



## Corporation of the Township of Brock

### Staff Report to the Members of Council

**From:** Fernando Lamanna

**Position:** Deputy CAO & Municipal Clerk

**Title / Subject:** Declaring the Office of the Mayor Vacant

**Date of Report:** May 29, 2025

**Date of Meeting:** June 9, 2025

**Report No:** 2025-GG-011

#### 1.0 Issue / Origin

This report highlights the legislative requirements with respect to declaring the Office of the Mayor Vacant.

#### 2.0 Background

On May 26, 2025, Mayor Walter Schummer provided the Clerk with a resignation letter which indicated that his resignation from office would take effect immediately.

#### 3.0 Analysis

The Municipal Act, 2001 (MA), and the Municipal Elections Act, 1996 (MEA) together prescribe rules and impose deadlines with respect to filling a vacancy. Recent changes made by the Province of Ontario in regard to the Strong Mayors, Building Homes Act, 2022 no longer allow Council the option of choosing to fill a vacancy by appointment or by-election. Under the new rules, a by-election must be held to fill a mayoral vacancy unless the vacancy occurs after March 31<sup>st</sup> in an election year.

##### Vacancies under the Municipal Act, 2001 (MA)

In accordance with the MA Section 259 addresses vacancies as follows:

*The office of a member of council of a municipality becomes vacant if the member,*

*(a) becomes disqualified from holding the office of a member of council under section 256, 257 or 258;*

*(b) fails to make the declaration of office before the deadline in section 232;*

- (c) is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council;*
- (d) resigns from his or her office and the resignation is effective under section 260;***
- (e) is appointed or elected to fill any vacancy in any other office on the same council;*
- (f) has his or her office declared vacant in any judicial proceeding;*
- (g) forfeits his or her office under this or any other Act; or*
- (h) dies, whether before or after accepting office and making the prescribed declarations.*

Section 260 states that *a member of council of a municipality may resign from office by notice in writing filed with the clerk of the municipality.*

Subsequently, the declaration of the office to be vacant is outlined in Section 262(1) *if the office of a member of a council becomes vacant under section 259, the council shall at its **next meeting declare the office to be vacant**, except if a vacancy occurs as a result of the death of a member, the declaration may be made at either of its next two meetings.* The declaration is in the form of a by-law that gives authorization to the Clerk to conduct a by-election and by what means of voting.

#### By-elections under the Municipal Elections Act, 1996 (MEA)

The Municipal Elections Act (MEA) states that by-elections shall be conducted as far as possible in the same way as regular elections.

The timing of the by-election is determined by the Clerk. Under the MEA, the Clerk fixes the nomination day (i.e. the close of the nomination period) between 30 and 60 days after the passage of the by-law declaring an office vacant. The by-election occurs 45 days after nomination day.

As a result, the Clerk has set the following Mayoral by-election dates, subject to Council declaring the office vacant and passing a by-law requiring a by-election:

- Nominations will open on Monday, July 7 @ 8:30 a.m.
- Nominations will close on Friday, July 25 @ 2:00 p.m.
- Advanced voting will take place on September 4, 5 & 6.
- By-election will be held on Monday, September 8.

Given that Council recently endorsed a new alternative voting method for the 2026 election to allow the alternative voting methods of “Internet with Telephone voting” and “Ballot-On-Demand”, the Clerk recommends that the same alternative voting methods be used for the by-election. In this accord, By-Law Number 3351-2025 being a by-law to

authorize the use of alternative voting methods has been included as an appendix to this report for Council consideration.

#### Continuation of Municipal Operations

With respect to the ongoing municipal operations, it will be business as normal, for the most part. Council meetings will continue through June and July, however, the scheduled September 8, 2025, council meeting will be cancelled in light of the by-election. The Council meetings will resume Monday September 22, 2025, with a slight change in the start time from 6:00 p.m. to 10:00 a.m. in anticipation of a large agenda.

In terms of procurement, no additional delegated authority is required, however, staff will ensure to follow and adhere to the procedures and limits set out in Township's Procurement By-law # 3148-2022-FI.

#### **4.0 Related Policies / Procedures**

2025 Council Meeting Schedule & Procurement By-law # 3148-2022-FI.

#### **5.0 Financial / Budget Assessment**

From an administrative point of view, a by-election for the office of the Mayor requires the same efforts as a general election.

The budgeted amount being set aside for the 2026 Municipal Election has a total budget of \$120,000, with \$30,000 being transferred from reserves each of the 4 years between terms of council.

In order to conduct a by-election in the same manner as a regular election, approximately \$120,000 budget is required. This amount will be funded from the Election Reserve which has an estimated year end balance of \$110,000. Additional funds will be required to conduct the 2026 election and will be addressed either through the 2024 year end surplus or the 2026 budget. Any unused funds from the by-election will remain in the Election Reserve and reduce the requirement for the 2026 election.

#### **5.1 Asset Management**

There is no impact with asset management.

#### **6.0 Climate Change Impacts**

There is no direct impact with climate change with this report. However, the introduction of online voting can minimize the need for electors to drive to polling locations.

#### **7.0 Communications**

This report is presented on a public agenda. A Township News Release with respect to Mayor Schummer's resignation was posted on the website and social media on Tuesday, May 27, 2025.

The resignation was also shared with:

- Regional Municipality of Durham
- Ministry of Municipal Affairs and Housing
- Jacob Mantle MP
- Laurie Scott MPP
- Elections Ontario
- Association of Municipalities of Ontario (AMO)
- Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO)
- Rural Ontario Municipal Association (ROMA)
- Good Roads
- Both Conservation Authorities

## **8.0 Conclusion**

In accordance with the new legislation in the Strong Mayor Powers the vacancy for the head of council must now be dealt with in a by-election. Therefore, in keeping with the principles of the MEA, staff are seeking Council's direction to declare the seat of the office of the mayor vacant and proceed with a by-election with the alternative voting methods "internet & telephone" and "Ballot-On-Demand".

## **9.0 Recommendation**

Be It Resolved That Report 2025-GG-011 entitled "Declaring the Office of the Mayor Vacant", be received; and

That Council require that a by-election be held to fill the vacancy in the Office of Mayor as outlined in draft By-law # 3351-2025, attached as Appendix "1" to report 2025-GG-011 and direct that the By-law come into force on June 9, 2025; and

That Council approve the transfer of a maximum of \$110,000 from the Election Reserve to conduct the by-election; and

That Council amend the 2025 Council Meeting Schedule to remove September 8, 2025, and change the start time for the September 22, 2025 from 6:00 p.m. to 10:00 a.m.