



CITY OF ORILLIA
Special Council Meeting re
Centennial Drive Phase 1 Reconstruction,
Delegation of Authority and
Housekeeping/Appointment By-laws
Friday, August 12, 2022 - 9:00 a.m.

AGENDA

Notice: This meeting will be held electronically and livestreamed on the City's YouTube channel. Please visit [orillia.ca](https://www.orillia.ca) to access the link.

Page

Chair - Mayor S. Clarke

Call to Order

Approval of Agenda

Purpose of Meeting

The purpose of this meeting is to provide Council with an update on the Centennial Drive Phase 1 Reconstruction, propose a delegation of authority, and present Housekeeping/Appointment By-laws.

Disclosure of Interest

Closed Session

Motion to move into Closed Session

"THAT, pursuant to Section 239(4) of the *Municipal Act*, 2001, S.O. 2001, c.25, notice is hereby given that Council intends to hold a closed session meeting to deal with a matter pursuant to Section 239(2)(e) of the said Act (Legal Matter)."

Closed Session Items

1. Development Services and Engineering Department - re Supplementary Memo to Report DSE-22-24 - Centennial Drive Phase 1 Reconstruction - Status Update Number 5. File: T04-CDR
(Legal)

Motion to Rise to Open Session

Open Session

Motions Arising from Closed Session Discussions

Report

- 5 - 11 1. Corporate Services Department - re Delegation of Authority for the Period of Restricted Acts (Lame Duck) after Nomination Day for the 2022 Municipal Election. File: C01-2022-91

THAT Report CS-22-36 dated July 25, 2022 from the Corporate Services Department regarding the restricted acts of Council after Nomination Day - Lame Duck provisions be received;

AND THAT Chapter 251 of the City of Orillia Municipal Code - Delegated Authority be amended to provide delegated authority to the Chief Administrative Officer and City Solicitor with respect to the actions set out in the *Municipal Act, 2001*, Subsection 275(3) (c) during the period which Council may be restricted from certain acts, as set out in Section 275 of the *Municipal Act, 2001*.

By-laws

- 2022-89 A By-law to amend Chapter 22 of the City of Orillia Municipal Code - Council Procedure.

This by-law amends Chapter 22 of the City of Orillia Municipal Code - Council Procedure to modify the date and time of the Council inaugural meeting as set out in the CIP memo dated August 4, 2022 from the Corporate Services Department.

- 2022-90 A By-law to appoint a Deputy Clerk for the City of Orillia.

This by-law appoints Kristine Preston as Deputy Clerk for the City of Orillia as set out in the confidential CIP memo dated July 29, 2022 from the Corporate Services Department.

- 2022-91 A By-law to amend Chapter 251 of the City of Orillia Municipal Code - Delegated Authority.

This by-law amends Chapter 251 of the City of Orillia Municipal Code - Delegated Authority to delegate certain authority to the Chief Administrative Officer and City Solicitor with respect to the actions set out in the *Municipal Act, 2001*, Subsection 275(3) (c) during the period which Council may be restricted from certain acts, as set out in Section 275 of the *Municipal Act, 2001*.

Page

2022-92 A By-law to confirm the proceedings of Council at its special meeting held on August 12, 2022.

Adjournment

CITY OF ORILLIA

TO: Special Council – August 12, 2022
FROM: Corporate Services Department
DATE: July 25, 2022
REPORT NO: CS-22-36
SUBJECT: **Delegation of Authority for the Period of Restricted Acts (Lame Duck) after Nomination Day for the 2022 Municipal Election**

Recommended Motion

THAT Report No. CS-22-36 regarding the Restricted Acts of Council after Nomination Day (Lame Duck Provisions), be received;

AND THAT Chapter 251 of the City of Orillia Municipal Code - Delegated Authority be amended to provide delegated authority to the Chief Administrative Officer and City Solicitor with respect to the actions set out in the *Municipal Act, 2001*, Subsection 275(3) (c) during the period which Council may be restricted from certain acts, as set out in Section 275 of the Municipal Act, 2001.

