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**TO:** GENERAL COMMITTEE

**SUBJECT:** DELEGATED AUTHORITY TO APPOINT NON-STATUTORY OFFICERS

**WARD:** ALL

**PREPARED BY AND KEY CONTACT:** W. COOKE, DEPUTY CITY CLERK, EXT. #4560

**SUBMITTED BY:** D. MCALPINE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES

**GENERAL MANAGER APPROVAL:** B. ROTH, ACTING GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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**RECOMMENDED MOTION**

1. That in accordance with the City of Barrie Delegation of Powers and Duties Policy, authority be delegated as follows:
  - a) To the City Clerk/Director of Legislative and Court Services or designate to undertake the appointment of Municipal Law Enforcement Officers or any successor positions, who shall be Peace Officers for the purpose of enforcing the by-laws of the municipality pursuant to the *Police Services Act, R.S.O. 1990, Building Code Act, 1992, S.O. 1992, Weed Control Act, R.S.O. 1990, Protection of Livestock and Poultry from Dogs Act, R.S.O. 1990, and Line Fences Act, R.S.O. 1990*; and the *Municipal Act, 2001*; and
  - b) To the Director of Planning and Building Services or designate to undertake the appointment of the Building Inspectors, Zoning Administrative Officers, Zoning Enforcement Officers and Zoning Officers or any other successor positions for the municipality pursuant to the *Building Code Act S.O. 1992 and Police Services Act*; and
  - c) To the Fire Chief/Director of Emergency Services or designate to undertake the appointment of the Fire Prevention Officers or any other successor positions for the municipality pursuant to the *Fire Protection and Prevention Act, 1996*; and
  - d) To the Director of Engineering or designate to undertake the appointment of Risk Management Inspectors and Risk Management Officials or successor positions pursuant to the *Clean Water Act, 2006*; and
  - e) To the Director of Environmental Services or designate to undertake the appointment of Site Alteration Officers or successor positions pursuant to the *Municipal Act, 2001* and the City of Barrie Site Alteration By-law 2006-101 or any successor By-law.
2. That a certificate of appointment be issued by the City Clerk for Municipal Law Enforcement Officers, Building Inspectors, Zoning Administrative Officers, Zoning Enforcement Officers, Zoning Officers, Fire Prevention Officers, Risk Management Inspectors, Risk Management Officials and Site Alteration Officers or any successor positions as required.

3. That by-law 2006-101, a by-law to prohibit and regulate the placing or dumping of fill, the removal of top soil, and the alteration of the grade of land, be amended to remove the requirement for a by-law to be passed to appoint Site Alteration Officers.
4. That no additional remuneration be provided for the positions of Livestock Valuers and Weed Inspectors.

## **PURPOSE & BACKGROUND**

### Report Overview

5. The purpose of this staff report is to recommend a streamlining of the appointment process for Municipal Law Enforcement Officers (Property Standards Officers, Lottery Licensing Officers, Weed Inspectors, Fenceviewers, Livestock Valuers, Fire Prevention Officers), Building Inspectors (including Fire Inspection Officers), Zoning Administrative Officers, Zoning Enforcement Officers and Zoning Officers, Risk Management Officials, Risk Management Inspectors and Site Alteration Officers.

### Purpose and Background

6. Section 227 of the *Municipal Act, 2001* provides that the it is the role of the officers and employees of the municipality to implement council's decisions and establish administrative practices and procedures to carry out council's decisions; to undertake research and provide advice to council on the policies and programs of the municipality and to carry out other duties as required under this or any Act and other duties assigned by the municipality.
7. Section 3 of the *Building Code Act, 1992, S.O. 1992* provides for a municipal council to appoint building inspectors for the enforcement of the *Building Code Act* in the area to which the municipality has jurisdiction. The duties of the inspector are defined in the *Building Code Act* including reviewing plans, inspecting construction and issuing orders in accordance with the Act and the Building Code.
8. Section 15.1(1) of the *Building Code Act, 1992, S.O. 1992* provides for a municipal council to appoint Property Standards Officers to administer and enforce that section and any other property standards by-law passed thereunder. These officers are granted certain inspection and enforcement powers as well as by the City of Barrie Property Standards By-law.
9. Section 15(1) of the *Police Services Act, R.S.O. 1990* provides for a municipal council to appoint persons to enforce by-laws of the municipality. These by-laws include enforcing the Business Licensing, Traffic By-law (parking), Animal Control, Sign, Yard Maintenance By-laws, Open Air Burning By-law and the Outdoor Solid Fuel Burning Appliances By-law as amended.
10. Section 6(1) of the *Weed Control Act, R.S.O. 1990* provides that a municipal council may appoint Weed Inspectors to enforce the Act in the area within a municipal council's jurisdiction. Under the Act, Council is authorized to fix the remuneration for any appointee.
11. Section 4(1) of the *Protection of Livestock and Poultry from Dogs Act, R.S.O. 1990* provides that *the* council of every local municipality shall appoint one or more persons as valuers of livestock and poultry for the purposes of the Act. Under the Act, Council is authorized to fix the remuneration for any appointee. Valuers of livestock investigate allegations of killing or injury of livestock or poultry by a dog or canine species, report on the extent and amount of damage and award for the damage.

