

Report to Council

Report Title:	Deputy Mayor Resignation and Council Vacancy		
Prepared By:	Fiona Hamilton, Director of Legislative and Legal Services (Clerk) and Sarah Johnson, Deputy Clerk		
Department:	Clerk's		
Date:	June 18, 2024		
Report Number:	CLK2024-13	File Number:	C11CL, C07
Attachments:	Draft Amendment to Council Vacancy Replacement Procedure Policy		

Recommendation:

That the Council of the Municipality of Brockton hereby approves Report Number CLK2024-13 - Deputy Mayor Resignation and Council Vacancy, prepared by Fiona Hamilton, Director of Legislative and Legal Services (Clerk) and Sarah Johnson, Deputy Clerk and in doing so:

- 1) Declares the office of Deputy Mayor of the Municipality of Brockton to be vacant;
- 2) Approves appointing a new Deputy Mayor from existing Members of Council;
- 3) Approves a By-law coming forward to adopt the proposed amended Council Vacancy Replacement Procedure;
- 4) Approves proceeding with Option 2 – Appointment Procedure as outlined below.

Report:

Background:

Section 260 of the *Municipal Act, 2001*, S.O. 2001 (the "Act") states:

A member of council of a municipality *may* resign from office by notice in writing filed with the clerk of the municipality.

On June 14, 2024, the Clerk for the Municipality of Brockton received the written resignation of Deputy Mayor Lang from his position as Deputy Mayor and Member of Council.

According to Section 262 of the Act, when a member resigns, Council must formally declare the seat vacant at the next regular Council Meeting. In accordance with Section 263(5) of the Act, once the seat has been declared vacant, Council must, within sixty (60) days, either appoint a person to the seat or pass a by-law authorizing that a by-election be held.

The Act also states in s. 259(1)(e) that the office of a Member of Council becomes vacant if the Member of Council is appointed or elected to fill any vacancy in any other office on the same Council. In other words, there is a two-step process that must occur. The Deputy Mayor office must be declared vacant and filled through an appointment or election. Presuming that the office is filled by an existing Councillor, then the appointed Councillors seat must then be declared and filled through an appointment or election. It should be noted that Council does, of course, have the option of appointing another elector to be the Deputy Mayor, or proceeding with a by-election. Both of these options would alter the timeline set out below.

Council will need to declare James Lang's seat as Deputy Mayor vacant at the June 18, 2024 meeting to comply with the legislation.

Analysis:

The Act does not provide any parameters or guidance related to the potential appointment. Appointing an individual to fill the vacant Deputy Mayor seat, or any Council seat which is declared officially to be vacant, could be done several ways, but the recommendation would be to appoint the Deputy Mayor office from existing Members of Council, and then appoint an eligible elector for the vacant Councillor position.

In November 2019, the Municipality of Brockton had a vacancy for one (1) Councillor position and proceeded to fill the vacancy by an appointment process of eligible electors. A Council Vacancy Replacement Procedure Policy ("Council Vacancy Policy") was adopted by By-Law 2019-150 and further amended by By-Law 2020-004. The Council Vacancy Policy outlines the procedure to be followed when filling a Council vacancy by appointment including the notice, nomination process, procedures to occur at the Special Council Meeting, and formal appointment process. The procedure does not specifically address how to fill the office of Mayor or Deputy Mayor, in the case of a vacancy for that office. As Brockton does not have wards, any Member of Council could be appointed to these offices in the case of a vacancy and provisions have been added to the Council Vacancy Policy setting out a procedure to be followed for these appointments.

Option 1 – By-Election

If Council were to pass a By-law authorizing a By-Election, the *Municipal Elections Act 1996*, S.O. 1996, c. 32 Sched. (the "Elections Act"), then nomination day would occur a maximum of sixty (60) days from the passing of the By-law, with voting day occurring a maximum of forty-five (45) days after nomination day. The Elections Act also specifies that a by-election must be held in the same manner as the regular election, which would be via electronic voting with at least one voting centre to assist voters. Council could choose to hold a By-election for the Deputy Mayor position, or simply for the seat of Member of Council.

A By-election may be the most democratic option to fill the vacancy, but also the costliest. The 2022 Municipal and School Board Election cost approximately \$35,000, with \$25,426.35 being paid to Simply Voting Inc. as the provider of the electronic voting service.

Although the By-election would be for only a single seat, it is likely that the cost would be very similar to the previous election, as the voter information letters would still need to be sent to all electors, changes made to the Voter's List, etc. Also, there are very few electronic voting companies, and the prices offered may not be as competitive as there would be no group discount available. While there are funds in the Election Reserve

Fund, the transfer to this fund would need to be increased in the following years to ensure sufficient funds for the 2026 Municipal and School Board Election.

