

Municipality of Chatham-Kent

Corporate Services

Municipal Governance

To: Mayor and Members of Council
From: Judy Smith, Director, Municipal Governance
Date: May 13, 2024
Subject: Procedure to Fill Vacancy on Council

Recommendations

It is recommended that:

1. The office of “Councillor- Ward 3 East Kent” be declared vacant.
2. The method of asking the candidate having the next highest number of votes from the 2022 municipal election, (being Moréna McDonald), to fill the vacancy on Council be approved and if accepted, she be sworn in as soon as possible.
3. Should that candidate not be interested, administration be directed to prepare a by-law, for Council approval, ordering a by-election for Ward 3.

Background

Councillor Steve Pinsonneault ran in the provincial election on May 2, 2024, and was the successful candidate becoming MPP for the Lambton-Kent-Middlesex riding. Therefore, he is required to vacate his seat on Chatham-Kent Council.

Sections 259 and 262-264 of the Municipal Act, 2001 (hereinafter “the Act”), govern the filling of vacancies on Council.

The Act requires that if the office of a member of council becomes vacant, the council shall at its next meeting declare the office to be vacant.

If the vacancy occurs in the office of a member of council, the municipality shall:

- (a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or
- (b) require a by-election to be held to fill the vacancy in accordance with the *Municipal Elections Act*.

Any person appointed or elected to the office holds the office until the end of the original term (being November 14, 2026).

Comments

There is approximately two and a half years remaining for the 2022 - 2026 term of office. Time is of the essence in filling the vacancy in order to allow Ward 3 appropriate representation. There are two different methods for filling a vacancy, appointment or by-election.

Appointment

If Council decides to fill a vacancy by appointment, they must appoint a person who is eligible to serve on the council and who is willing to accept the appointment.

A person is eligible to serve on council if:

- a) they reside in the local municipality or is the owner or tenant of land there, or the spouse or same-sex partner of such owner or tenant;
- b) are a Canadian citizen;
- c) are at least 18 years old; and
- d) are not prohibited from voting under subsection (3) or otherwise by law.

The legislation does not set out a process for making the appointment. It is up to the council to determine how they will decide who to appoint. Different approaches include:

- appointing the candidate who was runner up in the regular election;
- inviting interested persons to apply for the position; or
- offering the appointment to a member of the community.

Should Council wish to proceed with an appointment, one option is to appoint a candidate who was runner up at the last regular election. Here are the 2022 election results for Ward 3. Moréna McDonald is the runner up with 1,161 votes.

Councillor Ward 3 (Vote for 2)

Candidate	Total	
Steve PINSONNEAULT	2,049	37.47%
John WRIGHT	1,727	31.58%
Moréna McDONALD	1,161	21.23%
Matt LAMARCHE	315	5.76%
Martin FISHER	216	3.95%
Total Votes	5,468	

By-election for an office

Should council decide to hold a by-election, the municipal clerk is in charge of conducting it. Council does not decide when the last day to file nominations or voting day will be. The municipal clerk determines these dates.

Nominations open when the council has passed the bylaw ordering the by-election. Nominations close at 2 p.m. on nomination day. The municipal clerk must set nomination day within 60 days after the by-election was ordered by council, the board or the court. Voting day will be 45 days after nomination day. According to the Municipal Elections Act, a candidate does not have to reside in the ward in which they run. Therefore, any qualified person within Chatham-Kent could run in a Ward 3 by-election.

The Municipal Elections Act specifically indicates that the polling required to fill a vacancy in an office shall, so far as possible, be held in the same manner and by the same officers and at the same places, if practical, at which the polling took place at the last regular election. As such, administration estimates the cost of a by-election to be approximately \$75,000. In consideration of the Municipal Elections Act, administration further estimates that a minimum of between 75 - 90 days is needed to hold the by-election.

Council Term Priorities

This report supports the following Council Term Priorities:

			
<p>Deliver Excellent Service</p>	<p>Promote Safety & Well-Being</p>	<p>Grow Our Community</p>	<p>Ensure Environmental Sustainability</p>
<p>3.0 and 4.0</p>			

Consultation

Legal Services has reviewed this report as it relates to legislation.

Communication

Communication is proposed to be through the inclusion of this report on the Council agenda and related communications. A media release will be prepared to notify the public of Council's decision on the vacancy seat moving forward.

Diversity, Equity, Inclusion and Justice (DEIJ)

According to the Association of the Municipalities of Ontario, "when people with diverse perspectives and experiences run for municipal office, we get a better election and a better debate about the future of our communities." Running a campaign requires time, energy, resources, and access to social networks that can present barriers during any election. These challenges contribute to under-representation of people from equity-deserving communities on Municipal Councils (for example, women, racialized communities, people with disabilities, and members of 2SLGBTQIA+ communities). For candidate who ran 2-years ago, running a campaign again in such a short-time period could be an additional burden.

Running a by-election gives everyone interested to run as a candidate and could provide opportunities for people who did not run in the 2022 election. However, the above mentioned barriers will still exist. If a by-election is called, the Diversity, Equity, Inclusion, and Justice team will promote resources like the Association of Municipalities of Ontario's [We All Win](#) campaign and associated resources to support currently under-represented groups to connect with supports if they are considering running.

Financial Implications

The cost to hold the 2022 municipal election was just under \$400,000.

Each year \$121,706 is budgeted to the Election Lifecycle account to ensure funds are available to conduct the municipal election every four years. Currently, the Election Reserve has a balance of \$361,789.

The estimated cost to hold a by-election for a Council seat in Ward 3 would be approximately \$75,000. Conversely, there would be little or no cost associated with a council appointment if Council chose this option.

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