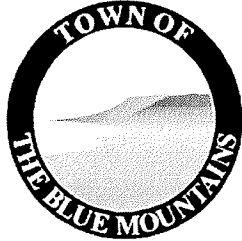


STAFF REPORT: ADMINISTRATION



REPORT TO: Finance and Administration
Committee
MEETING DATE: December 18, 2007
REPORT NO.: A.07.35
SUBJECT: Delegation by Council of Powers
and Duties
PREPARED BY: Stephen Keast, Clerk

A. Recommendations

THAT Council receive Staff Report A.07.35, "Delegation by Council of Powers and Duties" and enact a By-law to adopt Town Policy POL.COR.07.04, Delegation by Council of Powers and Duties, and further gives direction to Town Council and Staff to implement the Policy.

B. Background

Revisions to the *Municipal Act, 2001* as proclaimed on January 1, 2007, include a requirement for a municipality to adopt Policies in six fields, being:

- Sale and other disposition of land
- Hiring of employees
- Procurement of goods and services
- Provision of notice to the public
- Accountability and transparency of actions to the public
- Delegation of powers and duties

The subject Report and Policy represent the fifth in these six fields for consideration by Council. It is noted the Policies all relate to accountability and transparency of municipal actions and its decision-making process.

Policy POL.COR.07.04 contains the delegations previously made by Council in By-laws 2005-49, 2005-53 and 2006-31. Additional information and clarification of the process is included in the proposed Policy to increase accountability and transparency.

A new feature with regard to delegation of powers and duties is Council authority to provide for an appeal process for a delegated power or duty decision, available to any person or body. This was one of the recent revisions made to the *Municipal Act, 2001* (subsection 284.1(1)) through Bill 130 and is intended to increase accountability and transparency in the delegated decision-making process.

While Council may delegate administrative powers, certain powers and duties are explicitly prohibited for delegation and these are included in the Policy for clarity (subsection 23.3(1)).

It is noted in the Policy that Council may delegate administrative powers and duties by By-law, but may also revoke such delegation at any time and any delegation may be subject to such conditions and limits as Council considers appropriate.

C. The Blue Mountains' Strategic Plan

Goal Providing a strong, well managed municipal government.

Actions Practice open and proactive communications.
Involve the community, business sector, developers, public partners and others in the ongoing work of the municipality.

D. Budget Impact (cc: Treasury if required)

None

E. Attached

Policy POL.COR.07.04, Delegation by Council of Powers and Duties.

Respectfully submitted,



Stephen Keast, Clerk

TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Delegation by Council of Powers and Duties

Corporate Policy (Approved by Council)

Policy Ref. No.: POL.COR.07.04

Administrative Policy (Approved by CAO)

By-law No.: 2007-

Department Policy: (Approved by Mgr.)

Name of Dept.: Administration

Date Approved:

Staff Report:

Policy Statement

Policy direction for Council procedure in the delegation of its powers and duties as described section 23.1 of the *Municipal Act, 2001*.

Purpose

Compliance with Section 270 of the *Municipal Act, 2001*.

Application

This Policy applies to the actions or decisions to be undertaken or made by the municipality, its Council, its Senior Management Team and Local Boards as defined in subsection 269.1 of the *Municipal Act, 2001*, all collectively called the "municipality", for the purpose of providing accountability and transparency in the municipal decision-making process and its actions.

Council will endeavour in its actions to ensure accountability for its decisions and the manner in which decisions are made will be transparent to the public.

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*, the *Building Code Act* and any other Act so as to increase the accountability and transparency of the municipal decision-making process.

In order to ensure the efficient management of the municipality and an ability to respond to issues in a timely manner, Council has the ability to delegate certain powers and duties to municipal officers, employees or agents, while maintaining accountability through this Policy document.

The powers and duties delegated by Council are not considered to be legislative or quasi-judicial and are considered to be administrative or minor in nature and may be subject to such conditions and limits as Council considers appropriate.

