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Date December 13, 2022 **Report No.** 2022-737

To Chair and Members
Committee of the Whole – Planning and Administration

From Brian Hutchings
Chief Administrative Officer

1.0 Type of Report

Consent Item ☐
Item For Consideration ☒

2.0 Topic Temporary Delegated Authority Update (Lame Duck) [Financial Impact – None]

3.0 Recommendation

THAT report 2022-737 titled Temporary Delegated Authority Update (Lame Duck) BE RECEIVED.

4.0 Executive Summary

Section 275 of the Municipal Act, 2001, prohibits municipal Councils from making certain actions after Nomination Day (August 19 2022) in an election year and after election day up to the commencement of the new term of office. The restriction on actions commences based on the number of returning current members that could be on the next term Council. The legislative restriction is referred to as “Restricted Acts” but is more commonly known to be a “Lame Duck” Council/period.

To assist with the continuation of the municipal business during a lame duck period, report 2022-334 Restricted Acts in an Election Year and Temporary Delegated Authority (attached as Appendix A) was approved by Council in June,

2022. The report, presented by the Clerk, outlined the temporary delegated authority to the CAO required to safeguard The City against any potential gaps that may occur as a result of a Lame Duck Council. The temporary authority, which was subsequently included within a by-law 97-2022 (attached as Appendix B) commenced when council entered into a Lame Duck period and terminated on November 15, 2022 at Council Inauguration.

This report outlines the decisions and impacts made during this time period (between August 19 and November 15).

5.0 Purpose and Overview

The purpose of this report is to provide Council with an update on the delegated authority actions that were taken during the CAO's delegated authority, as prescribed within *The Municipal Act, 2001* and approved by Council on June 14, 2022.

6.0 Background

On June 14, 2022 Council resolved:

A. THAT report 2022-334 titled Restricted Acts in an Election Year and Temporary Delegated Authority BE RECEIVED; and

B. THAT, in order to ensure the efficient and effective management of the Organization if the Council for The City of Brantford is in a restricted position (Lame Duck) pursuant to section 275 of The Municipal Act, 2001, Council DELEGATES authority the Chief Administrative Officer (CAO) as follows:

i. The CAO shall consult with and receive professional advice from internal staff including but not limited to the City Solicitor, General Managers, City Treasurer, Manager of Real Estate, when evaluating exercising the delegated authority; and

ii. The following actions are included in the delegation:

1. The hiring or dismissal of any employee of the Municipality that is not an officer of the Municipality as per The Municipal Act, 2001; and

2. The making of any expenditures or incurring any other liability which exceeds \$50,000 that has not already received budgeted approval for; and

3. The disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and

iii. The delegation shall expire on December 1, 2022; and

C. THAT a By-law BE PRESENTED to Council for consideration providing for the delegated authority to the CAO; and

D. THAT the CAO BE DIRECTED to provide a report directly to Council outlining any actions taken under the restriction period in December of 2022

Pursuant to this direction, the Chief Administrative Officer received five staff reports between August 19, 2022 and November 15, 2022. More detail is provided in the attached appendices.

6.1 Soul Source Award to SGL Planning and Design Inc.

The CAO used his delegated authority to approve the non-competitive procurement of SGL Planning and Design to complete Development Modules/Creation of Standard Operation Procedures (SOPs) project and Site Plan Manual updates, as per the Provincially approved DAP Implementation Work Plan. This project will be fully funded by the Transfer Payment Agreement and supports staff's on-going efforts to streamline the City's development approvals process.

Eligible expenses incurred through the Provincial funding must be incurred between now and February 2023. This project will be funded entirely by the Transfer Payment Agreement.

This decision was made based on the fact that The City was within a Restrictive Acts period, coupled with the tight timelines associated with the provincial funding, undertaking a traditional Request for Proposal to complete this project was not feasible.

6.2 Woodman Park Pool

In 2020, the Woodman Pool Replacement project was approved during Estimates Committee for \$1.9 million of funding from the Capital Levy (RF 0573). In November 2020, Report #2020-426 identified that additional funds were required to fund the design and reconstruction of the Woodman Pool and an additional \$1.9 million was added to the project funded from the Canadian Community Building Fund (RF 0446). This brought the total funds to \$3.8 million in municipal funding.

Due to Federal grant stacking restrictions, Staff recommended to the CAO that \$1.9 million in funds from the Colborne Street East Slope Stabilization project (EV1701) funded from the Capital Funding Envelope be transferred and separated to the Woodman Community Centre projects. \$1.7 million be transferred to the Woodman Pool Replacement project (PK2018) and \$200,000 be transferred to the Woodman Community Center – Playground Design & Construction project (PK2118). Additionally \$1.9 million in funds from PK2018 funded from the Canada Community Building Fund was transferred to EV1701. This transfer of funds will ensure that the City is able to utilize the full federal contribution coming from the forthcoming grant.

The CAO approved the transfer of \$1.9 million in funds between projects to ensure that staff were able to utilize the full federal contribution from the forthcoming grant approved for the Woodman Pool Replacement project.

6.3 Orchard Park Remediation Funding

Orchard Park is located at 25-29 Brisbane Boulevard. A new playground area was constructed in 2019, and contains a swing play area, a sand play area, a nature area, a junior play area, and a senior play area. These areas consist of different playground equipment and surface features.

A clear stone infiltration gallery was constructed to collect water from the playground areas, conveyed by a sub-drain system within the subsurface materials of the playground areas. Following construction of the playground areas, it was identified that, after rainfall events the playground areas would retain water for periods of up to two (2) days. This water would pond within the swing play area, and the sand play area. This would proceed to cause surface ponding on the multi-use paths. These concerns were raised by residents in June 2022, when the park celebrated its delayed opening (due to Covid).

Staff recommended that additional funding be secured from the City's Reserve Funds, awarding the project to the low bidder, and completing the work within the 2022 construction season so that the ponding and drainage issues within

Orchard Park would be addressed. Additionally, the remediation would correct the health & safety concern on the sidewalk along Brisbane Boulevard during freeze-thaw periods prior to any such events that occur over the winter.

The CAO made the decision to complete the proposed construction, ensuring that the concerns brought forward by residents during the official park opening on June 04, 2022 would be resolved.

6.4 Northwest Municipal Services Expansion Environmental Assessment

The Northwest Municipal Services Expansion Municipal Class Environmental Assessment (MCEA Study) was initiated according to the policy and principles in the Official Plan, to provide infrastructure systems to the North Expansion Lands development. The MCEA Study area is generally located north of Highway 403 to Powerline Road, including the lands between Paris Road and Grand River. The MCEA Study supports critical municipal service implementations to the study area, as well as the Northwest Expansion Lands north of Powerline Road. Road widening, water and wastewater service expansions, and stormwater management are essential components of this MCEA Study. The study area consists of all necessary lands to investigate the municipal service expansions, including road widenings on Oak Park Road south of Highway 403, Powerline Road from both north and south sides of the road, the improvement at the Powerline Road and Paris Road intersection, and potential stormwater drainage outlet to south of Highway 403.

In October 2020, Council approved the strategies and recommendations identified in the 2020 MSP and TMP updates through staff report PW2020-408 and report PW2020-427 and for staff to implement the recommendations into the City's Ten Year Capital forecast.

In order to award the Tender and for the MCEA Study to commence, the CAO approved additional funding be increased by \$1,246,000.00 to a total Project Budget of \$2,388,000.00 based on the tender costs and analyses that has been completed. Additional funding and immediate award of this critical project will permit this project to commence and not add a further one year delay to development applications.

6.5 Santa Claus Parade

On September 28, 2022, the Brantford Chapter of the Junior Chamber International (JCI) advised City of Brantford staff that JCI would not have the capacity to organize the 2022 Brantford Santa Clause Parade.

In response, staff rallied in collaboration with community partners to see if a parade would be possible given the tight timelines. The municipal cost of implementing the 2022 Brantford Santa Clause Parade was estimated at \$16,000. The CAO approved the Santa Claus parade expenses, which at the time of the report, were somewhat unknown, and were projected based on current information. Staff in multiple departments across the City worked together to achieve this holiday tradition.

7.0 Input From Other Sources

Senior Leadership Team

8.0 Analysis

The authority delegated to the CAO during a lame duck period is used for necessary actions to ensure continuation of the municipality's services and programs. This best practice is used in consult and professional advice of internal staff supports, including the City Solicitor, General Managers, City Treasurer or other subject matter experts. In each of the above outlined decisions, staff were consulted prior to the CAO making a determination.

Staff were advised of the lame duck period and only brought forward decisions to be made during this time period that were essential to ensure the continuity of The City's services and programs, or in the case of the Santa Claus parade, would generate much-needed spirit and celebration in the Community.

