



The Corporation of the Town of Milton

Report To: Council

From: Meaghen Reid, Director, Legislative & Legal Services/Town Clerk

Date: May 26, 2025

Report No: CORS-009-25

Subject: Vacancy of Office - Town Councillor, Ward 1

Recommendation: **THAT Council declare the Office of Town Councillor, Ward 1 to be vacant, as required under Section 262 of the Municipal Act, 2001; and**

THAT the Town Clerk be directed to proceed with the Appointment by Application process to fill the vacancy in accordance with the procedure set out in Schedule A to this report.

EXECUTIVE SUMMARY

- The purpose of this report is to declare the seat of Town Councillor - Ward 1 vacant, as the result of Kristina Tesser Derksen being elected as the Member of Parliament for Milton East-Halton Hills South; and to outline the requirements and options for filling the Council vacancy.
- Within 60 days after the day a declaration of vacancy is made under Section 262 of the Municipal Act, Council shall appoint a person to fill the vacancy or pass a by-law requiring a by-election be held to fill the vacancy.
- Staff recommend that Council proceed with filling the vacant position through an Appointment by Application process due to considerations for timing, cost and staff capacity, in particular the impacts for the planning and preparation of the upcoming 2026 Municipal Election.
- An Appointment by Application procedure for filling a Council vacancy is included as Schedule A to this report, which sets out the process for advertising, candidate applications and voting by Council Members during an open session of a Special Council Meeting.
- The Town of Milton successfully utilized the Appointment by Application procedure in 2014. The municipalities of Collingwood, Goderich and Midland also used this process to fill recent Council vacancies.

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- While Council must fill the seat in this instance due to timing, any Council vacancy after July 28, 2026 is not required to be filled as the vacancy would occur 90 days before a regular election.

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The Office of Town Councillor, Ward 1 became vacant when the official results of the federal election were published, confirming that Kristina Tesser Derksen was elected as the Member of Parliament for Milton East-Halton Hills South.

If a Council seat becomes vacant (unless by death), Section 262 of the *Municipal Act, 2001, as amended*, requires the seat to be declared vacant at the next Council meeting.

Under Section 263 of the *Municipal Act*, if a vacancy occurs in the office of a member of council, the municipality shall either:

- (a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or
- (b) require a By-election to be held to fill the vacancy in accordance with the *Municipal Elections Act, 1996*.

Within 60 days after the day a declaration of vacancy is made under Section 262 of the *Municipal Act*, the municipality shall appoint a person to fill the vacancy or pass a by-law requiring a by-election be held to fill the vacancy (ie. before July 25, 2025).

This report provides further details surrounding the appointment process as recommended by staff. It also contains information regarding options to hold a by-election or direct appointment should Council decide to pursue one of those instead of the staff recommendation.

Discussion

Staff Recommendation - Appointment by Application

Staff recommend Council fill the vacancy by appointing 'any qualified individual' to the position through an application process. Individuals wishing to be considered to fill the vacancy must be a qualified elector as defined in the *Municipal Elections Act* and meet the following criteria:

- Canadian citizen
- At least 18 years old, and

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- Resident of the Town of Milton, or the owner or tenant of land in the Town of Milton, or the spouse of an owner or tenant of land in the Town of Milton
- Not prohibited from voting (as per the Municipal Elections Act) or otherwise by law.

The Appointment by Application procedure, as set out in Schedule A to this report is based on common municipal practices. The procedure outlines the following:

- Advertising the vacancy
- Application process
- Special Council Meeting - appointment process (Open Session)
- By-law update/Declaration of Office

The Appointment by Application process is the option used previously at the Town of Milton (2014) and is one commonly used by municipalities in Ontario most recently in the municipalities of Collingwood, Goderich and Midland.

Timing considerations

Filling the vacancy through Appointment by Application could likely occur within 6 weeks after Council's direction to proceed with this option. This provides the Town Clerk time to properly advertise the appointment process, receive applications, and prepare the applications for consideration at a Special Council meeting. In this option, a Special Council meeting would be held within two weeks of the closure of the notice and application period (ie. mid-June).

Cost Considerations

The cost of filling the vacancy through an Appointment by Application process would be minimal and could be accommodated within the Clerk's operating budget.

Option - Direct appointment of a qualified individual

When filling vacancies for Ward Councillor, municipalities may consider the option of appointing a qualified individual, including but not limited to a candidate from the most recently held municipal election.

Should Council wish to proceed with this option, appropriate direction should be provided to staff. In order for this appointment to occur, staff would need to confirm the interest of the person in filling this vacancy and confirm the person's eligibility.

While this method is not the common approach Ontario municipalities typically utilize, the Town of Halton Hills used direct appointment to fill their recent vacancy.

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Option - By-election:

Under Section 263(5) of the Municipal Act, Council could direct that the vacancy be filled by By-election conducted under the *Municipal Elections Act, 1996*. If this option is selected, the Town Councillor, Ward 1 position, for the remainder of the current term of Council, would be elected by all eligible voters who choose to vote in the By-election.

Timing Considerations:

Choosing to fill the vacancy in this manner means that the office will be vacant for three (3) months from the date that Council passes the By-law to hold a By-election (ie. until September 2025).

Under Section 65(4) of the *Municipal Elections Act*, the Clerk is responsible for fixing the date of Nomination Day to be a day not less than 30 days and not more than 60 days after the Clerk receives a copy of a resolution indicating a By-election is required. Voting Day is 45 days after Nomination Day.

The Act purposefully gives the Clerk the authority to set Nomination Day in any By-election to permit staff the time required to prepare for and conduct a legislatively compliant election as determined by the Clerk. Due to limited staff capacity, the Clerk estimates that the Town will need close to the maximum number of days (60 days plus 45) available to prepare the By-election.

Using the maximum amount of time permitted under legislation, here is an outline of potential timing related to this option:

Action	Tentative Date
Council Direction to Proceed with By-election	Monday May 26, 2025
By-law to Declare a By-Election	Monday, June 23, 2025
Nomination period	Approx. July 23, 2025 to August 22, 2025
Voting Day	Monday, October 6, 2025
Oath of Office	Next meeting of Council

Cost Considerations:

It is estimated that the costs of conducting a By-election will be approximately \$185,000 to \$200,000. This estimate is based on the cost of service providers, election supplies and election staffing.

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Other Considerations:

In addition to timing and financial considerations outlined above, staff lack the resource capacity to successfully deliver a by-election without negatively impacting the planning and preparation for the 2026 Municipal and School Board Election (October 26, 2026) and the 2025 and 2026 Legislative and Legal Services work plan.

Legal & Legislative Services staff begin putting significant resources towards the oversight and execution of a general election in the year prior and this work is currently underway. Planning and preparation for the 2026 Municipal and School Board Election will be impacted if a by-election is being held during this same timeframe. In 2025, essential election-related work is completed including training, budgeting, securing vendors and communications planning.

In addition to response time delays to escalated enforcement issues and customer service related matters and ongoing work to develop and review existing and proposed municipal by-laws, significant projects in Legal & Legislative Services that may be impacted if resources are redirected towards a by-election, include but are not limited to:

- Additional Residential Unit (ARU) Registry Program;
- License Plate Recognition (LPR) Program;
- Neighbourhood Parking Strategy - Pilot permit parking program;
- Automated Speed Enforcement (ASE) - Dispute resolution process;
- Compliance Initiative to address illegal land use;
- Digital Records Management Solution - to ensure retention policy and legal requirements are met;
- Corporate-wide privacy impact assessment process - to support the implementation of projects, systems and policies

It is also important to note that since April 2024, voters in Milton have participated in the following elections: 2024 Provincial By-Election, 2025 Provincial Election and 2025 Federal Election. An additional Town of Milton By-Election before the next regular Municipal Election in 2026 would require Milton voters to participate in four elections within a two-and-a-half-year period.

Required Direction for a By-election:

Should the staff recommendation not be adopted and Council wishes to proceed with a By-election, the following resolution would be required:

THAT Council directs the Town Clerk to bring forward a By-law to Require a By-election at the next meeting of Council to fill the vacancy in the Office of Town Councillor, Ward 1, in accordance with the Municipal Elections Act, 1996.



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Conclusion

Given the considerations outlined above relating to timing, cost and impacts to the preparations for the 2026 Municipal Election, staff strongly recommend that Council proceed with filling the vacant Council seat by Appointment by Application.

Financial Impact

There will be savings in the Mayor and Council operating budget for the period of time that the Councillor position remains vacant, which will be reported through the operating variance review process.

Appointment by Application would result in minimal costs, such as advertising of the vacancy, and could be accommodated within the Legislative and Legal Services Division operating budget.

If Council chooses to direct the Town Clerk to hold a by-election, this would result in estimated costs of \$185,000, which cannot be accommodated within the existing 2025 operating budget. This cost would be funded through a combination of gapping from the vacant Councillor position with the balance being funded from the Tax Rate Stabilization Reserve, such that there is no net impact to the overall operating budget in 2025. As presented in Staff Report ES-013-25, the Tax Rate Stabilization Reserve was \$5.9 million at the end of 2024 relative to a target of \$8.2 million.