12. Section 2 of the *Line Fences Act, R.S.O. 1990* provides that the council of every local municipality shall by by-law appoint such number of fence-viewers as are required to carry out the provisions of the Act. The purpose of the Line Fences Act is to provide a procedure for the resolution of line fence disputes between the owners of adjoining properties. Fence-viewers examine subject properties, hear evidence by property owners, and make an award in the case of a line fences dispute.
13. Section 19 of the *Fire Protection and Prevention Act, 1997* provides that the council of every local municipality shall appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with.
14. Subsection 47(6) of the *Clean Water Act, 2006* provides that the council of every local municipality shall appoint one or more persons as a Risk Management Official or Risk Management Inspector related to enforcement of Part IV of the *Clean Water, Act 2006* concerning the regulation of drinking water threats.
15. By-law 2006-001 provides for the appointment of Site Alteration Officers to enforce provisions of Section 142 of the *Municipal Act, 2001* for the enforcement of regulating or prohibiting the placing or dumping of fill, removal of topsoil, alteration of the grade of the land and issuing of any related permits.
16. Section 23 of the *Municipal Act, 2001* provides for the delegation of authority by a municipal council to staff of a municipality. The *Municipal Act, 2001* does not permit delegating authority to appoint/remove statutory officers. The officers and inspectors identified in the recommendation do not fall under this category.

## **ANALYSIS**

17. Council adopted the City of Barrie Delegation of Powers and Policy in December of 2007 to establish the general manner in which authority is delegated and to maintain accountability. Delegated authority is typically provided to ensure the efficient management of the municipal corporation and the ability to respond to issues in a timely fashion. The Delegation of Powers and Policy was most recently updated in 2015.
18. Currently, Municipal Law Enforcement Officers, Municipal Law Enforcement Officers, Building Inspectors, Zoning Administration Officers, Zoning Enforcement Officer and Zoning Officer, Risk Management Official, Risk Management Inspector and Site Alteration Officer are appointed by City Council by by-law in accordance with the respective Legislation and/or by By-law. These staff are limited in their enforcement activities until a by-law is been enacted by Council.
19. There are periods of time where City Council may not be meeting for several weeks or longer. Staff that are hired to serve as officers and inspectors during these periods of time would not be able to fulfill all of their duties to enforce provincial legislation and municipal by-laws, as they would not be officially appointed by Council.
20. Delays in appointing officers and inspectors can cause delays for processing and loss revenues associated with building permit applications as staff would not be permitted to conduct appropriate inspections due to not being officially appointed.
21. Recently there has been an increase in staff turnover of officers and inspectors. Delegation of appointing such officers and inspectors will result in a more streamlined process allowing newly hired staff to carry out all of their duties, instead of having to wait for a by-law to be passed by Council.

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22. A review of other municipalities processes related to the appointment of officers was undertaken. Municipalities such as Toronto, London, Hamilton, Sudbury and Milton have delegated the appointment of municipal law enforcement and building inspectors to Senior Staff such as the City Clerk and/or the Chief Building Official. There have not been any challenges to the method of appointments made by the municipalities surveyed.
  23. Appointments of above noted officers and officials would be part of the onboarding process for new hires or for temporary assignments (e.g. parental leaves) when individuals are to be appointed to the positions discussed above. The appointment would be for the term of their employment or term in the specific position. The Department Head would review the responsibilities of the appointment with the employee at the time of hire. The employee would be required to sign a form acknowledging that they understand the responsibilities associated with their appointment.
  24. In accordance, with Section 47(7) of the *Clean Water Act* a certificate of appointment issued by the City Clerk is required for the Risk Management Official and Risk Management Inspector.
  25. When a matter is before the courts, the judiciary may request documentation that the officers was duly appointed. In order to address the documentation of the appointment it is recommended that the City Clerk/Director of Legislative and Court Services issue a certificate of appointment if requested.

#### Remuneration of Livestock Valuers and Weed Inspectors

26. Where Council is authorized to fix the remuneration for Weed Inspectors and Livestock Valuers, in the past, Council has determined that no additional remuneration shall be provided. Typically additional remuneration is established by Council when citizens are appointed to these positions or when the duties and responsibilities are not included in the job description of the employee.
27. As the duties and responsibilities of these positions are included in job descriptions, additional remuneration is not recommended.

#### **ENVIRONMENTAL MATTERS**

28. There are no environmental matters related to the recommended motion.

#### **ALTERNATIVES**

29. The following alternatives are available for consideration by General Committee:

**Alternative #1**

General Committee could choose not to delegate authority of appointing officers and officials to the Department or designate.

This alternative is not recommended as a delay in appointing officers/officials due to the timing of City Council meetings, impedes officers from being able to perform all aspects of their job and negatively impacts municipal operations.

**Alternative #2**

General Committee could choose only to delegate the appointment of certain officers.

Although this alternative is available, it is not recommended as staff could be hired as officers/officials during any point of the year and staff would be required to present a by-law for the officer positions that were not delegated, which would limit staff from performing aspects of their jobs in a timely fashion.

**Alternative #3**

General Committee could choose only to delegate the appointment of officers to the Chief Administrative Officer.

Although this alternative is available, it is not recommended as it is preferred to have the Department Heads confirm the appointment as this can be completed as part of the Department's onboarding process.

**Alternative #4**

General Committee could establish additional remuneration for Weed Inspectors and Livestock Valuers.

This alternative is not recommended as the appointees would be municipal staff and the duties and responsibilities of these positions are incorporated within existing job descriptions.

**FINANCIAL**

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

**LINKAGE TO COUNCIL STRATEGIC PRIORITIES**

31. The recommendation included in this Staff Report is not specifically related to any of City Council's Strategic Priorities.