



STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG

Strategic Priorities and Policy Standing Committee

Report to: Mayor, Deputy Mayor, and Councillors
From: Brent Larmer, Town Clerk/Director of Legislative Services
Standing Committee Date: June 4, 2024
Report Number: LS-2024-016
Council Meeting Date: June 26, 2024
Subject: **Council Delegation of Powers and Duties**

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1. Recommendation:

THAT Council receive the Staff Report for information purposes; and
FURTHER THAT Council endorse and approve the Delegated Authority By-law.

2. Executive Summary:

This staff report is to provide Council with a Delegated Authority By-law as an outcome and direction from the 2021 KPMG Organizational Review recommendation. The By-law is to provide Council with a formalized and centralized by-law containing all of the delegations and also to provide the public with an understanding of those authorities that Staff undertake on a daily basis to keep the Town operational and function in an efficient and effective process.

3. Background

At the November 1, 2021 Regular Meeting Council considered the Town of Cobourg Organizational Review Implementation Plan and passed the following resolution:

“FURTHER THAT Council direct the Chief Administrative Officer to pursue the recommendations proposed by staff in Section #3) Enhancement to the Town’s policy environment to right-size decision making processes, and the Town’s operating processes and ways of working.”

Section 3) provides that KPMG noted constraints and capacity issues related to the ways of working at the Town and there are changes that should be considered to the Town’s internal processes and policies to improve the operating processes and ways of working. The first recommendation is for Staff to present a delegation of authority By-law to Council for adoption.

Delegation of authority in the municipal context is well established as both a necessary and useful tool to allow the effective and efficient management of municipal affairs. It allows staff to exercise judgement where appropriate based on their professional training, accreditation, and expertise.

Bill 130, the *Municipal Statute Law Amendment Act, 2006* made several amendments to the *Municipal Act*, including increasing the authority of municipalities to delegate powers and increased accountability and transparency tools. It also mandated municipalities to adopt and maintain a policy addressing the delegation of its powers and duties. As required by Bill 130, Council approved the Delegation of Powers Policy on July 14th, 2014, attached to this staff report as Appendix “B”.

The following principles shall govern the delegation by Council of any of its powers and duties:

1. All delegations of Council powers, duties or functions shall be effected by by-law.
2. Unless a power, duty or function of Council has been expressly delegated by by-law, all of the powers, duties and functions of Council remain with Council.
3. A delegation of a power, duty or function under any by-law to any member of staff includes a delegation to a person who is appointed by the Chief Administrative Officer or selected from time to time by the delegate to act in the capacity of the delegate in the delegate's absence.
4. Subject to section 3, a person to whom a power, duty or function has been delegated by by-law shall have no authority to further delegate to another person any power, duty or function that has been delegated, unless such sub-delegation is expressly permitted.

5. Legislative matters may be delegated by Council where they are minor in nature or where Council has explicitly provided for the terms and conditions under which the powers shall be exercised, and must take into account the limitations set out in the Act.
6. Administrative matters may generally be delegated to staff subject to the conditions set out in the delegation and in this policy, and must take into account the limitations set out in the Act.
7. In exercising any delegated power, the delegate shall ensure the following:
 - Any expenditure related to the matter shall have been provided for in the current year's budget and in accordance with the Town's (authorized) Purchasing Policy.
 - The scope of the delegated authority shall not be exceeded by the delegate.
 - Where required by the specific delegated authority, reports shall be submitted to Council advising of the exercise of a delegated power and confirming compliance with the delegated authority and this policy.
 - Delegates shall ensure the consistent and equitable application of council policies and procedures.

During the 2023 governance review, Staff provided information that this delegation of Authority By-law and report would be forthcoming following the formal adoption of the governance review and procedural by-law amendments. Staff are recommending that when this by-law is passed, Staff will bring forward a report in conjunction with the procedural by-law annual report each year to all Council in order to provide comments and review the process and ask any questions of the delegated authority. In addition, staff will bring forward any changes and updates if needed at this reporting time.

4. Discussion:

The *Municipal Act, 2001* requires a municipality to adopt a Policy with respect to the delegation and the carrying out of delegated powers and duties of Council as described in the *Municipal Act, 2001*, the *Planning Act*, and any other Act so as to increase the accountability and transparency of the municipal decision-making process.

The proposed delegation of authority by-law formulates and provides a transparent Council approved by-law on the existing delegated authorities that have been implemented in order to ensure efficient management of the municipality.

