

THE CORPORATION OF THE
TOWNSHIP OF MATACHEWAN

CORPORATE POLICY

SECTION: Communication	EFFECTIVE DATE: July 20, 2021
SUBJECT: Council Vacancy Policy	POLICY NUMBER: Communication-01
POLICY: In accordance with Municipal Act, S.O. 2001, c. 25 as amended (the Act), when the seat of a member of Council becomes vacant during the term of office, Matachewan Township Council may fill a vacancy by either appointing a person who has consented to accept the office if appointed, or requiring that a by-election be held to fill a vacancy in accordance with the Municipal Elections Act, S.O., 1996, c.32	
OBJECTIVE: To provide an accountable and transparent process for filling any Vacancy that occurs on Council.	
SCOPE: This Policy and Procedure applies to any Council office declared vacant on Township Council during the term of Council.	
DEFINITIONS:	
APPOINTMENT means the appointment of a qualified individual, by majority vote of Council, to fill a vacancy on Council for the remainder of the current term of Council.	
BY-ELECTION means an election to fill a vacancy on Township Council, conducted in accordance with the provisions of S.65 of the Municipal Elections Act, 1996, as amended.	
COUNCIL means the Corporation of the Township of Matachewan Council.	
LOT means a method of determination by placing the names of the nominees on equal sized pieces of paper and placed in a container with one name being drawn by the Municipal Clerk.	
NOMINEE means individuals wishing to fill a vacancy on Council who meet the eligibility requirements and who have submitted the required documentation as outlined in this policy.	
REGULAR ELECTION YEAR means the year established for a regular municipal election in accordance with the Municipal Elections Act, 1996, as amended.	
VACANCY means when a seat on Council has become vacant in a manner described by the Act.	

GENERAL

1. Council is required to declare a seat vacant in accordance with Section 262(1) the Act.
2. Council shall determine whether to fill the vacancy, within 60 days after the day a declaration of vacancy is made, in accordance with Section 263 of *the Act*, by either:
 - a) Appointing a person who has consented to accept the office if appointed; or
 - b) Passing a By-law requiring a By-election to be held to fill the vacancy.

The Exceptions to S. 263 are:

- a) Section 65(2) of the Municipal Elections Act states that no By-election shall be held to fill an office if the vacancy occurs after March 31 in the year of a regular election; and
 - b) Section 263(5)(b) if a vacancy occurs within 90 days before Voting Day of a regular election, the municipality is not required to fill the vacancy.
3. The Procedure for filling a vacancy by appointment is contained in Appendix "A" and:
 - a) The vote to appoint an individual to the vacancy shall occur during an open meeting of Township Council.
 - b) Voting shall be conducted using paper ballots.
 - c) Any individual filling a vacancy must meet the eligibility requirements of office as outlined in the Act and Municipal Elections Act as an eligible elector.
4. Any employee of the Township of Matachewan wishing to fill a vacancy on Council shall provide advance written notice of their intention to take unpaid leave. If the employee is appointed to office, they will be deemed to have resigned their position with the Township before making the declaration of office.

POLICY

A. Filling a Vacancy by Appointment

1. Office of the Mayor

If a vacancy in the Office of the Mayor is to be filled by appointment, Council may choose to fill the vacancy by appointing:

- a) A current member of Council in accordance with the Act; or
- b) 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
- c) An open call for individuals for consideration by Council through a public appointment process (see Schedule "A"). Sitting members of Council may also be considered.

2. Office of Councillor

If a vacancy in the Office of Councillor is to be filled by appointment, 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 (see Schedule "A").

B. Filling a Vacancy by By-election

If a vacancy for either Office of Mayor or Councillor is to be filled by by-election, Council shall pass a By-Law to fill the vacancy by By-election within 60 days of declaring the seat vacant:

Once the By-Law has passed, a By-election shall be held in accordance with the Municipal Elections Act and the Municipal Clerk shall conduct the By-election in accordance with the Municipal Elections Act and all applicable policies and procedures.

RESPONSIBILITIES

1. **Matachewan Township Council** is responsible for the adoption and application of this Policy.
2. The **Municipal Clerk** or designate shall be responsible for conducting any By-election in accordance with the Municipal Elections Act and all applicable policies and procedures.

Council Vacancy Procedure

PARENT POLICY:

PURPOSE

This procedure establishes the steps required in filling a vacancy on Council should the option of appointment by nomination at large or appointment from previous election candidates be selected by Council.

PROCEDURE

There will be two procedures for Matachewan Township Council to follow in the event they wish to fill the vacancy by appointment:

1. Procedure for Filling Council Vacancy: Appointment by Nomination at Large
2. Procedure for Filling Council Vacancy: Appointment from Previous Election Candidates.

1. Procedure for Filling Council Vacancy: Appointment by Nomination at Large

The Municipal Clerk, or designate, shall be responsible for interpreting and where appropriate, facilitating the appointment application process.

The Municipal Clerk has the authority to make minor technical amendments to this procedure as may be required from time to time.

Notice

- I) Council shall declare the seat of the Councillor/Mayor to be vacant in accordance with the Municipal Act. Council will then have 60 days to appoint a new member.
- II) The Municipal Clerk shall post a Council Vacancy Notice in accordance with the Provision of Notice Policy. The notice shall indicate Council's intention to appoint an individual to fill a vacancy, the requirements to be considered for an appointment and the application process.

