

Delegation of Authority - Preliminary Report

April 3, 2008

Preamble:

The whole delegation of authority issue presents an opportunity to relieve Council of many (although, not all) of the "mundane" issues that currently come to the Council table. Properly implemented (which includes the transparency and accountability of the delegated authority), it will allow Council to focus on the more momentous issues of municipal governance and may also afford an opportunity to reduce the meeting schedule.

What can be delegated?

Council may delegate any of its administrative powers and duties. This would include all matters required for the management of the municipality that do not involve discretionary decision making. These can be delegated to any officer, employee or agent of the municipality.

With certain restrictions (see "What cannot be delegated"), Council may also delegate powers which involve legislative or quasi-judicial powers. This would include enacting by-laws, setting policies and exercising decision-making authority.

These legislative and quasi-judicial powers can only be delegated to:

- one or more members of Council or a Council Committee
- a body having at least 2 members of whom 50% are:
 - members of Council
 - individuals appointed by Council
 - ... or some combination of the above
- an officer, employee or agent of the municipality, if the power delegated is of a minor nature. In determining what is minor, Council should consider (among other things) the number of people affected, the geographical area involved and the time period affected by the exercise of such power.

What cannot be delegated?

Several specific powers must remain with Council as a whole and cannot be delegated at all. These include the power:

- to appoint or remove statutory officers
- to pass a by-law and deal with issues regarding taxes
- to incorporate municipal corporations
- to adopt or amend the Official Plan under the Planning Act
- to pass a zoning by-law under the Planning Act
- to pass a by-law related to small business counselling and municipal capital projects
- to adopt a community improvement plan
- to adopt or amend the budget

Other delegation issues:

- Any delegation can be revoked at any time unless the by-law specifically states otherwise.
- In any case, if the ability of Council to revoke the delegation is limited by the by-law, it applies only to the term of the Council which enacted it.
- The delegation of authority may be given exclusively to the delegate(s) or may be shared by Council and the delegate(s) - that is, either Council or the delegate(s) may exercise the power in a joint responsibility situation.
- Council may put conditions and limitations (usually by-laws or resolutions to be applied, procedures to be followed and accountability and transparency requirements) on the delegation.
- If the delegation is given exclusively to the delegate(s), all authority including any appeal process is also delegated.
- Legislative and quasi-judicial power may not be delegated to a municipal corporation.
- Any delegation of legislative or quasi-judicial powers is subject to regulation made by the Minister.

What to delegate?

In deciding what we want to delegate, think of the issues that come to the Council table that are either wholly administrative or minor in nature and basically "clutter-up" the agenda. The goal should be to streamline the Council agenda to allow Council to focus on significant issues.

A few suggestions (in some cases, there may be existing by-laws - perhaps they should be consolidated):

- highway closings (road works, parades, etc.)
- business licences
- lottery licences
- alcohol permits
- proclamations
- township participation at fairs and events
- moving budget allocations within a department (Council to be informed).
- signing grant applications for student employment
- signing agreements to accept grants
- signing financial reports for provincial ministries
- entering into contracted operational services agreements
- entering into agreements for provisions of supplies and services in emergency situations
- entering into agreements with landowners for the planting of live snow fences
- entering into adopt-a-road agreements
- amending load limits on highways
- issuing entrance permits
- altering road signage



Township Of Southgate

Policy # 14

Delegation of Powers & Duties Policy

Delegation of Powers and Duties Policy

Effective January 1, 2008

Policy Statement:

The Council of the Township of Southgate, 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 bylaw 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. Council authority will be delegated within the context set out in the Municipal Act 2001, as amended (the "Municipal Act") and the Planning Act and will respect the applicable restrictions outlined in these Acts.

Legislation:

Section 270 (1) of the Municipal Act requires all municipalities to adopt and maintain a policy with respect to the delegation of its powers and duties effective January 1, 2008. Section 23.1 of the Municipal Act further describes the powers and duties, which may be delegated. Sections 53 and 54 of the Planning Act 1990, as amended also establish circumstances under which a Council may delegate certain powers and duties.

