

DATE OF MEETING NOVEMBER 18, 2024

AUTHORED BY JOHN VAN HORNE, DIRECTOR, HUMAN RESOURCES

SUBJECT MANAGEMENT TERMS AND CONDITIONS BYLAW AMENDMENT

OVERVIEW

Purpose of Report

To propose amendments to Management Terms and Conditions of Employment Bylaw 2019, No. 7273.

Recommendation

1. That “Management Terms and Conditions of Employment Amendment Bylaw 2024 No. 7273.03” (a bylaw to amend the provisions of the Management Terms and Conditions of Employment Bylaw 2019, No. 7273) pass first reading;
2. That “Management Terms and Conditions of Employment Amendment Bylaw 2024 No. 7273.03” pass second reading; and
3. That “Management Terms and Conditions of Employment Amendment Bylaw 2024 No. 7273.03” pass third reading.

BACKGROUND

Twice in the past year, the Chief Administrative Officer (the “CAO”) has approached Council seeking to waive the overtime accumulation provisions of Management Terms and Conditions of Employment Bylaw 2019, No. 7273 (the “Management Bylaw”) for certain exempt staff. This was driven by extraordinary circumstances related to, among other things, the ERP replacement project and challenges filling vacancies. Senior staff are keenly aware of the demands being placed on the affected staff and continue to try to find ways to address the workload issues that drive the overtime accumulation.

DISCUSSION

Article 14 of the Management Bylaw contains the overtime provisions for excluded staff, other than the Fire Chief, Directors, General Managers and the CAO. Excluded staff are eligible to claim overtime on a straight time basis, and those in excluded administrative positions can claim overtime in a manner similar to the provisions of the City’s collective agreement with CUPE Local 401. The Fire Chief, Directors, General Managers and the CAO are granted time-in-lieu of overtime of either one or two weeks, depending on their role.

The overtime provisions for excluded staff limit the accumulation of overtime to 240 hours in any given year. In most situations, this is more than sufficient for staff and few approach this limit. However, recently there have been situations driven by staff shortages (despite continuous recruitment efforts) and time-limited project demands that have caused certain staff to work

overtime beyond the 240-hour limit due to there being no other practicable way to get the work done.

The affected staff have continued to perform the work due to the organizational need, and senior staff recognized that it would be inappropriate to expect staff to do work without compensation in the circumstances. Conversely, the work performed *has* to be done in order to meet project or legislated deadlines, meaning the work could not be delayed so as to avoid going past the 240-hour limit. While it is cast as a decision point, it is one in which there is really no alternative without incurring substantial risks – including the important work not being done.

On both occasions when the CAO has sought Council's support to waive the 240-hour limit, the request has been supported. However, an amendment to the Management Bylaw might be a more efficient way of addressing future situations. Through such an amendment, Council will delegate authority to the CAO to address these extraordinary circumstances and notify Council accordingly.

Attachment A contains the proposed amendments to clauses 14.1, which addresses the 240-hour limit and 14.2, which addresses the maximum amount of the accumulated overtime that may be paid out and the minimum amount that must be taken as time off. The proposed amendment to clause 14.2 is included to enable the potential for an overtime payout beyond the current 50%. Because staffing challenges are a contributing factor to the overtime accumulation, requiring time off to be taken can exacerbate the situation and create additional stress for the affected employees who must work additional overtime to catch up on work due to the requirement to take time off.

OPTIONS

1.
 1. That Bylaw 7273.03 (a bylaw to amend the provisions of the Management Terms and Conditions of Employment Bylaw 2019, No. 7273) pass first reading;
 2. That Bylaw 7273.03 pass second reading; and
 3. That Bylaw 7273.03 pass third reading.
 - The advantages of this option: This enables the CAO to quickly address compensation matters with affected staff without having to add to Council's busy agenda. There is still a notification to Council with the 240-hour limit is exceeded, but this notice could be through email or other means.
 - The disadvantages of this option: This changes Council's role from that of decision maker, albeit on an operational and not a policy matter.
 - Financial Implications: There is the potential for a financial impact if additional overtime payouts are approved. However, where the overtime is worked due to staff shortages – and accumulated at straight time rates – there will be the budget to cover the additional payout expense.
2. That Council retain the existing Management Terms and Conditions of Employment Bylaw 2019, No. 7273.

- The advantages of this option: Council retains full decision-making authority related to exempt staff overtime.
- The disadvantages of this option: Council will continue to be asked to make what are arguably low-impact operational decisions, which will add to Council's agenda, when the need arises
- Financial Implications: none.

3. That Council provides some alternative direction to staff. |

SUMMARY POINTS

- In rare cases, the duties of some jobs require significant amounts of overtime to be worked to accomplish key tasks by given deadlines.
- Staff have twice, in the past year, appeared before Council to waive overtime limits for staff.
- Staff are proposing to provide additional authority to the Chief Administrative Officer to address these situations.

ATTACHMENTS:

Attachment A B7273.03 – Management Terms and Conditions Amendment Bylaw |

Submitted by:

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