Purpose

The purpose of this report is to seek Council's approval for the delegation of authority to the Chief Administrative Officer and City Solicitor (the "CAO and City Solicitor") for restricted actions in the event of a Restricted Acts Period. The delegation of authority is important to the Corporation for the purposes of efficient management, business continuity and the ability to respond to issues in a timely fashion.

Background & Key Facts

- The *Municipal Act, 2001*, S.O. 2001 c.25 ("Act"), under Section 275, sets out actions of Council, which can be restricted after nomination day and following voting day.

Options & Analysis

Restricted Acts Periods

Under Section 275 of the *Act*, Council can be restricted from performing certain actions in one or both of two separate time periods:

1. The period from Nomination Day to Election Day (August 19th to October 24th);
2. From Election Day to the end of the term (October 24th to November 15th).

This period is technically referred to as the Restricted Acts after the Nomination Day period (“Restricted Acts”), but it is also colloquially known as a *Lame Duck Period*.

Determination

During these periods, Council is restricted in some of the actions it may take if new Council will, with certainty, include less than 75% of the members of the outgoing Council.

In the City of Orillia context, the determination of whether Council is in a Restricted Acts position would be triggered as follows:

1. From Nomination Day to Election Day if Council will, with certainty, include less than 75% of the members of the outgoing Council.

75% of City of Orillia Council = 6.75 members

Therefore, there must be 7 or more members seeking re-election for Council to continue operating without restrictions.

Council will be restricted as of Nomination Day if there are three or more members not seeking re-election.

And/or

2. From Election Day to the end of the term if Council will, with certainty, include less than 75% of the members of the outgoing Council.

75% of City of Orillia Council = 6.75 members

Therefore, there must be 7 or more of the outgoing Council elected.

Council will be restricted as of Election Day if there are three or more new members of Council.

Restrictions

Subsection 275(3) of the *Act* states that, in either of the above situations, the Council of a municipality shall not take any of the following actions:

- 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.

These provisions do not apply in the case of an emergency (as defined pursuant to the *Emergency Management and Civil Protection Act*).

Within this report, staff are seeking delegated authority with respect to clause (c) only.

Clause (c) does not apply if the disposition or liability was approved by Council in the annual budget before Nomination Day.

Options & Analysis

There are two proposed Options for Council's consideration.

Option 1 – Recommended

THAT Report No. CS-22-36 regarding the restricted acts of Council after Nomination Day (Lame Duck Provisions), be received;

AND THAT Chapter 251 of the City of Orillia Municipal Code – Delegated Authority be amended to provide delegated authority to the Chief Administrative Officer and the City Solicitor with respect to the actions set out in the *Municipal Act, 2001*, Subsection 275(3) (c) during the period which Council may be restricted from certain acts, as set out in Section 275 of the *Municipal Act, 2001*.

Delegation of Powers

Section 23.1 of the *Act* authorizes a municipality to delegate its powers and duties to the officers and employees of the municipality. The *Act* permits Councils to delegate authority of the duties listed in Section 275(3) to maintain operations during established Lame Duck Council periods.

In order to prevent any disruption to ongoing City operations, specifically real estate matters and to mitigate any possible impacts that may arise as a result of a Restricted Acts circumstance, it is recommended that Council delegate authority to the CAO and City Solicitor to address the following matters:

- a) dispose of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposition, except in those cases where the disposition was included in the most recent budget adopted by Council before Nomination Day in the election; and

In addition, the following safeguards are recommended to ensure accountable and transparent decision making. While exercising authority under this delegation, the CAO and City Solicitor shall be required to:

- Advise Council, in writing, prior to exercising the authority delegated through a CIP; and
- Provide a written report to Council in the first quarter of 2023 regarding any exercise of the authority delegated under the by-law.

The authority delegated pursuant to the by-law would only take effect when Council is deemed to be in a Restricted Acts Period in accordance with the *Act* and will expire when the Restricted Acts Period is no longer applicable, or when the Council-elect takes office.

Further, a benchmarking review was completed of municipalities across Ontario. Based on the review, it has been determined that it is standard practice to establish a Restricted Acts By-law to safeguard and protect the interests of the municipality in the case that municipal councils are not able to make decisions relative to property, legal or financial matters and there are negative implications on deferring those decisions.

Option 2

THAT Report No. CS-22-36 be received as information.

