

The Corporation of the City of Kawartha Lakes

Council Report

Report Number RS2018-023

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

Ward Community Identifier: All Wards

Title: Land Management Committee Policy CP2018-007

Description: Information Report

Author and Title: Robyn Carlson, City Solicitor

Recommendations:

That Report RS2018-023, Land Management Committee Policy CP2018-007, be received.

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

Background:

At the May 22, 2018 Regular Council Meeting, Council passed the following resolution:

CR2018-342

Moved By Councillor Strangway

Seconded By Councillor Yeo

That the Terms of Reference for the Land Management Committee be brought to Council for review by end of July 2018.

Carried

The purpose of this Report is to satisfy the request set out in that resolution.

Rationale:

The Land Management Committee was created by the Property Disposition Task Force in 2001, with the approval by Council of the Land Management Policy number 032-CAO-005, now numbered as CP2018-007 (the "Policy").

The Policy defines the Land Management Committee as follows: "a staff committee chaired by the Realty Services Manager composed of representatives of each of the departments of Community Services, Public Works, Development Services, Engineering and Corporate Services, as appointed by the Director of each relevant department. Realty Services Law Clerk provides a recording secretary function, and minutes of decisions are recorded for every meeting. The Land Management Committee is the administrative and legal arm for the management of the real estate portfolio owned by the City."

The Policy was revised in February 13, 2018 to include the function of a Portfolio Management Team, defined as follows: "a staff committee co-chaired and project managed by Strategy Management Office (which also acts as recording secretary), co-chaired by Manager of Building and Property, and comprised of the Asset Manager and Realty Services Manager. The Portfolio Management Team is the asset management function for the real estate portfolio owned by the City."

The role, functions and activities of each of these staff teams is set out in the Policy.

Council has the sole authority to sell or acquire property.¹ In the case of a potential sale or acquisition of property, the function of the Land Management Committee is to provide a recommendation to Council with respect to a potential acquisition or disposition of land.

Reasoning for the Committee being a Staff Committee – Delegation of Authority

The City Solicitor has been delegated authority to sign lease agreements with revenue/ expense of up to \$10,000.00 per year and a term of up to 5 years, without the necessity of the matter proceeding to Council.² Similarly, the City Solicitor has been delegated authority to sign license agreements of up to \$10,000.00 per year without the necessity of the matter proceeding to Council.³

The Director of Engineering and Corporate Assets has been delegated authority to release easements in favour of the City registered on private land and to release subdivision agreements on private land, without obtaining instruction from Council.⁴

In each of these cases, where Council has delegated authority to Staff, the Land Management Committee is a convenient forum to vet matters before that delegated authority is exercised.

Using July, 2018 as an example, 8 of the 13 matters processed by the Land Management Committee were matters delegated to Staff.

Reasoning for the Committee being a Staff Committee – Confidentiality

Matters proceeding to Council for decision are required, subject to certain exemptions, to be public.⁵ The potential acquisition or disposition of land can be presented to Council in a closed meeting.⁶ Likewise, the potential lease or license of land can be presented to Council in a closed meeting.⁷ The meetings of the Land Management Committee are not public meetings due to the fact that virtually every matter discussed would be subject to privilege should it proceed in a public forum. This allows Staff to freely discuss confidential matters – such as negotiation strategy – that would be otherwise have to go to a closed session if the matter was before Council or a Committee of Council.

¹ See sections 5.01 and 5.02 of the Consolidated Signing By-law 2016-009, attached as Appendix B.

² Section 5.03 of Signing By-law 2016-009

³ Section 5.05 of Signing By-law 2016-009

⁴ See By-law 2016-059, attached as Appendix C.

⁵ Section 239 of the Municipal Act, 2001

⁶ Section 239(2)(c) of the Municipal Act, 2001

⁷ Section 239(2)(k) of the Municipal Act, 2001

If the Land Management Committee was to become a public Committee of Council, the vast majority of items discussed by that Committee would be on the closed agenda. With 13 matters being decided by the Committee in the month of July, 2018, for example, the associated increased administration would slow down the process of matters through the Committee. The expeditious dealing of land matters has been a historical problem in the Realty Services Division (formerly the Land Management Division). Therefore, a change in structure from a staff team to a Committee of Council – with associated administrative inefficiencies – is not recommended.

Reasoning for the Limited Involvement of Members of Council at the Committee

The Code of Conduct and Ethics for Council members (approved by Council on November 22, 2016 as Council Policy number CP2016-017) under the heading “Relationships with Staff and Other Members of Council” states that members shall:

- Acknowledge that only Council as a whole shall direct staff members, through the CAO, to carry out specific tasks or functions.
- Refrain from using their position to improperly influence members of staff in their duties to gain an advantage for their Ward area.
- Be respectful that staff work for the City as a body corporate and are charged with providing advice that is objective and based upon their professional expertise, politically neutral and consider a corporate perspective, without undue influence from any individual member of Council

Active involvement of members of Council in the decision making function of the Committee, which both recommends the purchase or sale of land to Council via Staff Report and deals with matters for which Staff have delegated authority, thus engages Code of Conduct issues.

The Committee’s function cannot be likened to a Committee of Council, such as the Planning Advisory Committee, for example. In the PAC example, Planning Staff create a report after confidential circulation to internal departments and confidential staff discussions are had. That report recommends to PAC a certain course of action, and then the PAC makes a decision on the matter. In this scenario, the Committee functions similarly to Staff in creating the report. To have Council members assist in writing the Staff report to PAC would contravene the Code of Conduct.

Relationship of Recommendations to the 2016-2019 Strategic Plan:

There are no recommendations set out in this Report. Accordingly, this section is not applicable.

Consultations:

None.

Attachments:

Appendix A – Land Management Committee Policy CP2018-007



CP2018-007 Land
Management Policy.d

Appendix B – Consolidated Signing By-law 2016-009



2016-009
Consolidated Provide

Appendix C – By-law 2016-059, a By-law to Release Certain Property Interests



2016-059 Delegate
Release of Property I

Department Head E-Mail: rcarlson@kawarthalakes.ca

Department Head: Robyn Carlson