Respectfully submitted,

Kristene Scott
Commissioner, Corporate Services

For questions, please contact: Meaghen Reid, Town Clerk Phone: Ext. 2132

Attachments

Schedule A - Procedure to Appoint an Individual to Fill a Vacancy by Application

Approved by CAO
Andrew M. Siltala
Chief Administrative Officer



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Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

Schedule A - Procedure to Appoint an Individual to Fill a Council Vacancy by Application

These Procedures set out the process to appoint a qualified individual to fill a Council vacancy by application.

1. General information

1. Any individual filling the vacancy must be an Eligible Elector as defined in section 17 (2) of the *Municipal Elections Act, 1996, as amended*:
 1. A resident of the Town of Milton, or an owner or tenant of land in the Town of Milton or the spouse of such an owner or tenant;
 2. A Canadian citizen;
 3. At least 18 years old;
 4. A person who is not prohibited from voting under any other Act or from holding municipal office.
2. Any employee of the Town who seeks appointment to Council is required to give written notice, prior to submitting any documentation required under this Procedure, of their intention to take unpaid leave in accordance with the Municipal Elections Act, 1996, as amended, and any other applicable employee policies of the Town of Milton. If the employee is appointed to office, the employee will be deemed to have resigned from their employment with the Town immediately before making the declaration of office.

2. Application Procedure

- 1) The vacancy will be advertised on the Town of Milton website and in a local newspaper, where possible, for a minimum of ten (10) business days.
- 2) Individuals will be required to submit a Consent of Nominee form and a Declaration of Qualification in-person to a representative of the Town Clerk's Office during regular business hours (8:30 a.m. to 4:30 p.m.) Electronic or mailed forms will not be accepted.
- 3) Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove his or her identity and qualifying address to the satisfaction of the Town Clerk.
- 4) On the regular business day following the close of the application deadline date, the Town Clerk will publish a list on the Town website of all eligible applicants that have completed by the application process. All application documentation shall be considered public documents and will be made available for public viewing upon request at the Town Hall, 150 Mary Street, Milton, Ontario.
- 5) An applicant who wishes to withdraw their application may do so in-person and in writing to the Town Clerk. The deadline for any withdrawal shall be accepted up to the time at which the Special Council meeting is held to fill the vacancy.

3. Meeting Procedure

1) A Special Council meeting will be held in accordance with the Town's Procedure By-law, where in open session:

- a) All qualified candidates who have submitted an application for the vacant seat will be notified by the Town Clerk of the date and time of the Special meeting of Council, at which time they may address Council. Candidates are required to notify the Clerk no later than 24 hours before the start of the Special Meeting of Council of their intention to address Council at the meeting.
- b) Each candidate, if they wish to address Council, will be permitted to address Council for not more than 5 minutes;
- c) Each Member of Council will be permitted to ask one (1) question maximum of each candidate. Follow-up questions will not be permitted;
- d) Candidates will be sequestered in an adjacent room until it is their time to address Council regarding their application and answer questions from Council;
- e) Once this is complete, candidates may remain in Council Chambers for the remainder of the public appointment process.
- f) The order in which candidates will address Council will be determined by lot, which means that the Clerk will place the names of the applicants on equal size pieces of paper in a container with one applicant name being drawn by the Town Clerk to determine the order.

2) The Applicant for Appointment will be selected in open session as follows:

- a) When called upon by the Clerk, Members of Council will vote for the applicant of their choice when the Clerk calls for the vote of each applicant in alphabetical order. Secret ballots are not permitted under the *Municipal Act, 2001, as amended*.
- b) The Clerk will tabulate the voting results;
- c) A majority vote of Council will determine whether an applicant is successful;
- d) If no applicant receives a majority vote, the applicant or applicants receiving the least amount of votes will be excluded from further consideration;
- e) Additional rounds of voting, excluding the applicant receiving the least number of votes, will take place until a nominee receives a majority vote;
- f) Where the votes cast are equal for all applicants, and there are three or more applicants, the Clerk will by lot select one applicant to be excluded from the subsequent round of voting, which means that the Clerk will place the names of the applicants on equal size pieces of paper in a container with one applicant name being drawn by the Town Clerk to be excluded from subsequent voting.
- g) Where there are only two applicants, and the vote is tied, the Clerk shall break the tie by selecting a nominee by lot, which means that the Clerk will place the

names of the applicants on equal size pieces of paper in a container with one applicant name being drawn by the Town Clerk to determine the winner.

3) The appointment of the applicant will be made by by-law. A by-law confirming the appointment will be enacted by Council.

4) The Clerk will administer the Declaration of Office required by subsection 232(1) of the Municipal Act, 2001, at the meeting where the by-law is enacted by Council, or as directed by Council.

5) The Town Clerk, or designate, shall be responsible for interpreting and, where appropriate, facilitating the Appointment by Application process. The Town Clerk has the authority to make minor technical amendments to this procedure as may be required from time to time.