Town of Huntsville Staff Report

**Meeting Date:** January 27, 2020  
**To:** Council

**Report Number:** CORP-2020-02  
**Confidential:** No

**Author(s):** Tanya Calleja, Municipal Clerk

**Subject:** Vacant Seat - Huntsville Ward Councillor - Options

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**Report Highlights**

To provide Council options for filling the vacant Council seat for Huntsville Ward Councillor.

**Recommendation**

That: Council, in accordance with subsection 263 (1) of the *Municipal Act, 2001*, hereby fills the vacancy for the office of Huntsville Ward Councillor by Option________.

Option A – Appointment – Call Out

Directing the Municipal Clerk to solicit applications from qualified individuals to fill the vacancy, and that they be considered at a Special Council meeting to be held on February 11, 2020.

Option B – By-election

And Further That: The By-Election By-law be presented at the January 27, 2020 Regular Council meeting;

And Further That: The Election Reserve be increased in the 2021 Town Budget by the final cost incurred resulting from the By-election.

**Background**
As noted above, pursuant to subsection 262 (1) of the *Municipal Act, 2001*, Council declared the seat vacant at their Regular Council meeting held on December 17, 2019.

At the same meeting, the Clerk was directed to bring back a report to the next Regular Council meeting outlining options for filling the vacancy.

**Discussion**

As per subsection 263 (5) of the *Municipal Act, 2001*, within sixty (60) days after the day a declaration of vacancy is made, the municipality shall appoint a person to fill the vacancy or pass a by-law requiring a By-election to be held.

Subsection 263 (5) of the *Municipal Act, 2001* notes if a vacancy occurs within ninety (90) days before voting day of a regular election, the municipality is not required to fill the vacancy.

The next regular election will not be held until October 24, 2022 which is beyond the ninety (90) days; therefore, the vacancy is required to be filled.

**Council Vacancy Policy**

The Town’s Council Vacancy Policy outlines the procedure to be applied to any vacancy on Town Council during the term of office.

- **Filling the Vacancy by Appointment**

Office of Councillor - Council may choose to fill the vacancy by either:

a. The candidate who ran for the position that is vacant from the previous election who received the next greatest amount of votes but was not elected; or

b. An open call for individuals for consideration by Council through a public appointment process. Sitting members may also be considered.

As Mayor Karin Terziano was acclaimed as Huntsville Ward Councillor in the 2018 Municipal Election, “a.” noted above is therefore not an applicable option for filling the vacancy.

- **Filling the Vacancy by By-election**

Council may pass a by-law to fill the vacancy by By-election within sixty (60) days of the seat being declared vacant. Once the by-law is passed, a By-election shall be held in accordance with the Municipal Elections Act.

The following chart outlines a brief synopsis of the process outlined in the Council Vacancy Policy.
Costs for Filling the Vacancy

- **Filling the Vacancy by Appointment**

The cost to fill the vacancy by appointment would be minimal.

A call out for eligible candidates in the newspaper and social media, as well as a Special Council meeting for the appointment is estimated at $1700-$2300.

- **Filling the Vacancy by By-election**

Council adopted By-law 2019-108 authorizing the use of Internet and Telephone Voting for By-elections held within the 2018-2022 Term of Council. The estimated cost for filling the vacancy is $45,565 based on 2050 electors.

- **Additional Costs**

Additional costs incurred for either method would be a photograph taken for the Huntsville Ward Councillor estimated at $250, a $1500 stipend for IT requirements and Staff time to provide orientation training, IT set up and a tour of all facilities.

**Timelines**

- **Filling the Vacancy by Appointment**

The municipality must fill the position by February 15, 2020.

Should an appointment be chosen at the Regular Council meeting on January 27, 2020, ads will immediately be circulated calling for eligible candidates.

A Special Council meeting will be held on February 11, 2020 and the successful candidate will immediately be sworn into office and take their seat at the Council table.

- **Filling the Vacancy by By-election**
If Council chooses to fill the vacancy with a By-election, the municipality has until February 15, 2020 to pass a by-law requiring a By-election to be held. As this date occurs before the next Regular Council meeting, Staff are recommending suspending the rules to pass the by-law at the January 27, 2020 Council meeting.

