

DATE OF MEETING September 28, 2020

AUTHORED BY Karen Robertson, Deputy City Clerk

SUBJECT Amendments to the Appointment of Officers and Delegation of Authority and Management Terms and Conditions Bylaws.

OVERVIEW

Purpose of Report

To amend the Appointment of Officers and Delegation of Authority and Management Terms and Conditions Bylaws.

Recommendation

That:

1. "Officers Appointment and Delegation Bylaw Amendment Bylaw 2020 No. 7031.07" (To align the bylaw with the revised management organizational structure) pass first reading;
2. "Officers Appointment and Delegation Bylaw Amendment Bylaw 2020 No. 7031.07" pass second reading;
3. "Officers Appointment and Delegation Bylaw Amendment Bylaw 2020 No. 7031.07" pass third reading.
4. "Management Terms and Conditions of Employment Amendment Bylaw 2020, No. 7273.01" (To reflect changes to align with the "Officers Appointment and Delegation Bylaw 2006 No. 7031") pass first reading;
5. "Management Terms and Conditions of Employment Amendment Bylaw 2020, No. 7273.01" pass second reading;
6. "Management Terms and Conditions of Employment Amendment Bylaw 2020, No. 7273.01" pass third reading.

BACKGROUND

On 2019-JUN-24, Council unanimously endorsed a revised organizational structure for management to reflect a more strategic-level focus to the organization and to provide the citizens of Nanaimo with a better level of service.

As part of that reorganization, functional areas were realigned and some position titles were changed. These title changes prompted the need for an amendment to the Appointment of Officers and Delegation of Authority Bylaw to update reference to the current titles.

DISCUSSION

There are two aspects to the Appointment of Officers and Delegation of Authority Bylaw. The first deals with the official appointment of Officers as outlined under Section 146 of the *Community Charter*. The second, is the delegated authority given to the appropriate staff with the expertise in making the operational decisions on behalf of the City.

Appointment of Officers:

Officers of the municipality are legislated positions with legislated responsibilities that are somewhat different from those of other management staff. As such, Officers must be appointed by bylaw.

The two statutorily required Officer positions include the person assigned the responsibility of corporate administration under Section 148 of the *Community Charter* (Director of Legislative Services) and the person assigned the responsibility of financial administration under Section 149 of the *Community Charter* (Director of Finance). The Chief Administrative Officer (CAO) position is an optional appointment; however, because the CAO oversees the operations of the municipality, this position is typically appointed as an Officer.

Council may appoint other employees as Officers but it is rare given the unique nature surrounding the employment and termination of Officers. For example, appointed Officers (under Section 146 of the *Community Charter*) can only be dismissed (subject to a contract of employment) with the affirmative vote of 2/3 of all Council members and after having had the opportunity to be heard before Council as outlined in Section 152 of the *Community Charter*. Given that the position of Chief Administrative Officer is appointed by Council as the person to oversee overall management of the operations of the municipality (as outlined in Section 147 of the *Community Charter*) and is Council's only employee, the duty to appoint, promote, discipline, suspend, and terminate employees (subject to a contract of employment or collective agreement) would fall to the CAO.

The changes that are required to the Officer positions as outlined in Section 3.1 of the Bylaw include:

- Amending the title of Chief Financial Officer – now Director of Finance (statutorily required Officer position)
- Amending the title City Clerk – now the Director of Legislative Services (statutorily required Officer position)
- Removing the Chief Operating Officer – this position no longer exists.
- Removing the Director of Parks, Recreation & Environment – no longer applicable and not a statutorily required position
- Removing Director of Human Resources – not a statutorily required position

Delegation of Authority:

There are a few clauses as it relates to delegation of authority that should also be considered by Council. These include:

- Adding a section 3.7 that clarifies that Deputy positions to appointed Officers in section 3.1 are not considered Officers as it relates to the provisions regarding termination as outlined in section 152 of the *Community Charter*.
- Amending section 5.2 to provide clarity on the CAO's role as it relates to appointing, promoting, disciplining, suspending and dismissing employees (subject to a contract of employment, collective agreement, or Officer). The rationale for amending this clause is that Council has appointed a CAO to oversee the operations of the municipality, which includes overall management of its employees. It is unusual to have the duties and responsibilities (outside of those statutorily required under the *Charter*) be approved by Council. It would also give the CAO the authority to appoint Deputies to act on behalf of appointed Officers from time to time based on the operational needs of the City.

Other housekeeping amendments within the bylaw relate to updating official titles.

For Council's convenience, a redlined copy of the bylaw highlighting the proposed changes is attached.

Management Terms and Conditions of Employment Amendment

When updating the Appointment of Officers and Delegation of Authority Bylaw, a review was also conducted on the Management Terms and Conditions Bylaw to ensure that the amendment bylaw did not affect any provisions in the Management Terms and Conditions Bylaw. When doing that review, it was noted that section 4.2. of the bylaw states that "*Appointment to any Officer position shall be made by the Chief Administrative Officer or designate*". As Council has an established Officers Appointment and Delegation Bylaw and because termination of any Officer position can only be done by Council, for clarity purposes an amendment is being put forward remove section 4.2 from the Management Terms and Conditions Bylaw.

OPTIONS

That:

1. "Officers Appointment and Delegation Bylaw Amendment Bylaw 2020 No. 7031.07" (To align the bylaw with the revised management organizational structure) pass first reading;
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5. "Management Terms and Conditions of Employment Amendment Bylaw 2020, No. 7273.01" pass second reading;
6. "Management Terms and Conditions of Employment Amendment Bylaw 2020, No. 7273.01" pass third reading.

No alternate options are being proposed as the amendments before Council would bring both bylaws into alignment with the *Community Charter* provisions regarding Officer appointments and the Management Terms and Conditions Bylaw as it relates to the CAO's authority for overall management of its employees.

ATTACHMENTS:

1. Officers Appointment and Delegation Bylaw Amendment Bylaw No. 2020 No. 7031.07
2. Redlined – Officers Appointment and Delegation Bylaw
3. Management Terms and Conditions of Employment Amendment Bylaw 2020, No. 7273.01.

SUMMARY POINTS

To introduce amendments to the Appointment of Officers and Delegation of Authority Bylaw and the Management Terms and Conditions Bylaw resulting from the organizational restructure that took effect on 2019-JULY-02.

Submitted by:

Karen Robertson
Deputy City Clerk

Concurrence by:

Sheila Gurrie
Director, Legislative Services