



Staff Report

Administration

Report To: Council
Meeting Date: June 18, 2018
Report Number: FAF.18.106
Subject: Selection of Applicant to Fill Vacant Council Office
Prepared by: Corrina Giles, Town Clerk

A. Recommendations

THAT Council receive Staff Report FAF.18.106, entitled "Selection of Applicant to Fill Vacant Council Office"; and

THAT Council approve the selection of the candidate by lot, enabling the appointment of the successful candidate at the June 29, 2018 Special Meeting of Council.

B. Overview

The *Municipal Act* requires Council to fill a vacant Council office within 60 days of the vacancy, unless the vacancy occurs within 90 days of the election. This report outlines the process to select a person to fill the vacant Council office for the remainder of the 2014-2018 Council Term.

C. Background

At the May 7, 2018 Council Meeting, Council passed the following motion:

THAT Council of the Town of The Blue Mountains acknowledged receipt of the resignation of Councillor Michael Seguin dated May 7, 2018 from his position as Councillor;

AND THAT, in accordance with section 262 of the Municipal Act, 2001, Council of the Town of The Blue Mountains does hereby declare the office of Councillor Seguin to be vacant, Carried.

Following the May 7, 2018 motion, Staff brought Staff Report FAF.18.93 entitled "Vacant Council Office" to the May 28, 2018 Council Meeting requesting Council's direction for filling the vacant office (see Attachment #1) and requested direction to staff to prepare a policy to fill Council Vacancies. At the May 28, 2018 Council Meeting, Council resolved as follows:

THAT Council receive Staff Report FAF.18.93, entitled "Vacant Council Office";

AND THAT Council direct the Clerk to advertise for applications from any person that has filed their nomination paper to run in the 2018 municipal election in the Councillor position, that are interested in the current vacant council office, to submit applications to the Clerk by 4:00 pm, June 5, 2018;

AND THAT, at the June 18, 2018 Council Meeting, the Clerk shall provide a report to Council outlining the process to select a person to fill the vacant council office, being selection by the Clerk by lot at the June 18, 2018 meeting, with appointment of the successful candidate at a subsequent meeting, Carried.

Following the May 28, 2018 Council direction, a Media Release (see attachment #2) was posted to the Town's website and provided to the Town's subscribers advising that applications for the vacant Council seat will be accepted until June 5, 2018 at 4:00 p.m. The "Application for Council Vacancy" was posted to the Town website stating the qualifications required (see attachment #3).

The Town does not have a corporate policy to follow regarding Council Vacancies.

D. Analysis

Staff confirm that nominations were received until 4:00 pm on June 5, 2018, and that the following candidates have completed and filed the "Application for Council Vacancy" with the Town Clerk, and are eligible for appointment to Council for the balance of the 2014 to 2018 term of Council:

- Odette Bartnicki
- Peter Bordignon
- Rob Potter

As directed by Council, selection of the person to fill the Council Vacancy will be completed by lot at the June 18, 2018 Council Meeting. Selection “by lot” means the name will be drawn from a container, as further explained below.

At the June 18, 2018 Council Meeting, the following shall take place:

1. The Mayor shall make a short statement regarding the selection of a person to fill the Council Vacancy, and will read the names of the applicants;
2. A table will be placed in front of the Council table in clear view for Council and the public;
3. The names of the persons that have completed and filed the Application for Council Vacancy, and are eligible for appointment, will be written on equal sized pieces of paper. The pieces of paper will be displayed on the table for viewing by Council and members of the public;
4. The Clerk, or her designate, will fold each piece of paper in the same way and will place each folded piece of paper in a container;
5. One name will be drawn from the container by the Clerk, or her designate. The name drawn will be the person that will fill the Council vacancy.
6. The Clerk will sign the paper containing the name of the successful applicant and will hand the paper to the Mayor to announce the result.

