



Staff Report C2025-03

Committee 2025-02-10

Council 2025-02-24

Amendments

Submitted To: Committee of the Whole | Council
Submitted By: Sara Almas, Director of Legislative Services/Clerk
Prepared By: Sara Almas, Director of Legislative Services/Clerk
Subject: Options for Filling Council Vacancy

Recommendation

THAT Staff Report C2025-03, Options for Filling Councillor Vacancy be received;
AND THAT Council authorize staff to immediately proceed with one of the following options to fill the vacancy by appointment:

Option 1: Appoint by direct appointment to fill the Councillor Vacancy

- a) Invite applications from any interested qualified elector to be considered for the vacancy, and approve the Appointment Procedure attached hereto;
- b) Appoint an eligible candidate from the most recent municipal election (2022) who ran for the same office or another office, and adhere to the attached Appointment Procedure: Section 5;
- c) Appoint an eligible candidate that was previously elected to the same office or another office, and adhere to the attached Appointment Procedure: Section 5;
or
- d) Appoint any other qualified individual who consents to the appointment, and adhere to the attached Appointment Procedure: Section 5;

Option 2: Conduct a by-election to fill the Councillor Vacancy and direct the Clerk to prepare the necessary by-law for Councils consideration.

Amendments

None.

1. Executive Summary

On January 23, 2025 a written notice of resignation was provided to the Clerks Office by Councillor Brandon Houston, effective January 23, 2025. As required by the Municipal Act, a resolution of Council is required to declare the seat vacant. Council has 2 options to fill a vacancy, appoint a person who has consent to accept the office if appoint, or call a by-election. The report summarizes the options and respective costs for Council's consideration. If Council chooses to proceed with a direct appointment, there are 4 different approaches that Staff have proposed for consideration.

2. Analysis

Background

In accordance with the Municipal Act, 2001, (MA) the office of a member of council of a municipality becomes vacant if the member resigns from his or her office and the resignation is effective when notice is filed in writing with the Clerk of the municipality.

Once notice is filed the council shall at its next meeting declare the office to be vacant, except if a vacancy occurs as a result of the death of a member, the declaration may be made at either of its next two meetings.

The MA sets out the following with respect to the filling of a vacancy of the office of a Member of Council:

Filling vacancies

263 (1) If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section,

- (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, 1996*. 2001, c. 25, s. 263 (1).

Applicable rules for filling vacancies

263 (5) The following rules apply to filling vacancies:

1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262, the municipality shall,
 - i. appoint a person to fill the vacancy under subsection (1) or (4), or
 - ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).

Term

264 A person appointed or elected to fill a vacancy under section 263 shall hold office for the remainder of the term of the person he or she replaced.

Municipal Elections Act, 1996, S.O. 1996, c. 32: By-elections

65 (1) The clerk shall conduct by-elections in accordance with this section. 1996, c. 32, Sched., s. 65 (1).

65 (3) Subject to subsections (4) and (5), by-elections shall be conducted as far as possible in the same way as regular elections.

Options to Fill a Council Vacancy

1. Filling a vacancy by appointment (Recommended):

There are a number of advantages of filling a Council vacancy through direct appointment, such as:

Time and Cost Efficiency: Appointments are faster and less expensive compared to conducting a by-election, which may be particularly important if the remainder of the term is short.

Maintaining Continuity: Appointing a member can maintain council continuity and stability, avoiding the potentially disruptive process of a by-election.

Strategic Direction: A council might choose appointment to ensure the new member aligns with the current strategic priorities and visions.

Public Perception: Ensure the appointment process is transparent to maintain public trust and support, avoiding any appearance of bias or lack of accountability.

Ultimately, the decision of whether to appoint or conduct a by-election will depend on factors such as the length of the term remaining, budget considerations, and public engagement.

Clerk Services has canvassed a number of municipalities' processes and has found the following options have been used to fill vacancies on council outside of a by-election:

- a) Invite applications from any interested qualified elector to be considered for the vacancy. Applicants could be provided an opportunity to address Municipal Council and respond to questions before a vote is taken.
- b) Appoint an eligible candidate from the most recent municipal election (2022) who ran for the same office or another office.
- c) Appoint an eligible candidate that was previously elected to the same office or another office.
- d) Appoint any other qualified individual who consents to the appointment.

Considerations: Based on the options noted above, ability, qualifications and experience of potential candidates require careful consideration. Criteria could be established on what Council would deem important skillsets for a potential candidate such as experience, knowledge, municipal understanding, longer term interest, etc. However, it is important to note that the Municipal Act and the Municipal Elections Act do not set these types of qualifications to run for Office.

