

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee

From: Lynne Livingstone, City Manager

Subject: Reporting of Delegated Actions, 2022

Date: January 30, 2023

Recommendation

That, on the recommendation of the City Manager, with the concurrence of the Deputy City Manager, Legal Services, this report be received for information.

Executive Summary

On July 5, 2022, Council approved by-law A.-8275-196 (see [Appendix A](#)) authorizing the delegation of authority to the City Manager for certain acts of Council after Nomination Day for the 2022 Municipal Election, should the City Clerk determine that the incoming Council would include less than three quarters of the members of the outgoing Council. On August 19, 2022, the Clerk determined that the incoming council would include less than three quarters of the members of the outgoing council. This determination immediately brought the delegation by-law into force and effect, as per clause 7.1(a) of the by-law.

This by-law specifically addressed two restricted acts: disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and, making any expenditures or incurring any other liability which exceeds \$50,000. A list of potential items that could fall under those two acts was provided in the report to Council.

Section 5.1 of the by-law indicates – the City Manager shall provide a report to Council in the first quarter of 2023 identifying all delegated actions that were taken in accordance with this by-law. This report serves to meet that requirement.

Linkage to the Corporate Strategic Plan

This report is in alignment with the 2019-2023 Council's strategic plan. In particular, the Leading in Public Service strategic area of focus, and supporting the outcome and expected result: that the City of London is trusted, open and accountable; and improving public accountability and transparency in decision making.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

Corporate Services Committee, June 20, 2022, Restricted Acts of Council after Nomination Day, and Voting Day

2.0 Discussion and Considerations

On July 5, 2022, Council approved by-law A.-8275-196 authorizing the delegation of authority to the City Manager for certain acts of Council after Nomination Day for the 2022 Municipal Election, should the City Clerk determine that the incoming Council would include less than three quarters of the members of the outgoing Council. On August 19, 2022, the Clerk determined that the incoming council would include less than three quarters of the members of the outgoing council. This determination immediately brought the delegation by-law into force and effect, as per clause 7.1(a) of the by-law.

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Section 5.1 of the by-law indicates – the City Manager shall provide a report to Council in the first quarter of 2023 identifying all delegated actions that were taken in accordance with this by-law. Appendix B outlines the Fourteen (14) delegated actions undertaken in the timeframe between August 19 and November 15, 2022. These included four (4) property acquisitions, three (3) property sales, six (6) contract awards/extensions including for the winter response program, and one (1) minutes of settlement. In addition to meeting the necessary legal, financial, operational and/or business continuity requirements for approval of these items, all needed to meet a standard of urgency i.e. that the item could not wait until after November 15th. All items met these requirements.

Conclusion

This report addresses section 5.1 of by-law A.-8275-196 requiring the City Manager shall provide a report to Council in the first quarter of 2023 identifying all delegated actions that were taken in accordance with this by-law. The report outlines the fourteen (14) delegated actions that were taken in the timeframe between August 19 and November 15, 2022.

Recommended by: Lynne Livingstone, City Manager
Concurred by: Barry Card, Deputy City Manager, Legal Services

Cc Senior Leadership Team
City Clerk

Appendix A – By-law for Delegated Acts

Bill No.
2022

By-law No. A.-
A by-law to authorize the delegation of authority to the City Manager for certain acts of Council after Nomination Day for the 2022 Municipal Election, should the City Clerk determine that the incoming Council will include less than three quarters of the members of the outgoing Council.

