



The Corporation of the Town of Tecumseh

Legislative & Clerk Services

To: Mayor and Members of Council
From: Jennifer Alexander, Acting Clerk
Date to Council: June 28, 2022
Report Number: LCS-2022-21
Subject: Method to Fill Vacancy of the Office of Councillor Ward 1

Recommendations

It is recommended:

That Report LCS-2022-21 entitled “Method to Fill Vacancy of the Office of Councillor Ward 1”, **be received**;

And that direction be given to Administration to conduct the appointment process outlined in Option __ (Select A or B) of Policy 89, Council Vacancy;

And further that the selection of a qualified candidate be scheduled for a Special Council meeting to occur on Tuesday, July 26, 2022 with appointment to follow at the Regular Council meeting of the same date.

And furthermore that a Council Vacancy public notice **be posted** on the Town’s website and in a local newspaper for three weeks and be funded through the Council advertising budget.

Background

On June 5, 2022, the former Councillor for Ward 1 submitted a letter of resignation to the Chief Administrative Officer, effective immediately. At the next Council meeting, June 7, 2022, Council passed resolution SCM 19/22 to formally adopt a motion to declare the seat vacant. The formal declaration satisfies the provisions of Section

262(1) of the *Municipal Act, 2001* (Act). Section 263 of the Act provides guidance for filling a vacancy on Council. When a vacancy is declared in advance of 90 days prior to voting day of the next regular election, Council is obliged to fill the vacancy by either:

1. appointing a person who has consented to accept the office if appointed; or
2. Requiring a by-election to be held to fill the vacancy in accordance with the *Municipal Elections Act, 1996*.

Council has 60 days from the date of declaration to fill the vacancy using one of the two options above. In accordance with the *Municipal Elections Act* (MEA), if the vacancy occurs after March 31 in an election year, Council must appoint someone as a by-election is not permitted. Accordingly, in this case, only the appointment option is available to Council.

To be considered for appointment, individuals must satisfy the following qualifications, as outlined in the *Municipal Elections Act*:

- a. Reside in or be an owner/tenant of land in the municipality, or spouse.
- b. Must be a Canadian citizen.
- c. Be at least 18 years of age; and
- d. Not prohibited from voting under section 17(3) of the *Municipal Elections Act* or otherwise by law.

Further, an appointee cannot be one who is disqualified from holding office by the *Municipal Elections Act* or any other Act.

The Town adopted Policy No. 89 in 2016 regarding Council Vacancy ([Attachment 1](#)) that outlines options for Council to fill a vacancy. Under the option to appoint, the Policy has two sub-options available to fill a Council member vacancy by appointment.

Comments

Option A – Filling a Vacancy by Appointment of Previous Election Candidate

In this option, Council may fill the vacancy by appointing the candidate who ran for the position that is vacant during the last regular election who received the most votes but was not elected and who currently meets the eligibility requirements of office.

Option B – Filling a Vacancy by Call for Nominees

The other option is filling the vacancy by a call for nominees. Where this option is selected, the Policy indicates that the Clerk shall post a Council Vacancy Notice on the Town's website and in a local newspaper for a minimum of three (3) consecutive weeks. Any individuals wishing to be considered for the appointment will need to complete an application and a Declaration of Qualification form. Candidates may submit, along with their application, a personal statement of qualification for consideration of Council, up to a maximum of two pages in length.

Under this option, the Clerk creates a list of all candidates and posts the Candidate Listing on the Town's website. The Listing is updated as eligible applications are received.

Under Option B, no sooner than fourteen (14) days after the Notice of vacancy has been given, an information session must be conducted by the Clerk for all interested candidates.

The procedure for selecting an appointee from the pool of qualified candidates includes opportunity for each candidate to address Council at the meeting scheduled for the selection process. Council members are permitted two (2) questions for each candidate. Once the voting process set out in Paragraph 11 of Option B is completed, the Clerk declares the selected candidate. The appointment of the selected candidate will be made by by-law at the next Council meeting and the Clerk is to administer the Declaration of Office required by Section 232(1) of the Municipal Act.

With respect to **Option A** above, it is noted that during the last municipal election, the Councillor Ward 1 seat was acclaimed. It is possible for Council to appoint a former candidate from another Ward, should Council wish to consider Option A. A list of former candidates can be vetted for qualification by the Acting Clerk and provided to Council for consideration at a Special Meeting scheduled to satisfy the 60-day timeline required for appointment.

Should Council prefer **Option B**, the Acting Clerk will carry out the procedures set out in Policy 89. An [online eform](#) will be available for candidates to submit their application via the Town website. It is anticipated that the required information session will be conducted on Tuesday, July 19, 2022 at 5:30 pm in Council Chambers. Further, at the end of the notice period, it is recommended that a Special Meeting of Council be scheduled within the required 60-day timeline to select a qualified candidate. The proposed date for the Special Council meeting is July 26, 2022. The appointment can be made by by-law at the Regular Council meeting on the same evening.

While not specified by legislation or Policy 89, it is generally advised that Council avoid appointing a person to fill a vacancy on Council who plans to run for municipal office in the next regular election. This is particularly relevant advice when an appointment is

made close to a municipal election. This advice is predicated on avoiding bestowing an unfair advantage to any candidate leading up to a regular election.

Consultations

Chief Administrative Officer
Financial Services

Financial Implications

There are no financial implications associated with Option A. For Option B, there are external costs associated with publishing a public notice in a local newspaper for three (3) consecutive weeks. It is anticipated that the estimated cost for this notice is \$2,000 which can be funded from the Council advertising budget.

Link to Strategic Priorities

Applicable	2019-22 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 Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all 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 checked="" 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:

Jennifer Alexander, MPA
Acting Clerk

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Policy No. 89 Council Vacancy