



Subject: Niagara Regional Councillor Vacancy

To: Council

From: Legislative Services Department

Report Number: 2025-122

Meeting Date: May 27, 2025

Recommendation:

That Legislative Services Department Report 2025-122 be received; and

That pursuant to the Council Vacancy Policy, Council follow the method of appointment to make a recommendation to fill the vacancy of the Niagara Regional Councillor.

Purpose:

The purpose of this report is for the Port Colborne City Council (Council) to approve moving forward with the method of appointment to make a recommendation to the Niagara Regional Council to fill the current Regional Councillor vacancy.

Background:

On April 29, 2025, Port Colborne Regional Councillor Fred Davies, resigned from his position following his success in being elected as the Member of Provincial Parliament for Niagara South in the 2025 federal election. As a result, his seat is now vacant, and the Region is set to declare this vacancy at its Council Meeting on May 22, 2025. Under the *Municipal Act, 2001*, S.O. 2001, c.25 (*Municipal Act, 2001*), when a Council seat becomes vacant, Council must officially declare the vacancy and determine whether to fill it through appointment or via by-election. This process will be carried out in accordance with the City of Port Colborne's Council Vacancy Policy (**Appendix A**) and the *Municipal Act, 2001*.

A vacancy can occur in several different ways, including: (i) the death or resignation of a member, (ii) when a member becomes disqualified from holding office, (iii) when a member is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council, (iv) is appointed or elected to fill

any vacancy in any other office on the same council, or (v) forfeits his or her office under this or any other Act. The *Municipal Act, 2001* mandates that Council must fill a vacant seat within 60 days of declaring the vacancy unless the vacancy occurs within 90 days of a municipal election. The Niagara Region is required to approve the City of Port Colborne's recommendation to comply with its policy C2-001, unless the Region determines that the recommendation contravenes the *Municipal Act, 2001*, or the *Municipal Elections Act, 1996*.

Discussion:

On May 13, 2025, Council approved Report 2025-52, Council Policies – Vacancy and Leave of Absence, and the corresponding Council Vacancy Policy. This newly approved policy governs the process for filling vacancies of elected members of Council (including the head of Council) and Regional Council. As noted previously, Council can fill the vacancy through appointment or via by-election.

Appointment Process Considerations

The appointment process may be considered less democratic than a by-election, as it does not involve direct voter participation. However, it remains a structured and transparent process that allows interested individuals to apply, candidates to present, and Council deliberation. This open and merit-based approach ensures a fair and efficient method for filling the vacancy, particularly when considering factors such as time, cost, and voter fatigue.

A significant advantage of the appointment process is its efficiency in both time and cost. Council should consider the remaining length of the term, with the 2026 Municipal and School Board Election scheduled for October 26, 2026. Given that the current term is in its latter half, an appointment ensures the vacancy is filled promptly. Additionally, the appointment process eliminates the need for a municipal-wide by-election, thereby avoiding significant costs and resource allocation.

By-election Considerations

A by-election may be the most democratic option to fill the vacancy; however, it will also be a costly option. The 2022 Municipal and School Board election, excluding inaugural activities, cost approximately \$160,000, plus unaccounted staff time. While this municipal-wide by-election would only be for a single vacant seat, the costs would be comparable to the previous regular election, as the same processes are required, such as ordering ballots, mailing voter information cards and obtaining voting equipment.

Staff are recommending Council follow the method of appointment to fill the vacancy, and when that process has concluded, to subsequently make the recommendation to the Niagara Regional Council of who should fill the vacancy. Due to the proximity of the

2026 municipal election, and the associated cost of a by-election, staff are not recommending a by-election be held.

The method of appointment as outlined in the Council Vacancy Policy is as follows:

“Office of Regional Councillor – If a Vacancy is declared for the office of Regional Councillor the Niagara Region’s current policy is to provide direction on any actions necessary of the lower tier municipality. This may be subject to change based on the Region’s policy at the time the Vacancy occurs. Should Council be requested to make a recommendation to Regional Council on filling the Vacancy and Council recommends that the Vacancy be filled by appointment, Council may recommend that Regional Council fill the Vacancy by appointing, in no particular order:

- a current City Councillor;
- the Candidate who finished second in the most recent regular election and received at least 70 percent of the votes achieved by the successful Candidate; or
- any other Qualified person as outlined in the Act.

Process for Filling a Vacancy by Appointment of a Qualified Person – If Council decides to consider the appointment of a person who is not a current member of Council or an unsuccessful Candidate for the same office in the most recent regular election as described in 5(c)(i), (ii) or (iii) above, the following process may be followed:

1. As a minimum, an advertisement will be placed on the City of Port Colborne’s website. To increase awareness of a Vacancy, other methods to communicate such as media releases, newspaper/digital advertisement, and outreach to various organizations may be undertaken in consultation with Corporate Communications.
2. The advertisement will request that Qualified persons interested in filling the Vacancy submit a resume describing their qualifications for office and a written consent to accept the office if appointed to the Office of the City Clerk within a prescribed time. The advertisement will also include the date of the Council meeting where the matter will be considered. If Council has identified any experiences, skills or perspectives being sought, these will be identified in the advertisement.
3. At the appropriate Council meeting, the Chair will call for a motion from Council as follows: “That (Candidates) _____, _____, and _____ who have signified in writing their interest in being appointed to the office of _____ be considered for appointment.” Through this motion Council may choose to short list who will be able to make a presentation and be considered for appointment. 4. The shortlisted Candidates will be invited to make a presentation in alphabetical order, no longer than five minutes. 5. Once the presentations are complete, Council will vote publicly for

their preferred Candidate. The voting process shall be in accordance with Appendix A.”

It should be noted that pursuant to the City of Port Colborne’s (the City) Council Vacancy Policy, the following option under the appointment process for filling a vacancy on Regional Council is not available since Fred Davies was acclaimed as Regional Councillor in 2022:

- “the candidate who finished second in the most recent regular election and received at least 70 percent of the votes achieved by the successful Candidate;”

Staff are recommending the appointment process for the Regional Councillor seat be opened to both a current City Councillor and any other qualified person as outlined in the act. Should Council proceed with the method of appointment, Clerks staff will work with the Communications team to advertise the vacancy, and the candidates, or the shortlisted candidates, will be invited to make a presentation at a future Council meeting.

Temporary Representation:

Pursuant to the Niagara Region’s Procedural By-law, the City is not permitted to appoint a temporary representative to Regional Council. Section 23.1 of the By-law applies only to temporary vacancies, specifically when a current member of both councils is unable to act for a period exceeding one month. However, it does not extend to situations where a member has resigned, as this creates a vacancy rather than a temporary absence. Furthermore, the procedural by-law does not contain any provisions allowing for the appointment of a temporary member in the event of a resignation. It strictly permits the designation of alternates only in cases of temporary absences, not permanent vacancies.

Consultations:

Clerks staff consulted with the Niagara Regional Clerk.

Financial Implications:

There are minimal financial implications should Council approve the method of appointment. If Council selects a by-election, while the costs are difficult to estimate, the costs would be comparable to the 2022 Municipal and School Board election as the election would be municipal-wide.

Public Engagement:

There is no public engagement for this report. Should Council select method by appointment, Clerks staff will follow the Council Vacancy policy to advertise the open position.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
 - Economic Prosperity
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Conclusion:

In summation, Clerks staff are recommending that Council approve the method of appointment to fill the Niagara Regional Council vacancy in accordance with the Council Vacancy Policy.

Appendices:

- a. Council Vacancy Policy

Respectfully submitted,

Jessica Beaupre
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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.