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**TO:** GENERAL COMMITTEE


**SUBJECT:** DELEGATION OF POWERS AND DUTIES POLICY

**WARD:** ALL

**PREPARED BY AND KEY CONTACT:** D. MCALPINE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES, EXT. 4421

**SUBMITTED BY:** D. MCALPINE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES 

**GENERAL MANAGER APPROVAL:** P. ELLIOTT-SPENCER, MBA, CPA, CMA, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES 

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** C. LADD, CHIEF ADMINISTRATIVE OFFICER 

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**RECOMMENDED MOTION**

1. That the updated policy regarding the delegation of Council's powers and duties attached as Appendix "A" to Staff Report CLK011-15 be adopted.

**PURPOSE & BACKGROUND**

Purpose

2. The purpose of this staff report is to provide for the review of the policy regarding the delegation of Council's powers and duties, to determine whether or not the policy continues to meet the needs of Council and the community. Minor changes to the policy adopted in 2007 are being recommended.

Background

3. The efficient management of the municipal corporation and the need to respond to issues in a timely fashion require Council to entrust certain powers and duties to committees and staff while concurrently maintaining accountability, which can be effectively accomplished through the delegation of legislative and administrative functions.
4. The *Municipal Act, 2001* (the *Act*) as revised by *Bill 130, The Municipal Statute Amendment Act, 2006* requires that all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority. In 2007, members of the Municipal Law Departments Association of Ontario drafted a sample policy for the delegation of Council's powers and duties. The policy was revised slightly to reflect the City of Barrie's specific circumstances and was adopted on December 3, 2007.
5. The purpose of the original policy was to outline the scope of the powers and duties which Council may delegate its legislative and administrative authority and to establish principles governing such delegation. The policy is a framework only, with requirements, conditions and restrictions for Council to authorize any delegation.

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**ANALYSIS**

6. The *Act* as revised by *Bill 130*, allows for enhanced streamlining of council decision-making by permitting the delegation of minor matters. There is also expanded authority to delegate legislative (noise by-laws, licensing, sign by-laws) and quasi-judicial (revoking/suspending of licences) powers to certain persons/boards, subject to restrictions. The power to delegate Council's authority is discretionary.
7. These powers can be delegated to:
  - a) one or more members of Council;
  - b) a body with at least 2 members of which 50% are council members, council appointees or combination; and
  - c) an officer, employee or agent of the municipality.
8. Matters that may not be delegated include:
  - a) appointing/removing statutory officers;
  - b) issues regarding taxes;
  - c) incorporating corporations;
  - d) adopting or amending official plans;
  - e) zoning by-laws;
  - f) issues related to small business counseling and municipal capital facilities;
  - g) community improvement plans;
  - h) approving municipal budgets; and
  - i) other specific prescribed powers.
9. The following changes are recommended to the Delegation of Powers and Duties Policy:
  - a) The 2007 policy has been updated to remove the references to the Corporate values as the values identified were intended for employees of the Corporation and are not necessarily applicable to a Council policy concerning the manner in which Council delegates its powers and duties;
  - b) A specific provision identifying that any delegated authority may be revoked at any time, without notice has been added, as this was always the intent of the policy; and
  - c) A responsibilities section has been added to the policy to identify the requirements for staff with respect to any delegated authority and/or the policy; and
  - d) The dates updated/amended section of the policy has been amended to indicate that the City Clerk shall review the policy once per term to allow for the presentation of significant amendments for City Council's consideration.

10. As well, the following key parameters continue to be outlined in the proposed policy:
- All delegations of Council powers, duties or functions shall be effected by by-law or Council resolution.
  - Unless a power, duty, or function has been expressly delegated by by-law or resolution, all of the powers, duties and functions of Council remain with Council.
  - A person to whom a power, duty or function has been delegated has no authority to further delegate to another person unless such sub-delegation is expressly permitted.
  - Legislative matters may be delegated by Council where they are minor in nature or where Council has explicitly provided for the terms and conditions under which the powers shall be exercised, and must take into account the limitations set out in the Act.
  - Administrative Matters may generally be delegated to staff subject to the conditions set out in the delegation and in this policy, and must take into account the limitations set out in the Act.
11. In the past, Council has delegated authority for a number of matters to various Committees and staff. A small sample of the matters that have been delegated is listed below:

Delegated Matter	Body or Individual with Delegated Authority
Site Plan Control for buildings 5,000 m <sup>2</sup> or less	Director of Planning Services, Manager of Development and Manager of Planning Policy
Real Property Transactions with property value less than \$25,000	City Clerk
Business Licence Appeals	Business Licensing Appeal Committee
Presentation of by-laws regarding the Designation of Fire Routes, staff appointments, etc.	City Clerk
Head for the purposes of the <i>Municipal Freedom of Information and Protection of Privacy Act</i>	City Clerk
Declaring a municipally significant event – Special Occasion Permit for AGCO	City Clerk, Director of Culture and Cultural Officer – Programming
Exemptions to a number of by-laws (animal control, use of parks, noise, etc.)	City Clerk City Clerk, Manager of By-law Services, Supervisor of By-law Services – special events related exemptions only
Draft plans of subdivision	Director of Planning Services, the Manager of Development, and the Manager of Policy Planning
Execute and register standard real property agreements	Director of Legal Services or designate
Environmental Compliance Applications	Director of Engineering
Negotiation of Agreements for the provision of dispatch and specialized fire and emergency services between the City and other municipalities	Fire Chief and/or Community Emergency Planner* *Agreement executed by Mayor and City Clerk
Negotiation of Agreements for the release or acquisition of data (spatial, geospatial, geomatics, geographical information systems)	Director of Information Technology* *Agreement executed by City Clerk
Execution of agreements, related documents, etc. where Council has approved a matter (confirmation by-law)	Mayor and City Clerk
Procurement of goods and services (approval limits)	Various City staff in accordance with the procurement by-law

12. Staff will continue to report to General Committee regarding specific opportunities for delegation of Council's powers that would streamline programs and services.

**ENVIRONMENTAL MATTERS**

13. There are no environmental matters related to the recommendation.

**ALTERNATIVES**

14. The following alternatives are available for consideration by General Committee:

**Alternative #1**

General Committee could recommend that the status quo be maintained and that the policy not be updated.

Although the proposed updates are relatively minor in nature, the updated policy is intended to provide a clearer framework for the delegation of Councils powers and duties.

**Alternative #2**

General Committee could recommend changes to the policy or that a different policy be adopted regarding the delegation of powers and duties.

The policy that has been provided is in keeping with a recommended format and content originally supplied by the Municipal Law Departments Association of Ontario. The draft policy has been revised slightly to reflect the City of Barrie's specific circumstances and updated to provide greater clarity.

**FINANCIAL**

15. There are no direct financial implications resulting from the recommended motion concerning the delegation of powers and duties policy. Indirectly, the policy provides a framework to allow specific individuals to expend funds or execute agreements that bind the corporation, when specific delegated authority is provided.

**LINKAGE TO 2014-2018 STRATEGIC PLAN**

16. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2014-2018 Strategic Plan.

**APPENDIX "A"**

**DRAFT DELEGATION OF POWERS AND DUTIES POLICY**

<p>Policy Statement:</p>	<p>The Council of The Corporation of the City of Barrie, as a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policies, and administrative functions. Council's decisions are generally expressed by by-law or resolution of Council carried by a majority vote. The efficient management of the municipal corporation and the need to respond to issues in a timely fashion require Council to entrust certain powers and duties to committees and staff while concurrently maintaining accountability, which can be effectively accomplished through the delegation of legislative and administrative functions.</p> <p>Council authority will be delegated within the context set out in the <i>Municipal Act, 2001</i> (the <i>Act</i>) and will respect the applicable restrictions outlined in the <i>Act</i>.</p>
<p>Purpose/Application:</p>	<p>The policy provides guidance related to the scope of the powers and duties which Council may delegate its legislative and administrative authority and establishes principles governing such delegation.</p> <p>This policy applies to all committees of Council, departments and staff with respect to the delegation of powers and duties.</p>
<p>Definition(s):</p>	<p>For the purpose of this policy, the following terms shall have the meaning as ascribed to them:</p> <p><b>a)</b> Legislative Powers - Includes all matters where council acts in a legislative or quasi judicial function including enacting by-laws, setting policies, and exercising decision making authority.</p> <p><b>b)</b> Administrative Powers - Includes all matters required for the management of the corporation which do not involve discretionary decision making.</p>
<p>Specific Policy Requirements:</p>	<ol style="list-style-type: none"> <li>1. All delegations of Council powers, duties or functions shall be effected by by-law or Council resolution.</li> <li>2. Unless a power, duty, or function of Council has been expressly delegated by by-law or resolution, all of the powers, duties and functions of Council remain with Council.</li> <li>3. All delegation of powers and duties may be revoked at any time, without notice.</li> <li>4. A delegation of a power, duty or function under any by-law or resolution to any member of staff includes a delegation to a person who is appointed by the CAO or selected from time to time by the delegate to act in the capacity of the delegate in the delegate's absence.</li> </ol>

	<ol style="list-style-type: none"><li>5. Subject to section 4, a person to whom a power, duty or function has been delegated by by-law or resolution has no authority to further delegate to another person any power, duty or function that has been delegated, unless such sub-delegation is expressly permitted.</li><li>6. Legislative matters may be delegated by Council where they are minor in nature or where Council has explicitly provided for the terms and conditions under which the powers shall be exercised, and must take into account the limitations set out in the <i>Act</i>.</li><li>7. The delegation of legislative powers of Council are restricted to powers found in the <i>Municipal Act</i>, the <i>Planning Act</i>, a private act relating to the municipality and "such other acts as may be prescribed".</li><li>8. Administrative Matters may generally be delegated to staff subject to the conditions set out in the delegation and in this policy, and must take into account the limitations set out in the <i>Act</i>.</li><li>9. Any delegation of legislative or administrative powers may be subject to any regulation made by the Minister.</li><li>10. Council shall approve policies and procedures for the delegation of its powers and duties which include measures for the monitoring and accountability of the delegate and the transparency of the delegate's actions and decisions.</li><li>11. In exercising any delegated power, the delegate shall ensure the following:<ul style="list-style-type: none"><li>• Any expenditure related to the matter shall have been provided for in the current year's budget (or authorized by the procurement by-law)</li><li>• The scope of the delegated authority shall not be exceeded by the delegate.</li><li>• Where required by the specific delegated authority, reports shall be submitted to Council advising of the exercise of a delegated power and confirming compliance with the delegated authority and this policy.</li><li>• Delegates shall ensure the consistent and equitable application of Council policies and guidelines.</li></ul></li></ol>
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<p>Limitations</p>	<p>No delegation of legislative powers to a Corporation is permitted.</p> <p>Council is not authorized to delegate any of the following powers and duties:</p> <ul style="list-style-type: none"> <li>a) appointing/removing statutory officers;</li> <li>b) issues regarding taxes;</li> <li>c) incorporating corporations;</li> <li>d) adopting or amending official plans;</li> <li>e) zoning by-laws;</li> <li>f) issues related to small business counseling and municipal capital facilities;</li> <li>g) community improvement plans;</li> <li>h) approving municipal budgets; and</li> <li>i) other specific prescribed powers.</li> </ul>
<p>Responsibilities</p>	<p>City staff are responsible for:</p> <ul style="list-style-type: none"> <li>• adhering to the parameters of this policy,</li> <li>• ensuring appropriate application of delegated authority; and</li> <li>• providing any reports advising of the exercise of a delegated authority and confirming compliance with the delegated authority and policy, where required.</li> </ul> <p>The City Clerk is responsible for receiving complaints and/or concerns related to this policy. Upon receipt of a complaint or concern, the City Clerk shall notify City Council and the City Manager.</p>
<p>Implementation</p>	<p>This policy shall become effective immediately upon approval by City Council.</p>
<p>Date Approved by City Council</p>	
<p>Rationale and Legislative Authority</p>	<p>Section 270 of the revised Municipal Act, 2001 requires each Council to adopt and maintain a policy regarding delegation of powers and duties.</p>
<p>Related Policies</p>	
<p>Dates Updated and/or Amended</p>	<p>The City Clerk shall review the policy a minimum of once per term of Council to allow for the presentation of significant amendments for City Council's consideration.</p>