



## Staff Report

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**Report To:** Dan Best, Chief Administrative Officer  
**From:** **Rebekah Msuya-Collison, Municipal Clerk**  
**Date:** June 18 2018  
**Report:** 15-2018  
**Subject:** 2018 Restricted Acts of Council ("Lame Duck" period)

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### Recommendations:

That South Huron Council receives the report by Clerk Rebekah Msuya-Collison re: 2018 Delegation of Powers during "Lame Duck" Council for information; and

That Council authorizes the Clerk to prepare the necessary by-law prior to Nomination Day (July 27, 2018), delegating authority from July 27, 2018 to December 3, 2018 as outlined:

- 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;
- d) Making any expenditure or incurring any other liability which exceeds \$50,000; and and
- e) That the CAO will report to Council if the delegation of authority is exercised under the proposed by-law; and

Further that the by-law shall come into force and effect only in the event that less than 75% percent of the current members of Council will be returning to sit on the new Council after Nomination Day of the 2018 Municipal Election as determined by the Clerk.

**Purpose:**

The purpose of this report is to delegate certain powers to the Chief Administrative Officer between July 27, 2018 and the inaugural meeting of Council scheduled for December 3rd, 2018, if the provisions of the Restricted Acts After Nomination Day are in effect.

**Background and Analysis:**

Changes to the *Municipal Elections Act* through Bill 181 (the *Municipal Elections Modernization Act, 2016*) may impact the Municipality as it relates to lame duck periods due to the change in the nomination date for candidates for the 2018 municipal election. Nominations were able to be filed on May 1, 2018 and the Nomination Day (deadline) is now July 27, 2018. If Council was to go into "lame duck" at the close of Nomination Day, it could be in this restricted period for as long as four months.

Section 275 of the Municipal Act, S.O. 2001, c.25 sets out the restricted acts that a Council shall not take after Nomination Day (July 27, 2018) and after Voting Day (October 22, 2018) if the Council is in a lame duck position. A municipal council can be in a lame duck situation if it is determined there is the potential or certainty that less than three-quarters (75%) of the existing council members will not be returning to office.

The Municipality of South Huron has a 7 member Council. When we apply the 75% calculation the result is 5.25 which is rounded up to 6 members. Lame duck position can occur twice during the municipal election process:

- a) Between July 27, 2018 and October 22, 2018 – If less than 6 of the 7 existing members are not running for Council, the restrictions set out in the Act will apply;
- b) Between October 22, 2018 to November 30, 2018 – If less than 6 of the 7 of the incumbent Councillors are returning to Council, the restrictions set out in the Act will apply.

The Clerk will advise Council at the first meeting in August, 2018 after Nomination Day as to whether Council is in a lame duck position. At the November 5, 2018 Council Meeting, the Clerk will report on the Election results to determine if Council is in a lame duck position. At the December 3, 2018 Inaugural Meeting the by-law delegating the authority to the Chief Administrative Officer would expire as the newly elected Council will be sworn in for the Municipality of South Huron.

To ensure Council is informed, a memorandum would be submitted by the Chief Administrative Officer to Council advising of the exercise of the delegated authority. This was done in 2014 via By-law 66-2014 when Council delegated authority to the Chief Administrative Officer to take action, where necessary on certain restrictions listed in the Municipal Act between Nomination Day and December 1, 2014.

## **Operational Considerations:**

Council can also maintain status quo but this option is not recommended as during the "lame duck" period Council is restricted from the following actions pursuant to Section 275(3) of the Municipal Act:

- 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.

The restrictions on the actions identified in section 275(3)(c) and (d) do not apply if the disposition or liability was included in the most recent budget adopted by Council before Nomination Day.

**Land Matters** - With respect to Section 275(3)(c) (land matters), a municipality can close a real estate transaction during the lame duck period only if the council passed a by-law approving the execution of the agreement of purchase and sale in advance of the lame duck period.

**Expenditures** - A contract could be awarded by a lame duck council which is in excess of \$50,000 so long as the amount was approved in the 2018 budget. However, the lame duck council is not able to award a contract, if the amount of the tenders or bids exceeds the amount included in the approved budget.

**Emergencies** - The Act provides at Section 275(4.1) that nothing in this section prevents a municipality taking any action in the event of an emergency.

**Delegation of Authority** - Section 275(6) provides that Council maintains the authority to delegate these certain powers to a person or body if the delegation is made prior to Nomination Day (July 27, 2018). Delegating this

authority pursuant to Section 275 of the *Municipal Act, 2001* is typically provided to ensure the efficient management of the municipal Corporation continues and provides for the ability to respond to issues in a timely fashion.

### **South Huron's Strategic Plan:**

Section 6.2.2 of the Municipality of South Huron 2015- 2019 Strategic Plan identifies key priorities and strategic directions. The following elements are supported by the actions outlined in this report:

- ✓ Administrative Efficiency and Fiscal Responsibility
- ✓ Increased Communications and Municipal Leadership
- ✓ Transparent, Accountable, and Collaborative Governance

### **Financial Impact:**

There are no Financial/Budget implications as a result of this report

### **Legal Impact:**

Legal implications as outlined in this report.

### **Staffing Impact:**

There are no staffing implications as a result of the actions outlined in this report

### **Policies/Legislation:**

*Municipal Act*

*Municipal Elections Act*

*Modernizing Ontario's Municipal Legislation Act*

### **Consultation:**

### **Related Documents:**

Draft Delegation By-law

Respectfully submitted,

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**Rebekah Msuya-Collison, Municipal Clerk**