With respect to existing policies that identify an order of seniority for various matters being the Councillor with the highest vote, then the next highest and so on, the new Councillor being appointed would become the seventh Councillor.

- a) Invite applications from any interested qualified elector to be considered for the vacancy. Applicants could be provided an opportunity to address Municipal Council and respond to questions before a vote is taken.

This process would allow any eligible elector to submit an application to the Clerk of their interest in filling the vacancy. Notice would be provided to the public of the vacancy and how to submit an application. All applications would be reviewed by the Clerk to ensure the eligibility of the applicant. A special meeting of Council would be called to consider the applications in open session, allowing each candidate an opportunity to speak to council to their interest and qualifications to fill the vacancy. Voting would occur as provided in the draft procedure (Appendix A), with a by-law to be passed appointing the successful candidate as Councillor for the remaining term.

The draft procedure includes that if there is a tie, the tie will be broken by selecting a Candidate by Lot to fill the vacancy, as conducted by the Clerk. If there is a desire for another vote by Council prior to a selection by Lot, direction to amend the procedure could be provided.

This method provides transparency to the public to the selection of a candidate to fill the vacancy in lieu of a by-election.

- b) Appoint an eligible candidate from the most recent municipal election (2022) who ran for the same office or another office

Option b) provides Council the ability to select any individual from the certified list of candidates from the 2022 municipal election. A special meeting of Council would be required to review suitability of candidates in closed session, after which time the Clerk

would contact the potential candidate(s) to ensure he or she still meets the eligibility requirements and seek acceptance of the appointment from the candidate. If the candidate(s) consents to the appointment and meet the eligibility requirements for Office, then Council will proceed with Section 5 of attached procedure to consider the appointment, and pass the necessary by-law at an open meeting of Council.

Certified election results from the 2022 municipal election have been provided in Resource 1 to this report.

- c) Appoint an eligible candidate that was previously elected to the same office or another office.

Option c) would provide ability to appoint a specific individual who has formerly served on Council such as an actively engaged community member without going through an application process. The appointment of such individual would follow the same process as Option (b) above.

- d) Appoint any other qualified individual who consents to the appointment.

Option d) would involve Council developing a list of potential candidates, including a potential call for public interest, and review suitability of candidates in closed session. The Clerk would contact the preferred candidate to confirm their eligibility and consent to such an appointment. Once confirmed, the appointment of such individual would follow the same process as Option (b) above..

Financial Impact: Council adopted the directed appointment option during the last term, proceeding with a call for interested candidates (Option 1(a) noted above). As such, staff have the necessary paperwork readily available if Council chooses to proceed. Proceeding with any of the proposed approaches in Option 1, will require nominal staff time and financial resources, however, may require some reprioritization of 2025 operational goals.

Option 2: Undertake a by-election to fill a vacancy:

In accordance with the Municipal Elections Act, a by-election cannot occur after March 31 within an election year with the next Municipal Election to occur on October 26, 2026. There are many tasks and resources required to be completed prior to election day including but not limited to the preparation of all election procedures, candidate nomination and information packages, updating related policies and by-laws, preparation of training and communications plan, conducting information sessions for candidates and the public, finalizing the voters list, etc. The cost and resources needed to run a by-election are similar to the cost to run a regular election.

In Ontario, the timeline for a typical municipal by-election can vary but generally follows a structured process with specific stages:

1. Council Declaration of Vacancy

- A by-election is initiated after a municipal council formally declares a seat vacant.

2. Passing of By-Election By-Law

- Once the vacancy is declared, the council must pass a by-election by-law within 60 days to officially call the by-election and set its date.

3. Nomination Period

- After the by-law is passed, a nomination period begins, running for a minimum of 30 days. This period allows candidates to file their nomination papers to enter the race.

4. Certification of Nominations

- After the nomination period closes, usually within a few days, nominations are certified by the clerk. This ensures that all candidates meet the eligibility requirements.

5. Campaign Period

- Following the certification, candidates typically have a few weeks to campaign before voting day.

6. Voting Day

- The by-election voting day must be held within 45 days after the nomination day.

7. Finalizing Results

- Once voting concludes, results are tabulated and officially declared by the municipal clerk within a few days.

8. Certification and Reporting

- Financial statements from candidates are due a few months post-election, ensuring all campaign finances are transparent and accounted for.

In total, the by-election process might span approximately 4 months from the declaration of vacancy to the election. If Council passed a by-law in February a candidate could be declared at the earliest in June or July.

