

Type of Decision									
Meeting Date	Thursday, July 20, 2017				Report Date	Tuesday, July 18, 2017			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Report #20/07/17/1201									

Subject: Declaration of Vacant Seats

**RECOMMENDATION:**

That Council adopt the following resolutions declaring seats on council vacant and directing staff to take steps to fill the vacant seats. It is recommended that Council adapt the following Procedures to complete the process of filling the vacant seats by appointment.

Resolutions for consideration, debate and decision:

**Resolution #1**

**WHEREAS** the Clerk of the United Townships of Head, Clara & Maria did receive on Thursday, July 13, 2017 letters of resignation from Jim Gibson and Debbi Grills;

**AND WHEREAS** as per the Municipal Act, in order to begin the process of filling the vacancies, Council must first meet to declare the seats vacant;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby acknowledge the letters of resignation submitted to the Clerk and formally declares the seat of Mayor and the seat of one Council member vacant.

**Resolution #2**

**WHEREAS** the seat of the Mayor has been declared vacant by Council;

**AND WHEREAS** past practise of this Council has been for a sitting Council member to assume the position of Head of Council and then fill the vacant Councillor seat;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby agree to appoint as mayor from amongst its membership,

**Resolution #3**

**WHEREAS** the Council of the United Townships of Head, Clara & Maria has declared two seats on the council vacant and is required to take steps to fill those vacancies;

**AND WHEREAS** due to the time required for a vacant seat to be filled through by-election, the cost and time involved with holding a by-election, the historic lack of interest in filling seats on this Council, and the fact that a full election shall be held in 2018 appointments are recommended;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby direct the clerk to advertise for interest in filling the vacancies on Council via appointment as per the Guidelines attached to Report #20/07/17/1201.

**AND FURTHER THAT** Council shall hold a special meeting on Friday, September 1, 2017 at 14:00 to review the letters of interest received, hear deputations from candidates and make appointments at that time.

#### BACKGROUND/EXECUTIVE SUMMARY:

Based on past practise within the municipality the resolutions have been created for council discussion and debate. The clerk has sent an email to council asking that if any member wishes to see other options included for debate and discussion during this meeting that they provide email direction. None has been received to date.

The resolutions above have been created on past practise in this municipality and based on the Municipal Act and the Municipal Elections Act.

#### Alternatives to the Recommendations:

1. Council could appoint from amongst its membership a Mayor for the remaining term of Council;
2. Council could appoint from eligible electors two council members;
3. Council could appoint from eligible electors a Mayor and a council member;
4. Council could direct the clerk to hold a by-election for two seats on council; a Mayor and Councillor or two Councillors depending on previous decisions;
5. Council must fill the vacant seats as per legislation – the *Municipal Act* and the *Municipal Elections Act*.

#### Options/Discussion:

As per the Municipal Act, the first step when resignations have been submitted to the Clerk is to have Council accept the resignations and declare the seat(s) vacant.

After a seat has been declared vacant, council has the prerogative to appoint individuals to fill the vacant seats or to hold a by-election. This is solely a decision of Council.

Historically, in Head, Clara & Maria, when a head of council has stepped down, the remaining members have chosen from amongst themselves an individual to step up to that seat. This is based mainly on experience, familiarity with current issues and corporate knowledge. Although staff have not been made aware of any of the existing council members being willing to accept that appointment, a blank resolution has been created for debate and discussion.

Based on the one year remaining in the current term, appointment in September (by-election mid-October) – election October, 2018; it is recommended that appointment occur as opposed to a by-election.

If council chooses to have a by-election it could not be held before the middle of October due to legislated deadlines and waiting periods. The cost would be approximately \$3,000, similar to a regular election. Staff time and printing resources are not included in that cost estimate.

## **Legal Requirement to Fill a Council Vacancy by Appointment**

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. 2001, c. 25, s. 263 (1).

The intent of the legislation is to have the Council vacancy filled, and Council has a statutory duty to ensure this occurs.

To be appointed to fill the vacancy, a person must be:

- a Canadian citizen;
- at least 18 years of age;
- a resident of the United Townships of Head, Clara & Maria, or be the owner or tenant of land, or the spouse of the owner or tenant of land;
- not prohibited from voting in a municipal election by any legislation; and,
- not prohibited from holding the office under the Act or any other legislation.

Council is not permitted to introduce any additional requirements on any person selected to fill the vacancy, such as a commitment from the applicant that he or she will not register as a Candidate in the 2018 municipal election.

Following their 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.

## **Suggested Appointment Process**

Staff recommends that Council approve an appointment process that permits any interested and qualified person to submit an application for appointment to Council. Many Ontario municipalities, having authorized an appointment process to fill a vacancy, have filled their vacancies following an open call for qualified applicants and at least one public meeting to allow deputations from the applicants.

This ensures that the process is open and transparent when Council is exercising its obligation to appoint a person to an otherwise elected office. The recommended appointment process has been used by many Ontario municipalities in the past.

Like an election, procedures including notices, information about the vacancy, coordination of applications, procedures for hearing deputations and voting are recommended by the

Clerk. Attachment 1 outlines draft procedures recommended by the Clerk for adoption by Council.

