



BY-LAW # 5

A BY-LAW TO ESTABLISH AND DEFINE THE DUTIES AND POWERS OF THE CHIEF ADMINISTRATIVE OFFICER OF SUNBURY-YORK SOUTH RURAL COMMUNITY

WHEREAS Section 81 of the Local Governance Act provides that the chief administrative officer of a local government has the power and duties that the council prescribes by by-law or resolution.

AND WHEREAS it has been decided to proceed with a CHIEF ADMINISTRATIVE OFFICER form of local government.

AND WHEREAS Council has determined that the term "Administrative leader/manager of administration" wherever it appears in this or any other by-law shall mean the chief administrative officer of Sunbury-York South Rural Community.

NOW THEREFORE BE IT RESOLVED that the duties and powers of the administrative leader/manager of the rural community administration of Sunbury-York South shall be as follows:

1. TITLE

This by-law shall be referred to as the "CHIEF ADMINISTRATIVE OFFICER (CAO) By-Law".

2. PURPOSE

The purpose of this By-Law is to define the Chief Administrative Officer's (CAO) roles, duties, responsibilities, and work conditions as well as the relationship between Council and the CAO; the CAO and other employees of the rural community; and Council with

other employees of the rural community, pursuant to section 81 of the *Local Governance Act, SNB 2017, c18*.

3. DEFINITIONS

"Act" means the *Local Governance Act* of the Province of New Brunswick and any amendments thereto.

"CAO" means the administrative leader/manager of the administration of the Rural Community of Sunbury-York South.

"Council" means the Mayor and Councillors of the Rural Community of Sunbury-York South.

"Department Heads" means those officers appointed to the top position of each department of the Rural Community as set out in the Rural Community management chart.

"Employee" means any person employed by Sunbury-York South Rural Community aside from the CAO.

"Rural Community" means the Sunbury-York South Rural Community.

4. APPOINTMENT/ ABSENCE/ DISMISSAL

A CAO shall be appointed in accordance with Section 71(2) of the *Local Governance Act*, who shall carry out and all duties and powers of Council as delegated by Council under the Act, and other such duties which Council may confer or delegate to the CAO.

- a. The CAO shall notify the Mayor of absences from the Rural Community in excess of five (5) days.
- b. In the event of an absence of the CAO **without notification** to Mayor or Council or by a decision of Council, Council shall by resolution appoint an Acting CAO who shall act for the CAO in their absence, with full powers and responsibilities of the Office of the CAO.
- c. In the event of a planned absence by the CAO, they will designate an Acting CAO for that period of absence and will advise the Mayor and Councillors the name(s) of who is to fill the role on a temporary basis and its duration.

- d. Pursuant to Subsection 71(4) of the *Act*, the CAO is entitled to hold office until retirement, death, resignation, or dismissal for cause by the affirmative vote of at least two thirds of the whole Council.

5. COMPENSATION AND PERFORMANCE APPRAISAL

- a. The salary and benefits provided to the CAO shall be established annually by Council after the annual performance review or as per the CAO employment contract or the Human Resources Policy.
 - i. Whereas article 188(5) of the *Local Governance Act* states that a Council must provide for a pension or a superannuation plan for the permanent employees of the local government.
- b. The performance of the CAO shall be appraised at least once a year in accordance with the process identified in the Human Resources Policy and the CAO employment contract.

6. PROFESSIONAL DEVELOPMENT

- a. Council, in recognizing the value of the CAO's participation in the relevant professional organizations, will reimburse to the CAO the annual membership fee(s) and any associated expenses in attending the annual conference or meetings subject to the prior approval of Council and/or through the annual budget process.
- b. The CAO may be provided with suitable funding on an annual basis for professional development, in accordance with an agreed upon development program and within the annually approved budget.

7. ORGANIZATION

Except for the purposes of an official enquiry, Council shall deal with the rest of the administration through the CAO, and Council shall, as a normal practice, require that its directives be carried out through the office of the CAO.

8. POWERS AND DUTIES

8.1 Responsibilities:

- a. The CAO is responsible for implementing Council's guidelines and decisions in compliance with the by-laws, regulations, laws, policies, and resolutions adopted by Council or by other legislative authorities.

- b. The CAO oversees the implementation and delivery of programs and services that are approved by Council and ensures that these programs and services are delivered to all residents and ratepayers in a manner that makes efficient and effective use of the human, financial, and physical resources of the rural community. The CAO is not, however, responsible for directly delivering the services of Department Heads.
- c. In collaboration with the Council, the CAO develops the rural community strategic plan and measurable outcomes. The CAO is also responsible for assigning resources to strategic priorities, accordingly, determining annual operational procedures and departmental and staff-specific objectives.
- d. Oversees key aspects of human resource management including recruitment and hiring, training and development, employee engagement, performance management, compensation (within budgets approved by Council), promotion and termination.
- e. Attend all meetings of Council and such other committees as Council may direct, unless appointing the Deputy Clerk or Executive Assistant to attend for the CAO, or unable to attend due to sickness or other approved leaves of absence.
- f. The CAO is responsible for assessing staffing needs and recommending organizational structure changes to Council. In the event of a major organizational change, the CAO shall consult with Council prior to proceeding.
- g. Ensures effective and meaningful communication and customer service to the public, department heads and staff, as well as external organizations, Provincial and Federal Governments and Council on matters relating to the governance, management and administration of the Rural Community.
- h. Prepares written reports and/or makes verbal presentations to various audiences, including Council, Committees and administration.
- i. Will foster relationships with other municipalities to address common issues.
- j. Will work with local agencies, boards and commissions to improve relationships, and protect and promote the interests of the rural community.
- k. The CAO shall supervise the performance of all contracts and agreements entered into by the Rural Community and ensure that all the conditions are fulfilled.
- l. Establish administrative policies and procedures, and in particular, employment directives and procedures that govern the administrative practices of the Rural Community.

