

Type of Decision									
Meeting Date	Tuesday, April 17, 2018				Report Date	Thursday, April 12, 2018			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Report #17/04/18/1202									

Subject: Declaration of Vacant Seats

**RECOMMENDATION:**

That Council adopt the following resolutions declaring seats on council vacant and directing staff to take steps to fill the vacant seats.

**RESOLUTION #1**

**WHEREAS** the Clerk of the United Townships of Head, Clara & Maria did receive on Thursday, April 5, 2018 a letter of resignation from Dave Foote;

**AND WHEREAS** as per the Municipal Act, in order to begin the process of filling the vacancies, Council must first declare the seat vacant;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby acknowledge the letter of resignation submitted to the Clerk and formally declares the seat of one Council member vacant.

**RESOLUTION #2**

**WHEREAS** the Council of the United Townships of Head, Clara & Maria has declared one seat on the council vacant and is required to take steps to fill that vacancy;

**AND WHEREAS** due to the fact that the resignation was submitted after March 31 in an election year, the only available method of filling the vacant seat is through appointment;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby direct the clerk to advertise for interest in filling the vacancy on Council via appointment as per municipal policy.

**AND FURTHER THAT** Council shall review the letters of interest received, hear depositions from candidates (if desired) and make an appointment at the council meeting to be held on Tuesday, May 15, 2018.

**BACKGROUND/EXECUTIVE SUMMARY:**

The resolutions above have been created on past practise in this municipality and based on the Municipal Act and the Municipal Elections Act.

Alternatives to the Recommendations:

1. Council must appoint from eligible electors a council member;
2. Council must fill the vacant seat as per legislation – the *Municipal Act* and the *Municipal Elections Act*.

Options/Discussion:

As per the Municipal Act, the first step when resignations have been submitted to the Clerk is to have Council accept the resignations and declare the seat(s) vacant.

After a seat has been declared vacant, and since the resignation occurred after March 31 in an election year, Council has no option other than to appoint a council member to the vacant seat. Council does not have the opportunity to hold a by-election or leave the seat vacant. (Vacant would be a consideration if we were within 90 days of the election date.)

### **Legal Requirement to Fill a Council Vacancy by Appointment**

263 (1) If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section,

(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. 2001, c. 25, s. 263 (1).

The intent of the legislation is to have the Council vacancy filled, and Council has a statutory duty to ensure this occurs.

To be appointed to fill the vacancy, a person must be:

- a Canadian citizen;
- at least 18 years of age;
- a resident of the United Townships of Head, Clara & Maria, or be the owner or tenant of land, or the spouse of the owner or tenant of land;
- not prohibited from voting in a municipal election by any legislation; and,
- not prohibited from holding the office under the Act or any other legislation.

Council is not permitted to introduce any additional requirements on any person selected to fill the vacancy, such as a commitment from the applicant that he or she will not register as a Candidate in the 2018 municipal election.

Following their appointment by Council, the new Councillor will serve from the time their oath of office is taken to the end of the current term of Council.

Approved and Recommended by the Clerk

Melinda Reith,  
Municipal Clerk

*Melinda Reith*