Option 2 – Appointment Procedure

If Council chose to proceed by way of an appointment, the suggestion would be to appoint the Deputy Mayor office from an existing Member of Council and appoint a new Member of Council by accepting applications from eligible electors. The Deputy Mayor office could be filled using the amendments proposed in the attached Council Vacancy Policy.

Council could advertise for interested eligible electors to apply, in writing, to fill the vacant Member of Council seat. Council would then select from the submissions received from the eligible electors. This process was completed in 2019 to fill the vacant Councillor seat. This method involves seeking letters of qualification from eligible electors who may not have been able to run in the last election. These individuals would also be invited to speak to Council at an Open Special Council Meeting before Council voted on the individual to be appointed.

Considerations

- **Financial:** Advertising costs for Council member vacancy (or vacancies), costs to train new Council member, \$250.00 to rent the Bruce County Council Chambers for the Special Council Meeting.
- **Timeline:** If Option 2 was selected, the new Member of Council must be sworn in earlier than if a by-election was held.

Example:

June 18, 2024	Declare Deputy Mayor office seat to be vacant
June 18, 2024	Decision to appoint or elect Deputy Mayor,
June 21, 2024	Begin accepting applications for Deputy Mayor office
June 28, 2024	Final day for applications for Deputy Mayor office ending at 2:00 p.m.
July 2, 2024	Final day for withdrawal of applications for Deputy Mayor office ending at 2:00p.m.
July 9, 2024	Applicants for Deputy Mayor position present to Council at regular Council meeting, Council votes on applicant to be appointed as new Deputy Mayor
August 13, 2024	By-law appointing new Deputy Mayor passed at this meeting, Council declares former seat of new Deputy Mayor vacant and decides on appointment or election of new Member of Council;
August 15, 2024	Begin accepting applications for Member of Council
August 22, 2024	Notice of Councillor Vacancy advertised in local newspaper/municipal website (1 st week)
August 29, 2024	Notice of Councillor Vacancy advertised in local newspaper/municipal website (2 nd week)

September 16, 2024	Final day for applications for Member of Council ending 2:00 p.m.
September 18, 2024	Final day for withdrawal of applications for Member of Council 2:00 p.m.
September 19, 2024	Clerk to certify applications for Member of Council
September 24, 2024 (afternoon)	Applicants for Member of Council present to Council at Special Council Meeting, Council votes on applicant to be appointed as new Councillor
September 24, 2024 (afternoon)	New Councillor appointed by By-Law and sworn in
October 8, 2024 (evening)	New Councillor attends first regular Council meeting in evening

The suggestion would be to hold the special meeting at 1:00 on September 24, at the Bruce County Council Chambers, and have the Member of Council position appointed and sworn in. The new Member of Council would then attend the October 8, 2024 meeting as her/his first meeting of Council, with comprehensive orientation to occur in the weeks between September 24, 2024 and October 8, 2024.

Considerations

- **Financial:** Advertising costs for subsequent Councillor vacancy, minimal costs for training of new Councillor
- **Timeline:** Both the new Deputy Mayor and the new Member of Council would be sworn in by the required date of September 24, 2024.

Strategic Action Plan Checklist:

What aspect of the Brockton Strategic Action Plan does the content/recommendations in this report help advance?

- | | |
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| • Recommendations help move the Municipality closer to its Vision | Yes |
| • Recommendations contribute to achieving Heritage, Culture, and Community | N/A |
| • Recommendations contribute to achieving Quality of Life | N/A |
| • Recommendations contribute to achieving Land Use Planning and the Natural Environment | N/A |
| • Recommendations contribute to achieving Economic Development | N/A |
| • Recommendations contribute to achieving Municipal Governance | Yes |

Financial Impacts/Source of Funding:

- Do the recommendations represent a sound financial investment from a sustainability perspective? Yes

As noted above, Option 2 would have a minimal impact on the budget by conducting an appointment process.

Option 1 (a By-Election) would have the greatest impact on the budget as the transfers to the Election Reserve Fund would need to be increased in the following years to prepare for the 2026 Municipal and School Board Election.

Reviewed By:



Trish Serratore, Chief Financial Officer



Respectfully Submitted by:



Fiona Hamilton, Director of Legislative and Legal Services (Clerk)



Sarah Johnson, Deputy Clerk

Reviewed By:



Sonya Watson, Chief Administrative Officer