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AMENDMENTS TO ADMINISTRATIVE PROCEDURES FOR REAL ESTATE MATTERS

(Regional Council at its meeting on November 17, 2011 was adopted subject to the removal of the proposed amendment in Attachment 1 - 'No circulation to school boards, conservation authorities and senior governments where proposed sale of general market demand lands' with a request for staff to report back early in 2012.)

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated November 3, 2011, from the Commissioner of Corporate Services, subject to the Region's policies referred to in recommendation 2 providing that local municipalities be given 45 days to respond to notifications of the proposed sale of surplus property.

1. RECOMMENDATIONS

It is recommended that:

1. Council delegate to staff the authority to approve certain real estate matters as set out in *Attachment 1* to this report.
2. The Regional policies on acquisition and disposal of real property be amended to give effect to these recommendations
3. By-law No. 2009-49, being a by-law governing the execution of documents on behalf of The Regional Municipality of York, be amended to reflect the signing authority contemplated by these amendments.

2. PURPOSE

This report recommends amendments to policies and procedures respecting real estate matters. It also recommends corresponding amendments to the by-law governing execution of documents on behalf of the Region.

3. BACKGROUND

Regional staff periodically conduct a review of delegated authorities and administrative practices to ensure that the level of authority delegated to staff supports the efficient

management of Regional business. This report sets out recommendations with respect to certain real estate matters identified by staff as a result of this review.

4. ANALYSIS AND OPTIONS

The authority of the Chief Administrative Officer and the Commissioner of Corporate Services to approve the acquisition and sale of land should be increased from \$50,000 to \$100,000

Since 2000, authority has been delegated to the Chief Administrative Officer and the Commissioner of Corporate Services jointly to authorize land acquisitions to a maximum value of \$50,000. Approval is conditional upon Council approval of the project for which the lands are required and the availability of funds in the budget.

In 2007, Council adopted a policy under the *Municipal Act, 2001* governing the disposition of surplus property. Under this policy, the Chief Administrative Officer may authorize the sale of land up to a maximum value of \$50,000. This approval is subject to certain conditions, including obtaining an appraisal and ensuring that the sale price is at least 90% of the appraised value.

Since these policies were adopted, real estate values have increased and there has been a dramatic increase in the volume of real estate transactions completed in the past year. In order to complete real estate transactions in a timely manner to meet capital work deadlines, it is recommended that the authorization limits delegated to the Chief Administrative Officer and the Commissioner of Corporate Services for both the purchase and sale of land be increased to \$100,000. The due diligence requirements in each of the policies would continue to apply.

The policies respecting acquisition and disposal of lands should also be amended to provide for certain exceptions

The current policies on land acquisition and disposal of surplus property are drafted to include leases of property for Regional purposes.

In September 2009, Council adopted a policy specifically to govern leasing of real property, which is a complete code with respect to leasing matters. In order to ensure consistency, it is recommended that the land acquisition and disposal policies be amended to clarify that they do not apply to leasing. It is also recommended that the formal procedures for the disposal of surplus property not apply in the following circumstances:

- pre-existing contractual obligations to which the Region is party

- the conveyance of land as part of a land exchange, provided the lands exchanged are of equivalent value
- the conveyance of land pursuant to agreements and settlements reached under the *Planning Act* and the *Expropriations Act*, or in settlement of litigation
- reversion of highways and infrastructure to local municipalities
- the conveyance of pre-existing easements to local municipalities and utilities when highways are closed
- the conveyance of easements to service Regional properties
- granting of approvals for encroachments on Regional property

Additional amendments are recommended to streamline the disposal of surplus property

In addition to the increase in approval authority, staff also recommend amendments to the policy for disposal of surplus property to enhance efficiency.

Where a property is deemed to have general market demand, the policy currently requires that notification of the proposed sale is circulated to internal departments and local municipalities. Local municipalities are given 60 days to respond. If no interest is expressed as a result of this circulation, the notice is circulated to external agencies. These include the school boards, conservation authorities and senior government. If no external agency expresses an interest in the property, a purchaser is solicited through public marketing.

In order to shorten the circulation process, it is recommended that the circulation to external agencies be discontinued. This will not result in any material disadvantage as these agencies will have an opportunity to present an offer on the property through the public tender process.

In addition, it is recommended that the time limit for local municipalities to respond to the notice be reduced from 60 to 30 days, as this is consistent with the Region's internal circulation policy.

Proposed streamlining for stopping up and closing of minor portions of highway and transferring jurisdiction

On occasion it is necessary to stop up and close portions of a public highway. This may be necessary to facilitate the transfer of a small portion of the highway or to revert highway lands to general Regional purposes. In either case, Council must enact a by-law to stop up and close the highway. In addition, by-laws are required where jurisdiction over parts of highways is transferred to and from local municipalities to clarify jurisdiction or to reflect minor realignments at intersections.

It is proposed that administration of these matters be streamlined as follows:

- where a small section of highway is closed, public notice should continue to be given by way of personal notice to the adjacent property owners. The requirement to post signage at the property should be discontinued as there is generally no widespread public interest in the process
- staff to be authorized to present by-laws to Council to close highways or transfer jurisdiction with appropriate recitals but without the need for an accompanying report to Committee
- staff to be authorized to protect existing easements in the right-of-way through new conveyances of easement at no additional cost to the transferee

Where a significant section of highway is to be stopped up and closed and where access to the highway is affected, the more extensive notice and procedural requirements will continue to apply.

The Region's policy on permitting encroachments should be extended to apply to all Regional infrastructure

In 1996 Council authorized the approval of agreements to permit minor encroachments on the Regional road system. These are authorized, for example, where signage or fencing encroach on the road allowance or where temporary licences are required during construction. The agreement is subject to approval of the Commissioner of Transportation Services and there are standard conditions including the requirement to provide insurance coverage and securities, where applicable, and the payment of an administrative fee.

