

THE MUNICIPALITY OF LAMBTON SHORES

Report CL 04-2022

Council Meeting Date: February 1, 2022

TO: Mayor Weber and Members of Council
FROM: Stephanie Troyer-Boyd, Director of Corporate Services
RE: Restricted Acts after Nomination Day

RECOMMENDATION:

THAT the Restricted Acts after Nomination Day Report CL 04-2022 be received for information.

SUMMARY

The purpose of the report is to provide Council with information on the circumstances in which Council could be in a position where certain acts are restricted after Nomination Day.

BACKGROUND

Restricted Act Provisions as Provided by the *Municipal Act, 2001*

Section 275 of the *Municipal Act, 2001* prohibits municipal Councils from undertaking certain acts in a municipal election year after Nomination Day and prior to a new Council taking office under specific conditions. This legislative restriction is referred to as 'Restricted Acts' or more commonly referred to as the 'lame duck' provision.

The determination of whether a municipal Council is in a restricted position occurs at two points in time. A lame duck Council occurs when it is known that the new Council will have less than 75% of the members of the outgoing Council as per Section 275(1) of the *Municipal Act, 2001*. For Lambton Shores, 75% is 7 of 9 members of Council.

Lambton Shores Council would be in a lame duck period when, it can be determined with certainty, that two (2) or more members of the current Council would not be on the 2022-2026 term of Council.

Staff will monitor the following two timeframes to determine if Council may be restricted in its acts:

- On August 19, 2022 (Nomination Day), if two (2) or more current members of Council decide not to run for office for the 2022-2026 term, then Council would be considered lame duck until the beginning of the new term of Council - November 15, 2022.

- On October 24, 2022 (Election Day), if two (2) or more current members of Council are not re-elected or acclaimed, then Council would be considered lame duck until the beginning of the new term of Council

In accordance with subsection 275(3) of the Municipal Act, if Council was in a lame duck situation, Council is restricted in the following acts:

- 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.

Subsection 275 (4) of the Municipal Act clarifies that (c) and (d) do not apply if these dispositions or expenditures were previously approved in the budget by August 19, 2022 (Nomination Day) and, Subsection 275 (4.1) clarifies that Council may take all necessary and appropriate actions in the event of an emergency. Should the municipality be in a Declared State of Emergency in 2022 at Nomination Day or Election Day, the Mayor is not prevented from continuing to act within any previously delegated authority during the restricted act provisions as provided by Subsection 275 (4.1) of the Municipal Act, 2001.

In 2018, Council enacted a Delegation By-Law (attached) to delegate authority to staff to ensure that there is continuity in the services provided by the municipality. In the event that there is a period of lame duck with Council in 2022, this delegated authority may be used. During a lame duck period, this delegation will not be used to advance matters that are known to be politically sensitive or of significant interest to the public. On those items, staff will seek separate specific authority to act during this period that is particular to each file.

Staff will advise Council if the restricted act provisions provided by Section 275 of the Municipal Act, 2001 come into effect during the 2022 election period; however, with the previously approved delegated authority to staff, impact would be minimal. The by-law delegating authority to staff pursuant to Section 275 of the *Municipal Act, 2001* respecting Restricted Acts would be in effect until the Council is sworn in.

ALTERNATIVES TO CONSIDER

There are no alternatives presented. This report is for information.

RECOMMENDED ACTIONS

Presented for Council information.

FINANCIAL IMPACT

None.

CONSULTATION

None.