RECOMMENDATION

That a By-law be enacted to amend Emergency Management By-law 2014-076 for the purposes of establishing a Temporary Emergency Executive body to exercise legislative powers and delegate authority to Staff to support the Town’s management of the COVID-19 emergency.

REPORT HIGHLIGHTS

- The Town’s Emergency Management By-law sets out inadequate authorities for Staff to manage the increasing scale of the current COVID-19 emergency.
- The Municipal Act provides for the delegation of powers and authorities by Council to Staff including the establishment of a specific body for the purposes of exercising legislative powers such as enacting, amending and repealing By-laws.
- Enacting the attached By-law will immediately add and activate two new Sections in the Emergency Management By-law thereby establishing a temporary body to enact By-laws and delegating necessary authority to Staff to manage the emergency.

DISCUSSION

Background

In 2014 Council enacted the Town’s Emergency Management By-law. This established the Emergency Management Program and Plan to protect public safety, maintain critical infrastructure and services as well as promote economic stability during an emergency. In response to the global COVID-19 pandemic, on March 18, 2020 the Town declared an emergency pursuant to the By-law which provides special powers to the Head of Council to implement the Emergency Plan. Despite these efforts, due to the rapidly evolving and serious nature of the pandemic more drastic measures are required to ensure that Staff have the necessary powers and authority to provide for a flexible and adaptive response. Therefore, the purpose of this report is to provide a By-law for Council’s consideration to amend the Emergency Management By-law and delegate new emergency powers to Staff.

Emergency Management By-law 2014-076

In addition to establishing the Emergency Management Program and Plan, By-law 2014-076 provides for an Emergency Control Group led by the Chief Administrative Officer
(CAO) and comprised of key Staff responsible for directing the Town’s response during an emergency. Although the By-law authorizes the Control Group to expend funds to obtain emergency supplies and indemnify partner public agencies to secure volunteer support, it does not generally delegate additional powers and authorities to necessary Town Staff. The COVID-19 pandemic represents a previously unseen scale of emergency for the Town, the upper levels of the Canadian government and beyond. Therefore, the tools which the Emergency Management By-law currently provides are inadequate to ensure that Staff can manage the emerging situation in an expedient and flexible manner to continue to maintain core services and respond to community needs.

**Legislative Framework for Delegation of Authority**

Sections 23.1 and 23.2 of the *Municipal Act* permit local governments to delegate powers and authorities to their Staff to effectively manage the affairs of the municipality. Previously, Council has commonly delegated responsibilities and authorities to various Town Staff such as the CAO, Clerk, General and other Managers. In addition to this routine delegation, Section 23.2 specifically permits a municipality to delegate its legislative powers under both the *Municipal Act* and *Planning Act* to a separate body. Finally, the *Municipal Act* specifies powers and duties which cannot be delegated and must be retained by Council such as the ability to pass a Zoning By-law or adopt an annual budget. It is important to note that, with certain exceptions such as regarding taxation, the delegation of the legislative power to enact, amend or repeal By-laws is not included in the restrictions.

**Recommendations**

To support the Town’s management of the impacts from COVID-19, it is recommended that Council delegate new emergency powers and authorities by enacting the proposed By-law attached as Schedule A to this report.

**Temporary Emergency Executive**

First, a new Section will be added to the Emergency Management By-law to provide Council the discretion to establish a body, the Temporary Emergency Executive, comprised of the Mayor, CAO and a senior officer or employee of the Town appointed to the body by the CAO. This body will, upon establishment have delegated to it the legislative power and authority to independently enact, amend and repeal By-laws. While the Temporary Emergency Executive will expedite the passage of By-laws and act as a back-up during emergency circumstances should Council be unable to meet, the ability to enact, amend and repeal By-laws will concurrently be retained by Council. Finally, the Temporary Emergency Executive will be required to establish a procedure to, upon its dissolution, advise Council of any By-laws enacted, amended or repealed.
Delegated Authority to Staff

A second new Section will be added to the Emergency Management By-law which will permit Council to trigger the delegation of special emergency powers. Similar to Delegated Authority By-law 2016-106, as amended, the powers and the specific Town positions upon which they are conferred will be carefully set out in a new Schedule to be added to the Emergency Management By-law.

In each case, the new proposed Sections may only be activated, and powers and authorities will only be delegated, in circumstances where the Head of Council has first declared an emergency and upon enactment of a By-law authorizing the delegations. For establishment of the Temporary Emergency Executive, the authorizing By-law must be passed by Council. Further, the delegations may be terminated and the Temporary Emergency Executive will be dissolved through either enactment of a By-law for that purpose or upon the Head of Council or Council declaring the end of the emergency. This process ensures that the delegated powers have a clear point at which they end and are only used during emergency circumstances. However, the Sections may be re-activated if necessary in the future.

Finally, in addition to amending the Emergency Management By-law, upon enactment, the proposed By-law will immediately activate the new Sections described above in respect of the recent declaration of emergency made by the Town regarding COVID-19. This will significantly improve the Town’s ability to take action and quickly respond to the evolving emergency to continue to meet the needs of the community.

FINANCIAL IMPLICATIONS

There are no immediate financial implications associated with this Staff Report. Should the amending By-law be enacted, the Temporary Emergency Executive will have broad power to manage allocation of Town funds. Further, authority would be delegated to the CAO in consultation with the Treasurer to approve the negotiation and acquisition of any land or easements provided there is a source of funding for such acquisition that is approved by the Treasurer.

COUNCIL WORK PLAN

The matter contained in this Staff Report is not relative to the Council Work Plan.

ATTACHMENTS

Schedule A: Proposed Amendment to Emergency Management By-law 2014-076