



City of North Bay Report to Council

Report No: CORP-2021-129

Date: November 8, 2021

Originator: Karen McIsaac, City Clerk

Business Unit:

Department:

Corporate Services

Clerks Department

Subject: 2022 Municipal Election – Delegation of Authority During “Lame Duck Council”
Period Restrict Acts of Council after Nomination Day

Closed Session: yes ☐ no ☒

Recommendation

That:

1. the Chief Administrative Officer, City Solicitor and Chief Financial Officer, jointly, be delegated the authority to:
 - (i) dispose of any real or personal property of the municipality which has a value exceeding \$50,000 when it was acquired by the municipality; and
 - (ii) make expenditures or incur liabilities which exceed \$50,000;
2. this delegation of authority will only take effect and be limited to the “Lame Duck Period” of Council and shall expire on Tuesday, November 15, 2022;
3. notice of the exercise of any such authority shall be given to the Council at a meeting prior to the exercise of such authority; and
4. Council authorize the passing of a By-Law delegating authority to the Chief Administrative Officer, City Solicitor and Chief Financial Officer, jointly, in the event of a “Lame Duck Council”.

Background

This report is supplemental to Report No. CORP 2021-105, respecting restrictions on the powers of City Council during the 2022 municipal election period (received by Council on October 19, 2021).

Notwithstanding that the City’s Purchasing By-law sets limits from administrative spending, Section 275 of the *Municipal Act, 2001* sets out restricted acts after Nomination Day (Friday, August 19, 2022) as follows:

"275.(1) Restricted acts – The council of a local municipality shall not take any action described in subsection (3) after the first day during the election of the new council on which it can be determined that one of the following applies to the new council that will take office following the election.

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council."

"(2) Basis for determination – If a determination under subsection (1) is made,

- (a) after nomination day but before voting day, the determination shall be based on the nominations to the new council that have been certified and any acclamations made to the new council; or
- (b) after voting day, the determination shall be based on the declaration of the results of the election including declarations of election by acclamation."

(3) Restrictions – The actions referred to in subsection (1) are,

- (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 has a value exceeding \$50,000 when it was acquired by the municipality; and
- (d) making any expenditures or incurring any liability which exceeds \$50,000."

(4) Exception – Clauses (3) (c) and (d) do not apply if the disposition or liability was included in the most recent budget adopted by the council before nomination day in the election.

When Does the "Restricted Acts" Provision Apply?

The provision applies as soon as it can be determined that less than three-quarters of the current members of Council (8.25) may be returning. As North Bay has eleven members of Council (including the Mayor), the provision applies when it is determined that fewer than nine existing members may be returning.

This determination will be made at 4:01 p.m. on Monday, August 22nd, 2022. If at that time, fewer than nine existing members of Council have been declared certified candidates then the provision becomes applicable for the balance of the term.

If nine or more members are declared certified candidates, then the only other occasion upon which the determination could be made is when the City Clerk

releases the official results of the municipal election. If at that time, less than nine existing members have been declared elected, then the provision applies for the balance of the term.

To What Acts Does the Restriction Apply?

If the restriction becomes applicable, then from that date until the new Council takes office on Tuesday, November 15, 2022 (Inaugural Meeting of Council), the existing Council cannot:

1. Appoint or terminate any municipal officer (considered to be the City's Senior Management Team, including but not limited to, the Chief Administrative Officer, Solicitor, Treasurer and Clerk);
2. Hire or dismiss any employee of the municipality; although hirings and dismissals below the level of the department head can continue as this power has been delegated to the Chief Administrative Officer;
3. Dispose of any real or personal property which had a value over \$50,000 when it was acquired, except where the disposition was provided for in the approved 2022 Budget, or the property being disposed of by a person or body to whom the power has previously been delegated by Council; or
4. Make any expenditures or incur any other liability which exceeds \$50,000, except where the expenditure or liability was provided for in the approved 2022 Budget, or the expenditure or liability is made or incurred of a person or body to whom the power has previously been delegated by Council.

Other Council Acts and Powers?

If the restricted acts provision is triggered, except for the acts noted above, all the usual acts and powers of City Council continue until the new Council takes office.

If the restricted acts provision is not triggered, all the usual acts and powers of City Council continue until the new Council takes office.

Financial/Legal Implications

As set out in Background section.

Corporate Strategic Plan

- | | |
|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

Options Analysis

Option 1: That Council adopt a By-Law delegating authority to the Chief Administrative Office, City Solicitor and Chief Financial Officer, jointly, in the event of a "Lame Duck Council".

This is the recommended option.

Option 2: That Council not adopt a By-Law delegating authority to the Chief Administrative Office, City Solicitor and Chief Financial Officer, jointly, in the event of a "Lame Duck Council".

This is not the recommended option.

Recommended Option

That:

1. the Chief Administrative Officer, City Solicitor and Chief Financial Officer, jointly, be delegated the authority to:
 - (i) dispose of any real or personal property of the municipality which has a value exceeding \$50,000 when it was acquired by the municipality; and
 - (ii) make expenditures or incur liabilities which exceed \$50,000;
2. this delegation of authority will only take effect and be limited to the "Lame Duck Period" of Council and shall expire on Tuesday, November 15, 2022;
3. notice of the exercise of any such authority shall be given to the Council at a meeting prior to the exercise of such authority; and
4. Council authorize the passing of a By-Law delegating authority to the Chief Administrative Officer, City Solicitor and Chief Financial Officer, jointly, in the event of a "Lame Duck Council".

Respectfully submitted,

Name: Karen McIsaac, Dipl. M.A.

Title: City Clerk

I concur with this report and recommendation

Name David Euler, P.Eng., PMP

Title: Chief Administrative Officer

Personnel designated for continuance:

Karen McIsaac, Dipl. M.A.

City Clerk