

The Corporation of the City of Kawartha Lakes

Council Report

Report Number CKL2018-007

Date: July 17, 2018
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: All Wards

Title: Delegation of Authority – Restricted Acts

Description: Providing the Chief Administrative Officer Delegated Authority during the “Lame Duck” Period

Author and Title: Cathie Ritchie, Clerk

Recommendation(s):

That Report CLK2018-007, **Delegation of Authority – Restricted Acts**, be received; and

That the Municipal Clerk be directed to prepare the necessary by-law prior to Nomination Day, delegating authority to the Chief Administrative Officer from July 27, 2018 to December 3, 2018 to enact the restricted powers of Council (Section 275(3)) during the “Lame Duck” period.

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

Background:

Under the Municipal Act, 2001, S.O. 2001, c.25, a Council can be restricted from performing certain actions in one or both of two separate time periods:

1. Following Nomination Day Inaugural Day and/or
2. Following Election Day until Inaugural Day)

This period is technically referred to as the Restricted Acts after Nomination Day but is also known as a “lame duck” period.

When a new Council is going to be less than 75% of the existing members, “Lame Duck” will apply. In 2016 Council reduced the number of wards changing the size of the future Council from 17 to 9 and will automatically put Council into a “lame duck” period after nomination day.

The restrictions include the following:

- the appointment or removal from office of any officer of the municipality;
- the hiring or dismissal of any employee of the municipality;
- the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
- making any expenditures or incurring any other liability which exceeds \$50,000

Section 275 of the Municipal Act, 2001, as amended states:

Restricted Acts after Nomination Day

Restricted acts

275. (1) The council of a local municipality shall not take any action described in subsection (3) after the first day during the election for a new council on which it can be determined that one of the following applies to the new council that will take office following the election:

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council.
2. If the new council will have more members than the outgoing council, the new council will include less than three-quarters of the members of the outgoing council or, if the new council will include at least three-quarters of the members of the outgoing council, three-quarters of the members of the outgoing council will not constitute, at a minimum, a majority of the members of the new council.
3. If the new council will have fewer members than the outgoing council, less than three-quarters of the members of the new council will have been members of the outgoing council or, if at least three-quarters of the members of the new council will have been members of the outgoing council, three-quarters of the

members of the new council will not constitute, at a minimum, a majority of the members of the outgoing council. 2001, c. 25, s. 275 (1).

Basis for determination

[\(2\)](#) If a determination under subsection (1) is made,
(a) after nomination day but before voting day, the determination shall be based on the nominations to the new council that have been certified and any acclamations made to the new council; or
(b) after voting day, the determination shall be based on the declaration of the results of the election including declarations of election by acclamation. 2001, c. 25, s. 275 (2).

Restrictions

[\(3\)](#) The actions referred to in subsection (1) are,
(a) the appointment or removal from office of any officer of the municipality;
(b) the hiring or dismissal of any employee of the municipality;
(c) the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
(d) making any expenditures or incurring any other liability which exceeds \$50,000. 2001, c. 25, s. 275 (3); 2006, c. 32, Sched. A, s. 114 (1).

Exception

[\(4\)](#) Clauses (3) (c) and (d) do not apply if the disposition or liability was included in the most recent budget adopted by the council before nomination day in the election. 2001, c. 25, s. 275 (4).

Emergencies

[\(4.1\)](#) Nothing in this section prevents a municipality taking any action in the event of an emergency. 2006, c. 32, Sched. A, s. 114 (2).

[\(5\)](#) Not applicable

Delegated authority unaffected

[\(6\)](#) Nothing in this section prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to nomination day for the election of the new council. 2006, c. 32, Sched. A, s. 114 (3).

Rationale:

To ensure continuity of service delivery and decision making is maintained.

Other Alternatives Considered:

None

Financial/Operation Impacts:

There are no financial implications associated with this recommendation. Corporate policies will continue to be complied with during this period and all decisions in accordance with this delegated authority will be reported to Council.

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

To maintain Municipal Service Excellence.

Review of Accessibility Implications of Any Development or Policy:

No impacts.

Servicing Implications:

This report will ensure continued service to residents to advance the Corporate Strategic Priorities.

Under the Act Section 275(4)(4.1) Council is not restricted from taking any action in the event of an emergency within the municipality.

Consultations:

Ministry of Municipal Affairs and Housing

Attachments:

The relevant By-law is provided in Section 15 of the Agenda

Department Head E-Mail: rtaylor@kawarthalakes.ca

Department Head: Ron Taylor, Chief Administrative Officer

Department File: