



2021 Division Road North
Kingsville, Ontario N9Y 2Y9
(519) 733-2305
www.kingsville.ca
kingsvilleworks@kingsville.ca

Date: June 11, 2018

To: Mayor and Council

Author: Jennifer Astrologo, Director of Corporate Services

RE: Restricted Acts of Council after Nomination Day - Lame Duck Period

Report No.: CS-2018-15

AIM

To provide Council with information relating to section 275 of the *Municipal Act, 2001* (the “Act”), also known as the “lame duck period”, and an update regarding its potential application during the 2018 election year.

BACKGROUND

Section 275 of the *Act* provides that if the new council includes less than three-quarters of the members of the outgoing council between Nomination Day (July 27, 2018) and the commencement of the new term of Council (December 1, 2018), Council may not:

- i) Appoint or remove an officer from office;
- ii) Hire or dismiss any employee of the municipality;
- iii) Dispose of any real or personal property of the municipality with a value exceeding \$50,000, unless provided for in the current budget; and
- iv) Make any expenditure or incur any other liability which exceeds \$50,000, unless provided for in the current budget.

Nothing in that section prevents the Town from taking action in the event of an emergency, nor does it prevent any officer or employee from exercising any authority that is delegated to any person or body, pursuant to section 23.1 of the *Act*, provided that said delegation is made prior to Nomination Day.

Of the listed actions, Council may not delegate its authority to appoint or remove from office an officer of the municipality whose appointment is required by the Act.¹ Council has not delegated its authority to Administration in respect of the remaining areas of responsibility, with the exception of the hiring of temporary employees.

DISCUSSION

There are 2 dates in which the acts of Council may be restricted based on section 275:

- i) after Nomination Day but before Voting Day, or
- ii) after Voting Day, once results are declared.

Council is comprised of 7 members. To meet the three-quarter threshold prescribed in the Act, 6 current members of Council must officially declare candidacy through the filing of nomination papers with the Clerk. Upon review of the nominations filed to date, only 4 of members of Council are candidates in the 2018 election. Therefore, it appears that Council will be in a “lame duck” position as of July 27 until the start of the new term of Council (December 1).

The Town has undergone a significant amount of recruitment as of late and Council has not delegated its authority to hire or dismiss employees. While Administration does not anticipate this being an issue, any vacancies which arise will remain vacant until the next term of Council commences.

With respect to capital projects, there are a number of projects that are in the process of completion and which must still be tendered. If any of the tenders exceed the budgeted amount, Council will not be able to award those projects by operation of section 275.

The impact of section 275 could be substantial and will likely take effect as of Nomination Day. In order to maintain normal business operations during this time, Administration recommends that Council delegate its authority for the duration of the “lame duck period”.

LINK TO STRATEGIC PLAN

No direct link to the strategic plan.

FINANCIAL CONSIDERATIONS

None.

CONSULTATIONS

Senior Administration

¹ Section 23.3(1) paragraph 1.

RECOMMENDATION

That Council receives this report regarding Section 275 of the *Municipal Act, 2001*.

That Council delegates to the Chief Administrative Officer, for the period of time during which section 275 of the *Municipal Act, 2001* is in effect (the Lame Duck period), the following authority:

- Hiring or dismissing any employee, save and except those officers of the municipality whose appointment is required under the *Municipal Act, 2001*,
- Disposing of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal, unless provided for in the current budget, and
- Making any expenditure or incurring any other liability which exceeds \$50,000, unless provided for in the current budget.

That prior to the exercise of the delegation of authority, the Chief Administrative Officer consult with the Director of Financial Services on those matters involving the disposition of property and unbudgeted expenditures and consult with the Director of Corporate Services on employee matters.

That prior to the exercise of the delegation of authority, the Chief Administrative Officer advise Council in writing of the exercise of the authority.

That By-law 78-2018, being a by-law to authorize the delegated authority for restricted acts during the “lame duck” period be adopted.

Jennifer Astrologo

Jennifer Astrologo, B.H.K. (hons), LL.B
Director of Corporate Services/Clerk

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer