



Committee of the Whole Report For the Meeting of May 23, 2024

To: Committee of the Whole **Date:** May 2, 2024
From: Thomas Soulliere, Deputy City Manager
Subject: Improving Governance Processes through Comprehensive Delegation Bylaw

RECOMMENDATION

That Council direct the City Solicitor to draft a new delegation bylaw as described in Option 1 of this report and bring forward for Council's consideration at a future meeting.

EXECUTIVE SUMMARY

The *Local Government Act* and *Community Charter* allows for municipal councils to delegate its powers, duties and functions. Successfully delegating powers can enable Council and staff to increase efficiency of service delivery, provide greater responsiveness to residents and businesses, and improve the focus of Council business. A comprehensive delegation bylaw, with expanded signing authority to enable senior staff to represent the City and sign select legally binding agreements, contributes to improved governance processes.

PURPOSE

The purpose of this report is to seek Council direction to expand the Delegation Bylaw to delegate to senior staff, routine administrative matters which bind the City and select authorities which further improve the efficiency and effectiveness of operations.

BACKGROUND

Many municipalities in BC have a comprehensive delegation bylaw that sets out various powers, duties and functions that may be exercised by an officer or employee of the municipality. A proper delegation bylaw enables senior staff to carry out routine administrative functions within their areas of expertise. The City of Victoria does not currently have a comprehensive delegation bylaw.

Pursuant to section 154 of the *Community Charter*, Council has the power to delegate various powers, duties and functions (with some exceptions) to officers or employees. Delegation by Council is required to authorize staff to enter into a legally binding agreement or assume a legal obligation. Delegation is not necessarily required to initiate processes or actions that may lead to a legally binding commitment but do not on their own impose a legal obligation on the City. For example, negotiating a possible acquisition of land does not require delegation of authority but

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submitting an offer to purchase the land, which creates a binding agreement if accepted, does require delegated authority.

The City currently has the following standalone delegation bylaws:

Table 1: Current Standalone Delegation Bylaws

Delegation of Council Powers Bylaw No. 01-44	Authorizes the City Manager to grant a release and indemnification to property owners who allow the City to use their property for training City employees.
	This is a narrow delegation that is of limited utility in today’s circumstances.
Delegation of Signing Authority Bylaw No. 09-031 (amended by bylaws 19-116, 21-039, 22-013)	Allows the Mayor and City Clerk to sign agreements and other documents on behalf of the City that have already been approved by Council. It also allows the Mayor, City Clerk or City Solicitor to sign land title documents to complete a transaction that has already been approved by Council.
	The bylaw is for signing authority only meaning that anything signed pursuant to this bylaw requires prior approval by Council resolution or bylaw.
Delegation Bylaw No. 23-079	<p>Authorizes certain senior staff to authorize, approve, negotiate and sign certain documents. It empowers staff to make decisions and bind the City for certain limited transactions including:</p> <ul style="list-style-type: none"> • Director of Strategic Real Estate can approve and sign new market value leases and licences up to monetary threshold • Director of Parks, Recreation and Facilities can approve and sign community garden licences • Director of Business & Community Relations can approve certain types of grants and grant agreements, and licence agreements for temporary public art installations • Director of Engineering and Public Works and Chief Financial Officer can approve and sign agreements to sell carbon credits

In addition, the City delegates the following types of matters within other bylaws (i.e. these are not standalone delegation bylaws):

Table 2: Examples of Delegations Contained within Other Bylaws

Streets and Traffic Bylaw	The Director of Engineering can make various orders to do with regulating the movement of traffic, designating streets as certain zones, regulating the parking and stopping of vehicles, etc.
	The City Manager may issue certain types of permits.
Parks Regulation Bylaw	The Director of Parks, Recreation and Facilities can issue various types of park permits.
Land Use Procedures Bylaw	Delegates the ability to approve certain types of development permits, development variance permits, and heritage alteration permits to the Director of Planning.
	Delegates the ability to authorize and sign easement agreements allowing for decorative feature encroachments to Director of Engineering and Public

	<p>Works over highways, Director of Parks, Recreation and Facilities over parks, and Director of Strategic Real Estate over City property.</p> <p>Delegates anchor rod encroachments under City roads to Director of Engineering and Public Works.</p>
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With the exception of the encroachment agreements in the Land Use Procedures Bylaw, the type of delegations in Table 2 typically belong within a parent bylaw to do with that regulatory matter. These are specific delegations requiring the additional context of the parent bylaw to understand the delegation. In addition, the matters in Table 2 are usually delegated from different legislative authorities (for example, development permits are delegated pursuant to section 490 of the *Local Government Act* rather than section 154 of the *Community Charter* and certain types of delegations in the Streets and Traffic Bylaw are derived from the *Motor Vehicle Act*).

In July 2023, Council authorized the Director of Strategic Real Estate to bring forward additional recommendations for delegations that reduce administrative burden and support operational decisions. The subject of this report, therefore, seeks to address the delegations listed in Table 1 (which generally relate to entering into a binding agreement or assuming a legal obligation) and additional authorities which would support the efficiency and effectiveness of City operations.