The Delegation of these Powers and Duties are supported by professional and accountable staff and each delegated authority is provided to specific positions within the organization. These decisions and approvals are supported by having strong internal Corporate and Administrative Policies and Procedures in place. However, staff must identify and, with complete disclosure, note that the provision of delegated authorities by Council results in specific processes not requiring Council approval. Also, approvals provided by staff, using delegated authorities, do not require staff reports to be brought to an open session of Council. Finding a balance while also providing consistency, effectiveness and efficiency in the decision making in the approval process is critical and will always be based on a level of Transparency, Trust and Accountability.

Some delegated authorities were granted to comply with applicable legislative requirements such as the delegated authority of establishing the “Head” for the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*. More often, delegated authorities were granted to provide for more efficient municipal operations by having professional and competent staff provide approvals for operational and managerial aspects of municipal work.

In accordance with the *Municipal Act, 2001 as amended*, Council is not authorized to delegate any of the following powers:

- The power to appoint or remove from office, statutory officers of the municipality whose appointment is required by the Municipal Act, 2001;
- The power to pass a by-law for municipal taxation or tax collection;
- The power to incorporate municipal corporations;
- The power to adopt an Official Plan or an amendment to the Official Plan under the Planning Act;
- The power to pass a zoning by-law under the Planning Act;
- The power to pass a by-law related to small business counselling and municipal capital facilities;
- The power to adopt a community improvement plan;
- The power to adopt or amend the budget of the municipality;
- Any other power or duty that may be prescribed.

The schedules outline delegations unique to each department to help facilitate the timely and efficient delivery of services and programs based on the expertise of staff, with conditions to follow Council-approved objectives and budgets.

Schedule B authorizes the Chief Administrative Officer to provide organizational leadership and ensure the efficient and effective delivery of services within the programs, policies and budgets approved by Council.

Schedule C authorizes the Town Clerk/Director Legislative Services to fulfil legislated requirements, including the powers and duties of Council as head of a municipality for the purposes of the *Ombudsman Act*, and Municipal Freedom of Information and Privacy Act and to ensure Council-approved policies, procedures, by-laws are kept up to date.

Schedule D authorizes the Treasurer/Director of Corporate Services to make financial decisions that support efficient service and program delivery and reduce risk.

Schedule E authorizes the Planning, and Development Director to make efficient and timely decisions related to planning, development, and heritage matters.

Schedule F authorizes the Director of Community Services and designated to resolve operational challenges, respond to market conditions and sponsorship proposals, and manage parkland and open spaces and the operational level.

Schedule G authorizes the Public Works Director to facilitate road and traffic operations and infrastructure standards and guidelines reflect best practices.

Schedule H authorizes the Fire Chief and Community Emergency Management Coordinator to maintain public safety and efficiently implement by-laws.

The Delegation of Authority By-law is a necessary and useful tool that facilitates the effective and efficient management of the Town's day-to-day operations. Staff exercise their judgement where appropriate based on their professional training, accreditation, and expertise, within the confines of Council-approved policies, directions, and budgets. This follows best practices based on legislation.

The general provisions cover the authority of the CAO and any staff member specified in the by-law to further delegate any powers, duties, functions, and authorities under their delegation to another person in writing. Any sub-delegations are submitted to the Clerk's Office. They also cover Council's authority to impose terms and conditions upon any delegation as they see fit, including the power to rescind or amend a delegation.

As previously noted, the Delegation of Authority By-law is a necessary and useful tool that facilitates the effective and efficient management of the Town's day-to-day operations. Staff exercise their judgement where appropriate based on their professional training, accreditation, and expertise, within the confines of Council approved policies, directions, and budgets. All authorities delegated through the

by-law have a corresponding accountability and transparency mechanism, and can be part of the annual reporting to Council each year and/or provided as information or a report to the appropriate standing committee if requested.

5. Financial Impact and Budget

There are no financial or budget implications in this report.

6. Relationship to Council's Strategic Plan Priorities 2023 to 2027 and beyond:

Thriving Community

Service Excellence

Sustainability

7. Public Engagement:

8. Attachments:

Attachment 1 – Delegated Authority By-law

Attachment 2 – Delegation of Powers and Duties Policy

Report Approval Details

Document Title:	Council Delegation of Powers and Duties.docx
Attachments:	- 000-2024 Delegated Authority By-law.docx - Delegation of Powers and Duties Policy.pdf
Final Approval Date:	May 28, 2024

This report and all of its attachments were approved and signed as outlined below:

Tracey Vaughan, Chief Administrative Officer - May 28, 2024 - 10:57 AM