

**Subject:** After Election Day – Restricted Acts Provision of the *Municipal Act, 2001*

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2022-0262 After Election Day – Restricted Acts Provision of the *Municipal Act, 2001*, for information.**

**Background:**

On April 19, 2022 the Clerk brought an information report to Council explaining Section 275 of the *Municipal Act, 2001* (the "Act") being the restricted act provision, known commonly as "lame duck provisions".

On August 22, 2022 the Clerk brought an information memo to Council advising the Clerk had determined Council is 'lame duck' as fewer than three-quarters of the members of the present Council will return.

**Analysis:**

The 2022 Municipal and School Board election occurred on October 24<sup>th</sup>, 2022. The Clerk has reviewed and certified the election results and has determined as fewer than three-quarters of the members of the present Council will return Council is considered 'lame duck'.

As Council is considered Lame Duck, and pursuant Section 275 of the Act, the following restrictions apply:

- (3) The actions referred to in subsection (1) are,
- 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

(4) Clauses (3) (c) and (d) do not apply if the disposition or liability was included in the most recent budget adopted by the council before nomination day in the election.

#### Emergencies

(4.1) Nothing in this section prevents a municipality taking any action in the event of an emergency.

Council will recall that By-law 4455(2022) provided for this and delegated authority to the Chief Administrative Officer for certain acts, as follows:

1. THAT where specified joint delegation of authority is to be exercised, in the absence of consensus, the delegation of authority rests with the Chief Administrative Officer (CAO);
2. THAT the CAO be delegated the authority to hire or remove any employee of the municipality with the exception of statutory officers of the municipality;
3. THAT the CAO be delegated the authority to appoint any Acting statutory officer of the municipality in the event of a departure or vacancy of such an officer's position;
4. THAT the CAO and the Treasurer are jointly delegated as the financial signing authority for expenditures outside the current budget, exceeding \$50,000;
5. THAT the CAO and Clerk are jointly delegated the authority to execute any Agreement of Purchase and Sale pertaining to the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal;
6. THAT the CAO and the Clerk are jointly appointed signing authority for all agreements pursuant to Article 5;

7. THAT the CAO shall report to Council on any actions taken under the restrictions listed in Section 275(3) of the *Municipal Act, S.O. 2001* between Nomination Day and the commencement of the Council Term;
8. THAT this By-law shall take effect only in the event that Council Authority ceases under Section 275 of the Municipal Act, being the *Lame Duck* provisions, and shall cease upon the Swearing In of the 2022-2026 Municipal Council for the Town of Pelham.

The new term of Council will commence November 15, 2022. New Council will be sworn into office on November 21, 2022 and Council will no longer be deemed *Lame Duck*.

**Financial Considerations:**

There are no financial considerations.

**Alternatives Reviewed:**

None.

**Strategic Plan Relationship: Strong Organization**

It is important to understand the provisions of Section 275 of the Act and ensure compliance as this leads to a strong organization.

**Consultation:**

None.

**Other Pertinent Reports/Attachments:**

None.

**Prepared and Recommended by:**

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