



The Corporation of the Town of Tecumseh

Corporate Services & Clerk

To: Policies and Priorities Committee

From: Laura Moy, Director Corporate Services & Clerk

Date to Council: August 14, 2018

Report Number: CS-2018-28

Subject: Council Post-Retirement Benefits

Recommendations

It is recommended:

That Report No. CS-2018-02 regarding Council Post-Retirement Benefits, **be received;**

And that direction be provided on preparing a by-law under Section 282 of the *Municipal Act, 2001*, for the provision of health and dental benefits, life insurance and post-retirement benefits.

Background

At the July 11, 2017, meeting of the Personnel Committee, the Members were presented with Corporate Services & Clerks Report No. 19/17 regarding Costings for Council Health & Dental Benefits and Life Insurance. The Report followed funding being allocated in the 2017 Budget for Council benefits. It provided a summary of the cost of health and dental benefits for Members of Council, equivalent to those provided to non-union management employees; and reported on findings to provide life insurance coverage to the Members of Council, beyond that provided in the comprehensive policy of insurance with Jardine Lloyd Thompson Canada.

At the meeting, the Members resolved to provide Council \$50,000 Life Insurance and health & dental benefits equivalent to the same benefits provided to non-union management employees of the Town.

Discussion was also held, at the meeting, on providing post-retirement benefits (PRB) to Members of Council. It was noted that non-union management employees hired before

January 2007 are eligible to receive PRBs and that the City of Windsor offers some of its former Council Members post-retirement benefits, provided they meet certain criteria.

At the November 28, 2017, meeting of the Policies & Priorities Committee, the Members were presented with Corporate Services & Clerks Report No. 39/17 regarding Council Post-Retirement Health & Dental Benefits (Report). The Report summarized the status of the health and dental benefits, and life insurance, as directed by Council, and reviewed the retiree benefits provided to non-union management employees of the Town, as well as the City of Windsor's retirement benefits for Members of its Council. **Attachment 1**

The Report was deferred to the December 12, 2017, Personnel Committee as not all Members were present at the November 28 Policies & Priorities Committee Meeting. At the Personnel Committee Meeting, the following resolution (PPC-14/17) was adopted:

That the current Members of Council who serve, or have served, four (4) terms are to be offered post-retirement benefits equivalent to the health and dental benefits provided to eligible non-union management retirees, at the Town's cost.

Subsequently, a request was provided for a Promissory Note to ensure post retirement benefits would be available.

A by-law was recommended to re-affirm the health and dental benefits, life insurance and post-retirement benefits.

Comments

An opinion regarding the Town's provision of a Promissory Note to Members of Council to memorialize the provision of Post-Service Benefits was sought from Legal Counsel at Aird Berlis, LLP specializing in municipal law and having intimate knowledge of municipal issues.

In order to provide the opinion, Legal Counsel also reviewed and provided an opinion regarding the provision of Post-Service Benefits.

In short answer, they have advised they do not believe that the Town has authority to extend Post-Service Benefits to Members of Council once they become former members.

Further, if Council chooses to proceed with the provision of Post-Service Benefits to Members of Council, it is not in the Town's best interest to issue a promissory note; and if Council chooses to extend Post-Service Benefits to certain Members of Council, it is best done through a bylaw, either a stand alone by-law enacted pursuant to section 282 of the *Municipal Act, 2001*, or through an amendment to the Council Remuneration By-law.

Section 282 of the *Municipal Act, 2001* permits the provision of certain benefits to Members of Council:

Insurance, health, etc.

282 (1) Subject to the *Health Insurance Act*, a municipality may provide, only through contract either with an insurer licensed under the Insurance Act or with an association registered under the *Prepaid Hospital and Medical Services Act*,

(a) group life insurance for members of council or any local board of the municipality, employees or former employees of the municipality or any local board of the municipality or any class of them and their spouses and children;

(b) group accident insurance or group sickness insurance for members of council or any local board of the municipality, employees or former employees of the municipality or any local board of the municipality or any class of them and their spouses and children; and

(c) hospital, medical, surgical, nursing or dental services or payments for those services for members of council or any local board of the municipality, employees or former employees of the municipality or any local board of the municipality or any class of them and their spouses and children.

Council clearly has the authority to provide such benefits to Members of Council during the term of Council. On a plain reading of the above section, Council does not have the authority to provide such benefits to former members.

In looking at other sections of the *Municipal Act, 2001*, such as section 279, under the same Part of the legislation, which deals with insurance, former members of Council are clearly referenced as benefiting from municipal insurance:

Insurance

279 (1) Despite the Insurance Act, a municipality may be or act as an insurer and may exchange with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the Insurance Act with respect to the following matters:

...

3. Subject to section 14 of the Municipal Conflict of Interest Act, the protection of the members or former members of the council or of any local board of the municipality or any class of those members against risks that may involve pecuniary loss or liability on the part of the members.

We are advised that considering the above, it cannot be interpreted that the intention of the legislature would be to read in former members of Council in section 282, yet specifically list them in section 279. Therefore, because former members of Council are not specifically listed in section 282, it is not the legislative intent of the act for former members of Council to be recipients of the benefits afforded in that section to Council members, employees, and former employees.

A full copy of the Legal Opinion obtained from Aird Berlis will be provided to Council on the August 14, 2018 In Camera Council Agenda. In accordance with Section 239 (2)(f) of the *Municipal Act, 2001* a meeting or part of a meeting may be closed to the public when the subject matter being considered is advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Direction is requested on the provision of post-retirement benefits to former Members of Council. If Council chooses to extend Post-Service Benefits to certain Members of Council, a by-law will be prepared under section 282 of the *Municipal Act, 2001*, for the provision of health and dental benefits, life insurance and post-retirement benefits.

If Council does not choose to extend Post-Service Benefits a by-law will be prepared under section 282 of the *Municipal Act, 2001*, to provide current Members of Council health and dental benefits and life insurance.

Consultations

Aird Berlis LLP

Financial Implications

The financial implications were summarized in the Corporate Services & Clerks Report No. 39/17, a copy of which is appended to this Report.

Link to Strategic Priorities

Applicable	2017-18 Strategic Priorities
<input type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input type="checkbox"/>	Ensure that the Town of Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of the Town of Tecumseh's plans and priorities.
<input type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website Social Media News Release Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Laura Moy, Dipl. M.M., CMMIII HR Professional
Director Corporate Services & Clerk

Recommended by:

Tony Haddad, MSA, CMO, CPFA
Chief Administrative Officer

**Attachment
Number**

**Attachment
Name**

1

Corporate Services & Clerks Report No. 39/17