Appointment of the successful applicant will be made at the June 29, 2018 Special Meeting of Council.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners
Objective #1 Improve External Communication with our Constituents
Objective #3 Strengthen Partnerships

Goal #4: Promote a Culture of Organizational & Operational Excellence
Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

F. Environmental Impacts

None

G. Financial Impact

None

H. In consultation with

Shawn Everitt, Interim CAO

I. Attached

1. Staff Report FAF.18.93 "Vacant Council Office"
2. Media Release dated May 30, 2018
3. Application Form for Council Vacancy

Respectfully Submitted,

Corrina Giles
Town Clerk

Shawn Everitt
Interim Chief Administrative Officer

For more information, please contact:
Corrina Giles, Town Clerk
townclerk@thebluemountains.ca
519-599-3131 extension 232



Staff Report

Administration

Report To: Council
Meeting Date: May 28, 2018
Report Number: FAF.18.93
Subject: Vacant Council Office
Prepared by: Corrina Giles, Town Clerk

A. Recommendations

THAT Council receive Staff Report FAF.18.93, entitled "Vacant Council Office";

AND THAT Council provide direction to staff regarding filling the current vacant council office;

AND THAT Council direct staff to bring a staff report forward that includes options for a corporate policy to fill vacant Council offices.

B. Overview

The *Municipal Act* requires Council to fill a vacant Council office, within 60 days of the vacancy, unless the vacancy occurs within 90 days of the election. Staff are seeking direction from Council to fill the current vacant council office, and are requesting direction to bring a staff report forward that includes options for a corporate policy to fill Council vacancies, when they occur.

C. Background

At the May 7, 2018 Council Meeting, Council passed the following motion:

THAT Council of the Town of The Blue Mountains acknowledges receipt of the resignation of Councillor Michael Seguin dated May 7, 2018 from his position as Councillor;

AND THAT, in accordance with section 262 of the *Municipal Act*, 2001, Council of the Town of The Blue Mountains does hereby declare the office of Councillor Seguin to be vacant, Carried.

The Municipal Act, 2001 establishes two ways to fill a vacancy, by appointment or by holding a by-election. Section 263 of the Municipal Act provides that:

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*.

Section 265(5) establishes the rules applying to filling vacancies.

Rules applying to filling vacancies

265 (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).
2. Despite paragraph 1, if a court declares an office to be vacant, the council shall act under subsection (1) or (4) within 60 days after the day the court makes its declaration.
3. Despite subsections (1) to (4), if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy. 2001, c. 25, s. 263 (5).

Section 264 of the *Municipal Act, 2001*, provides that a person appointed or elected to fill a vacancy shall hold the office for the remainder of the term of the person he or she replaced.

Despite the provisions of the *Municipal Act, 2001*, section 65(2) of the *Municipal Elections Act, 1996* prohibits the holding of a by-election to fill a vacancy after March 31 in an election year:

By-elections

65 (1) The clerk shall conduct by-elections in accordance with this section.

No by-election after March 31 in year of regular election

(2) Despite any Act, no by-election shall be held to fill an office that becomes vacant after March 31 in the year of a regular election and no by-election shall be held with respect to a question or by-law after March 31 in the year of a regular election unless it is held in conjunction with a by-election for an office.

Accordingly, as the vacancy occurred after March 31, but more than 90 days before the 2018 election, the Town must fill the vacancy and it must do so by appointment, not a by-election.

During the 2003 to 2006 term of Council, Councillor Holden passed away in 2004. Council appointed Councillor Michael Martin for the balance of the term as he was next in the poll results in the 2003 election.

D. Analysis

Section 256 of the Municipal Act sets out the eligibility requirements for persons qualified to be elected or to hold office as a member of a Council of a local municipality. In summary, every person who is entitled to be an elector may be appointed. To be an elector, the person under consideration must, on voting day, (a) reside in the municipality or be the owner or tenant of land there, or the spouse of such owner or tenant, (b) be a Canadian Citizen, (c) be at least 18 years old and (d) not be prohibited from voting.