Application

- III) Any qualified Citizens of the Township of Matachewan (as per the *Ontario Elections Act*) wishing to be considered for appointment to the vacancy shall advise the Municipal Clerk in writing.
- IV) Applications for the vacant seat may be filed with the Municipal Clerk commencing the next business day following Council's decision to adopt an appointment process. Candidates shall submit all required forms and proof of Municipal residency to the Clerk in person by the deadline to be established by the Clerk.
- V) The application and all requirements shall be made available through the Township's Website.
- VI) All applications shall be considered public documents and will be made available for public viewing at the Township's Municipal Office and will be included in the Council Agenda package.
- VII) It is the candidate's sole responsibility to meet any deadline, complete the application or otherwise comply with any requirements of this procedure.

- VIII) A candidate who wishes to withdraw their application may do so in person and in writing to the Municipal Clerk. The deadline for any withdrawal shall be any time up to 3:00 p.m. on the business day prior to the date of the advertised Council meeting for the purpose of filling the vacancy.

Council Meeting

- IX) The vote to fill the vacant Council seat shall occur at an open Township Council meeting.
- X) If no prospective candidate has filed prior to the deadline, Council may choose to fill the vacancy by appointing the Candidate who ran for the position that is vacant from the previous election that received the next greatest amount of votes but was not elected.
- XI) At the advertised Council meeting, the following shall take place:
- i. Any Candidate who is not present at the start of the Council meeting will be disqualified from the selection process.
 - ii. The Chair shall make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
 - iii. Any member of Council seeking appointment shall declare a conflict of interest.
 - iv. The Municipal Clerk will provide to the Chair a list of the names of those individuals who have indicated, in writing, their interest in being appointed to the vacancy.
 - v. If there is only one person placing their name forward to fill the vacancy, the Municipal Clerk shall declare them the successful candidate.
 - vi. If there more than one person placing their name forward, the Chair will call for a resolution from Council that states the following:
BE IT RESOLVED THAT: the following candidates, who have signified in writing their interest in being appointed to the #position#, be considered for appointment to fill such vacancy:
#List of Candidates#
 - vii. Each of the candidates shall be afforded the opportunity to address Council for a period of not more than 5 minutes. The Municipal Clerk shall determine, by lot, the order of speaking.
 - viii. Members of Council not seeking appointment shall be permitted three questions per candidate.
 - ix. When all submissions have been heard, Council will proceed to vote as follows:
 - a) Township Council will vote in Open Session via paper ballot.
 - b) Council members may vote for one (1) candidate only per round of voting.
 - c) The Municipal Clerk shall provide Members of Council a voting card on which to indicate their choice of Nominee in writing. New voting cards will be issued at the start of each round of voting.
 - d) The Municipal Clerk will read out the names of all the candidates alphabetically by surname.
 - e) The Municipal Clerk will ask Members of Council to vote by displaying their voting card with choice of candidate *clearly* written on it. Members of Council will display the card at the same time and in a manner that is clearly visible to the Municipal Clerk and public.
 - f) Once a voting card has been displayed by a Member of Council no changes shall be permitted.
 - g) The Municipal Clerk will record the votes and announce how each Member of Council has voted and record the results at the end of each round of voting.

- h) If the candidate receiving the greatest number of votes cast is not more than 50%+1 of the total vote, the candidate or candidates who received the fewest number of votes shall be excluded from consideration. The vote will be taken again by the Municipal Clerk and, if necessary, more than once, excluding in each successive vote the candidate or candidates who received the fewest number of votes. This process shall be repeated until the candidate receiving the greatest number of votes has also received 50%+1 of the votes of the voting members of Council.
 - i) In the event of a tied vote, where three or more candidates remain, the Clerk shall, by lot, select one such candidate to be excluded from the subsequent voting.
 - j) In the event of a tied vote, where two candidates remain, the Clerk shall break the tie by selecting, by lot, one such candidate to fill the Council vacancy.
- x. Upon conclusion of the voting and drawing of lots, the Municipal Clerk will declare the successful candidate and the Chair will call for a resolution from Council that states the following:
BE IT RESOLVED THAT: #Candidate# be appointed to the Council position for #position# for the remainder of this term of Council.
- xi. The Chair shall then administer the Declaration of Office to the successful Candidate.
- XII) Where a situation occurs that is not otherwise accounted for in these proceedings, the Clerk shall recommend an alternate process to Council, which Council may adopt with a simple majority vote.

2. Procedure for Filling Council Vacancy: Appointment from Previous Election Candidates

The Municipal Clerk, or designate, shall be responsible for interpreting and where appropriate, facilitating the appointment application process.

The Municipal Clerk has the authority to make minor technical amendments to this procedure as may be required from time to time.

- I. Council shall declare the seat of the member of Council to be vacant in accordance with the Municipal Act.
- II. The Clerk shall provide Council with a staff report including:
 - a) The details regarding the results of the most recent election for the now vacant seat.
 - b) Information regarding whether the candidate who received the next greatest amount of votes for the Council seat in question would be agreeable and able to fill the vacancy.
 - c) If the Council seat was acclaimed in the previous election, the Municipal Clerk may present information on the candidate who received the next greatest amount of votes per eligible elector.
 - d) If the proposed candidate is able and agreeable to filling the vacancy, Council will pass a resolution appointing that candidate to fill the vacancy for the remainder of the term of the present Council.
 - e) The Chair shall then administer the Declaration of Office to the successful Candidate.
- III. The vote to appoint a member to the position of Councillor from previous election candidates shall be held within 60 days from the declaration of the vacancy and shall occur at a Council meeting.