



# Corporation of the Municipality of Temagami

Report No.  
2018-011

File No.

<b>Subject:</b>	Options for Filling the Vacant Office of Councillor
<b>Agenda Date:</b>	April 17, 2018
<b>Attachments:</b>	1. Councillor Debby Burrows' letter of resignation 2. FLOW-CHART for selecting options

## RECOMMENDATION

That Council consider the following resolutions:

1. WHEREAS Councillor Debby Burrows' letter of resignation effective March 22, 2018 was filed with the Clerk of the Municipality, in accordance with Section 260 of the Municipal Act (the Act) on the 22<sup>nd</sup> of March, 2018; AND WHEREAS Section 262 of the Act requires that Council shall at its next meeting declare the office to be vacant; NOW THEREFORE BE IT RESOLVED THAT Council receive Report 2018-011 and Debby Burrows' letter of resignation; AND FURTHER THAT Council acknowledge her resignation with regret and send a letter of thanks for her service to the Municipality; AND FURTHER THAT Council declare the office to be vacant.
2. WHEREAS Council has received Report 2018-011 regarding the Options for Filling the Vacant Office of Councillor; AND WHEREAS the Municipal Elections Act (MEA) does not permit a by-election if an office is declared vacant after March 31 in an election year; AND WHEREAS Section 263 of the Act requires that Council appoint a person to fill the vacancy within 60 days after the office has been declared vacant; NOW THEREFORE BE IT RESOLVED THAT Council fill the vacancy by means of option # \_\_\_\_\_.

## BACKGROUND

Section 260 (1) of the Municipal Act, 2001, as amended (the Act) states that "A member of council of a municipality may resign from office by notice in writing filed with the clerk of the municipality." Councillor Debby Burrows' letter of resignation effective March 22, 2018 was filed with the Clerk of the Municipality, in accordance with Section 260 of the Municipal Act (the Act) on the 22<sup>nd</sup> of March, 2018.

Section 259 (1) of the Act states that "The office of a member of council of a municipality becomes vacant if the member... (d) resigns from his or her office and the resignation is effective under section 260". Since her resignation does not reduce the number of members of the council to less than a quorum, it is effective under that section. Furthermore section 262 (1) of the Act requires that "If the office of a member of a council becomes vacant under section 259, **the council shall at its next meeting declare the office to be vacant.**"

The Act also gives rules that apply to filling vacancies and provides options for filling the vacancy, as explained in the Analysis section of this report. There are specific timelines for filling the vacancy, as outlined below.

## ANALYSIS

Subsection 263.(5) of the Act requires that **within 60 days after declaring the Office vacant**, Council must either:

- i. appoint a person, who has consented to accept the office if appointed, to fill the vacancy, or
- ii. pass a by-law requiring a by-election be held to fill the vacancy.

**The Municipal Elections Act (MEA) does not permit a by-election if an office is declared vacant after March 31 in an election year.** Council is still, however, required to fill the vacancy if it occurs more than 90 days before a regular election (section 263(5.3) of the Municipal Act) therefore Council must fill this particular vacancy by appointment. As the seat is to be declared vacant on April 17, 2018, an appointment must be made by June 16, 2018.

Whether a person is appointed or elected to fill a vacancy, Section 264 specifies that he or she shall hold office for the remainder of the term of the person he or she replaced.

The Act does not specify the method or procedure that a council should use to determine the person to appoint to fill a vacant office. This is left up to a council's discretion. Typically either an application process or direct appointment of a selected individual could be used. The following options and FLOW CHART (see attachment) are provided to assist Council in selecting the most appropriate method to fill the vacancy.

**Option #1 – Application Process**

In Temagami, appointments that have been made to fill vacancies for the office of Councillor have usually been filled using an application process. This method of selection provides some assurance to the electorate that Council has acted in the best interest of the Municipality and, having considered all candidates currently available, has appointed the person who Council deems to be the best person to fill the vacancy. It does require slightly more time to fill the vacancy, since the vacancy must be advertised and applicants interviewed or permitted to make presentations to Council. There can also be a cost of several hundred dollars if Council chooses to advertise the vacancy in local newspapers. The application process assesses the broadest range of available candidates and it ensures an accountable and transparent method of filling the vacancy by appointment. In 2016, however, it did not prove to be an effective method as Council was unable to agree on an applicant. If an application process is used, council could choose to hold a special meeting as they have done in the past to hear applicants in a public forum, or could choose to appoint an interview committee to interview the applicants and make recommendations to Council.

**Option #2 – Direct Appointment**

There is no requirement for Council to seek applications, Council could simply choose to appoint an individual who Council deems to be appropriate and who is willing to fill the office. This late in the term, Council may want to consider an individual who has previously served on Council so there would be less of a learning curve. Council could also consider appointing the unsuccessful candidate from the previous election with the next highest number of votes. Both of these options may indicate that there would likely be at least some level of support of the electorate for the candidate; however, with the length of time elapsed since the last election, there could be significant changes in as electorate mood and availability of new candidates. Council may also choose to use a different method of determining a suitable person to appoint. Direct appointment is the fastest and lowest cost method of filling a vacancy; however it does not provide assurance that Council has selected the candidate that is the best choice for the Municipality and, depending on the method of selection and timing, it may not be considered by the electorate as a transparent and accountable method.

**FINANCIAL/STAFFING IMPLICATIONS**

This item has been approved in the current budget:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
This item is within the approved budgeted amount:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

**Application Process**

There will be costs associated with advertising the vacancy in the newspaper(s) which will vary with the amount of notices published, but are expected to be about five hundred dollars (\$500) to advertise in both the Speaker and Nugget. Staff time for the Clerks' office will be required to certify the nominations received and coordinate the interview or presentation process. The time involved would be comparable to that required to hold a special meeting of Council. Additional staff time may be required if Council directs that an information session for potential candidates be held.

**Direct Appointment**

There are no direct expenses to this method; however, there would be a minimal amount of staff time required to certify the candidate and prepare the by-law.

Submitted by:



**Elaine Gunnell, Municipal Clerk**

# FLOW CHART FOR OPTIONS FOR FILLING COUNCIL VACANCY