Definitions:

- i. **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.
- ii. **Administrative Powers** — Includes all matters required for the management of the corporation which do not involve discretionary decision making.

Policy Requirements:

1. All delegations of Council powers, duties or functions shall be effected by by-law.
2. Unless a power, duty or function of Council has been expressly delegated by by-law, all of the powers, duties and functions of Council remain with Council.
3. A delegation of a power, duty or function under any by-law to any member of staff includes a delegation to a staff member who has been selected from time to time by the delegate to act in the capacity of the delegate in the delegate's absence.
4. Subject to Section 3, a person to whom a power, duty or function has been delegated by by-law 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.

Delegation of Powers and Duties Policy

5. 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 Municipal Act and Planning Act.
6. 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 Municipal Act or other legislative authority authorizing delegation.
7. Council has authorized certain matters delegated to committees and staff and are set out in Schedule "A" attached hereto subject to the terms set out therein. Any references to specific committees within Schedule "A" shall include any successor committees responsible for a certain function as determined by Council from time to time.

In exercising any delegated power, the delegate shall ensure the following:

- Any expenditure related to the matter shall have been provided for in the current year's budget or authorized by the Purchasing and Procurement Policy.
- The scope of the delegated authority shall not be exceeded by the delegate.
- Where required by the specific delegated authority, reports shall be submitted to the appropriate standing committee advising of the exercise of a delegated power and confirming compliance with the delegated authority and this policy.
- All policies regarding insurance and risk management shall be complied with.
- Committees and staff who have authority delegated to them shall ensure the consistent and equitable application of council policies and guidelines.

Restrictions of Delegation of Legislative and Quasi-Judicial Powers:

Council is not authorized to delegate any of the following powers and duties:

- To appoint or remove from office statutory officers of the municipality
- To pass a bylaw dealing with issues regarding taxes
- To incorporate corporations
- To adopt an official plan or an amendment to an official plan under the Planning Act
- To pass a zoning by-law under the Planning Act
- To pass a bylaw related to small business counseling and municipal capital facilities
- To adopt a community improvement plan
- To adopt or amend the municipal budget
- Any other power that may be prescribed

Delegation of Authority – Schedule “A”

Delegated Authority	Delegated to:	Reporting Requirements and Restrictions
Temporary highway closings (planned or unplanned road works and event parades or street parties)	TAPS Manager or CAO	Council to be informed
Business licences	Clerk or CAO	Economic Development Officer to be informed
Lottery licences	Licensing Officer or Deputy	None
Alcohol permits	Clerk or CAO	Council to be informed
Proclamations	Clerk or CAO	Council to be informed Mayor to also sign Proclamation
Township participation in Fairs and other events	Clerk or CAO	Council to be informed Must be within approved budget
Re-allocation of budget within a Department	Department Head or CAO	Treasurer and Council to be informed Cannot alter overall departmental budget
Signing grant applications for student employment	Treasurer or CAO	Treasurer and Council to be informed Must be within approved budget Mayor may also be required to sign
Signing agreements to accept grants	Treasurer or CAO	Treasurer and Council to be informed Must be within approved budget Mayor may also be required to sign
Signing financial reports for Provincial Ministries	Treasurer or CAO	Treasurer and Council to be informed Mayor may also be required to sign
Entering into contacted operational service agreements	Department Head and Treasurer or CAO	Treasurer and Council to be informed Must be within approved budget and limited to contacts with a maximum value of \$50,000
Entering into service agreements for supplies and services in declared emergency situations	CEMC, Treasurer or CAO	Community Emergency Committee to be informed No financial commitment on the part of the Township
Entering into agreements for the planting of live snow fences with landowners	TAPS Manager or CAO	Council to be informed Must be within approved budget Cannot exceed 21 years less a day
Entering into Adopt-a-Road agreements	TAPS Manager or CAO	Council to be informed
Amending load limits on highways	TAPS Manager or CAO	Council to be informed
Issuing entrance permits	TAPS Manager or CAO	None
Altering highway signage	TAPS Manager or CAO	Council to be informed