This option is not recommended as it may cause unnecessary disruption to City operations with respect to disposition of lands or making any unbudgeted expenditures or incurring any other liability that exceeds \$50,000.

Financial Impact

There are no financial implications for the City resulting from the proposed recommendation.

Consultation

Consultation requirements have not been identified at this time.

Economic Development Impact

There is no direct economic development impact associated with the recommended motion.

Communications Plan

Communication requirements have not been identified at this time.

Relation to Formal Plans, City of Orillia Policy Manual and/or Guiding Legislation

The recommendation included in this report is related to the following plans, City policy and/or guiding legislation:

- The *Municipal Act*, 2001, S.O. 2001 c.25

Conclusion

The *Act* provides Council with the ability to delegate authority for Restricted Acts so as to ensure business continuity and effective management of the municipal corporation relating to clauses 275(3) of the *Act*. It is concluded that City Council should approve this report and the associated draft by-law as appended to this report shall be brought forward for ratification at the August 12th, 2022, meeting.

Schedules

- Schedule “A” – Draft By-Law

Prepared by & Key Contact: Jay Gronc,
Manager of Legal and Real Estate

Approved by: Amanpreet Sidhu, General Manager of Corporate
Services & City Solicitor

Schedule "A"

BY-LAW NUMBER 2022-91 OF THE CITY OF ORILLIA

**A BY-LAW TO AMEND CHAPTER 251 OF THE CITY OF ORILLIA MUNICIPAL CODE
- DELEGATED AUTHORITY**

WHEREAS section 275 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended (the 'Act'), restricts certain actions the Council of a local municipality can take after Nomination Day for the election of the new Council;

AND WHEREAS subsection 275(6) of the Act provides that nothing in section 275 prevents any person or body from exercising any authority of a municipality that is delegated to the person or body prior to Nomination Day for the election of the new Council;

AND WHEREAS, pursuant to section 23.1 of the Act, a municipality is authorized to delegate its powers and duties under the Act or any other Act to a person or body, subject to the restrictions set out in Part II of the Act;

AND WHEREAS to ensure the efficient and effective management of The Corporation of the City of Orillia (the 'City') during a possible Restricted Acts ("Lame Duck") period, it is prudent that Council amend Chapter 251 of the City of Orillia Municipal Code- Delegate Authority to delegate certain authority to the Chief Administrative Officer and the City Solicitor for that period of time;

AND WHEREAS the delegation of authority during a Lame Duck period is consistent with the overarching operational oversight exercised by the Office of the Chief Administrative Officer;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

1. THAT Schedule "A" of Chapter 251 of the City of Orillia Municipal Code - Delegated Authority be amended by adding the following:

Item	Authority	Delegate	Criteria
"60	The Chief Administrative Officer and the City Solicitor are hereby delegated authority, for the period following Nomination Day in the year of the election during which a Lame	Chief Administrative Officer and the City Solicitor	Authorized to approve the disposition of any real or personal property of the City that has a value exceeding \$50,000 at the time of disposition, except in those cases where the disposition was included in the most recent budget adopted by Council before Nomination Day in the election. <ul style="list-style-type: none">• The Chief Administrative Officer and the City Solicitor shall advise Council in writing prior to

Schedule "A"

	<p>Duck Council is in effect, in order to address the following matter:</p> <p>a. the disposition of any real or personal property of the City that has a value exceeding \$50,000 at the time of disposition, except in those cases where the disposition was included in the most recent budget adopted by Council before Nomination Day in the election.</p>		<p>exercising the authority delegated pursuant to this By-law.</p> <ul style="list-style-type: none"> The Chief Administrative Officer and the City Solicitor shall report to Council in the first quarter of the new term of Council regarding any exercise of the authority delegated pursuant to this By-law. <p>The authority delegated pursuant to By-Law Number 2022-91 will only take effect when Council is deemed to be <i>Lame Duck</i> in accordance with the <i>Municipal Act</i>, and shall expire when <i>Lame Duck</i> is no longer applicable, or when the Council-elect takes office."</p>
--	---	--	--

2. THAT this by-law shall come into force and have effect immediately upon passage.

BY-LAW introduced and passed this 12th day August, A.D. 2022.

MAYOR

CLERK