Once the By-election is concluded, the winning candidate will take the oath of office at a Council meeting to be determined by the Clerk.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Declaration of Vacancy</td>
<td>December 17, 2019</td>
<td>Municipal Act 2001, Subsection 262 (1) – To be declared vacant at the next meeting</td>
</tr>
<tr>
<td>Anticipated Passage of By-law</td>
<td>January 27, 2020</td>
<td>Municipal Act 2001, Subsection 263 (5) 1. i. – Within 60 days after declaration of vacancy</td>
</tr>
<tr>
<td>Nomination Day</td>
<td>Date to be set between February 26, 2020 (30th day) – March 27, 2020 (60th day)</td>
<td>Municipal Elections Act 1996, Subsection 65 (4) 1. ii. – Clerk shall fix the date of nomination day to be a day not less than 30 days and not more than 60 days after the By-election By-law is passed.</td>
</tr>
<tr>
<td>Voting Day</td>
<td>Date to set between April 11, 2020 – May 11, 2020</td>
<td>Municipal Elections Act 1996, Subsection 65 (4) 3. – Voting Day shall be 45 days after nomination day.</td>
</tr>
</tbody>
</table>

As noted in Staff Reports CORP-2019-63 and CORP-2019-71, election service providers have noted ninety (90) days would be optimal for implementation.

**Advantages and Disadvantages**

- **Filling the Vacancy by Appointment**
  - Advantages:
    - Vacancy can be filled quickly.
    - The cost is minimal.
    - Less time required on staff resources.
  - Disadvantages:
    - Does not provide an opportunity for the entire electorate to cast their vote.

- **Filling the Vacancy by By-election**
  - Advantages:
    - Provides an opportunity for the entire electorate to cast their vote.
  - Disadvantages:
    - Longer duration to fill the vacancy (approximately three months).
    - The cost is much greater than an appointment.
    - Would be an additional workload on other departments (i.e. Marketing and Information Technology).
Options

Option A – Appointment – Call Out

Directing the Municipal Clerk to solicit applications from qualified individuals to fill the vacancy, and that they be considered at a Council meeting to be held on February 11, 2020.

Option B – By-election

The By-election By-law be presented at the January 27, 2020 Regular Council meeting and the Election Reserve be increased in the 2021 Town Budget by the total cost incurred resulting from the By-election.

Capital

N/A

Operational

Appointment

- $400 (Special Council meeting) + $1300-$1900 (advertising & social media) = $1700-$2300 (estimated)

By-election

- $45,565 (estimated)

Additional Costs

- $250 - Huntsville Ward Councillor photo (estimated)
- $1500 – Information Technology stipend

Traditionally funding for elections held come from the Elections Reserve Account. Amounts are contributed annually ($27,000) to build funds for future elections (every 4 years), the current balance in the reserve is approximately $88,000. If the reserve is not expected to be able to fund the 2022 election due to amounts being used for the By-election in 2020, the annual reserve transfer should be increased in the 2021 budget (from the levy).

Council Strategic Direction / Relevant Policies / Legislation / Resolutions

- Municipal Act, 2001
- Municipal Elections Act, 1996
- By-law 2019-108 - Authorizing the use of Internet and Telephone Voting for By-elections held within the 2018-2022 Term of Council
- Town of Huntsville Council Vacancy Policy
- Council Resolutions 322-19 and 342-19
- Staff Report CORP-2019-70 - Declaration of Vacant Seat
- Staff Report CORP-2019-71 – Vacant Seat on Council - Options
- The 2019-2023 Strategic Plan is not applicable to this report.
Consultations

Crystal Best-Sararas, Deputy Clerk
Datafix Comprint Systems Inc.
Digital Boundary Group
Dominion Voting

Respectfully Submitted:  Tanya Calleja, Municipal Clerk

Manager Approval (if required):  ______________________________

Director Approval:  ______________________________

CAO Approval:  Denise Corry, Chief Administrative Officer