Financial Considerations/Budget Impact: - none

Policy Impact:

Others Consulted:

Approved and Recommended by the Clerk

Melinda Reith,  
Municipal Clerk

*Melinda Reith*

## Attachment 1

# Council Vacancy Appointment Procedure

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### Purpose

The following procedure will be used when appointing an Eligible Elector to fill a vacancy on Council.

### Definitions

In these procedures:

“**Act**” means the *Municipal Elections Act*, 1996, S.O., 1996, c.32, Sched., as amended.

“**Candidate**” means an individual seeking to be appointed to fill a vacancy in the office of Councillor, having met the eligibility requirements and who has completed the requisite documentation as required by this procedure.

“**Chair**” means the Member of Council presiding at the Council meeting to appoint an individual to fill a Council vacancy.

“**Clerk**” means the Municipal Clerk, or designate.

“**Council**” means the Council of The Corporation of the United Townships of Head, Clara & Maria.

“**Eligible Elector**” has the same meaning as subsection 17(2) of the Act, namely a person:

- (a) who is a resident of the Municipality, or an owner or tenant of land in the Municipality or the spouse of such an owner or tenant;
- (b) who is a Canadian Citizen;
- (c) who is at least 18 years old; and,
- (d) who is not prohibited from voting under any other Act or from holding municipal office.

“**Lot**” means a method of determination by placing the names of the Candidates on equal size pieces of paper and placed in a container with one Candidate name being drawn by the Clerk.

“**Municipality**” means The Corporation of the United Townships of Head, Clara & Maria.

“**Procedure By-law**” means By-law Number 2015-07, as amended.

## **General**

1. Any individual filling the vacancy must be an Eligible Elector.

## **Appointment Procedure**

### **Notice**

1. The Clerk will post a Council Vacancy notice as per the Municipal Notice By-law after the vacancy has been declared by Council. The notice will outline the application process as per this document.

### **Application**

2. Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Vacancy Application Form and a Council Vacancy Declaration of Qualification form approved by the Clerk, and will submit the forms to the Clerk in-person by the date and time established by the Clerk.
3. Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove his or her identity and qualifying address to the satisfaction of the Clerk.
4. Candidate(s) may submit a personal statement of qualification for consideration of Council on the forms provided, 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. The Clerk will advise Candidate(s) of the deadline for submission of a personal statement.
5. It is the Candidate(s) sole responsibility to meet any deadline or otherwise comply with any requirement of this procedure.
6. The Clerk will create a list of all Candidates for Council's review and selection.

### **Council Meeting**

7. A vote to fill a vacancy on Council by appointment will occur at an open Council Meeting. The meeting may be a regular Council Meeting or a special Council meeting called for that purpose.
8. Notwithstanding the requirement of the Procedure By-law, if the meeting is a regular council meeting, the agenda for the meeting shall be set by the Clerk to allow for the orderly proceeding of selecting a Candidate, while respecting the standard agenda of a regular Council meeting.
9. Notwithstanding the requirement of the Procedure By-law, if the meeting is a special council meeting, the agenda for the meeting shall be set by the Clerk to allow for the orderly proceeding of selecting a Candidate.
10. At the meeting, the following will take place:
  - a. The Chair will make a short statement for the purpose of the meeting and the general order of proceedings to be followed.
  - b. The Clerk will provide to the Chair a list of the names of qualified applicants and the Chair 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 Council vacancy, be considered by Council for appointment to fill such vacancy."

- c. Each of the Candidates will be afforded the opportunity to address Council for a period of not more than ten (10) minutes. The order of speaking will be determined by Lot. The Clerk will place the names of all Candidates in a container and randomly draw the names.
- d. Each member of Council will be permitted two (2) questions to each Candidate.
- e. Upon hearing all the submissions of the Candidates, Council will proceed to vote as follows:
  - i. Members of Council will vote by way of public vote as required *by the Municipal Act, 2001*.
  - ii. Candidate names will be displayed in alphabetical order, in the Council Chambers by the Clerk.
  - iii. Members of Council will vote for one Candidate only.
  - iv. The Clerk will place the names of all Members of Council in a container and randomly draw their names to select the order of the vote.
  - v. Members of Council will verbally cast their vote for one (1) Candidate.
  - vi. The Clerk will tabulate the results.
  - vii. If there are more candidates than positions, and 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 will 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 will be repeated until the Candidate receiving the greatest number of votes has also received more than one-half of the votes of the voting members of Council.
  - viii. Where the votes cast are equal for all the Candidates and if:
    - 1. There are three or more Candidates remaining, the Clerk will by Lot select one such Candidate to be excluded from the subsequent voting;
    - 2. If only two (2) Candidates remain, the tie will be broken by selecting a Candidate by Lot, as conducted by the Clerk.
- f. 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 (e)(viii)(2).
- g. The appointment of the Candidate will be made by by-law. A by-law confirming the appointment will be enacted by Council.
- h. The Clerk will administer the Declaration of Office required by subsection 232(1) of the Municipal Act, 2001, at the meeting where the By-law referred to in subsection 9(g) of these procedures is enacted by Council, or as directed by Council.