Ineligible

Under section 258 (1) of the *Municipal Act, 2001*, the following are not eligible to be elected as a member of a council or to hold office as a member of a council: an employee of the municipality; a person who is not an employee of the municipality but who is the clerk, treasurer, Integrity Commissioner, Auditor General, Ombudsman, registrar or an investigator of the municipality; a person who is not an employee of the municipality but who holds any administrative position of the municipality; a judge of any court; a member of the Legislative Assembly or of the Senate or House of Commons of Canada; and a public servant.

Persons prohibited from voting

Under section 17(3) of the *Municipal Elections Act, 1996*, the following are prohibited from voting: (a) a person who is serving a sentence of imprisonment in a penal or correctional institution; (b) a corporation; (c) a person acting as executor or trustee or in any other representative capacity, (except as a voting proxy); and (d) a person who was convicted of a corrupt practice.

Other than the requirement that the appointee must be a qualified and eligible elector, there are no further statutory pre-conditions or requirements, which must be met.

Options

Staff are seeking direction from Council to fill the vacancy on Council, and confirm that the vacancy must be filled by Friday, July 6 (60 days from the date the seat was declared vacant). Following the appointment by Council, the new Councillor will serve from the time their oath of office is taken to the end of the current term of Council.

As noted above, Council has a range of options that include, but are not limited to, appointing the runner-up from the 2014 election, or approve an appointment process that allows any

interested and qualified persons to submit an application to Council for consideration, with at least one public meeting to allow deputations from the applicants.

Staff confirm that the Town currently does not have a policy setting out the procedure to fill a vacancy on Council. Staff are also requesting direction from Council to bring policy options forward in the future for Council consideration.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners

Objective #1 Improve External Communication with our Constituents

Objective #3 Strengthen Partnerships

Goal #4: Promote a Culture of Organizational & Operational Excellence

Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

F. Environmental Impacts

None

G. Financial Impact

There will be a cost to advertise should Council direct staff to go through an appointment process calling for qualified and interested parties to submit an application to Council for consideration.

H. In consultation with

Shawn Everitt, Interim CAO

Harold Elston, Solicitor

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required.

J. Attached

None

Respectfully Submitted,

Corrina Giles
Town Clerk

Shawn Everitt
Interim Chief Administrative Officer

For more information, please contact:
Corrina Giles, Town Clerk
townclerk@thebluemountains.ca
519-599-3131 extension 232



Media Release

May 30, 2018

Town Clerk Now Accepting Applications for Vacant Council Seat

(Town of The Blue Mountains) Applications are now being received for the vacant Council position. Town Clerk, Corrina Giles, will accept applications from any person who, by 4:00 p.m. June 5, 2018, has submitted nomination papers for the 2018 Municipal Election. Those interested in filling the vacant seat through the end of the current Council term (2014 to 2018), must be standing for election as Councillor in the 2018 Municipal Election in The Blue Mountains.

The process chosen at the May 28, 2018 Council Meeting is to select by lot from the interested and qualifying applicants. At the June 18, 2018 Council Meeting, the Town Clerk will choose the successful candidate by draw. All qualifying names will be put into a container, and the Clerk will choose one name from those submitted. The successful candidate will be announced at the June 18th Council Meeting, and sworn in at a subsequent Council Meeting.

For Information About Applying for the Vacant Seat Contact:

Corrina Giles
Town Clerk
Town of The Blue Mountains
(519) 599-3131 ext. 232
1-888-258-6867
townclerk@thebluemountains.ca

For Media Inquiries Contact:

Elizabeth Cornish
Communications and Economic Development Coordinator
Town of The Blue Mountains
(519) 599-3131 ext. 282
1-888-258-6867
economicdevelopment@thebluemountains.ca



Application for Council Vacancy

The Corporation of the Town of The Blue Mountains

This form must be filed in person (may not be faxed or emailed) with the Town Clerk, Town of The Blue Mountains, 32 Mill Street, Thornbury, Ontario. Hours are Monday to Friday, 8:30 a.m. to 4:30 p.m.

