



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 10-278

TO: Mayor and Council

FROM: Hal Linscott, City Solicitor and Director of Legal Services
 Patricia Burns, Director, Human Resources and Organizational Development

RESOURCE STAFF: See above

DATE OF MEETING: August 24, 2010

SUBJECT: Amendments to the Chief Administrative Officer's By-Law

EXECUTIVE SUMMARY:

This report recommends that By-Law No. 2002-86, "A By-Law to Establish the Position of Chief Administrative Officer", be amended so that the manner in which the City conducts performance appraisals of the Chief Administrative Officer ("CAO") reflects current City performance management practices.

In addition, the sections of the By-Law dealing with the authority of the CAO to supervise and direct employees and officers of the City has been revised to reflect the distinction between officers of the municipality whose appointment is required by statute and officers whose appointment is permitted but not required by statute.

Other proposed changes reflect efforts to improve the clarity of the wording of the By-Law without changing the substance.

RECOMMENDATION:

That Council approve the amendments to By-Law No. 2002-86, "A By-Law to Establish the Position of Chief Administrative Officer", as set out in the amended by-law attached as Exhibit "A".

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY DIRECTOR OF LEGAL SERVICES <u>Hal Linscott, City Solicitor and Director of Legal Services</u>
ORIGINAL SIGNED BY DIRECTOR OF HUMAN RESOURCES <u>Patricia Burns, Director, Human Resources and Organizational Development</u>
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER <u>Gerard Hunt, Chief Administrative Officer</u>

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Cynthia Beach, <i>Sustainability & Growth</i>	N/R
Terry Willing, <i>Community Development Services</i>	N/R
Denis Leger, <i>Corporate Services</i>	N/R
Jim Keech, President, <i>Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

OPTIONS/DISCUSSION:

The Chief Administrative Officer remuneration and performance sections in the current CAO's By-Law were written based on the previous performance management system used by the City that was focused solely on goal achievement, and provided an extremely detailed process by which goals would be established, negotiated and agreed upon by council and the CAO.

The current performance management system used by the City has changed from that set out in the by-law and now includes CAO accountabilities and competencies as well as goal achievement. Human Resources staff found that the process defined in the by-law was no longer valid and difficult to administer and, accordingly, are recommending that the by-law specify that the CAO have one performance review every year and one 360 degree feedback review every two years. The 360 degree feedback process would be performed every second year at the same time as the performance reviews for the CAO. This change has been made to improve the overall administration and efficiency of the 360 degree feedback process. The 360 degree feedback information will continue to be used for learning and development purposes.

The proposed amendments would remove the detailed process description of how the CAO's performance review would occur and, in the future, that would be based on a process determined by Council based on recommendations from Human Resources staff that took into account the City's then current performance management practices.

A similar amendment regarding the timing of the Commissioners' 360 degree feedback process and the use of that information by the CAO for learning and development purposes has been made to section 3 (5) of the by-law.

Section 3 of the by-law, which sets out the CAO's responsibility and authority for Human Resources Administration, has been amended to improve the clarity of wording and to reflect the distinction between officers of the municipality whose appointment is required by statute and officers whose appointment is permitted but not required by statute. In the case of statutory officers whose appointment is required by statute, as opposed to permitted, the CAO continues to have the authority to recommend to Council their appointment and terms of employment and has the authority to suspend and recommend to Council the termination of employment. In the case of other statutory officers whose appointment is permitted but not required by statute, the authority to employ, suspend or dismiss lies with the responsible Commissioner, overseen by the CAO, both acting in accordance with the human resources policies of the City.

The CAO continues to have authority over, supervise and direct all City employees, including those who are appointed as statutory officers other than for the duties and responsibilities for which such officers are by statute directly responsible to Council. The CAO has the authority and responsibility to ensure that appointed officials with statutory duties carry out those duties in a proper manner.