Financial Impacts: By-elections are to be conducted by the Clerk in accordance with section 65 of the Municipal Elections Act, 1996 (MEA). Costs associated with a by-election would be the same as a regular election as Collingwood's elections are 'At Large'. It would require notice be mailed to all residents with information on the voting process. The vendor selected for the 2022 Municipal Election could be requested to provide the service with electronic voting and/or in-person voting, should they still be offering the services needed to conduct a by-election in the same manner as in 2022. A request for proposals may be needed, or direction from Council to proceed with a non-standard procurement to obtain a reputable vendor. Staff estimate a by-election could range from \$50,000 to \$100,000, dependent on the voting method selected by Council. Should Council choose to proceed with a by-election, voting options will be further investigated to determine the best approach for this circumstance. Options would include alternative voting methods and the costs associated with each, traditional paper ballot with tabulated results or manual count, mailing cost options, voter list management systems, etc. Additional staff would be required to assist, including secondment of existing staff if practicable. 2025 Operational Plans would require significant reprioritization if this option was selected by Council. Some 2025 Legislative Services projects that will be delayed include:

- Land acquisition strategy
- Roll out of next phase of the agenda management system implementation
- Updates to the Records Retention By-law and accompanying policies and procedures
- Implementation of records information management solution
- Rules framework implementation

Conclusion

Staff are seeking Council direction from the following options, on how they wish to proceed to fill the current Councillor vacancy.

Option 1: Appoint by direct appointment to fill the Councillor Vacancy

- a) Invite applications from any interested qualified elector to be considered for the vacancy, and approve the Appointment Procedure attached hereto;
- b) Appoint an eligible candidate from the most recent municipal election (2018) who ran for the same office or another office;
- c) Appoint an eligible candidate that was previously elected to the same office or another office; or
- d) Appoint any other qualified individual who consents to the appointment.

Option 2: Conduct a by-election to fill the Councillor Vacancy and direct the Clerk to prepare the necessary by-law for Council consideration.

3. Input from Other Sources

- MMAH Guidance on Filling a Council Position

4. Applicable Policy or Legislation

Municipal Act, 2001, S.O. 2001, c. 25

5. Considerations

2024-2028 Community Based Strategic Plan: [Choose an item.](#)

Sustainable Connected Vibrant Responsible

Services adjusted if any Governance Support

Climate Change / Sustainability: [Choose an item.](#)

Communication / Engagement: Advertisement/Notice will be provided

Accessibility / Equity, Diversity, Inclusion: Not Applicable

Registered Lobbyist(s) relating to content: N/A

Next steps and future action required following endorsement:

Legislative Service Staff to proceed with Council recommended option.

6. Appendices and Other Resources

Appendix A: Council Vacancy Appointment Procedure

Resource 1: [2022 Municipal Election Results](#)

Resource 2: [Municipal Act, 2001, s.o. 2001, as amended](#)

Resource 3: [Municipal Elections Act, 1990, as amended](#)

7. Approval

Prepared By:

Becky Dahl, Manager, Legislative Services / Deputy Clerk

Sara Almas, Director of Legislative Services / Clerk

Reviewed By:

Sara Almas, Director of Legislative Services/Clerk

CAO Comments:

Endorsed by CAO Skinner on February 5, 2025 to proceed to COW.

Appendix A: Town of Collingwood, Council Vacancy Appointment Procedure

Town of Collingwood
Council Vacancy Appointment Procedure

1. Purpose

1.1. The following procedure will be used when appointing an Eligible Elector to fill a vacancy in the office Councillor.

2. Definitions

“Act” means the *Municipal Elections Act, 1996, S.O., 1996, c.32, Sched.* as amended.

“Candidate” means an individual seeking to be appointed to fill a vacancy in the office of Councillor, having met the eligibility requirements and who has completed the requisite documentation as required by this procedure.

“Chair” means the Member of Council presiding at the Council meeting to appoint an individual to fill a Council vacancy.

“Clerk” means the municipal clerk appointed by Council of The Corporation of the Town of Collingwood.

“Council” means the Council of The Corporation of the Town of Collingwood.

“Eligible Elector” has the same meaning as subsection 17(2) of the Act, namely a person:

- a) who is a resident of the Town of Collingwood, or an owner or tenant of land in Collingwood or the spouse of such an owner or tenant;
- b) who is a Canadian Citizen;
- c) who is at least 18 years old; and,

- d) who is not prohibited from voting under any other Act or from holding municipal office.

“Lot” means a method of determination by placing the names of the Candidates on equal size pieces of paper and placed in a container with one Candidate name being drawn by the Town Clerk.

“Procedural By-law” means By-law No. 2021-090, as amended.

“Town” means The Corporation of the Town of Collingwood.