8.2 Financial Responsibilities of CAO

- a. Exercises financial control over all corporate operations to ensure compliance with Council approved budgets.

- b. Approve the purchase of goods or services provided these purchases are within the amounts approved by the adopted budget (subject to the approved policy on tenders); to accept all tenders up to \$100,000 and that the CAO provide Council with a monthly report outlining all such tender offers and acceptances.
- c. Prepare and submit to Council for approval capital and operating budgets annually or more often as required or as Council may direct. In the event Council does not adopt an operating budget for a new calendar year by the 31st of December in the previous year, the CAO during the period between the 1st of January in the new calendar year and the date on which Council adopts an operating budget for the new calendar year is hereby empowered to authorize operating expenditures based on the previous year's budget for the corresponding period. Which shall include the power to authorize and approve the transfer of funds between departments or between budgeted projects or programs to maintain the operations and affairs of the rural community within approved budget limits provided that:
 - i. Any funds to be transferred are to be used for a purpose similar to the purpose for which the funds were budgeted for in the budget approved by Council and;
 - ii. Any action taken by the CAO pursuant to subsection (i) shall not have the effect of altering the total amount of a budget approved by Council.
- d. Responsible for assessing any funding applications which will require significant human or financial resources before submission and, unless assigned to another senior manager, will approve the signing of funding applications submitted by the Rural Community to ensure they are actioned.
- e. Designate the financial institution(s) to be used by the Rural Community in accordance with the Act, and open and close accounts on behalf of the Rural Community in accordance with Council policies; invest money on behalf of the Rural Community in accordance with the Act and Council policies; recommend an external auditor for appointment by Council pursuant to the Act and procure the services of the auditor appointed by Council; prepare and submit such reports and recommendations as may be required by Council or Council committees.
- f. Monitor and control expenditures within the budgets approved by Council and ensure Council is appraised of any requested budgetary amendments.
- g. Responsible for approving miscellaneous employee expenses, including but not limited to travel, reimbursements, or overtime.
- h. Make or authorize expenditures, and, subject to subsection 4(3) of the Act, enter contracts on behalf of the rural community where the amount of the expenditure is budgeted or within the amount determined by Council and/or delegate this authority to another employee of the Rural Community.

- i. Ensure that the Rural Community follows procurement best practices for goods and services in addition to relevant legislation and policies.

8.3 Relationship between the Council and the CAO

- a. The CAO is the principal advisor to the Council and is responsible for ensuring that the Council is informed of its legislative responsibilities, authorities, and all other relevant information necessary to make informed decisions on local government matters.
- b. The CAO is the only employee of the Council.ⁱ
- c. The CAO reports to the Council, *through the Mayor*, and is accountable to the **Council** for the execution of their priorities and objectives.
- d. All expenses incurred by the CAO must follow all policies, and if an expenditure is not set out by a policy, pre-approval must be obtained by the Mayor.
- e. Council must approve all expenditures and invoices for non-budgeted items exceeding \$10,000.00.

8.4 Relationship between employees, the CAO, and Council:

- a. The council shall deal and communicate with the Administration through the CAO or their designate with the exception of any inquiry or investigation involving the CAO.
- b. No member of Council, or committee, or member of a committee established by Council shall instruct or give directions to, either publicly or privately, an employee of the Rural Community other than the CAO per 8. 3..
- c. Council is responsible for determining policy and governance priorities and through motions of Council and strategic priorities, provides direction to the CAO to assign administration resources accordingly.
- d. The CAO acts as the primary link between Council and employees to ensure that the Administration has appropriate input to Council deliberations and that Council decisions and directives are understood by the Administration and implemented in a timely and effective manner. The CAO shall communicate with the Council on behalf of employees.
- e. Appoint staff members on committees of Council as deemed appropriate for efficiency and expediency.
- f. Except as provided by the Local Governance Act, all Department Heads of the Rural Community are accountable to the CAO. The CAO shall carry out annual performance appraisals of all Department Heads and ensure that annual

- performance appraisals of all other employees are carried out by their supervisors.
- g. The CAO will conduct a performance review of the council at the same time each year as the council conducts a review of the CAO's performance.
 - h. Department Heads shall submit the reports and recommendations of their Departments for Council to and through the CAO.
 - i. The CAO is responsible for ensuring that the rural community has a safe and productive work environment for all employees.

First Reading: *October 17, 2023*

Second Reading: *October 17, 2023*

Third Reading and Enactment: *November 21, 2023*

This By-Law was adopted as per specified in the Local Governance Act, Sections 70 (1) c and 15 (3) a.



CAO/Clerk Marjorie Turner



MAYOR David Hayward

SEAL



¹ COUNCIL OF THE WHOLE NOT INDIVIDUAL COUNCILLORS.