

Clause No. 20 in Report No. 10 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 15, 2014.

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DELEGATION OF AUTHORITY DURING COUNCIL RECESS

Committee of the Whole recommends adoption of the recommendation contained in the following report dated April 23, 2014 from the Chief Administrative Officer:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council enact a bylaw to provide that during any period when regular Council meetings are suspended either over the summer months or for any other reason, including when acts of Council are restricted under Section 275 of the *Municipal Act, 2001*, the Regional Chair and the Chief Administrative Officer, or in the absence of the Regional Chair, the Chief Administrative Officer and the Regional Treasurer be authorized to:
 - a) Award and execute contracts and other forms of commitment where such matters are not otherwise currently delegated by Council;
 - b) Approve the acquisition or disposal of real property, including leases and other interests in real property; and
 - c) Approve the exercise of the Region's rights and remedies at law including termination of contracts and settlement of claims, appeals and other matters before the courts or administrative tribunals.
2. The exercise of this authority be subject to the following conditions:
 - a) The Regional Chair and the Chief Administrative Officer or in the absence of the Regional Chair, the Chief Administrative Officer and the Regional Treasurer being satisfied that the authorization is required to prevent interruption of service delivery or to avoid incurring unnecessary costs;

- b) A memorandum outlining the necessity of such requests be submitted to the Regional Chair and the Chief Administrative Officer by the respective Commissioner;
 - c) Any contracts or documentation be subject to review and approval by Legal Services as to form and content; and
 - d) A report be submitted to Council at the earliest opportunity to advise of the approval of any contracts under this authority.
3. The Regional Solicitor prepare the necessary bylaw for consideration by Council.

2. PURPOSE

This report seeks Council's authorization to delegate approval of certain matters that are not already delegated to Regional staff, in order to ensure the continuity of service delivery over the summer months or during any other time when regular meetings of Council are suspended, including during the period when acts of Council are restricted under Section 275 of the *Municipal Act, 2001*.

3. BACKGROUND

Continuity is required to ensure timely delivery of Regional projects and services

The Region's Purchasing Bylaw delegates authority to staff to award and execute contracts for goods and services subject to certain conditions and expenditure limits. The Chief Administrative Officer is authorized to award contracts for an unlimited amount, provided that a formal tender is issued, and the award is to the lowest responsive bidder. The Chief Administrative Officer may also award contracts as a result of requests for proposals up to \$2,000,000. Any such award is subject to the amounts being adequately provided for in approved budgets.

The Purchasing Bylaw also provides that the Chief Administrative Officer may award any contract during the summer recess, provided a report is submitted when Council resumes. Although this assists in ensuring business continuity, there are some matters which are not governed by the Purchasing Bylaw and which would still require Council authority. For instance, real estate transactions, including leases, are not governed by the bylaw. Negotiations with property owners, solicitors and landlords continue during Council recess to secure the required property rights. Authorization to execute agreements is imperative in order for the agreement not to expire. As time is of the essence for many agreements, delegated authority is required. Obtaining this delegated authority will help meet project goals and timelines.

Matters before the courts or tribunals, including the Ontario Municipal Board, may require resolution during the periods when Council is in recess. Currently, the Regional Solicitor is authorized to settle uninsured claims and other matters up to \$500,000. Delegated authority is required to permit settlements beyond this limit when Council authority cannot be readily obtained.

4. ANALYSIS AND OPTIONS

Delegation of authority during periods when regular meetings of Council are not scheduled is standard practice

When regular Council meetings are suspended either during the summer months or when acts of Council are restricted in accordance with the provisions of the *Municipal Act, 2001*, authorization may be required to approve contracts and authorize land transactions and leases that are not currently authorized by the Purchasing Bylaw. Other matters that may require resolution include contract disputes, litigation matters and issues arising during hearings, particularly before the Ontario Municipal Board. In these circumstances, it is recommended that the authority to make such commitments be jointly delegated to the Regional Chair and the Chief Administrative Officer. It is also recommended that certain procedures be put in place as follows:

- That a memorandum be submitted by the respective Commissioner indicating the need for the approval;
- That any contract or other form of commitment be subject to review and approval by Legal Services; and
- That the authorization to approve the transaction or activity is required to prevent interruption of service delay or to avoid incurring extra costs.

It is further recommended that in the absence of the Regional Chair, authority be delegated jointly to the Chief Administrative Officer and Regional Treasurer. In the event of the absence of the Chief Administrative Officer, a Commissioner designated as an Acting Chief Administrative Officer would have the authority delegated pursuant to this bylaw.

5. FINANCIAL IMPLICATIONS

Approved budget provides controls measures

Any commitment authorized under the approval process set out in this report will be subject to funds being available in the approved Operating and Capital Budgets.

6. LOCAL MUNICIPAL IMPACT

The recommended delegation of authority helps ensure that service commitments to all of our local municipalities can be met.

7. CONCLUSION

To ensure continuity of service delivery during periods when regular meetings of Council are suspended, it is recommended that Council delegate authority for the approval of contracts, land transactions and other matters not currently authorized by the Purchasing Bylaw or other delegated authorities. The authority would be exercised only where strictly essential and would be subject to a subsequent Council report to advise of any commitments made under this authority.

For more information on this report, please contact Joy Hulton, Regional Solicitor at Ext. 71417.

The Senior Management Group has reviewed this report.