
Subject: Restricted Acts after Nomination Day of the Municipal Election

Report to: Corporate Services Committee

Report date: Wednesday, May 16, 2018

Recommendations

1. That pursuant to Section 275(6) of the *Municipal Act, 2001*, Regional Council **DELEGATES** to the Chief Administrative Officer (CAO), only to the extent not already delegated, the following:
 - (a) The appointment or removal from office of a statutory officer of the Niagara Region or Commissioner;
 - (b) The hiring or dismissal of any employee of the municipality;
 - (c) The disposition of any real or personal property of Niagara Region 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,

Provided such authority shall extend only until the first meeting of the new Council, and that the CAO shall report to the new Council all actions taken pursuant to this delegation.

Provided further the CAO shall exercise the authority to appoint or remove an officer or Commissioner only if the CAO, after consideration of all reasonable alternatives, is of the opinion waiting for convening of the new Council would be contrary to the best interests of the Niagara Region or contrary to applicable law.

That authority delegated expressly constitutes a waiver of any expressed requirement arising from previous resolutions of Council directing a matter be returned to Council for approval before proceeding.

That the authority delegated shall continue from election to election unless determined otherwise by Council.

Key Facts

- Section 275 of the *Municipal Act, 2001 (Act)* provides for restricted acts after nomination day and after voting day (sometime referred to as lame duck period). The purpose of this report is to seek delegated authority, only to the extent not already delegated, over certain acts, to the Chief Administrative Officer, in the event Section 275 is triggered.

Financial Considerations

Section 275 of the *Act* prohibits Council from undertaking certain acquisitions, spending and employee-related actions during two periods after nomination day. Failure to delegate authority could restrict the Region's ability to conduct business in the normal course.

Analysis

As a result of amendments to the *Act*, the timing for restricted acts after nomination day have changed and are now longer if a municipality finds itself in this position. A summary of the provisions of the *Act* for restricted acts after nomination day and other related matters are set out below.

Regional Council has delegated authority to the CAO since 2003 for the restricted acts under the *Act*. It is deemed desirable to continue the delegation of authority to the CAO for 2018 as a matter of routine and to continue the delegation from election to election unless determined otherwise by Council in order to create efficiencies.

RESTRICTIVE PROVISIONS

The determination of whether Council is in a "restricted" position occurs twice during the election period. The calculations are now based on 32 Council Members since Council approved an additional Member for the Township of West Lincoln. Section 275(1), paragraph 2 will apply since the new Council will have more members than the outgoing Council.

(a) **Between July 27 to October 22, 2018**

The determination is based on the certified nominations by the Clerk and any acclamations as of July 27, 2018. If less than three-quarters of the current members are running for Council, then the restrictions set out in the *Municipal Act* will apply. For the Region, three-quarters equals 24, and less than three-quarters equals 23. Therefore, if 24 are not running/acclaimed, then restrictions apply; and

(b) Between October 22 to November 30, 2018

If the election results declared by the Regional Clerk after the election result in less than three-quarters of the incumbent Regional Councillors returning to Regional Council, the restrictions set out in the Act apply. Therefore, if 23 or less, are re-elected/acclaimed, then restrictions apply.

RESTRICTIONS

If Regional Council finds itself in a restriction period, Council shall not take any of the following actions:

- (a) the appointment or removal from office of any officer of the municipality;
- (b) the hiring or dismissal of any employee of the municipality;
- (c) the disposition 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.

EXCEPTION

Clauses (c) and (d) above do not apply if the disposition or liability was included in the most recent budget adopted by Regional Council before nomination day in an election year.

In addition, nothing prevents a municipality from taking any action in the event of an emergency.

DELEGATION OF AUTHORITY

Nothing in this section of the *Act* prevents any person or body from exercising any authority of a municipality that is delegated to the person or body prior to nomination day for the election of the new council.

Alternatives Reviewed

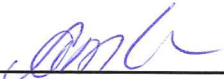
This report is driven by the provisions of the *Act*. Alternatively, Council may wish to delegate authority for the restricted acts in each election year rather than providing for the continuous election to election delegation. It is more efficient to continue the delegation from election to election with notification of same to Council each year.

Relationship to Council Strategic Priorities

The information and recommendations contained in this report advance the Strategic Priority of "Doing Business Differently/Advancing Organizational Excellence".

Other Pertinent Reports


LCS 10-2014 Section 275 Municipal Act, 2001 "Lame Duck" Provisions –
Municipal Election 2014 and Delegation of Authority



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Appendices

None.