On occasion, requests are received by the Region to permit encroachments on other Regional facilities, such as water and wastewater infrastructure. It is recommended that the principles applicable to encroachment on Regional roads be extended to all Regional property and infrastructure, subject to the approval of the Commissioner having jurisdiction over the lands.

Similarly, the authority to acquire lands for highway and reserve purposes from local municipalities should be expanded to include the acquisition of lands for all Regional purposes from third parties where there is no monetary consideration.

Regional staff have reviewed the 2009 by-law respecting the execution of documents and propose revisions to reflect the recommendations in this report

A comprehensive by-law was enacted in 2009 which formally delegated to Regional staff the authority to execute standard forms of agreements and documents.

As a general principle, the substantive authority to approve a transaction includes the authority to execute documents necessary for implementation. Accordingly, staff recommend that the by-law be amended to reflect the authorities approved by Council in this report.

Link to Key Council-approved Plans

From Vision to Results: 2011 to 2015 Strategic Plan

Priority Area – Manage the Region’s Finances Prudently

Expand the Region’s strategic financial management capability.

The amendment of this policy will provide opportunities for the Region to better manage its assets and resources.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal impacts associated with this report.

7. CONCLUSION

Staff have undertaken a review of the authority delegated to staff to administer real estate transactions and recommend certain amendments. The most substantive recommendation is to increase the authority of the Chief Administrative Officer and the Commissioner of Corporate Services to approve the acquisition and sale of land from the current limit of \$50,000 to a maximum of \$100,000. The balance of the recommendations address additional matters that are consistent with the existing delegated authority.

A summary of the existing and proposed amendments is attached as *Attachment 1*.

It is also recommended that the by-law governing execution of documents be amended to reflect those recommendations approved by Council.

For more information on this report, please contact Elizabeth Wilson, Senior Counsel at Ext. 1402.

The Senior Management Group has reviewed this report.

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

Council Attachment 1

Council Authorities	EXISTING AUTHORITY	PROPOSED AMENDMENT
June 9, 1977	• Reversion of surplus water facilities to local municipalities	
November 10, 1983	• Grant of easements to utilities and local municipalities to provide services across 0.3 metre reserves	• Expand to include transfer of easements in highways and, as necessary, to provide services to Regional properties
September 25, 1986	• Commissioner of Transportation Services authorized to request the transfer of lands to the Region for highway widening or reserves as a condition of development approvals. • Dedication of road widenings	
October 9, 1986	• Acceptance of the transfer of lands from local municipalities to the Region for highway widening or reserves • Dedication of road widenings	• Expand to include transfer of lands for all Regional purposes from third parties where no monetary consideration
November 23, 1995	• Commissioner of Transportation Services authorized to approve conditions of site plan approval and execute site plan agreements	
April 25, 1996	• Commissioner of Transportation Services authorized to approve encroachments onto Regional roads	• Commissioner having jurisdiction to be authorized to approve encroachments onto all Regional facilities
June 13, 1996	• Commissioner of Transportation Services authorized to approve the dedication of reserves at approved access locations	
November 14, 1996	• Conveyance of widenings and reserves for no monetary consideration to the entity having jurisdiction over the abutting highway	
November 14, 1996	• Acquisition of reserves and widenings adjacent to Yonge Street (YR 1), subject to the approval of the Commissioner of Transportation Services	

Council Attachment 1

July 6, 2000	• Commissioner of Corporate Services and Chief Administrative Officer authorized to approve acquisition of lands up to \$50,000	• Commissioner of Corporate Services and Chief Administrative Officer to be authorized to approve acquisition of lands up to \$100,000 • Leases to be excluded from policy - governed by leasing policy
December 13, 2007	• Chief Administrative Officer authorized to approve sale of land with an appraised value of up to \$50,000 • Local municipalities have 60 days to respond to circulation of proposed sale of general market demand lands • Circulation to school boards, conservation authorities and senior governments where proposed sale of general market demand lands Exceptions to Policy: • conveyance of road widenings and reserves to entity having jurisdiction • granting of approval for encroachments on Regional roads • conveyance of easements over .3 metre reserves to utilities and local municipalities • granting of municipal consents and permission to enter on Regional property	• Chief Administrative Officer to be authorized to approve sale of land with an appraised value of up to \$100,000 • Local municipalities to have 30 days to respond to circulation of proposed sale of general market demand lands • No circulation to school boards, conservation authorities and senior governments where proposed sale of general market demand lands Additional Exceptions to Policy: • pre-existing contractual obligations • conveyance of land as part of a land exchange, provided the lands exchanged are of equivalent value • conveyance of land pursuant to agreements and settlements reached under the <i>Planning Act</i> and the <i>Expropriations Act</i>, or in settlement of litigation • reversion of highways and infrastructure to local municipalities • conveyance of pre-existing easements to local municipalities and utilities when minor sections of highways are closed • conveyance of easements to service Regional properties • granting of approval for encroachments on all Regional properties • leases governed by leasing policy
		• Authorization for the introduction of bylaws to Council without an accompanying report to Committee for: (a) stopping up and closing portions of highway to facilitate the sale of lands to the abutting owner or to revert highway lands to general purpose lands for use by the Region; and (b) assuming or removing minor sections of highways to and from the Regional road system

		• Authorization for the introduction of bylaws to Council without an accompanying report to Committee for: (a) stopping up and closing portions of highway to facilitate the sale of lands to the abutting owner or to revert highway lands to general purpose lands for use by the Region; and (b) assuming or removing minor sections of highways to and from the Regional road system
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