AND WHEREAS Section 275(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 restricts a council's ability to act on the following matters, subject to certain exceptions as provided for in Section 275(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25 and emergencies as provided for in Section 274(4.1) of the *Municipal Act, 2001*, S.O. 2001, c. 25:

- 1) the appointment or removal from office of any officer of the municipality;
- 2) the hiring or dismissal of any employee of the municipality;
- 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,
- 4) making any expenditure or incurring any other liability which exceeds \$50,000;

AND WHEREAS Section 275(6) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that notwithstanding the restrictions placed upon the acts of a council, a delegation of authority with respect to those acts may be made in advance of Nomination Day;

AND WHEREAS Section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that, subject to the limitations found in Sections 23.2 and 23.3 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a council may delegate its authority;

AND WHEREAS Council delegates any authority pursuant to this by-law in accordance with Schedule "G" of By-law A.-6151-17 "Council Policy By-law", as amended from time to time;

AND WHEREAS Council deems it expedient to delegate authority to the City Manager of The Corporation of the City of London for certain acts of Council after Nomination Day or after Voting Day for the 2022 Municipal Election in the event the City Clerk determines that the incoming Council will include less than three quarters of the members of the outgoing Council, and until such time as the incoming Council takes office;

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

PART 1 – SHORT TITLE

1.1 This by-law may be also referred to as the Restricted Acts of Council 2022 By-law.

PART 2 – DEFINITIONS

2.1 In this by-law:

"City" means The Corporation of the City of London;

"City Manager" means the City Manager for the City;

"Council" means the Municipal Council of the City;

"Municipality" means the City;

PART 3 - THE DISPOSITION OF ANY REAL OR PERSONAL PROPERTY OF THE MUNICIPALITY WHICH HAS A VALUE EXCEEDING \$50,000 AT THE TIME OF DISPOSITION

3.1 Those actions identified in:

- a) Schedule A – Sale and Disposition of Land Policy, to Council Policy By-law No. A.-6151-17; or
- b) Schedule C – Procurement of Goods and Services Policy, to Council Policy By-law No. A.-6151-17;

that would otherwise be performed by Council, shall be delegated to the City Manager in those cases where the timely disposition of real or personal property which has a value exceeding \$50,000 at the time of disposition, is adjudged by the City Manager to be necessary or advantageous.

3.2 The City Manager shall be authorized to approve the execution of any agreements or other documents required to give effect to any disposition identified under the authority delegated in Part 4.1, above, and to authorize the Mayor and City Clerk to execute any agreements to effect same, in consultation with the Deputy City Manager, Legal Services, where approval of Council would otherwise be required.

3.3 Without limiting the generality of the foregoing, the City Manager shall be authorized to approve the execution of the agreements listed in Schedule 1 to this By-law, where, in the absence of this By-law, approval would be required by Council.

PART - 4 MAKING ANY EXPENDITURE OR INCURRING ANY OTHER LIABILITY WHICH EXCEEDS \$50,000

4.1 Those actions identified in:

- a) Schedule C – Procurement of Goods and Services Policy, to Council Policy By-law No. A.-6151-17; or
- b) By-law No. CPOL.-188-440 being “A by-law to revoke and repeal Council policy related to Real Property Acquisition Policy and replace it with a new Council policy entitled Real Property Acquisition Policy;” or
- c) By-law No. A-1, as amended, being “A by-law for the Execution of Certain Documents,” that would otherwise be performed by Council,

shall be delegated to the City Manager, if:

an expenditure is being made or any other liability is being incurred which exceeds \$50,000 and was not included in the most recent budget adopted by Council prior to Nomination Day; or,

an expenditure or liability which exceeds \$50,000 is included in the most recent budget adopted by Council and is required to exceed the budgeted amount.

4.2 The City Manager shall be authorized to approve the execution of any agreements or other documents required to give effect to any expenditure or liability incurred under the authority delegated, and to authorize the Mayor and City Clerk to execute any agreements to effect same, in consultation with the Deputy City Manager, Legal Services, where approval of Council would otherwise be required.

4.3 Without limiting the generality of the foregoing, the City Manager shall be authorized to approve the execution of the agreements listed in Schedule 2 to this By-law, where, in the absence of this by-law, approval would be required by Council, as well as any property acquisition when the timely acquisition of real or personal property is adjudged by the City Manager to be necessary or advantageous.

PART 5 - REPORTING

5.1 The City Manager shall provide a report to Council in the first quarter of 2023 identifying all delegated actions that were taken in accordance with this by-law.

