



Staff Report for Council Meeting

Date of Meeting: June 24, 2020

Report Number: SRCM.20.11

Department: Office of the City Manager

Division: Office of the Clerk

Subject: **SRCM.20.11 – Delegation of Authority During Council Recess and Lame Duck Period By-law**

Purpose:

To recommend that Council enact a by-law to delegate authority to the City Manager during Council's summer recess, winter recess, election period recess, and during any lame duck period in a regular election year.

Recommendation(s):

- a) That Council enact By-law 86-20, attached as Attachment A to staff report SRCM.20.11, being a by-law to delegate certain powers and duties during a recess of Council of the Corporation of the City of Richmond Hill.

Contact Person:

Stephen M.A. Huycke, Director, Legislative Services/City Clerk, extension 2529

Andreea Adari, Assistant City Solicitor, extension 2504

Report Approval:

Submitted by: Stephen M.A. Huycke, City Clerk

Approved by: Mary-Anne Dempster, Interim City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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Background:

Each June, Council passes a resolution to delegate authority to the City Manager to address a number of matters normally dealt with by Council or its Committees during the summer recess. In a regular election year, Council also delegates authority to the City Manager to address a number of matters during the period of time when Council does not meet prior to the election and up to the start of the new Council term. For administrative efficiency, staff recommend Council enact a by-law that delegates the same powers and authorities delegated to the City Manager on June 25, 2019 (see Attachment B) for the various recess periods. This By-law would automatically come into effect at the start of each summer recess, election recess, winter recess, and during any lame duck period in an election year. By enacting a by-law, staff would not be required to place the same report on the Council every June. The proposed by-law require the City Manager to provide a public report to Council on how the authorities have been used during the various recess periods.

Summer Recess, Election Recess, Winter Recess and Lame Duck Period

Procedure By-law No. 74-12, as amended, states that there shall be no regular Council Meetings held during: the last two weeks of July and all of August (summer recess); and, the first two weeks of January and the last two weeks of December (winter recess). In addition to this, Council normally does not hold regular Council meetings from mid-September to the start of the new Council term in a regular election year (election recess). The draft by-law proposes to automatically come into effect during any of these periods.

It recommended that the by-law automatically come into effect during any 'lame duck' period. Section 275 of the *Municipal Act, 2001*, as amended, prohibits Council from taking certain actions (the "restricted acts") on the first day it is known that the incoming council will have less than three-quarters of the current members. The first day can either be the date on which the Clerk certifies nominations after Nomination Day, or on the date the Clerk certifies the voting results following the election. If at any time after either of those dates it is determined that three of nine Members of Council will not be part of the new term of Council, Council cannot:

1. Appoint or remove from office of any officer of the municipality;
2. hire or dismiss or dismissal of any employee of the municipality;
3. dispose of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal, unless it was included in the most recent budget adopted by the council before nomination day in the election; and
4. make any expenditures or incurring any other liability which exceeds \$50,000, unless it was included in the most recent budget adopted by the council before nomination day in the election.

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Delegations

The proposed by-law includes all of the delegations included in the 2019 Summer Recess Delegation (Attachment B) as discussed below.

Procurement of Goods and Services

The by-law recommends that the City Manager be given authorization to approve the award of contracts for goods and services and all related activities during any of the recess periods. The Financial Control By-law delegates spending and various other authorities to Staff to award any contract provided that approvals for non-competitive procurement are in place. The Procurement By-law requires that acquisitions pursuant to non-competitive procurement valued over \$100,000 be approved by Council.

It is recommended that the City Manager be given the authorization to award the entry into and execution of all non-competitive contracts and to approve scope changes, provided that all other requirements in the Financial Control By-law have been complied with during the recess periods

Central Business District (CBD) and Office Development

Staff anticipate that applications pertaining to the newly approved Richmond Hill Office Development and Downtown Local Centre Community Improvement Plan could be received during various recess periods. To accommodate the interior/exterior upgrading of CBD properties in a time frame that meets the business needs of the property owners, authority is required to approve Façade Improvement, Landscaping and Signage, Grant Agreements and Cash-in-lieu of Parking Agreements as well as Building Renovation Grant Agreements with the CBD, the Newkirk and Beaver Creek Business Park areas during various recess periods

Site Plan Approvals

The current procedure approved by Council for the approval of site plans delegates the authority to approve them to Staff (the Commissioner of Planning and Regulatory Services or the City Manager). For site plans located on arterial roads, Staff are directed to bring those plans to Council to seek comments from that Committee before approving the plans.

