



To: Council
From: Loriann Harbers, Director of Corporate Services
Date of Meeting: June 28, 2023
Subject: Draft Delegation of Authority By-law

Background:

The *Municipal Act, 2001*, section 5 (3) provides that the powers of every council are to be exercised by by-law, however, section 23.1 provides that a municipality may delegate its powers to a person or body subject to certain restrictions.

It is necessary, pursuant to subsection 6 of section 270 (1) of the *Municipal Act, 2001*, that a municipality shall adopt and maintain policies with respect to the delegation of its powers and duties. In September 2017 Council adopted a revised Delegation of Powers and Duties Policy and thereafter By-law No. 2017-032, being a by-law to Delegate Certain Powers and Duties, was adopted.

It is appropriate that the Delegation of Authority By-law be reviewed and considered on a regular basis. This is to ensure staff efficiencies are realized, legislative requirements are met, and new technology and practices continue to be realized.

Discussion:

General Overview

The proposed by-law includes delegations previously approved within By-law No. 2017-023, items that are administrative in nature that are already in place, as well as new opportunities.

The proposed by-law is broken down into the following categories:

- General Delegations
- Development Related
- Financial Matters
- Permits and Authorizations
- Real Property Matters
- Legal Matters

Within this report, significant changes are noted for each category.

It is important to note that restrictions and requirements are clearly identified. Specifically, provisions to ensure Council is kept abreast of approvals, is highlighted. To further ensure transparency is supported, a category within the

department Monthly Activity Summary will be created where approved and executed items under the proposed by-law will be listed, where required.

General Delegations

The proposed by-law provides for the CAO to implement and execute general operating procedures and agreements providing they adhere to Council's approved plans. Requirements are in place to ensure delegation must meet the requirements of the Township's Procurement Policy and the annual budget.

Under General Delegation, items such as authority under the Municipal Freedom of Information and Protection of Privacy Act, Municipal Elections Act and Ombudsman Act are covered.

Development Related Matters

Specific to Planning related additions, Bill 13, *Supporting People and Businesses Act, 2021* included changes to allow local municipalities to delegate the authority to pass by-laws under Section 34 (Zoning), that are minor in nature to a committee of Council and/or an individual who is an officer, employee or agent of the Township.

To delegate this authority, the municipality's Official Plan must include policies that specify what type of by-laws may be delegated. On August 22, 2022, the SDG Counties passed Official Plan Amendment 13 - Minor Zoning Amendments, that permits the lower tier municipalities to pass a delegation of authority by-law; this OPA conforms to Bill 13.

OPA-13, created a policy that allows for the delegation of authority of minor zoning amendments which includes:

- Garden suites - to permit
- Surplus dwelling consent - to prohibit residential construction on the retained land
- Zoning amendments that are required as a condition of a consent
- To remove a holding symbol
- Temporary Use

OPA 13 also included the ability to delegate authority for part lot control by-laws and to permit alternative notice procedures for Community Improvement Plans (no longer need to have a public meeting), disposal of surplus dwellings consents and consents that require a zoning amendment as a condition as public notice requirements may be completed through the Consent process.

As drafted, the delegation described above is assigned to the Director of Planning and Building.

The proposed delegation by-law also includes the authority to recommend to the SDG Counties to extend the lapsing period for draft plan approved subdivisions

and condominiums as well as authority is delegated to the CAO to refund any land use planning fees as set out in the approved planning tariff of fees by-law.

This delegation for land use planning processes does not change the requirements of the process in terms of public notification, rights to appeal etc., administration is obligated to process the applications as per the Ontario Planning Act and applicable regulations.

The delegation of these matters will make more efficient use of Council and staff time and will improve service delivery to the applicants and development community. Streamlining the review and approval process for certain types of straightforward applications, will allow for development to ultimately proceed in a more timely fashion.

Financial Matters

Generally, items included under "Financial Matters" are tasks that are currently taking place. It is, however, important to clearly identify who is delegated the authority to approve as well as who is delegated the authority to sign on behalf of the Corporation. There are suggested revisions to signing authority to ensure the most efficient and streamlined approach is taken.

Under the *Drainage Act*, when a severance occurs within the watershed of a municipal drain, the Township is required to ensure that the seller and purchaser determine new values for the maintenance schedule for the municipal drain in the report. In an effort to streamline the process and reduce the amount of time it takes to fulfill this condition of consent, staff propose Council delegate the authority to approve drainage apportionment to the Drainage Superintendent, or designate.

Permits and Authorizations

Generally, delegated authority under the heading "Permits and Applications" identifies authority already in place under existing Policies. For example, temporarily closing highways for construction or repair, which is already provided for in the Township's Policy to Temporarily Close a Highway.

There are two new items proposed:

- to approve, amend, refuse or refund facility agreements for occupancy on a short term basis in recreational facilities or lands; delegated to the Director of Parks and Recreation. In some capacity this is already taking place, however stating this within the by-law will formalize the process.
- to close parks to relieve overcrowding in the interest of public safety; delegated to the Director of Parks and Recreation.

Real Property Matters

The process of the sale of property is outlined within the Township's policies, Disposal and Sale of Land and Land Acquisition. However, the administrative components require clarification to ensure appropriate authority is in place and consistency is achieved.

Legal Matters

The added items within "Legal Matters" cover such things as the ability to commence legal proceedings so that a limitation period or other time restriction does not expire or retaining external counsel to provide legal opinions to an amount not exceeding \$5,000.

Additionally, the ability for the CAO to settle insured claims to an amount of \$25,000 (deductible) with a report to Council, or over Township's deductible if recommended by the Township's insurance provider or solicitor. Parameters are outlined and closed meeting reports are required.

Conclusion

Most of the draft Delegation of Authority By-law items are practices that are already taking place within guidelines of existing policies. These have been included to be formalized.

Delegated items from the previous by-law have been brought forward.

Provisions surrounding planning legislation are relatively new and have been incorporated to streamline approvals and promote efficient administration. These measures have also been implemented in neighbouring municipalities, i.e. South Dundas and South Glengarry.

The Directors team has reviewed and are in support of the draft. The Township's solicitor is in the process of reviewing in detail and will provide a fulsome report in coming week(s). A high level review has not generated anything of great concern.

At this time, staff are seeking Council's input and along with the solicitor's comments will be incorporated into the final draft. It is anticipated the final version will be presented to Council during the July 19, 2023 meeting.