EXISTING POLICY/BY LAW:

By-Law No. 2002-86, "A By-Law to Establish the Position of Chief Administrative Officer".

NOTICE PROVISIONS:

N/A

ACCESSIBILITY CONSIDERATIONS:

Copies of this report are available in alternative formats upon request.

FINANCIAL CONSIDERATIONS:

N/A

CONTACTS:

Patricia Burns, Director of Human Resources and Organization Development, Ext. 1280
Hal Linscott, Director of Legal Services and City Solicitor, Ext. 1296

OTHER CITY OF KINGSTON STAFF CONSULTED:

Gerard Hunt, Chief Administrative Officer, Ext. 2205
Carolyn Downs, City Clerk, Ext. 1247

EXHIBITS ATTACHED:

Exhibit "A" – Proposed CAO's By-Law, as amended.

Exhibit "A" to the August 24, 2010 Report to Council

CORPORATION OF THE CITY OF KINGSTON

Ontario

BY-LAW NO. 2002-86

**A BY-LAW TO ESTABLISH THE POSITION OF
CHIEF ADMINISTRATIVE OFFICER**

PASSED: May 21, 2002

UPDATED to: April 29, 2010

As Amended By:

By-law No:

Date of Passing:

By-law No. 2005-74

April 5, 2005

By-law No. 2008-122

July 15, 2008

By-law No. 2008-197

November 25, 2008

(Office Consolidation)

**By-law No. 2002-86
A BY-LAW TO ESTABLISH THE POSITION OF
CHIEF ADMINISTRATIVE OFFICER**

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THE CORPORATION OF THE CITY OF KINGSTON

BY-LAW NO. 2002-86

A BY-LAW TO ESTABLISH THE POSITION OF
CHIEF ADMINISTRATIVE OFFICER

PASSED: May 21, 2002

WHEREAS Council may by by-law appoint a Chief Administrative Officer, who shall have such general control and management of the administration of the government and affairs of the municipal corporation and perform such duties as the council by by-law prescribes and who shall be responsible for the efficient administration of all its departments to the extent that he or she is given authority and control over them by by-law;

NOW THEREFORE the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. APPOINTMENT AND REMUNERATION

- (1) The position of the Chief Administrative Officer of the City of Kingston is hereby confirmed.
- (2) The Chief Administrative Officer is hereby authorized to designate in writing an Acting Chief Administrative Officer to act during periods of his or her temporary absence, not to exceed six consecutive weeks in one calendar year. In cases of emergency, Council may appoint an Acting Chief Administrative Officer.
- (3) The Chief Administrative Officer shall not be dismissed from office except after a hearing by Council.
- (4) Council or its delegate shall, not less than once each calendar year, meet with the Chief Administrative Officer to review his or her performance and salary and benefit provisions, and establish goals for the upcoming year. Every second year a 360 Degree feedback process will be included as part of the performance review. The 360 Degree Feedback will be used to establish learning and development plans for the Chief Administrative Officer which will be discussed as part of the performance review process.

2. GENERAL DUTIES AND RESPONSIBILITIES

- (1) Nothing in this By-law shall be deemed to empower the Chief Administrative Officer to exercise or encroach upon the power of Council or its Committees or upon the statutory duties of its officers.
- (2) The Chief Administrative Officer shall be the head of the administrative branch of the City government and shall be responsible to the City Council for the general control and management of the administration of the government and affairs of the City, and shall perform such duties as the Council, by by-law prescribes including the exercise of duties, powers and responsibilities as follows:
 - (a) to direct, co-ordinate and generally supervise the implementation of all policies, plans and programs approved by the City Council;
 - (b) to submit to City Council all reports and recommendations of Commissioners together with comments or recommendations where he/she deems such are necessary;
 - (c) to coordinate and facilitate the flow of information between the administration and Council, and between Committees and Council, including the development of an effective format and mode of presentation with respect to the reports and other communications from the City's administration and Committees to the City Council;
 - (d) to encourage throughout the City's departments a continuous search for improvement in the delivery of City services to the public and the management of the City's affairs;
 - (e) to prepare and submit to City Council recommendations for the establishment of new, or the revision of existing City policies, programs and services;
 - (f) to administer the business affairs of the Corporation in accordance with the policies and plans established and approved by Council;
 - (g) to supervise the management of the City, including the business and affairs of the City in accordance with the policies approved and determined by the Council;
 - (h) to attend meetings of City Council and, where necessary, any committee established by Council and to participate in discussion for the purpose of clarifying or providing information on any matter being discussed by Council;
 - (i) to co-ordinate and direct the implementation of the policies, plans and programs of the council and deal with any matter including complaints from citizens arising therefrom, with the assistance of the Commissioners;

(By-law No. 2002-86)

2. (cont'd) GENERAL DUTIES AND RESPONSIBILITIES

- (j) to attend to the interests of the municipality on intergovernmental matters at the administrative level;
- (k) to undertake such other responsibilities as may be assigned by the City Council;
- (l) to undertake the responsibilities assigned to the Chief Administrative Officer by the municipality's Emergency Plan; and
- (m) that the Chief Administrative Officer is to act as a Director of Utilities Kingston and a Director of Kingston Electric Distribution Limited as provided in the shareholders agreement for those corporations, and as a Director for such other municipal corporations as City Council may determine;

3. HUMAN RESOURCE ADMINISTRATION

The Chief Administrative Officer shall:

- (1) have authority over, supervise and direct all City employees and other officers of the City of Kingston, except those appointed as statutory officers to the extent only of those duties and responsibilities for which such officers may by statute be responsible directly to Council. The Chief Administrative Officer shall ensure that appointed officials with statutory duties in respect of the municipal corporation carry out those duties in a proper manner.
- (2) recommend to City Council the appointment and terms of employment of the Commissioners and of officers of the City whose appointment is required by statute and have the authority to suspend and recommend to the City Council the termination of the employment of any commissioner or officer whose appointment is required by statute in accordance with generally accepted Human Resources Procedures and Policies.
- (3) oversee and authorize, within the terms of collective bargaining agreements and the human resources policies of the City, the exercise by Commissioners of their responsibilities in the appointment, employment, suspension or dismissal of employees and of officers whose appointment is not required by statute.
- (4) direct generally the collective bargaining process carried out by Human Resources staff with all unions and associations of City employees and to recommend to City Council the terms of any agreements concerning wages, benefits, and terms of service, and upon approval to direct the administration of such agreements by Human Resources.
- (5) not less than once each calendar year, meet with each commissioner to review his or her performance, and establish goals for the upcoming year, and ensure that a 360 Degree Feedback process shall be included once every two years as part of the Commissioners' performance review process. The Chief Administrative Officer will

use the results of the 360 Degree Feedback process to establish learning and development plans for each Commissioner.

4. FINANCIAL ADMINISTRATION

- (1) To generally direct the preparation of the annual operating budget and its submission to City Council together with such recommendations and observations with respect to the expenditures and revenues which he/she deems appropriate.
- (2) To direct the preparation of and submission to City Council of an annual capital budget together with a ten year forecast of the City's capital requirements. To direct and prepare the Corporate Strategic Plan to submit same to City Council and direct its implementation, once approved.

(By-law No. 2002-86)

5. ADMINISTRATIVE ORGANIZATION AND POLICY DEVELOPMENT

- (1) To ensure the development and promotion of appropriate and effective corporate administrative policies and practices.

(By-law No. 2002-86)

- 6.** By-Law No. 9398, entitled "A By-Law to Establish the Office of The Chief Administrative Officer", and amendments thereto, is hereby **repealed**.

(By-law No. 2002-86)

- 7.** This By-Law shall come into force and take effect on the date of its passing.

(By-law No. 2002-86)