During the various recess periods, there could be site plan applications for residential, commercial, institutional or industrial buildings submitted to the City for properties located on arterial roads. In our continued efforts to provide approvals for quality development projects in Richmond Hill to enhance not only our commercial and industrial tax base but also our residential housing stock, Staff feel that where possible, approval should be granted during Council recesses without having to wait for the presentation of the plans to Council. Accordingly, we are recommending that the Council provision to bring plans to Council on arterial roads be waived for plans that are ready for approval during any recess period

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Alectra Utilities (formerly known as Powerstream) Offer to connect and Letter of Consent Agreements

Alectra Utilities (formerly known as Powerstream), the City's electricity supplier, has adopted a policy whereby they require two formal agreements prior to commencing any work on behalf of the City. Alectra Utilities will require that the City enter into Offer to Connect and letter of Consent Agreements to provide new electrical services for new and retro construction projects. The agreement is to be signed by a City representative that can bind the Corporation. It is recommended that the City Manager be given the authorization to bind the corporation and to sign the appropriate agreement.

Sale of Municipal Property

It is recommended that the City Manager be given the authority to accept such offers received for the sale of municipal property where Council has previously considered such sale and declared the land surplus to the City's needs and where any offer received for such lands is at or below 5% of the listing price or reserve bid as established by the Manager of Real Estate and to authorize the execution of any agreement related to such sale.

Cultural Heritage Matter

The *Ontario Heritage Act* grants Council a number of powers to identify, conserve, protect and steward cultural heritage buildings, properties and landscapes within a municipality. Most notable are the powers related to the designation of properties, the alteration of designated properties and the demolition of listed and designated buildings. Where property owners make application to the municipality to alter or demolish designated structures or lands, the *Ontario Heritage Act* provides time limits upon which Council may make a decision. In the absence of a decision within the stipulated time limits, Council is deemed to have granted an approval.

In light of the foregoing, it is recommended that the City Manager be given the authority of Council to deal with the foregoing matters under the *Ontario Heritage Act* during the various recess periods.

Acquisition of Lands and Easements

From time to time, properties, which the City would likely have an interest in acquiring become available. This is particularly applicable with respect to the City meeting its objectives related to parkland. While the City Manager already has delegated authority to pursue such acquisition, that is dependent upon receiving Council's prior direction. Obtaining that direction would not be possible during the period where there are no regularly scheduled Council meetings. Often time is of the essence in acquiring these lands once they are listed for sale or otherwise become available.

Because of the nature of some of these prospective acquisitions, it may not be possible to make an offer subject to Council's subsequent approval. While the caveat may be

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added to the proposed delegation power itemized in paragraph i) of the recommendations, Council should be aware that such could adversely impact the ability of the City to secure properties without paying a premium. For this reason, Staff recommend that there be no restrictions on the delegation other than as set out in the by-law.

While the acquisitions of easements have not proven problematic in the past, Staff believe this should be added to the delegated authority.

The Execution of any other Agreements or Documents

From time to time, agreements and documents for which there is no existing delegated authority are brought to Council for approval. It is recommended that the City Manager be authorized to approve and/or execute such agreements and documents during the various recess periods if either (i) the City Manager considers the subject matter to be of a minor nature (e.g. nominal or no financial implications, required only to facilitate an existing Council approved program or project) or (ii) the City Manager determines that waiting until after a recess period could cause the City adverse consequences.

In the event that matters other than the above require prompt attention by Council, the City Manager will, through the Office of the Mayor, seek special meetings of Council during any recess period if necessary.