3. General

- 3.1. Any individual filling the vacancy must be an Eligible Elector.
- 3.2. Any employee of the Town who seeks appointment to Council must be an Eligible Elector. The employee is required to give written notice, prior to submitting any documentation required by the procedure, of his or her intention to take unpaid leave, in accordance with the Act. If the employee is appointed to office, he or she will be deemed to have resigned from their position with the Town immediately before making the declaration of office.

4. Appointment Procedure

- 4.1. The Town will post a Council Vacancy notice on the municipal website, social media and in the local newspaper. The notice will outline the requirements to be considered for an appointment and the application process.
- 4.2. Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Appointment Consent of Nominee Form and a Council Vacancy Declaration of Qualifications Form prescribed by the Clerk. Applications for the vacant seat may be filed with the Clerk within the time period determined by the Clerk and provided in the required notice. Candidates shall submit the forms to the Clerk in-person by the deadline established by the Clerk, with such deadline providing a minimum of 10 business days for the submission of applications.
- 4.3. Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove his or her identity and qualifying address to the satisfaction of the Clerk.
- 4.4. Candidates may submit a personal statement of interest and qualification with their application, for consideration of Council, maximum 2 pages.
- 4.5. It is the Candidate’s sole responsibility to meet any deadline, complete a bone fide application or otherwise comply with any requirement of this procedure.

- 4.6. The Clerk will create a list of all eligible Candidates that have complied with the application process. All applications shall be considered public documents and will be made available for public viewing upon request at the Town Hall, 97 Hurontario Street, Collingwood, Ontario with a list of the names of the candidates posted to the municipal website.
- 4.7. A Candidate who wishes to withdraw his/her application may do so in person and in writing to the Clerk. The deadline for any withdrawal shall be up to noon of the date of the special Council meeting called to fill the vacancy.

5. Council Meeting

- 5.1. A vote to fill a vacancy on Council by appointment will occur at an open Council meeting. The meeting shall be a special Council meeting called for that purpose. All qualified candidates who have submitted an application for the vacant seat will be notified by the Clerk of the date and time of the special meeting of Council, at which time they may address Council. Candidates are required to notify the Clerk no later than 24 hours before the start of the special meeting of Council of their intention to address Council at the meeting.
- 5.2. Notwithstanding the requirements of the Procedural By-law, the agenda for the meeting shall be set by the Clerk to allow for the orderly proceedings of selecting a Candidate.
- 5.3. At the meeting, the following will take place:
 - a) The Chair will make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
 - b) Each of the Candidates will be afforded the opportunity to address Council for a period of not more than five (5) minutes. The order of speaking will be by candidate surname in alphabetical order, similar to that of an election ballot.
 - c) Upon hearing all the submissions of the Candidates, Council will proceed to vote as follows:
 - i. Candidate names will be called and/or displayed in alphabetical order, by the Clerk or designate.
 - ii. The Clerk will call the vote for each candidate in order of surname by alphabetical order.
 - iii. Members of Council will vote for one Candidate only.
 - iv. Each Member shall confirm their vote by raising their hand or using their voting cards at the call of each vote.
 - v. After the vote for each of the Candidate's has been completed, the Clerk will tabulate the results and call out the results.
 - d) The following procedure shall be used for counting the votes:
 - i. The Candidate who receives the votes of more than one-half of the number of members of Council present and voting shall fill the vacancy.

- ii. If the Candidate receiving the greatest number of votes does not receive more than one-half the votes of all voting members of Council, the Candidate or Candidates who received the fewest number of votes will be excluded from further consideration. The name of a Candidate or Candidates excluded shall be removed from the list of Candidates being called and/or displayed.
- iii. The vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the Candidate or Candidates who receive the fewest number of votes. This process will be repeated until the Candidate receiving the greatest number of votes has also received more than one-half of the votes of the voting members of Council.
- iv. Where the votes cast are equal for all the Candidates and if:
 - a. There are three or more Candidates remaining, the Clerk will by Lot select one such Candidate to be excluded from the subsequent votes;
 - b. If only two (2) Candidates remain, the tie will be broken by selecting a Candidate by Lot to fill the vacancy, as conducted by the Clerk.
- e) Upon conclusion of voting, the Clerk will declare the Candidate receiving the votes of more than one-half of the number of the voting members of Council or the Candidate selected through section (d)(iv)b.
- f) The appointment of the Candidate will be made by by-law. A by-law confirming the appointment will be enacted by Council.
- g) The Clerk will administer the Declaration of Office required by subsection 232(1) of the *Municipal Act, 2001*, at the meeting where the by-law is enacted by Council, or as directed by Council.
- h) Where a situation occurs that is not otherwise accounted for in these procedures, the Clerk may recommend an alternate process and/or Council determine an alternate procedure, which Council may adopt with a 2/3rd majority vote.