

STAFF REPORT: Administration



REPORT TO: Council
MEETING DATE: December 22, 2008
REPORT NO.: A.08.16
SUBJECT: Delegation Policy Amendment
PREPARED BY: Stephen Keast, Clerk

A. Recommendation

THAT Council receive Report A.08.16, "Delegation Policy Amendment" and enact a By-law so as to amend Corporate Policy COR.POL.07.04, Delegation by Council of Powers and Duties, with the addition of a previously delegated power and duty regarding Work on Shoreland Permit Applications that was inadvertently omitted from said Policy.

B. Background

In order to assist the efficient management of the municipality and be able 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 *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 so as to increase the accountability and transparency of the municipal decision-making process.

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.

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

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.

Council delegated the power and duty of review and comment on Ministry of Natural Resources Work on Shoreland Permit Applications to Staff in 2001 but the delegation was inadvertently omitted from the Delegation by Council of Powers and Duties Policy.

Amending the Delegation Policy with the addition of the Shoreland Permit Application delegation will now show all delegated powers and duties within the single Policy document.

C. The Blue Mountains' Strategic Plan

Providing a strong, well-managed municipal government.

D. Environmental Impacts

None

E. Budget Impact

None

F. Attached

1. Resolution No. 4 of May 28, 2001.
2. Delegation by Council of Powers and Duties Policy POL.COR.07.04.
3. Draft By-law

Respectfully submitted,

Stephen Keast, Clerk
519 599 3131, ext 237

May 28, 2001

Resolution No. 4

Moved By: G. Ardiel
Seconded By: Duncan R. McKinlay

THAT this Council does hereby approve the recommendations of the Management Team with regard to the "Looking For Ideas" idea generation program at this time, being:

1. THAT the Lottery Licencing Officer be authorized to review and approve Lottery Licence applications, such applications to be presented to Council for review and consideration only if concerns with the application are noted by the Lottery Licencing Officer.
2. THAT the Clerk be authorized to review and approve M.N.R. Work on Shoreland Permits after staff review, such applications to be presented to Council for review and consideration only if concerns with the application are noted by Town staff.
3. THAT an Adopt-a-Pet program be instituted in connection with Blue Mountain Veterinary Services, including advertising of available pets in the Town Community Page with outstanding impound and care costs to be assumed by the adoptor.

CARRIED...

TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Delegation by Council of Powers and Duties

Corporate Policy (Approved by Council)	<input checked="" type="checkbox"/>	Policy Ref. No.:	POL.COR.07.04
Administrative Policy (Approved by CAO)	<input type="checkbox"/>	By-law No.:	2008 - 10
Department Policy: (Approved by Mgr.)	<input type="checkbox"/>	Name of Dept.:	Administration
Date Approved: January 28, 2008		Staff Report:	A.07.35

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 Director of Planning or designate (Manager of Development Planning).
- 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 Manager of Development Planning or designate (Director of Planning). 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.

**CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS**

By-law No. 2008 -

**Being a By-law to amend a policy of the Town detailing the
procedure for delegation by Council of powers and duties**

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, chapter 25, S.O. 2001 (the Act), as amended, states that a municipal power, including a municipality's capacities, rights, powers and privileges under section 9, shall be exercised by by-law;

AND WHEREAS subsection 23.1 of the Act states that Council is authorized to delegate certain powers and duties;

AND WHEREAS section 270 of the Act states that a municipality shall adopt and maintain policies with respect to certain matters including delegation by Council of powers and duties;

AND WHEREAS Council did delegate the review and comment on Work on Shoreland Permit Applications to Staff on May 28, 2001;

AND WHEREAS it is deemed expedient by Council to amend a previously approved Delegation Policy to include the Work on Shoreland Permit delegation which was inadvertently omitted from the Policy;

NOW THEREFORE Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT Town Policy POL.AD.07.04, "Delegation by Council of Powers and Duties", is hereby amended with the addition of the following delegated power and duty:

"Review and comment on Ministry of Natural Resources Work on Shoreland Permit Applications be delegated to the Clerk or designate (Deputy Clerk), such Applications to be presented to Council for review and consideration where concerns with the Application are noted by Staff."

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this 22nd day of December, 2008

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Ellen Anderson, Mayor

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Stephen Keast, Clerk