Draft Approval of Plans of Subdivision

Section 51 of the *Planning Act* sets out the requirements for preparing a draft plan of subdivision, including the format and information which must be provided. Council has the authority to approve draft plans of subdivision. Applications for approval of a draft plan of subdivision are evaluated against specific criteria which includes, amongst others, the following:

1. conformity with the City and Regional Official Plans;
2. conformity with Provincial Policy Statements and other Provincial Plans;
3. compatibility with adjacent land uses and compliance with zoning regulations;
4. suitability of the land for the proposed use; and,
5. adequacy of access and municipal services

During various recesses periods, there would be draft plans of subdivision, which have had a statutory public meeting but have not been presented to Council. Under Section 51.2(4) of the *Planning Act*, Council is authorized to delegate all or any part of the authority to approve draft plans of subdivision. In our continued efforts to provide approvals for quality development projects in Richmond Hill to enhance our residential housing stock, Staff feel that where possible, approval of draft plans of subdivision should be granted to the City Manager during recess periods. Accordingly, staff are recommending that Council delegate its powers of approval of draft plans of subdivision to the City Manager.

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Sanitary Servicing Allocation

Servicing allocation has historically been granted to an individual development project by Council by way of a staff report and recommendation from Planning and Regulatory Services Staff. Typically, an applicant must satisfy the criteria established in the Interim Growth Management Strategy (IGMS). Awarding of allocation usually follows the approval of a draft plan of subdivision or a site plan. The IGMS criteria have proved to be a successful performance measure in development approvals.

On the basis that Council considers it acceptable to delegate its approval authority for draft plans of subdivision and site plans, the corresponding approval for the allocation of sanitary sewer servicing capacity also be delegated to staff, the Commissioner of Planning and Regulatory Services or the City Manager. Such approval shall only be given upon a determination that the applicant has satisfied the IGMS criteria.

Street Naming

Implementation and finalization of all site plans and draft plans of subdivision, which include public or private roads requires that proper names be assigned. These processes are always ongoing and the assignment of street names is a critical piece to the completion of these projects. Staff operate within the parameters of a Council approved street naming policy. Periodic Council approvals are required to either add names to the inventory of potential street names as well as the assignment of street names to private laneways.

In order to provide seamless approvals and implementation of this component of the development approvals process, it is recommended that the City Manager be delegated the authority of Council to deal with the foregoing matters upon the recommendation of the Commissioner of Planning and Regulatory Services and in accordance with the adopted City Policy for Municipal Street Naming.

Matters before the Local Planning Appeal Tribunal (LPAT)

There are various matters at different stages before the LPAT. When matters have been appealed, staff typically engage in discussions with appellants with a view to resolving the matter prior to it being heard by the Tribunal. Although resolutions are not always achieved or recommended, staff are of the view that there will be occasions when matters can be resolved during a recess period. In such cases, staff would typically provide Council with recommendations for a settlement with details of all the actions required to effect such settlement. Where some outstanding issues remain, staff would typically advise Council of those issues to be adjudicated by LPAT. Staff recommend that the City Manager, subject to the recommendations of the Commissioner of Planning and Regulatory Services, be authorized to instruct the City Solicitor as to the position of the City on any matter before the LPAT, as set out in the draft by-law

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Financial/Staffing/Other Implications:

There will be no financial implications, which will exceed approved capital or operating budgets, or otherwise allowable adjustments within the City's Financial Control Bylaw.

Any LPAT settlements requiring budgets for implementation will only proceed subject to prior consultation with the Treasurer regarding the availability of funding from existing budgets.

Relationship to the Strategic Plan:

Delegation of approval of these matters will allow normal business to proceed and facilitate resolution of appeals before LPAT during Council's various recess periods

Conclusion:

It is recommended that during Council enact a by-law to authorize the City Manager to approve various matters during Council's summer recess, winter recess, election recess and any lame duck period in a regular election year. The proposed by-law requires the City Manager to report to Council on the use of any authority delegated in the by-law.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- Attachment A – Draft by-law 86-20
- Attachment B – June 25, 2019 Council Meeting extract – SRCM.19.06

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Report Approval Details

Document Title:	SRCM.20.11 - Delegation of Authority During Council Recess By-law.docx
Attachments:	- Attachment A -SRCM.20.11 - Draft By-law 86-20 - Recess Delegation.doc - Attachment B - SRCM.20.11 - Council extract June 25 2019 - SRCM.19.06.pdf
Final Approval Date:	Jun 9, 2020

This report and all of its attachments were approved and signed as outlined below:

MaryAnne Dempster - Jun 9, 2020 - 4:51 PM