The persons to whom Council may delegate certain powers and duties shall be officers, employees or agents of the municipality.

All delegation of powers and duties by Council shall be confirmed by By-law and may be revoked by Council at any time.

Town Staff shall prepare regular reports for Council providing detail on any delegated approvals granted.

Council, at their sole discretion, retains the right to hear any appeal made by a person or body of a delegated approval decision and to determine the process by which an appeal hearing shall proceed. Council may delegate the right to hear any appeal in a manner to be determined by Council.

Definitions

Delegation: shall mean the transfer of approval authority of certain powers and duties from Council to designated Town officer, employee or agent positions under certain terms and conditions as identified by Policy and confirmed by By-law.

Procedures

That the following approvals have been previously delegated and are hereby continued to be delegated by Council to the appointed Town Officer, Employee or Agent positions:

- a) Minor Site Plan approvals that would otherwise be in compliance and would not generate extensive site works and where Staff would not ordinarily recommend a Site Plan Agreement as being required be delegated for execution to the Town Development Services Manager or designate (Senior Planner).
- b) Review and comment on Niagara Escarpment Development Permit Applications that would otherwise be in compliance with zoning regulations were they in effect be delegated for execution to the Town Senior Planner or designate (Development Services Manager). Any Application that would not be in compliance shall be reviewed by Council.
- c) Authorization of reduction of Letters of Credit related to progress of development works subject to recommendation by Town Staff be delegated for execution by the Town Treasurer or designate (Deputy Treasurer) and Director of Engineering and Public Works.

- d) Certification of Title Applications noting no objection to land description for development lands, subject to review and recommendation by Town Staff, be delegated for execution to the Town Clerk.
- e) Pre-Servicing Agreements authorizing developers to install certain works at their own risk, prior to finalization of Subdivision and Development Agreements, subject to recommendation of Town Staff and Town Solicitor, be delegated for execution to the Mayor and Town Clerk.
- f) Franchise Agreements addressing use of public highway allowances by public corporations and utility and service providers, be delegated for execution to the Director of Engineering and Public Works or his or her designate (Roads and Drainage Superintendent).
- g) Agreements with Registered Code Agencies to perform specified functions with regard to the *Building Code Act, S.O. 1992*, be delegated for execution to the Chief Building Official.
- h) Conditional Building Permit Agreements made under the *Building Code Act, S.O. 1992*, be delegated for execution to the Chief Building Official.
- i) Model Home Agreements required for sales and display where permitted by zoning regulations and contemplated by development agreement, be delegated for execution to the Chief Building Official.

Exclusions

Unless specifically delegated in this or any subsequent Policy, all the powers and duties of Council as described in the *Municipal Act, 2001* shall remain with Council.

The following powers and duties cannot be delegated by Council:

- a) The power to appoint or remove from office an officer of the municipality whose appointment is required by the *Municipal Act, 2001*.
- b) The power to pass By-laws for municipal taxation or tax collection.
- c) The power to incorporate corporations.
- d) The power to adopt an Official Plan or Official Plan Amendment or pass a Zoning By-law under the *Planning Act*.
- e) The power to pass a By-law for the establishment of a counselling service to small businesses operating in the municipality or for the provision of municipal capital facilities.
- f) The power to adopt a Community Improvement Plan.

- g) The power to adopt or amend the budget of the municipality.
- h) Any other power or duty that may be prescribed.

References and Related Policies

Town By-laws 2005-49, 2005-53 and 2006-31 and Town Policies POL.COR.07.01 through POL.AD.07.03 inclusive and POL.AD.07.05 through POL.AD.07.07 inclusive, as approved, together with this Policy.

Consequences of Non-Compliance

Non-compliance with the *Municipal Act, 2001* is subject to the remedies prescribed therein.

Review Cycle

This policy will be reviewed annually by the Senior Management Team for report to Council in open session.