests of the municipality;
- to develop and evaluate the policies and programs of the municipality;
- to determine which services the municipality provides;
- to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- to maintain the financial integrity of the municipality; and
- to carry out the duties of council under the **Municipal Act, 2001** or any other Act.

### Council's Jurisdiction to Delegate

The **Municipal Act, 2001** also provides municipal Councils with broad authority to delegate (give to other individuals or bodies) powers and duties subject to certain restrictions. Delegation of authority enables municipal Councils to streamline their decision-making by focusing more on their role as set out above and less on transactional matters. Following are the general rules established by the **Municipal Act, 2001** for delegating authority:

- A delegation may be revoked at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
- A delegation may not limit the right to revoke the delegation beyond the term of the council that made the delegation.
- A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.
- A delegation may be made subject to such conditions and limits as the council of a municipality considers appropriate. For example, the conditions and limits may include a requirement that the delegate act by by-law, procedures that the delegate is required to follow and the accountability of the delegate and the transparency of the delegate's actions and decisions.

- Where a power is delegated, the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals that apply to the power and any duties related to the power are deemed to be delegated with the power. Such a delegation or deemed delegation of a duty results in the duty being a joint duty of the municipality and the delegate.

Powers that cannot be delegated by a municipal Council include:

- appointing or removing statutory officers required under the **Municipal Act, 2001**;
- imposing taxes;
- incorporating corporations;
- adopting or amending official plans;
- passing zoning by-laws;
- passing certain by-laws related to small business counselling and municipal capital facilities;
- adopting community improvement plans that authorize bonusing;
- approving or amending municipal budgets; and
- other powers as prescribed by regulation.

A Delegation By-law is recommended for the following reasons:

- Amendments to the **Municipal Act, 2001** more than 10 years ago enable more effective delegation of authority.
- Council may focus more on its strategic role as outlined above and less on transactional matters.
- The City's business dealings with citizens and others will be more efficiently undertaken with an opportunity for more frequent decision-making than Council's monthly meeting schedule.
- Council's decision to establish the Commissioner-level of management provides the administrative capacity for more effective delegation of authority.
- A Delegation By-law posted to the City's website will more consistently and transparently communicate Council's ground rules for decision-making and will complement stand-alone delegation by-laws such as the Procurement By-law.

## Existing Delegated Authority

Several of Council's By-laws already delegate authority for specific subject matters but are sufficiently comprehensive or significant to be retained as separate By-laws:

- By-law 18-112, establishing the responsibilities of the Chief Administrative Officer;
- By-law 18-084, delegating authority to Administrative Staff Committee (ASC), the Chief Administrative Officer (CAO), the Treasurer and various staff respecting the procurement of goods and services; and
- By-law 10-048, delegating authority to the Chief Building Official respecting construction, demolition and change of use permits.

Several other existing By-laws delegate authority. Those By-laws (or the parts that delegate authority) are proposed to be repealed and their delegations of authority are proposed to be included as Items in Schedule A to the new Delegation By-law (references are to Items in Schedule A of the Delegation By-law):

- By-law 13-173, delegating authority to the Mayor and City Clerk to sign filming permits and any related documents (Item 2.2);
- By-law 11-082, delegating certain **Planning Act** authority to the Commissioner, Infrastructure and Planning Services, respecting plans of subdivision, condominium plans and part lot control (Items 4.2, 4.3, 4.4, 4.5 and 4.6);
- Sections 3 and 5 of By-law 11-081, delegating certain **Planning Act** authority to the CAO and to the Commissioner, Infrastructure and Planning Services, respecting site plan approval (Items 4.7 and 4.8);
- By-law 10-028, delegating to the City Engineer authority to temporarily close highways for construction related purposes (Item 2.3);
- Sections 1 and 2 of By-law 09-157, authorizing proceedings to the Assessment Review Board (included in Items 3.1, 3.2 and 3.3);
- By-law 09-156, delegating to the Treasurer authority under the **Municipal Act, 2001** for various tax-related matters (Items 5.3, 5.4, 5.6 and 5.7);
- By-law 05-083, delegating to the City Clerk authority to temporarily close highways for events (Item 2.2); and
- By-law 93-025, delegating authority to the City Engineer relating to the temporary closure of highways (Item 2.7).

On August 16, 1999, Council approved the following recommendations in the report of the City Solicitor dated August 9, 1999:

1. That a Committee composed of the Director of Finance & Administrative Services, the City Solicitor and the Property/Energy Coordinator be authorized to settle the terms of new or renewed leases for residential or commercial premises owned by the City; and
2. That the Mayor and Clerk be authorized to execute any lease which is approved by the Committee.

This delegated authority respecting leases of land is broad and further clarity is recommended. Specifically, it is proposed that delegated authority respecting leases of land be addressed by Items 1.5, 1.6 and 1.7 of Schedule A to the proposed Delegation By-law including the restrictions outlined in those Items.

