

The Corporation of the Municipality of Brockton



By-Law 2024-052

Being a By-Law to Amend the Council Vacancy Replacement Procedure Policy for the Municipality of Brockton.

Whereas The Council for The Corporation of the Municipality of Brockton deems it expedient to establish policies;

And Whereas the *Municipal Act 2001, S.O. 2001, c 25, Section 5(3)*, as amended provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law;

And Whereas the *Municipal Act 2001, S.O. 2001, c 25, Section 263*, as amended provides that a vacancy for a member of council may be filled by appointment or by-election;

Now Therefore the Council of The Corporation of the Municipality of Brockton enacts as follows:

- 1.0 That The Corporation of the Municipality of Brockton Council hereby adopts an amended Council Vacancy Replacement Procedure Policy as contained in the attached Schedule "A" to this By-Law.
- 2.0 That By-Law 2019-150 is hereby amended.
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 This By-Law may be cited as the "Amend Council Vacancy Replacement Procedure Policy By-Law".

Read, Enacted, Signed and Sealed this 18th day of June, 2024.

Original Signed By
Mayor – Chris Peabody

Original Signed By
Director of Legislative and Legal Services (Clerk)
– Fiona Hamilton

Council Vacancy Replacement Procedure

Department:	Council	Policy Number:	C07-0200-19
Section:	Council	Effective Date:	December 2019
Subject:	Council Vacancy Replacement	Revised Date:	Jan. 14, 2020, June 18, 2024, July 9, 2024
Authority:	<i>Municipal Elections Act, 1996, By-Law 2019-150, By-Law 2020-004, By-Law 2024-052, Resolution 24-18-03</i>		

1. Purpose

The purpose of this policy is to provide a procedure to be followed when filling a Council vacancy by appointment.

2. Notice of Vacancy

2.1 The Clerk shall post a Council Vacancy Notice on the Municipal website and in a local newspaper for two (2) consecutive weeks. The notice shall indicate Council’s intention to appoint an individual to fill a vacancy and shall outline the nomination process.

2.2 A vote to fill a vacancy on Council by appointment shall occur at an open Special Council Meeting.

3. Nomination

3.1 Any individual wishing to be considered for appointment to the vacancy shall:

- a. Complete and sign a Council Vacancy Application Form and a Council Vacancy Declaration of Qualification and submit the forms in person at the Brockton Municipal Office during the Nomination/Application period as determined by the Clerk.
 - i. Applications must be on the Council Vacancy Application Form and accompanied by a Declaration of Qualification.
 - ii. All candidates must provide the Clerk with government issued identification and proof of eligibility within the municipality when filing a nomination.
 - iii. The surname on the application and the surname on the identification must be the same. Some flexibility will be given to first names (e.g. Tony for Anthony), subject to approval of the Clerk.
 - iv. Applications will be reviewed for completeness when filed and will be certified on or before the date to be set by the Clerk.
 - v. An unofficial list of persons who have submitted application forms will be prepared and updated as soon as practical after receipt of the required forms. The list will be posted on the Municipality of Brockton’s website www.Brockton.ca

- vi. An official list of nominated persons shall be posted in the same manner as specified in Section 3(v) once nomination forms have been certified and the nomination period has expired.
 - vii. A candidate may withdraw their nomination by filing a written withdrawal on the prescribed form in the Clerk's Office before a date set by the Clerk. The candidate shall appear in person with identification in order to withdraw the nomination.
- b. Candidate(s) shall also submit to the Clerk by the closing time for nominations, a personal statement including a person's background information, relevant qualifications and why the person is interested in the position for consideration of Council. Personal statements will be typewritten on letter size (8 ½" x 11") paper, shall not exceed two (2) pages in length (one-sided), and will include the Candidate(s) name and address.

Statements that do not meet these requirements shall not be included in any Council meeting agenda, or provided to Council by the Clerk.

Please Note: All Candidate(s) application forms and personal statements/information are collected under the authority of the *Municipal Elections Act, 1996*, and will be included in the Council Agenda, as well as being made available for public inspection in the office of the Clerk until the next regular election. The entire Council proceedings relating to the Council Vacancy will be dealt with in open session of Council. A "Freedom of Information (FOI) Release" form is required to be filled out by Candidate(s).

