

Clause 13 in Report No. 11 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 28, 2018.

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Update of Delegated Authorities

Committee of the Whole recommends adoption of the following recommendations contained in the report dated June 8, 2018 from the Regional Solicitor:

1. Council approve the enactment of an updated Delegation Bylaw to incorporate the amendments set out in Attachment 1.
2. Council approve the enactment of a revised bylaw to govern the delegation of matters during a Council recess.
3. The Chief Administrative Officer and the Commissioner of Corporate Services be authorized to approve acquisitions of land provided the value of the transaction does not exceed \$500,000, and that the Corporate Land Acquisition Policy be amended to reflect this change.
4. The Regional Solicitor prepare the necessary bylaws to implement the updated delegation of authorities.
5. Bylaws 2014-34 and 2016-3 be repealed.

Report dated June 8, 2018 from the Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Council approve the enactment of an updated Delegation Bylaw to incorporate the amendments set out in Attachment 1.
2. Council approve the enactment of a revised bylaw to govern the delegation of matters during a Council recess.
3. The Chief Administrative Officer and the Commissioner of Corporate Services be authorized to approve acquisitions of land provided the value

of the transaction does not exceed \$500,000, and that the Corporate Land Acquisition Policy be amended to reflect this change.

4. The Regional Solicitor prepare the necessary bylaws to implement the updated delegation of authorities.
 5. Bylaws 2014-34 and 2016-3 be repealed.
2. Purpose

This report recommends the enactment of an updated Delegation Bylaw to provide for additional delegation of powers and duties of Council, including procedures respecting planning and development matters and the approval of land acquisitions. This report also recommends enactment of a revised bylaw to govern matters during a recess of Council during the summer months and the municipal election period.

3. Background

The *Municipal Act, 2001* permits the delegation of certain powers and duties, subject to conditions

The *Municipal Act, 2001* (the “Act”) permits Council to delegate its powers and duties, within certain limits. Generally, administrative powers may be broadly delegated to committees, individual members of Council or Regional staff. The *Planning Act* similarly provides for broad delegation of planning and development matters. There are limits to the delegation of legislative powers, including the power to adopt an official plan or amendment, and the power to adopt or amend the budget. Similarly, many of the powers under the *Expropriations Act* reside exclusively with Council

There are specific provisions for delegating matters during municipal elections

In addition to the general provisions in the Act, Section 275 provides that Council has restricted authority to approve matters during any “lame duck” period. Council will be prohibited from taking certain actions following nomination day, most notably making any expenditure or incurring any liability exceeding \$50,000. This limitation does not, however, apply where Council has delegated its powers prior to nomination day. The extent of the delegation will be subject to

the general principles in the Act and will generally be limited to administrative and minor legislative matters.

Council has exercised its authority to delegate its powers to staff for general administrative purposes and during election periods

Council has historically delegated a broad range of powers to staff to facilitate the management of Regional operations and to provide for responsive service delivery. In 2016, staff conducted a comprehensive review of delegated powers resulting in the enactment of the Delegation Bylaw (2016-3) which consolidated existing delegations and reflected organizational changes. The bylaw permits staff to approve a broad range of matters, including purchase of service agreements under Regional programs, financial administration, mutual service agreements with other public agencies, real estate transactions, and certain planning approvals. The bylaw also provides for the Chief Administrative Officer and Commissioner of Corporate Services to approve land acquisitions up to a value of \$100,000 and for the Regional Solicitor to initiate and settle claims up to \$500,000.

In 2014, Council enacted a bylaw to specifically provide for the approval of matters where Council meetings are suspended during the summer months or to address issues during any “lame duck” period. This provides broad authority for the Regional Chair and Chief Administrative Officer to approve contracts and other forms of commitment, authorize land transactions and settle claims beyond the regular approval limits. The exercise of this authority is subject to the following conditions:

- That the Chair and CAO are satisfied that the exercise of the authority is necessary to prevent interruption of service delivery or to avoid incurring unnecessary costs
- That a memorandum outlining the necessity of the approval is submitted to the Chair and CAO requesting the approval
- That any contracts or documentation are subject to approval by Legal Services
- That a report is submitted to Council at the earliest opportunity to advise of any matters approved under this authority.

4. Analysis and Implications

Staff conduct periodic reviews of the Delegation Bylaw to ensure it remains effective

The Delegation Bylaw is reviewed periodically to assess its effectiveness. Staff across various business units are invited to provide input. The comprehensive review conducted in 2016 addressed many substantive issues and in the interim there have been few requests for amendments. There have been some suggestions for greater consistency and clarity in language and these concerns have been addressed in the updated draft. For instance, staff recommend amending the Delegation Bylaw to clarify that where Council has authorized a Commissioner to execute an agreement, the Commissioner may delegate that authority to staff.

Amendments are recommended to update delegated authority for planning and development matters

Staff are also recommending expanded delegated powers in development and planning matters. These are highlighted in Attachment 1. The updates in respect of planning and development matters reflect delegations of authority approved by Council in November 2016 following the Bill 73 amendments to the *Planning Act* and new delegations of authority arising from the Bill 139 amendments to the *Planning Act* in 2018. In addition, the language describing existing delegations has been streamlined. With respect to site plan matters, the delegation of authority has been updated to reflect the current approval structure for site plan matters. The delegation of authority for executing development charge deferral agreements has also been updated to reflect the requirement that the terms of such agreements are in accordance with Regional Council policy.

