

Municipality of Lakeshore – Report to Council

Strategic & Legal Affairs

Civic Affairs



To: Mayor & Members of Council
From: Brianna Coughlin, Division Leader – Civic Affairs
Date: April 16, 2022
Subject: Delegation of Authority during Restricted Period

Recommendation

Direct the Clerk to read By-law 38-2022, Being a By-law to Delegate Authority during a Restricted Council Period, during the “Consideration of By-laws”, as presented at the April 26, 2022 Council meeting.

Background

Section 275 of the *Municipal Act, 2001* prohibits municipal councils from undertaking certain acts after Nomination Day in a municipal election year and prior to a new Council taking office, subject to specific conditions. This legislative restriction is referred to as “Restricted Acts”, or more commonly referred to as the “lame duck” period.

Council can be in this situation for the 2022 Municipal Election during one or both of the following time periods:

1. The period from Nomination Day (August 19, 2022) to Voting Day (October 24, 2022); and
2. The period from Voting Day (October 24, 2022) to the end of the 2018-2022 term of Council (November 14, 2022).

If, during the above-noted periods, it can be determined with certainty that the new Council will include less than three-quarters of the outgoing Council Members (i.e. less than 6 members), then the Restricted Acts provision apply. Council will be statutorily restricted from taking certain actions until the new term of Council begins on November 15, 2022.

Nothing in this section of the Act prevents a municipality from taking any action in the event of an emergency.

Comments

If the Restricted Acts provision is engaged, Council will be subject to the restriction from performing the following actions, as provided in section 275(3) of the Act:

- 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 had a value exceeding \$50,000 at the time of disposal; and
- d) making any expenditures or incurring any other liability which exceeds \$50,000.

Paragraphs 275(3)(c) and (d) only apply if the disposition or liability was not included in the 2022 Budget.

By-law 38-2022 has been prepared for Council's consideration, which delegates authority to the Chief Administrative Officer to exercise the actions listed in subsection 275(3). The Chief Administrative Officer already has delegated authorities through various by-laws (for example, the Procurement By-law and Chief Administrative Officer By-law). These delegations of authority remain in effect during this restricted period.

In the event that the Chief Administrative Officer exercises any of the authorities delegated under subsection 275(3), the by-law requires the Chief Administrative Officer to provide a report on the matter to Council.

Financial Impacts

There are no financial impacts as a result of this report. Should any expenditures or liabilities be incurred as noted in subsection 275(3)(c) or (d) of the Act, a report will be brought to Council identifying the financial impacts of the action.

Report Approval Details

Document Title:	Delegation of Authority during Restricted Period (Lame Duck).docx
Attachments:	
Final Approval Date:	Apr 19, 2022

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

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