9.0 Financial Implications

9.1 Soul Source Award to SGL Planning and Design Inc.

Eligible expenses incurred through the Provincial funding must be incurred between now and February 2023. This project will be funded entirely by the Transfer Payment Agreement

9.2 Woodman Park Pool

1.9 million in funds from the Colborne Street East Slope Stabilization project (EV1701) funded from the Capital Funding Envelope will be transferred and

separated to the Woodman Community Centre projects. \$1.7 million will be transferred to the Woodman Pool Replacement project (PK2018) and \$200,000 will be transferred to the Woodman Community Center – Playground Design & Construction project (PK2118). Additionally \$1.9 million in funds from PK2018 funded from the Canada Community Building Fund will be transferred to EV1701.

9.3 Orchard Park Remediation Funding

This project has been fully designed internally by City Staff and due to the urgency in correcting the ongoing ponding safety issues in advance of another freeze-thaw period, a late-season Request for Quotation (RFQ) was completed and circulated. Despite receiving six (6) plan takers, only one (1) bid was received. The low bid was for \$163,131.46. A cost estimate for the work was completed prior to releasing the RFQ. The estimate was completed using 2019-2022 unit rates from tendered Parks and Road Reconstruction projects. The cost estimate approximated the construction cost at \$97,470.49, excluding City expenses during construction.

Differences between the estimated cost and bid received can be attributed to recent inflation in construction market and shortage of labour force, the time of year the project was tendered, the quick dead-line to complete the work before the construction season ends, and the receipt of only one (1) bid rather than multiple bids. It should be noted that staff will be actively monitoring construction costs and negotiating reduced pricing during the course of construction. All remaining funds following completion of construction will be returned to the reserve account.

A pre-award summary was completed based on the received bid price of \$163,131.46. Approximately \$53,000 in additional funding, above the bid price, is being requested to complete the project. This additional funding is to account for a standard 10% contingency, staff time, construction material testing, tax and potential utility work, coordination, disbursements and asphaltic concrete (A.C.) adjustment. The costs were calculated based on the tendered construction duration of twenty (20) working days, full-time inspection, typical testing and charges during reconstruction projects.

9.4 Northwest Municipal Services Expansion Environmental Assessment

Based on the tender results, a pre-award summary was completed based on the low bid price of \$2,055,367.50. The bid price included all core and provisional

items as well as additional work items to be authorized upon request when necessary. This would include additional Public Information Centers (PICs), project meetings and/or geotechnical engineering. Staff also included several soft cost items and determined a complete project cost of \$2,388,000.00.

City Council approved capital project CP2201 – Environmental Assessment for Municipal Services in Northwest Brantford during the 2022 estimates committee process with a funding allocation of \$1,142,000.00. This cost was based on estimates in the City's 2020 MSP and TMP updates.

Staff have calculated an additional \$1,246,000.00 in required funding would need to be provided from the following City funding reserves outlines in Table 2, page 7, Appendix F.


9.5 Santa Claus Parade

The municipal cost of implementing the 2022 Brantford Santa Clause Parade is estimated at \$16 000. At the time of the staff report report, many of these costs are unknown, and have been projected based on current information. Staff will endeavor to offset the municipal cost through sponsorships, vendors, donations and float registrations.

Projected Revenues	
Sponsorships, Donations, Parade Entries, Vendors	\$27 000
Projected Costs	
Policing, Security, Marketing, Supplies, Port-o-Lets, Handwashing Stations, Transit Shuttles, Bands, Signage, Staff, Printing, Marketing	\$43 000
Net Municipal Expenditure	\$16,000

10.0 Conclusion

The Chief Administrative Officer was delegated authority by Council during the lame duck time period. During that time, the CAO made five decisions under this authority.



Brian Hutchings, Chief Administrative Officer

Prepared By:

Sasha Hill Smith, Manager, Government Relations & Corporate Initiatives

Attachments (if applicable)

Appendix A: Restricted Acts in an Election Year and Temporary Delegated Authority, Staff Report 2022-334

Appendix B: By Law 97-2022, Lame Duck

Appendix C: Sole Source Award to SGL Planning and Design – DAP Implementation Program, Staff Report 2022-626

Appendix D: Woodman Pool Project Funding, Staff Report 2022-685

Appendix E: Orchard Park Remediation Funding, Staff Report 2022-670

Appendix F: Northwest Municipal Services Expansion Environmental Assessment, Staff Report 2022-661

Appendix G: 2022 Santa Claus Parade, Staff Report 2022-679

Copy to:

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required ☐ yes ☒ no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk ☐ yes ☒ no

Is the necessary by-law or agreement being sent concurrently to Council? ☐ yes ☒ no