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AMENDMENTS TO ADMINISTRATIVE BY-LAWS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report from the Regional Solicitor.

1. RECOMMENDATIONS

It is recommended that:

1. By-law No. A-0368-2005-088, being a by-law governing the execution of documents on behalf of The Regional Municipality of York, be amended to incorporate the revisions set out in this report, as shown in bold in *Attachment 1* to this report.
2. By-law No. A-0392-2007-089, being a by-law to govern the proceedings of Council and its Committees, be repealed and replaced with a new by-law incorporating a number of amendments as set out in this report.
3. By-law No. A-156-93-12, being a by-law to define and determine the duties and responsibilities of the Chief Administrative Officer, be repealed and replaced with an updated by-law as set out in this report.
4. Council authorize the proposed amendments set out in this report with respect to settlement of claims.
5. By-law No. A-214-96-109 as amended by By-law No. A-214-(a)-2000-002 be repealed and replaced with an updated by-law as set out in the report.
6. The necessary by-laws be presented to Council to implement the above recommendations.

2. PURPOSE

The purpose of this report is to recommend amendments to various by-laws which govern administrative matters, including Council meetings, execution of documents, settlement of claims and councillor service recognition provisions. It also recommends the enactment of an updated by-law respecting the duties and responsibilities of the Chief Administrative Officer.

3. BACKGROUND

Regional staff periodically conduct a review of various administrative by-laws to ensure that the provisions are current and support the efficient management of regional business. This report sets out recommendations with respect to several matters identified by staff as a result of this review.

4. ANALYSIS AND OPTIONS

Regional staff have reviewed the 2005 by-law respecting execution of documents and recommend revisions

In September 2005, Regional Council enacted a comprehensive by-law which formally delegated to Regional staff the authority to execute standard forms of agreements and documents.

The by-law consolidated a wide range of existing authorities including purchase of service agreements, real estate and planning matters and permits and approvals. The scope of delegated powers was also expanded to include authority to execute standard forms of commercial agreements and documents which are routinely required to carry on the daily business of the Regional Corporation. These include funding agreements, use of facilities on a short-term basis, and agreements with other municipalities and government agencies for program administration.

Since the by-law was enacted, staff have identified additional matters which are consistent with the general intent of the by-law and should be captured. The by-law will permit the Commissioner of Corporate Services to execute leases provided that the annual rental value does not exceed \$100,000, and renewals of leases where the renewal has been approved by Regional Council. In addition, some references have been redrafted for greater clarity. Attachment 1 to this report sets out the existing schedule to the by-law and shows the proposed additions and amendments in italics.

Regional staff recommend a number of amendments to the Procedure By-law

Section 238(2) of the *Municipal Act* provides that municipalities shall pass a procedure by-law for governing the calling, place and proceedings of meetings. Since its enactment, the Region's procedure by-law has been regularly reviewed and updated in order to facilitate efficient and effective Council and Committee proceedings.

The last substantial review of the by-law was in 2007. Since then staff have identified a number of housekeeping amendments and other changes that will better reflect current Regional practices. The by-law will recognize Council's recent provision for an Acting

Regional Chair when the Regional Chair is absent or unable to act. It will also clarify the quorum required at Committees so that the Regional Chair in his *ex officio* capacity is not counted in determining quorum requirements but can be counted in terms of meeting quorum. This is consistent with Roberts Rules of Practice.

The by-law will also provide that a meeting may proceed after the one-half hour limit from its scheduled start time if the Members present stay until a quorum is met. This will allow Committee and Council business to proceed in the event of heavy snowfall or other unforeseen circumstances where Members who are in transit arrive shortly after the thirty-minute limit. As well, the by-law will continue to provide that deputations be made at Committees and restrict further deputations at Council where someone has made a deputation at a Committee. It will also provide that notice regarding changes to the by-law will be given by listing the notice or the report containing the proposed changes on Council's Agenda.