ISSUES & ANALYSIS

The 2022 Governance Review report produced by MNP LLP highlighted some challenges with the lack of a comprehensive delegation bylaw:

“The lack of clarity in delegated authority contributes to challenges for staff when receiving direction from the mayor or other members of Council and invites members of Council to weigh in on administrative matters. When Council provides direction or becomes involved in matters that would ordinarily be within administrative authority, it makes accountability for achieving results unclear. Council’s involvement in administrative matters also impedes its ability to focus on its governance and policy responsibilities, extends the time spent in meetings, and encourages citizens to ‘go around’ existing structures to address citizen service complaints.” (pg. 23, s. 5.1.6)

As the complexity of issues facing municipalities increases, the administrative functions also increase along with the volume of legal documents requiring approval. If a power is not delegated by bylaw to staff, then that power may only be exercised by Council. City employees cannot bind a municipal corporation unless authorized by Council through a Council resolution for specific instances/transactions or through bylaw (i.e. a delegation bylaw).

As the City does not have a comprehensive delegation bylaw, anything that binds the City and is not listed in the Delegation Bylaw No. 23-079 must go before Council. This requires staff to draft reports and schedule items on agendas seeking Council approval for numerous types of routine agreements and matters. Referring every decision to Council is inefficient and risks politicizing matters that are more properly dealt with by professional staff.

OPTIONS & IMPACTS

Option 1: Expand the Delegation of Signing Authority Bylaw and the Delegation Bylaw and combine all bylaws in Table 1 into one comprehensive bylaw (Recommended)

Under this option, the City Solicitor, with input from senior staff, will draft a delegation bylaw that:

1. Expands the signing authority bylaw to enable senior leadership staff to sign documents that have been previously approved by Council, including amendments which don't impact the material intent or spirit of previous directions. This will allow senior staff to sign documents for matters initiated by their department that have already gone to Council.
2. Expands the types of legally binding agreements that senior staff can negotiate, authorize, administer and sign, including:
 - a. Land: Real estate transactions on a road right-of-way, park or fee simple land and private land (all new and existing leases/licences/agreements up to \$250,000 per year excluding housing; acquisition or disposition of SRWs/covenants or real property to facilitate a Council approved project up to a maximum of \$200,000; sale of remnant parcels under certain size, allowing senior staff to make binding decisions for City-owned strata lots and airspace parcels, etc.); encroachment agreements to authorize building/structural encroachments over City highways, parks, or property; exempting parcels to be subdivided from bylaw minimum parcel frontage on highways.
 - b. Financial or capital commitments: Contracts for which funding has been provided in annual budget approved by Council; donation agreements for receipt of charitable donations to City; revenue generation agreements etc.
 - c. Intergovernmental/partnering agreements: Funding agreements to receive grants from other government or public bodies; agreements with BC Transit; information sharing agreements with public bodies, partnering agreements with corporations, non-profits or public authorities to provide municipal service, activities or capital works that delivers on Council or organizational priorities'; non-disclosure agreements with government entities, etc.
 - d. Legal action: Initiating legal proceedings on behalf of the City for debts or damages and other limited circumstances; defending legal action; settlement of claims up to \$250,000.
 - e. Procurement: Purchase agreements for goods, services and works obtained through procurement processes up to certain monetary thresholds depending on the staff position in accordance with any direction Council provides specific to purchasing delegations coming before Council under a separate report.
3. Combine the bylaws from Table 1 along with the above into one single bylaw.

Under this option, issues identified in the Governance Review Report related to administrative clarity will be addressed and a new bylaw will be drafted with various conditions and limitations for Council's consideration. Nothing in this recommendation precludes staff from referring a matter to Council for a decision .

Option 2: Provide specific direction as to what Council wishes to delegate.

Under this option, Council may provide specific direction to add or remove items for the City Solicitor to consider in drafting a revised delegation bylaw.

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Option 3: Maintain status quo.

Under this option, no changes to delegated authority would be contemplated and staff would continue to be required to seek Council approval for routine matters.

Accessibility Impact Statement

A comprehensive delegation bylaw aligns with the "Governance and Services" focus area of the City's Accessibility Framework by providing clarity on decision-making authorities under a single bylaw.

2023 – 2026 Strategic Plan

Bylaw amendments described in this report are consistent with the strategy to "continue exploring governance reforms including the MNP report and citizens' assembly process" under the theme of Economic Health and Community Vitality.

Impacts to Financial Plan

There are no impacts to the Financial Plan; any changes to the Delegation of Signing Authority and/or the Delegation Bylaw would align with the approved Financial Plan and annual budget.

Official Community Plan Consistency Statement

There are no anticipated OCP impacts resulting from the recommended option of this report.

CONCLUSIONS

Successfully delegating powers can enable Council and staff to increase efficiency of service delivery, provide greater responsiveness to residents and businesses, and improve focus of Council business. A comprehensive delegation bylaw can allow for faster and more flexible action to respond to routine agreements and matters which bind the City and further improve the efficiency and effectiveness of operations.

Respectfully submitted,

Sarah Webb
Assistant Director
Corporate Planning and Strategic Project Support

Thomas Soulliere
Deputy City Manager

Report accepted and recommended by the City Manager

List of Attachments n/a