



Date 30 July 2010

City Council Committee Report

To: Mayor Compton & Members of Council

Fr: Karen Brown

Re: Designation of Authority to CAO – Lame Duck Council

Recommendation:

Whereas under Section 275 of the Municipal Act, Kenora City Council will be subject to various restrictions under the Restricted Acts After Nomination Day provision; and

Whereas the City CAO has the authority to hire or dismiss any City employee that is not considered an officer of the municipality;

Now therefore, let it hereby be resolved as follows:

That the City CAO be delegated the following authorities effective 10 September 2010:

- The appointment or removal from office of any officer of the municipality;
- The hiring or dismissal of any officer of the municipality; and

That this delegation of authority remains in effect until the swearing in of the new City of Kenora Council, following the 2010 municipal election.

Background:

Section 275 of the Municipal Act, Restricted Acts After Nomination Day, outlines a number of restrictions for municipal Councils. In accordance with Section 275 (1), this section is applicable if “the new council will include less than three-quarters of the members of the outgoing council”. Kenora City Council is comprised of seven members in total. For the 2010 election, two members of the existing Council have advised that they will not be seeking re-election. As a result, Section 275 of the Municipal Act will apply to Kenora City Council as of Nomination Day, September 10, 2010.

Under Section 275 (3), the following restrictions will apply to Kenora City Council as of September 10, 2010, and remain in effect until the swearing in of the new Council:

- (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 at the time of disposal; and
- (d) making any expenditures or incurring any other liability which exceeds \$50,000. 2001, c. 25, s. 275 (3); 2006, c. 32, Sched. A, s. 114 (1).

It is recommended that some authority be delegated to the City CAO to avoid any issues that may arise as a result of this restriction. Any authority delegated as a result of Section 275 of the Municipal Act would remain in place only until the new Council is sworn in following the 2010 municipal election.

Appointment or Removal of any Officer:

During this period, Council will be restricted from appointing or removing any officer of the municipality. Fred Dean has advised that officers are those individuals as appointed by By-law, such as the Clerk, Treasurer and Building Official. While it is hoped that there would be no turnover in these types of positions, it is recommended that this authority be delegated to the CAO in case of this type of situation.

Hiring or Dismissal of Any Employee

During this period, Council will be restricted from hiring or dismissal of any employee. Generally, and in accordance with past practice, the CAO has the authority to hire or dismiss City employees, with the exception of City Officers, which are appointed by By-law. Again, while it is hoped that there would be no turnover in these types of positions, it is recommended that this authority be delegated to the CAO in case of this type of situation.

Disposition of Real or Personal Property with a Value exceeding \$50K

During this period, Council will be restricted from disposing of any property with a value in excess of \$50,000. This restriction includes properties that may be transferred for a nominal sum (say \$1), where the value of the property still exceeds \$50,000. Due to the sensitive nature of this item, it will be addressed in a separate report to Council. This report will not be available until Tuesday, July 27th, due to some staff absences whose input to this report will be critical.

Making any Expenditure or Incurring any Liability which exceeds \$50K

During this period, Council will be restricted from approving expenditures or incurring liabilities in excess of \$50,000. This section only applies to non-budgeted expenditures. During this time period Council can continue to approve any expenditures as included within the City's budget, provided they fall within that budget, in accordance with the City's procurement policy, regardless of the amount of the expenditure. The City Managers have reviewed their current capital works and determined that no further budget allocations,

other than as brought forward at this meeting, are required. In addition, the City's procurement policy sets out the following:

Authority of the Chief Administrative Officer

Where any authority has been granted to any officer or employee of the City pursuant to this policy, such authority may be exercised by the Chief Administrative Officer.

Despite any other provision of this policy, during any period that regular Council meetings are suspended or altered from the regular schedule for any reason, or during the period that the acts of Council are restricted under Section 275 of the Municipal Act, the Chief Administrative Officer shall be authorized to award any contract. A report shall be submitted to Council, as soon as reasonably possible, setting out the details of any contract awarded in this manner.

Based on this information, no further delegation of purchasing authority is recommended at this time.

Budget:

This report relates strictly to delegation of authority. There is no cost related to this delegation.

Communication Plan/Notice By-law Requirements:

The Managers will be advised of Council's decision in this matter.