

United Townships of Head, Clara & Maria Council

Request for Decision

Type of Decision									
Meeting Date	Tuesday, June 21, 2022				Report Date	Friday, April 29, 2022			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed
Report #22/06/21/1603 – Restricted Acts in a Municipal Election Year									

Subject: Restricted Acts in a Municipal Election Year

Recommendation: That Council adopt By-law 2022-18 being a by-law to authorize the delegation of authority during the Restricted Acts period of Council during the 2022 Municipal Election.

Resolution:

Resolution No.: 22/04/19/1005

Moved by Councillor

and seconded by Councillor

WHEREAS Council has received Report concerning Restricted Acts in a Municipal Election Year;

THEREFORE BE IT RESOLVED THAT By-law 2022-18 being a by-law to authorize the delegation of authority during the Restricted Acts Period of Council during the 2022 Municipal Election be read a first, second and third time passed.

Background Information:

Under Section 275 of the Municipal Act, a municipal council is prohibited from performing certain actions in a municipal election year where it is determined that there the new council will have less than 75 percent of the membership of former council. This is commonly referred to as the ‘restricted acts clause’ (or a ‘lame duck’ council).

There are two periods when Restricted Acts may come into force:

August 19, 2022 (Nomination Day) to October 24th, 2022 (Election Day)

The determination shall be based on the 2022 Candidates election nominations that have been certified by the Municipal Clerk on August 22, 2022. If less than three-quarters of the existing Council Members are not running for the next term of Council or are running for different offices, the restrictions set out in the Municipal Act, 2001, will apply; and

October 24, 2022 (Election Day) to November 14, 2022 (last day of the current term of Council)

If the election results declared by the Clerk after the conclusion of the election reveals that there is less than 75% of the incumbent Council Members returning to Council, the restrictions set out in the Municipal Act, 2001, will apply.

If a Council is in a Restricted Acts position, Council shall not take on 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.

Exceptions to clauses ‘C’ and ‘D’ above to not apply if the disposition or liability was included in the most recent budget adopted by the Council before Nomination Day of the 2022 Municipal Election.

Nothing prevents a municipality from taking any actions in the event of an emergency within the municipality, regardless of a Restricted Acts period.

Section 275(6) of the Municipal Act provides that the authority of a municipality can be delegated to a person prior to Nomination Day to maintain operations during established Restricted Act period; and the by-law has been enclosed for Council's approval.

If a 'Lame Duck Council' is declared, the term of office commences for the newly elected Council on November 15, 2022 and the new Council is deemed organized when quorum of members has taken declaration of office pursuant to Section 232 of the Municipal Act, 2001; which will be done at the Inaugural Meeting of Council to take place on November 15th, 2022. At the Inaugural Meeting of Council, the by-law delegating authority to the Clerk-Treasurer in regards to Restricted Acts will expire and the newly elected Council will be sworn in.

Financial Considerations/Budget Impact:

None at this time.

Enclosures:

Restricted Acts Delegation of Powers By-Law

Approved and Recommended by the Clerk

Crystal Fischer,
Clerk/Treasurer