PART 6 - GENERAL

6.1 If any provision or part of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

6.2 To the extent that any provision of this by-law conflicts with any provision of any other City by-law, this by-law shall apply.

PART 7 - EFFECTIVE DATE

7.1 This by-law shall immediately come into force and effect if:

(a) after Nomination Day on August 19, 2022, but before Voting Day on October 24, 2022 the City Clerk determines, based on the nominations to the new Council that have been certified and any acclamations made to the new Council, that the new Council will include less than three quarters of the members of the outgoing Council, in accordance with subsection 275(2)(a) of the *Municipal Act, 2001*, S.O. 2001, c. 25; or,

(b) as soon as practicable following the election on October 24, 2022, the City Clerk determines that based on the declaration of the results of the election including declarations of election by acclamation, that the new Council will include less than three quarters of the members of the outgoing Council, in accordance with subsection 275(2)(b) of the *Municipal Act, 2001*, S.O. 2001, c. 25.

7.2 This by-law shall cease to be in force and effect on November 15, 2022.

PASSED in Open Council on July 5, 2022.

Ed Holder
Mayor

Michael Schulthess
City Clerk

First Reading – July 5, 2022
Second Reading – July 5, 2022
Third Reading – July 5, 2022

Appendix B – Delegated Actions Undertaken

Description	Amount (\$)	Date Approved
Property Acquisitions (4)		
Purchase of 285-289 Wellington Road (21,624 square feet) for the Wellington Gateway project	2,317,957*	Oct 28, 2022
Purchase of 90 Wellington Road (12,109 square feet) for the Wellington Gateway project	845,907*	Oct 28, 2022
Purchase of 243 Wellington Road (95,097 square feet) and 49-55 Foxbar Road (3,208 square feet) for the Wellington Gateway project	644,000	Oct12, 2022
*Source of Financing Adjustment for 285-289 and 90 Wellington Road	noted above	Oct 28, 2022
Property Sales (3)		
Sale of City Owned Surplus Land – Part 1 of Princess Street (1,527 square meters) to BlueStone Properties Inc.	663,040	Aug 30, 2022
Sale of City Owned Surplus Land – Part 2 of Princess Street (274.7 square metres) to Tina Lush	119,280	Aug 30, 2022
Sale of Industrial Land (10.29 square metres) to Cardiff Products Corporation	1,697,850	Oct 17, 2022
Contract Extensions/Awards (6)		
Increasing the contract award for the 2022 CIP Sewer Lining program to Insituform Technologies to extend the project from Oxford St E to Ann St in advance of the 2023 schedule to take advantage of 2022 pricing.	296,000	Aug 24, 2022
Installation of Fiber Optic cable, ducts and handholds on Oxford Street W contract as part of the Transportation Intelligent Mobility Management System, awarded to Start.ca	140,355.24	Sept 6, 2022
5 year contract with eSCRIBE for the agenda management, voting, streaming, and publishing capability for Standing Committees, Council and Advisory Committees	39,900 annually	Oct 3, 2022
Appointment of Consulting Engineer for the Oxford Street West environmental assessment study required to implement mobility improvements for Oxford Street West from Wesdel Bourne to Sanitorium Road	549,503	Oct 13, 2022
Amendments to Service Agreements for London Cares, The Salvation Army Centre of Hope, Canadian Mental Health Association (CMHA) Thames Valley Addictions and Mental Health Services, and Unity Project for the winter response program.	3,689,600	
AND a single source contract with Atlosha Family Healing Services for the Wiigiwaaminnaan, Indigenous Health Space	1,310,400	Nov 8, 2022
RFP awarded to KPMG LLP for external audit services for the City of London and its boards and commissions noting the award is an irregular result (RFP 2022-255)	400,300 annually	Nov 14, 2022
Minutes of Settlement (1)		
Minutes of settlement and full final release regarding claims pertaining to the Bradley Avenue West extension and Wharncliffe Road South improvement for: from L-82 Construction Limited; and Coco Paving Inc.	40,000 90,000	Nov 7, 2022