The deadline to file this application is 4:00 p.m., Tuesday, June 5, 2018.

It is the responsibility of the Applicant to file a complete and accurate application form.

Applicant's Personal Information:

Last Name: _____

First Name: _____

Legal Single Name: _____

Applicant's full qualifying address within municipality

Suite/Unit No.	Street No.	Street Name
Municipality	Province	Postal Code

Applicant's full mailing address

Same as qualifying address

Suite/Unit No.	Street No.	Street Name
Municipality	Province	Postal Code

Applicant's Telephone Number: _____

Applicant's Email Address: _____

I declare that:

1. I am presently legally qualified to be appointed and to hold the office shown on this Application Form pursuant to the *Municipal Elections Act, 1996* (MEA), *Municipal Conflict of Interest Act*, and as applicable, the *Municipal Act, 2001* or the *Education Act* confirm that:
 - a. I am a Canadian citizen; and
 - b. at least 18 years of age; and
 - c. I reside in the Town of The Blue Mountains or am the owner or tenant of land in the Town of The Blue Mountains or the spouse of such owner or tenant.
2. I am not ineligible or disqualified under the *Municipal Elections Act, 1996*, the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, or any other Act, to hold the above-mentioned office.
3. Without limiting the generality of paragraph 2,
 - a. I am not an employee of the Town of The Blue Mountains, or if I am, I have taken an unpaid leave of absence as provided for by section 30 of the *Municipal Elections Act, 1996*;
 - b. I am not a judge of any court;
 - c. I am not a member of the Assembly as provided in the Legislative Assembly Act or of the Senate or House of Commons of Canada, or, if I am such a person, I will provide proof of my resignation to the Clerk prior to 4:00 pm on June 5, 2018;
 - d. I am not a member of the Executive Council of Ontario or a federal Minister of the Crown;
 - e. I am not a Crown employee within the meaning of the *Public Service Act*, or if I am a Crown employee, I have followed and will continue to follow all relevant provisions of Part III of such Act.
4. I am not prohibited from voting at the municipal election under subsection 17(3) of the *Municipal Elections Act, 1996*, and
 - a. I am not a person who is serving a sentence of imprisonment in a penal or correctional institution;
 - b. I am not a corporation;
 - c. I am not a person who was convicted of a corrupt practice described in subsection 90(3) of the *Municipal Elections Act, 1996*, from voting in a municipal election.
5. I am not a candidate who was convicted of a corrupt practice under the *Municipal Elections Act, 1996* or of an offence under the Criminal Code (Canada), in connection with an act or omission with respect to a municipal election during the last two regular elections prior to Monday, October 22, 2018.
6. I am not disqualified from being elected to or holding office by reason of any violations of the election campaign financial requirements or violations for not filing the financial statement pursuant to the *Municipal Elections Act, 1996*.

Declaration

I, _____, the person mentioned in this Application for Council Vacancy, declare that I am presently legally qualified to be appointed to hold the office of Councillor and I consent to accept the appointment to that office.

Signature of Applicant: _____

Date: _____

Date Filed (yyyy/mm/dd)	Time Filed	Initial of Applicant	Signature of Clerk or Designate

Certification by Clerk or Designate

I, the undersigned Clerk of this municipality, do hereby certify that I have examined the Application for Council Vacancy form for the aforesaid applicant filed with me and am satisfied that the applicant is qualified to be appointed and that the application complies with the Act.

Signature: _____

Date: _____

Personal information on this form is collected pursuant to the *Municipal Act, 2001* and Section 29 of the *Municipal Elections Act, 1996* and will be used by the Clerk for the purpose of assessing whether an applicant may be appointed to Council. This information will be available for public inspection at the Office of the Town Clerk. Questions about this collection should be directed to the Town Clerk, Town of The Blue Mountains, 32 Mill Street, Thornbury , Ontario N0H 2P0 or by telephone at 519-599-3131 ext 232.