

Type of Decision									
Meeting Date	Friday, December 2, 2011				Report Date	Monday, November 21, 2011			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed

REPORT TITLE

Vacant Seat and By-Election Report 02/12/11/1003

RECOMMENDATION: That Council adopt the attached by-law officially declaring a seat on Council vacant and authorizing a by-election.

“WHEREAS the *Municipal Act*, S.O. 2001, c. 25, Section 259 (d) provides for a Council seat becoming vacant as a result of the resignation of a member;

AND WHEREAS section 260 of the Act provides that a member may resign from office “by notice in writing filed with the clerk of the municipality”;

AND WHEREAS Councillor Ed Aiston has filed his resignation with the Clerk on November 18, 2011 to become effective December 5, 2011;

AND WHEREAS section 262 of the Municipal Act states “the Council shall at its next meeting declare the seat to be vacant”;

AND WHEREAS section 263 speaks to filling vacancies by appointing a person who has consented to accept the office if appointed or requiring a by-election in accordance with the *Municipal Elections Act*, 1996;

AND WHEREAS there are three years left in the current term of council;

AND WHEREAS with a goal of accountability and transparency Council deems it appropriate, equitable and fair to hold a by-election and to let the voters of the United Townships of Head, Clara & Maria be responsible for electing the next person to fill the vacant seat;

NOW THEREFORE the Council of the Corporation of the United Townships of Head, Clara & Maria does hereby enact as follows:

1. **THAT** as the resignation of Councillor Aiston has been received and accepted by the Clerk this Council does hereby declare a vacant seat at the Council table of the United Townships of Head, Clara & Maria effective December 5, 2011;
2. **THAT** a by-election shall be held as per the Municipal Act and the Municipal Elections Act as soon as possible in the new year;

3. **THAT** the Clerk is hereby authorized to conduct a by-election as per the appropriate legislation;”

BACKGROUND/EXECUTIVE SUMMARY: The preamble in the by-law explains the rationale for this course of action. A by-election is to be held in the same manner as a regular election.

Concerning by-elections:

- The by-law to declare the seat vacant shall be made at the next meeting after the written notice of resignation is received.
- Within 60 days of that declaration Council has to either appoint an individual who is willing to accept the seat or pass a by-law declaring a by-election will be held.
- Within 60 days of calling the by-election the date must be set for Nomination day. Nominations may be received from the day the by-law is passed until 2:00 p.m. on Nomination Day.
- Election day is to be held 45 days after Nomination Day.

In order to expedite the entire process and ensure that the vacant seat is filled as soon as possible it is staff recommendation that the by-law to declare the seat vacant and to authorize a by-election occur at the first meeting in December, following receipt of the notice of resignation.

Nomination Day could then be set for Friday, December 23, 2011, 21 days after the by-law is passed. Most people are aware that the seat is becoming vacant as they were given advance notice at the meeting of Friday, October 21, 2011; two months to contemplate participation.

This would allow an election to be held as early as Monday, February 6, 2011. With the business of Council being normally slow during the Christmas season and early New Year, not much would be lost in using that time to plan and train for the election.

This would be the most efficient use of resources and time. The filling of the seat early in February would allow Council to quickly get on with the business of the municipality early in 2012.

Using the maximum time allowed (not recommended):

1. Declaring the seat vacant – December 2, 2011;
2. Appoint someone or pass a by-law authorizing a by-election – up to January 31, 2012;
3. Nomination Day – up to March 30, 2012;
4. Election Day – May 14, 2012.

Recommended timeline:

1. Declaring the seat vacant – December 2, 2011;
2. Pass a by-law authorizing a by-election – December 2, 2011;
3. Nomination Day – December 30, 2011;
4. Election Day – February 13, 2012

With a small population, two voting locations and one advance poll, it would be possible to hold an election as early as February 13, 2012 while giving interested individuals 28 days to determine if they are interested or not and time to submit their nominations. In the event

that there is only one interested individual, there would be no election but instead an acclamation.

FINANCIAL CONSIDERATIONS/BUDGET IMPACT: Although there will be some concern with the perceived costs of an election, the actual costs will not be significant. Most of the time involved with an election is in the planning - the creation of policy, forms and procedures, and in manning polls. As the Clerk spent considerable time in 2010 creating these policies and procedures there is little to do now aside from reviewing them and changing dates. The web site exists; the same changes will be required there. With only two polls and one advance poll the costs are not significant.

Other expenses will include:

1. the printing of a couple of copies of the voter's list, which can be done in-house;
2. printing of ballots - may be able to do in-house;
3. advertising – there are at least three legislated ads that must be inserted in the paper - \$180;
4. training and salary for staff to man two voting locations and one advance poll – approximately \$800;
5. may have to purchase ballot boxes - <\$200;

If only one person submits their nomination, there will not need to be an election however; the opportunity would have existed for an election.

Although there will be costs associated with an election, these are costs that have been saved by this municipality in each of 2007 and 2010. With there not being an election in 2010 these are not additional costs but simply funds that were budgeted for in 2010 and not spent.

This municipality has not spent money on an election since before 2004. In a vein of accountability to the electors, the expense is justified. Although we are basing this on an estimate of the number of people required to be hired to hold the election and staff time (which would normally be dedicated to other tasks) the estimate has been between \$3,000 and \$4,000 in the past. As much of the forms, policies and procedures were created for 2010; less time will be required to simply update those documents.

Policy Impact: This course of action follows the letter of the law and allows that the members of the public are those responsible for filling the vacant spot on Council, just as the legislation is meant to do.

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

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