
HALDIMAND COUNTY

Report CLE-06-2021 Delegated Authority – Consolidated By-law For Consideration by Council in Committee on December 7, 2021



OBJECTIVE:

To formalize and consolidate delegated authority into one comprehensive by-law and to update Policies 2007-06 and 2013-02.

RECOMMENDATIONS:

1. THAT Report CLE-06-2021 Delegated Authority – Consolidated By-law be received;
2. AND THAT Policy 2007-06 Delegation of Powers and Duties be amended as outlined in Report CLE-06-2021;
3. AND THAT a consolidated Delegated Authority By-law included as Attachment 2 to Report CLE-06-2021, be presented for enactment;
4. AND THAT Schedule A of Policy 2013-02 Procurement Policy be amended as outlined in Report CLE-06-2021 and a by-law be presented to amend By-law 1333/13 to that effect.

Prepared by: Evelyn Eichenbaum, Manager, Clerks Division / Municipal Clerk

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

The *Municipal Act, 2001*, as amended (the Act) provides that municipal Councils can delegate certain authority to a person or body, subject to certain restrictions. In a continued effort to provide efficiencies in the administration of corporate matters, a comprehensive by-law is being presented to incorporate existing delegated authority as well as some additional matters that are recommended for delegation. Policy 2007-06 Delegation of Powers and Duties and Schedule A of Policy 2013-02 Procurement Policy are both recommended to be amended to align with the consolidated approach, and an additional amendment to By-law 2/01 is also being recommended at this time.

BACKGROUND:

In 2007, the Act was amended to streamline decision-making by allowing the delegation of minor matters in order for Council to focus on larger issues. This amendment expanded the authority for Council to delegate administrative powers to certain persons/bodies subject to certain restrictions.

As part of the changes to the Act, municipalities were also required to have a policy in place on the delegation of powers and duties. In December 2007, Council approved Policy 2007-06 Delegation of Powers and Duties. Council has delegated certain powers and duties over the years, sometimes through stand-alone by-laws, and other times through resolution. At this time, it is deemed expedient to consolidate all delegated authorities into one comprehensive by-law for clarity and efficiency.

ANALYSIS:

Section 23.1 of the Act was added in 2007, allowing a municipality (Council) to delegate its powers and duties to a person or body subject to the restrictions noted in the legislation. The delegation can be revoked at any time, can be exercised jointly with council and can have conditions and limits placed on it as necessary. Powers to be delegated should be of a minor nature and the legislation notes specifically that some powers cannot be delegated such as: adopting an official plan, adopting or amending the budget, adopting a community improvement plan, etc. The Act specifically notes that any administrative powers can be delegated.

While a small number of matters were delegated by Council prior to 2007, as they were considered delegable through other legislation, numerous matters have been delegated since 2007 in order to provide efficiencies for municipal administration. A number of the delegations were made through separate by-laws, and some were made through Council resolution. In order to meet the intent of Policy 2007-06 and to provide clarity and efficiency for staff and Council in terms of authority that has been delegated, a consolidated by-law is being recommended to encompass previously delegated authority.

In review of existing delegated authority, staff were asked to suggest other administrative matters that would benefit from delegation in order to effect additional efficiencies. A draft Delegated Authority By-law is included as Attachment 2 to this report. The by-law includes several schedules that relate to specific staff or committees within the organization. The matters highlighted in yellow represent new matters to be delegated or matters that are deemed implicit and would benefit from being formally recognized through by-law. The items that are not highlighted have already been approved through by-law or resolution. In future, if additional authority is delegated, or if authority is revoked or amended, it will be easy to simply amend a particular schedule of the by-law. The newly recommended matters relate to:

- Formalizing CAO and General Manager, or delegate, execution of certain administrative matters
- Approve or extend temporary staff positions provided available funding
- Approval of budget transfer above the limits noted in Procurement Policy 2013-02 to an upset limit of \$250,000
- Approve property transactions related to federal, provincial or municipal capital projects
- Commencing certain legal proceedings
- Authorize the use of municipal property on a temporary basis
- Conditional building permit agreements
- Dispatch agreements
- Community Partnership Program Licence Agreements
- Community Hall Loan Agreements (under \$10,000)
- Renewals or extensions of existing memoranda of Understanding with Fields & Parks Managements groups
- Renewals or extensions of existing third-party property agreements
- Discretionary fee adjustments in case of service interruption or staff error re: planning applications, building permits, facility rentals, ice usage, aquatics and programs
- Minutes of settlement for planning matters before a land tribunal
- Mutual drain agreements
- Acquisition of temporary and permanent easements required for approved capital projects
- Establish traffic control and parking conditions for new subdivisions
- Agreements to lease space to other groups at Grandview Lodge (i.e. Alzheimer Society)
- Renewal of the insurance policy
- Encroachment agreements on road allowances and over other County property

In order to reflect the new comprehensive by-law within the framework of Policy 2007-06, it is necessary to amend the policy, and the proposed amended version is included as Attachment 1 to this report with tracked changes noted. The term Council in Committee is removed in Section 2. I. as the policy refers to Council as a body in a broad sense. The reference to public engagement is removed from the policy as it is not contemplated that administrative or minor delegated authority would involve public engagement, and if that were the case, the condition could be attached to the delegation and noted as such in the by-law schedule.

The matter of authority to bind the corporation, by being authorized to execute agreements, is defined more clearly through the proposed amendment to Schedule A of the Procurement Policy 2013-02 and the draft Delegated Authority By-law. The Procurement Policy speaks to the execution of contracts by the signing officers in accordance with Schedule A of the policy, and by adding the column “Authority to Execute” to the amended table, all relevant information concerning who is authorized to award and execute purchasing-related agreements and contracts is clearly outlined in one location. The Manager, Legal & Support Services advises that Section B – Authority for Payment of the existing Schedule A of Policy 2013-02 is no longer applicable as we have adopted an automated workflow for processing payments. (Reference to the Bid Award Form has also been removed as this no longer exists in the automated procurement process.) An amended version of the Procurement Policy will be coming forward to Council in the future to reflect legislated and procedural amendments, however, it is deemed expedient to amend Schedule A at this time to clarify authority to execute agreements.

The draft Delegated Authority By-law notes that the Mayor and Clerk or their designates are signing officers of Haldimand County and may jointly execute any document on behalf of Haldimand County unless specifically provided through the Delegated Authority By-law, the Procurement Policy or Council resolution.

All of the delegated authority included within the scope of this report is premised on being administrative or minor in nature, and is only authorized if it is related to a Council-adopted budget, program or activity. Essentially, through this report, authority is being delegated to bind the corporation or take certain actions that would otherwise rest with Council or require Council authorization. Staff routinely undertake tasks and duties that are performed as part of day to day operational responsibilities that are specifically authorized through legislation or approved through Haldimand County by-laws, policies and programs.

FINANCIAL/LEGAL IMPLICATIONS:

The County Solicitor has reviewed the proposed Delegated Authority By-law and the revised Schedule A of the Procurement Policy and is of the opinion that the delegated authority aligns with the intent and parameters of the Act.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: Yes

ATTACHMENTS:

1. Proposed amended version of Policy 2007-06 Delegation of Powers and Duties
2. Draft Delegated Authority By-law
3. Existing Schedule A of Policy 2013-02 Procurement Policy
4. Proposed amended Schedule A of Policy 2013-02 Procurement Policy