Increase Authority to Regional Solicitor for Claim Settlement

There have been some significant developments recently in the way uninsured litigated claims are administered at the Region. Some of these developments are:

- alternative dispute resolution, including arbitration and mediation, is becoming increasingly common, and often requires timely settlement authority;
- the bidding prohibition for litigating bidders in the Purchasing By-Law often calls for a quick response to resolution attempts to allow bidders to bid; and
- the size, complexity and financial value of Regional projects has dramatically increased, which means that the monetary value of claims associated with these projects has also increased

The monetary authority currently delegated by Council to the Regional Solicitor to settle or initiate uninsured claims is \$100,000. For the foregoing reasons, this delegation is often insufficient. Therefore, staff recommend that Council amend the Settlement of Claims Policy by increasing the monetary authority that Council has delegated for settling uninsured claims where the Region is named as a Defendant or a Respondent from \$100,000 to \$500,000, plus reasonable costs and interest. Similarly, staff recommend that the monetary authority that Council has delegated to the Regional Solicitor for commencing claims for the recovery of money on behalf of the Region be increased from \$100,000 to \$500,000 or such other amount where the Region is fully reimbursed for all of its damages plus reasonable costs and interest. It is recommended that this authority also extend to final settlements under the *Expropriation Act*.

The by-law respecting the duties and responsibilities of the Chief Administrative Officer has not been updated since 1993.

In January 1993, Regional Council enacted a by-law to define and determine the duties and responsibilities of the Chief Administrative Officer. The by-law has not been updated since that time. Following a review of the by-law by the Regional Chair and Regional Solicitor, staff recommend that By-law A-156-93-12 be repealed and replaced with an updated by-law to reflect the current administrative duties of the Chief Administrative Officer as defined by Regional Council. While the duties and responsibilities have not substantively changed, the amended by-law clarifies that the duties of the Chief Administrative Officer include the following:

- To recommend to Council the appointment, suspension or dismissal of Commissioners;
- To develop, approve and implement policies that are administrative in nature;
- To coordinate the development of corporate policy and recommend such policies to Council for approval; and
- To create and re-organize departments to ensure the effective and efficient administration of the business of the Region.

The amended bylaw also specifies the ability of the Chief Administrative Officer to designate a Commissioner as Acting CAO during his/her temporary absence.

Staff recommend amendments to the 1996 by-law respecting service recognition for members of Regional Council to ensure consistency in the application of the by-law.

In July 1996, Regional Council enacted By-law A-214-96-109 authorizing service recognition remuneration for members of Regional Council based on their years of service. In recent years, some discrepancies have arisen regarding entitlement to this remuneration. To ensure consistency in the application of the by-law, staff recommend an amendment to clarify that “service” for the purposes of this by-law means “continuous service”, and clarification of the circumstances in which councillors are eligible for service recognition remuneration.

5. FINANCIAL IMPLICATIONS

Increased the Regional Solicitor’s authority to settle or initiate claims will not have any direct finance impact on the Region. These are claims that would have been litigated in any event, either using in-house staff or external counsel; however, the increased authority will allow a more timely and therefore a more effective response in ongoing settlement negotiations, which would be more likely to result in a favourable outcome to the Region.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal impacts associated with this report.

7. CONCLUSION

Staff have undertaken a review of various administrative by-laws and recommend that these by-laws be amended as set out in this report and the attachment.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)

Column 1 DOCUMENT	Column 2 SIGNING OFFICER
1. <i>Funding Agreements</i> 1.1 applications for Federal or Provincial funding or subsidy 1.2 agreements with Federal or Provincial governments or agencies for the provision of funding to the Regional Corporation 1.3 agreements for the provision of funding by the Regional Corporation 1.4 documents required in support of funding applications or as a condition of receipt of funds, including reporting requirements	Commissioner responsible for the program or project to which the funding relates
2. <i>Facilities</i> 2.1 agreements for rental or occupancy of facilities for Regional purposes, including public meetings, staff training and workshops 2.2 agreements respecting utilities, telecommunications and other services to Regional lands 2.3 agreements permitting temporary occupancy of Regional lands and facilities	Commissioner responsible for the program requiring the facility Commissioner responsible for the Regional infrastructure to which the agreement relates
3. <i>Purchase of Services</i> 3.1 agreements for the purchase of services from child care providers, homemakers and domiciliary and emergency hostel providers 3.2 agreements for the purchase of services from physicians, nurses and other health care professionals 3.3 agreements for the purchase of services for clients receiving social assistance 3.4 agreements for the purchase of services from agencies receiving funding from the Regional Corporation	Commissioner responsible for the program or project to which the service relates

