Agenda – Council – July 15, 2015

Report – Executive Policy Committee – July 8, 2015

Item No. 4 New Execution of Documents By-law

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 8, 2015, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That a new Execution of Documents By-law (draft attached), which will replace the existing Execution of Documents By-law, be enacted and come into force on September 1, 2015.

2. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

Agenda – Council – July 15, 2015

Report – Executive Policy Committee – July 8, 2015

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 8, 2015, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: **New Execution of Documents By-law**

Critical Path: **Executive Policy Committee - Council**

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
H. Dick	K. Boryskavich	n/a	M. Jack COO

RECOMMENDATIONS

1. That Council enact a new Execution of Documents By-law (draft attached) which will replace the existing Execution of Documents By-law and will come into force on September 1, 2015.

2. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

This report recommends enactment of a by-law. Only Council can enact by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

NOTE: This report is solely concerned with the execution of documents; it does not propose any changes to any existing authority to approve agreements, contracts, settlements or any other similar arrangement involving the City. Existing approval authorities will not be altered by the enactment of the proposed By-law.

Subsection 500(2) of *The City of Winnipeg Charter* provides that, unless Council enacts a by-law providing otherwise, all documents requiring execution must be executed (ie. signed) by the Mayor and City Clerk. Because having all such documents executed by the Mayor and City Clerk would constitute an enormous and unwarranted bottleneck to the operations of the City, responsibility for executing documents has for many years been delegated to various

positions in the Public Service. The current By-law, enacted in 1999, is itself a consolidation of several earlier by-laws that delegated execution authority to various employees of the City.

The existing Execution of Documents By-law has been subject to a dozen *ad hoc* amendments over the past 15 years to accommodate specific instances where it made sense to have documents executed by City employees rather than the Mayor and City Clerk. The proposed By-law represents an overhaul and reorganization of the existing execution authorities.

In addition, a review of current practices within the Public Service related to the execution of documents revealed several situations where it was not clear whether certain documents fell within the execution authority or not. For example, it was not entirely clear whether the authority of the Director of Public Works to execute railway crossing agreements included railway agreements that involved bridges, overpasses and underpasses. (Subsection 20(1) of the proposed By-law now specifically includes these as within the Director's execution authority.)

The review of existing execution practices also revealed several situations where documents were being executed by the Mayor and City Clerk even if would have been more efficient to have them executed by a member of the Public Service. For example, the Mayor and City Clerk were executing settlements approved by Council or Executive Policy Committee; s. (1)(f) of the proposed By-law now gives the CAO authority to do so. Similarly, the Mayor and City Clerk were executing tax receipts for gifts accepted by the City; s. 10(1)(g) of the proposed By-law gives this authority to the CFO.

The proposed By-law confirms and formalizes a number of practices that have been in place for some time. These include the City Solicitor's signing Land Titles Office registration documents, documents registering copyright, and documents filed in court (s. 12(1)) and the CAO or delegate signing special constable appointments (s. 9(1)(g)).

More substantively, the By-law sets out explicitly when an execution power may be sub-delegated. It also requires that all sub-delegations must be filed with the Office of the City Clerk before they take effect (s. 4). This will ensure clarity and certainty over which City employees have authority to sign documents on behalf of the City.

In other respects, the proposed By-law retains the substance of existing by-law provisions, while rewriting them in plain language and organizing them better.
In short, the proposed new By-law

- Extends execution authority over specific documents to various positions within the Public Service in an effort to increase efficiency and reduce internal red tape;
- Clarifies existing execution authorities;
- In some cases, confirms and formalizes existing practices;
- Sets out when the authority to execute documents can be sub-delegated;
- Requires that a sub-delegation is not effective unless it is in writing and is filed with the City Clerk;
- Is more straightforward and better organized than the previous By-law.

In order to give time for the delegations to be filed with the City Clerk, it is proposed that this new By-law come into force on September 1, 2015.

HISTORY

The current Execution of Documents By-law was enacted by Council in 1999. It consolidated three earlier by-laws which delegated various execution authorities to City employees and extended execution authority to other employees. It has been amended on 12 occasions since its enactment.

FINANCIAL IMPACT

Financial Impact Statement **Date:** June 22, 2015

Project Name: New Execution Documents By-law

COMMENTS:

There is no financial impact related to the recommendation of this report.

(Original signed by F. Dela Cruz for R. Hodges)
Ramona Hodges
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

In preparing this report there was consultation with:

Office of the City Clerk
Office of the Chief Administrative Officer

SUBMITTED BY

Department: Legal Services
Division
Prepared by: Harold Dick
Date: June 2, 2015
File No.



Execution of
Documents By-law jun