Staff Report CAO 2019–101

Title of Report: Charitable Donations Policy #81

Department: Administration

Council Date: September 18, 2019

Council Recommendation:

Be it resolved that Council receive staff report CAO2019-101 as information; and

That Council approve a Southgate Charitable Donation Policy #81 as presented to support public projects where donations are received and will provide a community benefit to the Township of Southgate; and

That Council consider approval of the Southgate Charitable Donation Policy by municipal By-law 2019-142.

Background:

Staff have explored the need for a Charitable Donation Receipt Policy and recommend that we have one in place for present and future needs to provide the Township of Southgate with the flexibility to receive donations for projects that have a direct or indirect benefit to the community.

Staff Comments:

Staff developed a policy based on sample policies we reviewed from other municipalities. Our research has found the following background information and federal rules that we need to adhere to related to the Canadian Revenue Agency (CRA) and present legislation.

Prior to 2012, municipalities were under recognized as having a “qualified donee” status under the Income Tax Act, and were allowed to issue official donation receipts for charitable donations that give donors tax reliefs.

Effective January 1, 2012 municipalities are now required to comply with additional requirements in order to issue donation receipts. The following are changes included in the 2011 federal budget which received Royal Assent on June 26, 2011:

1. Municipalities are required to be on a publicly available list maintained by the Canada Revenue Agency (CRA) in order to continue to be recognized as qualified donees.

2. Municipalities are required to abide by the rules prescribed by the Income Tax Act in relation to the issuance of official donation receipts. If the municipality fails to issue a donation receipt in accordance with the Income Tax Act, the CRA can revoke the status of the qualified donee and suspend the receipting privileges.
Municipalities are required to maintain proper books and records supporting any official donation receipt issued, and provide access to those books and records to the CRA upon request. If the municipality fails to do so, the CRA can revoke the status of the qualified donee and suspend the receipting privileges. According to section 230(2) of the Income Tax Act, registered charities are required to “keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing:

1. Information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act;
2. A duplicate of each receipt containing prescribed information for a donation received by it; and
3. Other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act”.

Copies of receipts must be kept for two calendar years after the end of the calendar year to which the receipt applies.

As a result of these changes Municipalities are now required to ensure compliance related to the following information for donation receipts:

- Issue receipts only for transactions that qualify as charitable donations;
- Properly establish the fair market value of donations in-kind; and
- Ensure that receipts contain accurate and complete information.

Municipalities are also required to include and record for our records the same information as registered charities being the following:

- A statement saying that it is an official receipt for income tax purposes;
- Charity’s business registration number, name, address as recorded with CRA;
- Serial number of the receipt;
- Place or location where the receipt was issued;
- For cash donation, the day and year on which the donation was received;
  - The day on which the receipt was issued, if differs from the date on which the donation was received;
  - The full name (including middle name) and address of the donor;
  - The amount of the cash donation, or if the donation is in-kind, the fair market value or deemed fair market value, if that rule applies;
- If the donation is in-kind:
  i. The day on which the donation was received;
  ii. A brief description of the donation; and
  iii. The name and address of the appraiser, if an appraisal was completed;
- Value and description of any benefit/advantage received by the donor;
- Eligible amount of donation less any benefit/advantage to the donator;
- Signature of an authorized individual to acknowledge donations; and
- Name and website address of the Canada Revenue Agency.
The following is CRA Policy CPC-017 commentary regarding Gifts of Services that was released on March 29, 2000 on the subject of Official donation receipts on determining whether gifts of services qualify as charitable donations. The following is the commentary related to this issue:

1. The Income Tax Act currently permits a registered charity to issue official donation receipts for income tax purposes for donations that legally qualify as gifts.
2. Contributions of services, that is, of time, skills or efforts, are not property, and therefore they do not qualify as gifts for purposes of issuing official donation receipts. Accordingly, a charity cannot issue an official donation receipt for services rendered free of charge. However, it may be possible to issue a receipt when a right to reimbursement for any actual expense incurred on behalf of a registered charity has been established. See Policy Commentary CPC-012, Out of pocket expenses for more information.
3. A charity may issue an official donation receipt if a person provides a service to the charity, the charity pays for the service, and the person then returns the payment to the charity as a gift. In such circumstances, two transactions have taken place, the first being the provision of a service and the payment flowing therefrom, and the second being a gift proper.
4. The parties should be advised to proceed by way of an exchange of cheques. This ensures the presence of an audit trail, as the donor must account for the taxable income that would be realized either as remuneration (in which case the charity may also be required to issue a T4 slip) or as business income.
5. A charity should not issue an official donation receipt to a service-provider in exchange of an invoice marked "paid". While this procedure does establish an audit trail, it raises questions as to whether in fact any payment has been transferred from the charity to the service-provider which in turn is being gifted back to the charity.

Staff recommend that we proceed with this policy as we seen future opportunities to use this policy for other municipal and community based projects other than the present opportunity with the Roslyn Outdoor Centre and the past transactions with the Egremont Optimists Club which has provided mutual benefits historically to both the Township and the Holstein Community.

**Financial Impact or Long Term Implications**
There is no financial impact to the 2019 budget as a result of this report other than staff time.

**Communications & Community Action Plan Impact:**
This report has been written and presented to Council to communicate accurate information to the public.
Concluding Comments

1. That Council receive this staff report as information.
2. That Council approve the Southgate Charitable Donation Policy as presented.
3. That Council approve the Southgate Charitable Donation Policy #81 by municipal By-law 2019-142

Respectfully Submitted,

CAO approval: Original Signed By
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➢ Attachment #1 – Southgate Charitable Donation Policy #81