### **New or Clarified Delegations of Authority**

The proposed Delegation By-law also includes new or clarified delegations of authority: (references are to Items in Schedule A of the Delegation By-law):

- Item 1.1: executing documents related to an approved land transaction;
- Item 1.2: registering various documents in the Land Registry Office;
- Items 1.3 and 1.4: respecting easements of land;
- Items 1.8, 1.9 and 1.10: licences (permits) for the use of land;
- Item 2.1: passing a by-law to close a highway where Council has previously conditionally approved the closure;
- Items 2.5 and 2.6: passing a by-law to assume a highway for public use;
- Item 2.8: passing a by-law to amend Schedule V of the Parking By-law (identifying “Parkades”);
- Items 3.1, 3.2, 3.3, 3.4 and 3.5: authorizing various legal proceedings by or against the City;
- Items 3.6 and 3.7: authorizing various measures related to debts to the City and enforcement of administrative orders;
- Item 3.8: approving settlement of proceedings involving the City;
- Item 3.9: passing by-law to appoint or revoke the appointment of individuals as municipal law enforcement officers;
- Item 4.1: approving subdivision pre-serving agreements;
- Item 4.9: approving applications to remove zoning holding symbols;

- Items 4.10 and 4.11: approving applications under the Central Area Community Improvement Plan and Affordable Housing Community Improvement Plan;
- Item 5.1: executing documents related to applications for funding for City programs, operations or approved capital projects;
- Item 5.2: exercising the authority under the **Municipal Act, 2001**, s. 345(7) respecting the cancellation or refund of late payment charges and overcharges of taxes;
- Item 5.5: exercising the authority pursuant to **Municipal Act, 2001**, s. 357.1 respecting the cancellation, reduction and refund of payments in lieu of taxes;
- Item 5.8: exercising the authority pursuant to **Municipal Act, 2001**, s. 359.1 respecting errors in calculating taxes;
- Item 5.9: exercising the authority pursuant to **Municipal Act, 2001**, s. 378 respecting extension agreements for tax arrears;
- Item 5.10: exercising the authority pursuant to **Development Charges Act, 1997**, s. 27 respecting early or late payment of development charges;
- Item 7.1: delegating powers and duties under the **Municipal Freedom of Information and Protection of Privacy Act**, s. 49; and
- Item 7.2: executing agreements for the disclosure or exchange of information.

### **Summary: Proposed Delegation By-law**

Appendix A is a proposed form of Delegation By-law. As noted, the Delegation By-law would consolidate some existing delegated authority and establish new or clarified delegations of authority, all subject to conditions and limits set out in the proposed By-law. The following are the proposed Delegation By-law's key features (including references):

- Identifies those to whom delegated authority is given: paragraph 7.a), 7.b) and Schedule A, "Delegate" and "Delegated Authority" columns;
- Establishes conditions and limits on the delegated authority: paragraphs 7.b), 7.c) and 7.d) and Schedule A, "Restrictions" column;
- Requires the Real Estate and Development Manager to determine "Fair Market Value" where required as a condition of the exercise of delegated authority: paragraph 6.n), section 9 and Schedule A, Items 1.5, 1.6, 1.7, 1.8 and 1.9;
- Ensures that there is an "Approved Budget" for any payment required by an exercise of delegated authority: paragraph 6.a) and section 10;

- Ensures appropriate documentation: section 11; and
- Repeals certain by-laws for which delegated authority is to be rolled into the Delegation By-law: section 12.

Staff will further review the Social Services Division to determine whether the Delegation By-law should also include existing or proposed new delegations of authority related to the Division's operations. Part 6 of Schedule A to the proposed Delegation By-law has been reserved for that purpose.

### **Deputy Chief Administrative Officer**

Paragraph 1.b) of CAO By-law 18-112 delegates to the CAO the jurisdiction to determine whether to establish the role of Deputy Chief Administrative Officer (Deputy CAO) who acts as the CAO in the absence or illness of the CAO. The By-law also requires the CAO to appoint a staff member to be an Acting CAO in the absence of the Deputy CAO. It is Council's role to appoint the Deputy CAO. The previous Deputy CAO retired on December 31, 2018. The development of the proposed Delegation By-law was a reminder that the appointment of a Deputy CAO is the preferred option for continuity of administrative leadership during times of vacation, sickness or in an emergency.

It is recommended that Richard Freymond be appointed the Deputy CAO. Mr. Freymond would hold this title in addition to his role as Treasurer and Commissioner of Corporate and Legislative Services. Richard Freymond is a 24-year member of City staff and a respected member of the senior management group. He has acted as Acting CAO several times in the past year when required.

### **Summary**

A Delegation By-law will contribute to more efficient, effective and transparent decision-making that will enable Council to focus on its strategic role. Appointing a Deputy CAO will better ensure continuity of administrative leadership for staff and Council during times of vacation, sickness or in an emergency.

Submitted by,

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Attachment

Appendix A – proposed form of Delegation By-law