4. Special Council Meeting

4.1 At the scheduled Special Council meeting, the following shall take place:

- a. The Mayor will make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
- b. The Clerk will provide to the Mayor a list of the names of those individuals who have indicated, in writing, their interest in being appointed to the vacancy and the Mayor will call for a motion from Council in the following form:

"That the following individuals, who have signified in writing that they are legally qualified to hold office and consented to accept the office if they are appointed to fill the vacancy, be considered for appointment to fill such vacancy."
- c. Council shall review the list of candidates and their statements of qualifications.
- d. Each of the candidates shall be afforded the opportunity to address Council for a period of not more than ten (10) minutes. The order of speaking shall be determined by lot¹. The names drawn shall address Council in the order they are drawn from the container. Candidates not presenting shall be sequestered in a separate room until it is that person's turn to speak.
- e. Once each candidate has completed speaking, each Council member may ask a maximum of two (2) question per candidate. No scoring system shall be used in considering the answers to the questions. It is not necessary for any candidate to participate in answering

any or all of the questions.

- f. Upon reviewing the candidates and statements of qualification, Council will proceed to vote as follows:
- i. Council will vote by way of public vote, and all candidates will be invited back to the Council Chambers to witness the voting and the remainder of the meeting. Members of Council shall first mark their vote on a ballot, read their vote (verbally cast their vote) and then pass their ballot to the Clerk.
 - ii. Candidate names shall be displayed on the projection screens in alphabetical order, in the Council Chambers by the Clerk.
 - iii. Members of Council shall vote for one candidate only.
 - iv. The Clerk shall call upon the members of Council to verbally cast their vote in random order drawn by lot¹.
 - v. The Clerk shall tabulate the results.
 - vi. If the candidate receiving the greatest number of votes cast 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 shall be excluded from further consideration. 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 shall be repeated until the nominee receiving the greatest number of votes has also received more than one-half of the votes of the voting members of Council;
 - vii. Where the votes cast are equal for all the candidates and if:
 1. There are three or more candidates remaining, the Clerk shall by lot¹ select one such nominee to be excluded from the subsequent voting;
 2. Only two candidates remain, the tie shall be broken by electing a candidate by lot¹, as conducted by the Clerk.
- g. Upon conclusion of the voting, the Clerk will note 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 (f)(vii)(2).
- h. A by-law confirming the appointment of the successful candidate shall be enacted by Council immediately after the conclusion of the voting, and the new member shall take their Oath of Office immediately after the passing of the appointment by-law.

5.1. Vacancy in Office of Deputy Mayor or Mayor

5.1 The following procedures will apply in the event of a vacancy in the office of Deputy Mayor or Mayor (the "Office") that Council has decided to fill by appointment:

- a. Only a Member of the Council elected for the term of Council in which the vacancy in the Office is declared will be considered for appointment.
- b. The appointment of a current Member of Council to fill a vacancy in the Office shall take place at a regular meeting or Council, or Special Meeting of Council called for such purposes, within 60 days of declaring a vacancy in the Office.
- c. At the Office Appointment Meeting, the Chair will advise that Council has declared the Office vacant in accordance with the *Municipal Act, 2001* and resolved to fill the vacancy by appointment of another Member of Council.
- d. Any Member of Council interested in applying for the Office shall follow the nomination procedures outlined in section 3 above, except that he or she shall only be required to file the application form for the Office as determined by the Clerk and he or she shall not be required to file the Council Vacancy Declaration of Qualification or provide a personal statement or government issued identification.
- e. The procedure outlined in 3.1a. vii above shall apply but the Member of Council shall not be required to produce government issued identification.
- f. The procedures for the Special Council Meeting outlined in Section 4 above shall apply with necessary amendments, and each Member of Council that has applied form for the Office shall be provided not more than five (5) minutes to address Council.
- g. The Member of Council that has applied for the Office shall be permitted to vote. Each Member of Council is entitled to vote for one (1) applicant for the Office for each round of voting.
- h. The appointed Member of Council will be formally appointed to the Office by By-Law at the subsequent Council Meeting.
- i. No Member of Council shall abstain from voting, unless required to do so by law;
- j. The Mayor shall vote in all rounds of voting, not just as a tie-breaker;
- k. Any Member of Council eliminated in a round of voting shall be permitted to vote in any subsequent rounds of voting;
- l. Any Member of Council participating remotely shall be permitted to participate by telephone with no video and shall announce his or her vote audibly;

- m. All candidates shall remain in the Council Chambers for all presentations and voting;
- n. Section 4.1(f)(i) shall be amended such that Members of Council will not be required to mark their vote on a ballot, but shall simply verbally cast their vote to be recorded by the Clerk;
- o. Section 4.1(c) shall not apply in the case of an appointment to the position of Mayor or Deputy Mayor.

¹ For the purposes of this procedure, lot shall mean a method of determination by placing the names of the nominees on equal size pieces of paper and placed in a container with one name at a time being drawn by the Clerk or designate.