



Staff Report

Report Title: Restricted Acts (Lame Duck) Delegation of Authority Provisions (2)

Prepared By: Emily Dance, Clerk

Department: Clerk

Date: Sep. 7, 2022

Report Number: CLK-2022-09-77

File Number: C08-2022

Attachments:

Recommendation:

That the Township of Huron-Kinloss Committee of the Whole hereby receives for information Report Number CLK-2022-09-77 prepared by Emily Dance, Clerk

Background:

[Section 275](#) of the Municipal Act, S.O. 2001, c. 25 sets out the Restricted Acts that a Council shall not take after Nomination Day (August 19, 2022) and after Voting Day (October 24, 2022) if the Council is in a Restricted Acts position.

A municipal Council can be in a Restricted Acts situation if it is determined is there is the potential or certainty that less than three-quarters (75%) of the existing Council members will not be returning to office.

The Township of Huron-Kinloss has a 7 member Council. When applied the 75% calculation is 5.25 which is rounded to 6 members.

Restricted Acts occurs twice during the municipal election process:

- a) Between August 19, 2022 and October 24, 2022 – If less than 6 of the 7 (75%) existing members are not running for Council,
- b) Between October 24, 2022 to November 14, 2022 – If less than 6 of the 7 (75%) of the incumbent Councillors are returning to Council

Restrictions: If the Restricted Acts provision is engaged, Council would be subject to certain restrictions, including:

- a) appointing or removing from office of any officer of the municipality;
- b) the hiring or dismissal of any employee of the municipality;
- c) disposing of any real or personal property of the municipality which has a

value exceeding \$50,000 at the time of disposal; and,
d) making any expenditures or incurring any other liability which exceeds \$50,000.

Exceptions:

Land Matters - With respect to Section 275(3)(c), a municipality could close a real estate transaction during the restricted period only if the Council passed a by-law approving the execution of the agreement of purchase and sale in advance of the period.

Expenditures - With respect to Section 275(3)(d) a contract could be awarded by a restricted Council in excess of \$50,000 so long as the amount was included in the annual budget. Council would not be able to award the contract, however, if the amount of the tenders or bids exceeded the amount included in the budget.

Emergencies – The Act provides at Section 275(4.1) that nothing in this section prevents a municipality taking any action in the event of an emergency.

Delegation of Authority - Section 275(6) provides that the authority of a municipality can be delegated to a person or body prior to Nomination Day for the election of the new Council.

Discussion:

The Clerk has certified the nominations for the 2022 Township of Huron-Kinloss Election. The certified candidates include five (5) existing members of Council running in the upcoming election.

This confirms with certainty that less than three-quarters (75%) of the existing Council members will be returning to Council and places the Council of the Township of Huron-Kinloss in a Restricted Acts Situation until November 14, 2022.

As per Section 275(6) Council passed [By-Law No. 2022- 06](#) delegating authority of certain acts to the Chief Administrative Officer during the Restricted Acts period.

These include:

- a) authority to approve contracts for projects and be authorized to sign approved contracts;
- b) be the financial signing authority for expenditures, outside the current budget, exceeding \$50,000;
- c) authority to execute an agreement of purchase and sale pertaining to the acquisition or disposition of any real or personal property which has a value exceeding \$50,000;
- d) be the authority to hire or remove any officer from/to employment with the Township of Huron-Kinloss;
- e) be the authority to hire or dismiss any employee of the Township of Huron-Kinloss;

Even with the delegated authority under the Municipal Act, Council can not delegate the authority to appoint statutory positions required by the Act. In this context it will only include the Clerk and the Treasurer.

It is important to note that the delegation is a safeguard to allow for the effective operation of the Township. If the Chief Administrative Officer does need to take action where necessary, an information report will be brought forward outlining those actions to ensure accountability.

Financial Impacts:

There are not financial impacts associated with this report.

Strategic Alignment / Link:

We are an accessible community by being open and transparent.

Respectfully Submitted By:

Emily Dance, Clerk

Approved By:

Mary Rose Walden, Chief Administrative Officer