



REPORT TO COUNTY COUNCIL

FROM: Nicholas Loeb, Director of Legal Services

DATE: November 28, 2023

SUBJECT: Delegation of Authority By-Law

RECOMMENDATIONS:

THAT Council of the Corporation of the County of Elgin receive and file the report entitled Delegation of Authority By-Law dated November 28, 2023 from the Director of Legal Services for information;

THAT Council pass By-Law No. 23-44, the Delegation of Authority By-Law;

INTRODUCTION:

This report recommends that Council pass a comprehensive delegation of authority by-law, being By-Law No. 23-44, for the County of Elgin. This By-Law will formalize practices and processes for officers and employees of the County to efficiently operate their departments.

BACKGROUND AND DISCUSSION:

Section 270 of the *Municipal Act, 2001* requires that municipalities adopt policies with respect to certain matters including “the delegation of its powers and duties.” This requirement is typically satisfied by municipalities through the passing of a comprehensive delegation of authority by-law. Elgin County has a number of separate by-laws and policies that delegate authority to some of its employees and officers. By way of example, the Procurement By-Law delegates some purchasing powers, and, the Human Resources policy manual and its policies are currently approved by Council and those delegate authority to certain personnel.

Statutory authority is also exercised by statutory officers including the Treasurer, Clerk/Deputy Clerks and the CAO in conformance with *Municipal Act, 2001* and their respective appointment by-laws.

A comprehensive delegation of authority by-law is strongly recommended by staff for the following reasons:

- To the extent the current by-laws utilized by the County do not cover all areas of delegated authority, such a by-law is required by the *Municipal Act, 2001* in order for the authority to be properly exercised;
- Officers and employees of the County will have clarity on the nature, extent and parameters of their discretionary exercise of authority;
- Inherent within the by-law is the creation of checks and balances within the administration on exercising authority across different areas of professional expertise;
- Agreements and grants often require signing officers to demonstrate they have authority of the corporation to execute certain documents, a delegation of authority by-law will serve as evidence of that authority;
- Clarity for the public on who is responsible for what decision-making within the County;

By-Law No. 23-44

The Proposed By-Law before Council was generated through an iterative process by the Executive Leadership Team. Meetings occurred between each Director / the CAO Clerk and the Director of Legal Services to generate an initial draft. Executive Leadership Team then met to review the initial draft and provide feedback and proposed revisions on the initial draft, resulting in By-Law No. 23-44 that appears before Council.

The reason for this iterative process was to provide County leadership with the opportunity to identify the discretionary exercises of authority they undertake and ensure that there is a clear delegation of that authority as required by the *Municipal Act, 2001*. Gaps in existing delegated authority were identified and are now covered by the proposed by-law.

The dollar value amounts noted in the delegation of authority Schedule “A” for purchasing services or materials align with the in-force Procurement Policy By-Law of the County, being By-Law 20-07.

Where authority is being given to authorize other types of expenditures, such as settling legal claims, those amounts were reviewed by County leadership and determined to be appropriate to the level of delegation being provided. Additionally, checks and balances limit the extent of delegation. By way of example, the Director of Legal Services is delegated authority to settle legal proceedings that are within the jurisdiction of the small claims court – but that authority is still subject to settlement funds being available in an approved budget.

Delegation of Authority By-Laws are generally treated by municipalities as living documents. When structural reorganization occurs, they are routinely amended and updated to reflect the reality of day to day operations of the municipal administration. The By-Law presented to Council is expected to be revisited in 2024 for the following reasons:

1. It does not include delegation of authority regarding planning matters. The delegation of that authority is currently routed to the CAO/Clerk and Director of Legal Services pursuant to By-Law No. 23-29. County staff anticipate that a transition in the delivery of planning services will occur from among several options in 2024, that will then lead to an amendment of By-Law No. 23-44, if passed, and a repeal of By-Law No. 23-29.
2. Human Resources authority is currently delegated through the Human Resources policies approved by Council. Those may be incorporated into an amendment to By-Law 23-44, if passed, at a later date. Transitioning the delegated authority regarding HR matters requires a more comprehensive approach as there are some elements of HR delegated authority that should be included in the delegation of authority by-law and some protocols associated with those authorities that should remain in policy form as part of the HR Policy Manual. The version of By-Law 23-44 that is before Council delegates authority to the CAO/Clerk to implement administrative policies and therefore it is anticipated that any amendments that may occur regarding HR authority will be subsequent to a comprehensive review by the CAO/Clerk and Director of Human Resources.

Notwithstanding that the By-Law is expected to be revisited, staff recommend that By-law 23-44 is passed as it is required by the *Municipal Act, 2001* and provide clear authority to officers and employees of the municipality to carry out their duties and responsibilities.

FINANCIAL IMPLICATIONS:

There are no financial implications in passing By-Law 23-44, the By-Law codifies the discretionary authority of employees and officers.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Serving Elgin	Growing Elgin	Investing in Elgin
<input checked="" type="checkbox"/> Ensuring alignment of current programs and services with community need. <input type="checkbox"/> Exploring different ways of addressing community need. <input type="checkbox"/> Engaging with our community and other stakeholders.	<input type="checkbox"/> Planning for and facilitating commercial, industrial, residential, and agricultural growth. <input type="checkbox"/> Fostering a healthy environment. <input type="checkbox"/> Enhancing quality of place.	<input checked="" type="checkbox"/> Ensuring we have the necessary tools, resources, and infrastructure to deliver programs and services now and in the future. <input checked="" type="checkbox"/> Delivering mandated programs and services efficiently and effectively.

Additional Comments:

LOCAL MUNICIPAL PARTNER IMPACT:

There is no local municipal partner impact.

COMMUNICATION REQUIREMENTS:

If By-Law 23-44 is passed, the Executive Leadership Team will provide an overview to all staff that are empowered by a delegation of authority to ensure that they understand the nature of the authority and the limitations on their discretionary exercise of the authority.

CONCLUSION:

County leadership recommend that Council pass By-Law 23-44 to comprehensively delegate authority to officers and employees of the County.

All of which is Respectfully Submitted

Approved for Submission

Nicholas Loeb
Director of Legal Services

Don Shropshire
Chief Administrative Officer/Clerk