Column 1 DOCUMENT	Column 2 SIGNING OFFICER
4. <i>Real Estate Matters</i> 4.1 land acquisition agreements, in accordance with By-law No. A-0278-2000-060, provided that the value does not exceed \$50,000.00	Chief Administrative Officer and Commissioner of Corporate Services
4.2 offers to lease and leases for Regional purposes, provided the annual rent does not exceed \$100,000 4.3 renewals of leases provided the renewal has been approved by Regional Council 4.4 termination of leases, provided there is no penalty for termination 4.5 conveyance of rights and easements required to service Regional lands	Commissioner of Corporate Services
4.6 agreements permitting the Regional Corporation access to or encroachment on lands for Regional purposes 4.7 agreements permitting Regional infrastructure to cross railways, Provincial highways and pipelines 4.8 agreements permitting access to or encroachment on Regional lands	Commissioner responsible for the Regional infrastructure to which the agreement relates
4.9 documents required for the completion of any real estate transaction, including undertakings, certificates, acknowledgments and declarations 4.10 release of any interest in lands no longer required by the Regional Corporation 4.11 agreements respecting conditions, covenants or indemnities in favour of the Regional Corporation 4.12 documents required in connection with the transfer or assumption of Regional lands, infrastructure and facilities	Commissioner of Corporate Services

Column 1 DOCUMENT	Column 2 SIGNING OFFICER
4.13 where the Regional Corporation is a tenant, tenant acknowledgements in respect of the lease 4.14 where the Regional Corporation is a landlord, notices issued pursuant to the lease	Commissioner responsible for the program or project to which the lease relates
4.15 notices required under the <i>Expropriations Act</i>	Commissioner of Corporate Services
5. <i>Land Registration</i> 5.1 forms required under applicable legislation or the Teraview land registration system to register Regional interests in lands and to preserve any right, title or interest 5.2 consents and waivers of notice relating to registrations in the land registry system 5.3 documents to register liens and discharges on title to real property owned by recipients of social assistance	Commissioner of Corporate Services Commissioner of Corporate Services Commissioner of Community and Health Services
6. <i>Administration</i> 6.1 agreements for the exchange or release of information under the <i>Municipal Freedom of Information and Protection of Privacy Act</i> or the <i>Personal Health Information Protection Act, 2004</i> 6.2 agreements with Federal or Provincial governments, municipalities and agencies for Regional undertakings, program delivery and administration 6.3 submission of service and program plans and activity reports as required by any legislative authority 6.4 agreements with institutions and community partners under approved programs 6.5 confidentiality agreements 6.6 release of agreements where Regional conditions have been fulfilled 6.7 acknowledgement of the status or term of any agreement or lease to which the Regional	Commissioner responsible for the program or project to which the matter relates

Column 1 DOCUMENT	Column 2 SIGNING OFFICER
Corporation is a party 6.8 applications for permits, approvals or licences with respect to any Regional undertaking 6.9 permits and approvals issued by the Regional Corporation under any legislative authority 6.10 development agreements with municipalities for Regional undertakings	Commissioner responsible for the program for project to which the matter relates
6.11 lodging house licences 6.12 memoranda of understanding with housing providers under the <i>Social Housing Reform Act, 2000</i> 6.13 agreements respecting the admission of persons to long-term care facilities 6.14 admission agreements for supportive housing 6.15 admission agreements for long term care and seniors day programs	Commissioner of Community and Health Services
7. <i>Planning and Development</i> 7.1 subdivision and site plan agreements and documents required to satisfy any conditions of such agreements 7.2 agreements permitting deferral of development charges in accordance with By-law No. A-243-98-5	Commissioner responsible for the program for project to which the matter relates Chief Administrative Officer and Commissioner of Finance
7.3 agreements required as a condition of development approvals, including conveyance of interests in lands 7.4 documents required to clear conditions of development approvals	Commissioner of Planning and Development Services
8. <i>Regional Roads</i> 8.1 temporary closure of Regional roads for construction or special events 8.2 access agreements to and from Regional roads 8.3 railway crossing relocation agreements	Commissioner of Transportation Services