Staff recommend that the delegated authority to approve land acquisitions be increased from \$100,000 to \$500,000

Currently, the Chief Administrative Officer and the Commissioner of Corporate Services have joint authority to approve the acquisition of land to a value of \$100,000. This threshold has been in effect since 2011. In the intervening years, there has been a general trend to increase the approval limits for delegated authorities in recognition of market conditions. Amendments to the Purchasing Bylaw in 2014 increased the approval limits for Commissioners to award contracts following a competitive procurement from \$100,000 to \$500,000.

In April 2018, Council approved a new Policy on the Sale and Disposition of Surplus Land which increased the approval authority of the Chief Administrative Officer from \$100,000 to \$500,000. It is recommended that a corresponding

increase be approved with respect to the authority to approve land acquisitions. This would increase efficiency in completing land transactions in a timely manner to meet capital works schedules. Land acquisitions are governed by the Corporate Land Acquisition Policy which provides for undertaking due diligence, including the requirement to obtain market appraisals and an environmental audit.

Amendments to the bylaw governing delegation of authority during Council recess are also recommended

As noted above, authority to approve matters during summer recess or election periods is set out in a separate bylaw. It is recommended that this distinction be preserved, however some amendments are proposed. The bylaw currently provides for the delegation of authority to the Regional Chair and the Chief Administrative Officer.

It is recommended that, for ease of administration, the authority be delegated jointly to the Chief Administrative Officer and the Treasurer. If either is absent, each may appoint delegates to act on their behalf.

There is also a need to align the provisions in this bylaw with the Purchasing Bylaw to ensure consistency. The Purchasing Bylaw provides for the Chief Administrative Officer to award contracts in excess of the regular approval limits during periods where Council meetings are suspended in the summer months or during an election period. The Purchasing Bylaw does not, however, contain any preconditions which require justification of the necessity of the approval for continued service delivery.

It is recommended that the bylaw governing recesses of Council provide that these preconditions apply equally to the approval of purchases by the Chief Administrative Officer under the Purchasing Bylaw.

5. Financial Considerations

There are no direct financial implications associated with this report.

6. Local Municipal Impact

There is no local municipal impact associated with this report.

7. Conclusion

The *Municipal Act, 2001* and the *Planning Act* each provide for the delegation of the powers and duties of Council, subject to certain limitations. Council has enacted bylaws to delegate a broad range of matters to staff to facilitate the management of Regional operations and administration. These bylaws are reviewed periodically to assess their effectiveness. As a result of the most recent review, it is recommended that the Delegation Bylaw be amended to incorporate additional matters, particularly with respect to planning and development issues. It is also recommended that the authority of the Chief Administrative Officer and Commissioner of Corporate Services to approve land acquisitions be increased from \$100,000 to \$500,000, commensurate with other approval thresholds. In anticipation of the 2018 municipal election, amendments are also recommended to the bylaw governing recesses of Council to provide for greater clarity and ease of administration.

For more information on this report, please contact Elizabeth Wilson, Deputy Regional Solicitor, Municipal and Corporate Law, at 1-877-464-9675 ext. 71402.

The Senior Management Group has reviewed this report.

June 8, 2018

Attachments (1)

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Accessible formats or communication supports are available upon request

New Provisions

<u>Column 1</u> Delegated Authority	<u>Column 2</u> Delegate	<u>Column 3</u> Conditions/Restrictions
Planning & Development		
Providing comments on proposed official plans and amendments to official plans of local municipalities	Chief Planner or Director, Community Planning and Development Services	
Agreements required by subdivision conditions	Commissioner responsible for the program or project to which the matter relates	
Issue notice to limit non-decision period for approval of official plans	Chief Planner	
Issue notice to extend non-decision timeframe for approval of official plans	Chief Planner	
Issue statement that official plan update does not conform to Regional official plan	Chief Planner	
Issue notice for ADR or other dispute resolution with respect to appeals of official plans	Chief Planner	
Decisions regarding restrictions on ability to appeal official plan/ policies that address specific provincially approved matters and second suites	Chief Planner	
Decisions regarding whether an official plan appeal is a global appeal	Chief Planner	
Decisions regarding ability to appeal official plan provisions addressing protected major transit station policies	Chief Planner	

Amended Provisions

<u>Column 1</u> Delegated Authority	<u>Column 2</u> Delegate	<u>Column 3</u> Conditions/Restrictions
Finance		
Signing cheques and other financial instruments <u>and agreements</u> respecting banking services	Any two of: Regional Chair; Chief Administrative Officer; Commissioner of Finance; Director, Controllership Office and Deputy Treasurer	
Planning & Development		
Approval of routine official plan amendments	<u>Chief Planner or</u> Director, Community Planning and Development Services	Amendment primarily local in nature Report twice yearly to Council
Providing comments and conditions of approval on development applications, and issuing clearance of any conditions	<u>Chief Planner or</u> Director, Community Planning and Development Services	
Site plan agreements and documents required to satisfy any conditions of such agreements	<u>Chief Planner</u> Commissioner of Transportation Services	
Property		
Agreements for the acquisition of land and interests in land	Chief Administrative Officer and Commissioner of Corporate Services	Does not include leases Value of land not to exceed \$100,000 <u>\$500,000</u> Compliance with the Region's Policy on Corporate Land Acquisition