

The Corporation of the City of Kawartha Lakes

Agenda

Special Council Meeting

CC2025-01

Tuesday, January 14, 2025

Open Session Commencing at 11:00 a.m.

Council Chambers

City Hall

26 Francis Street, Lindsay, Ontario K9V 5R8

Members:

Mayor Doug Elmslie

Deputy Mayor Charlie McDonald

Councillor Ron Ashmore

Councillor Dan Joyce

Councillor Mike Perry

Councillor Tracy Richardson

Councillor Pat Warren

Councillor Emmett Yeo

Vacancy - Ward 5

**Please visit the City of Kawartha Lakes YouTube Channel at
<https://www.youtube.com/c/CityofKawarthaLakes> to view the proceedings electronically.**

**Video and/or audio recording is not permitted during Council or Committee of the Whole Meetings,
pursuant to Trespass to Property Act, R.S.O. 1990, c.T.21.**

**To speak to an Item on this Agenda you must submit a completed Deputation Request Form by
Friday, January 10, 2025 at 12:00 p.m.**

**Accessible formats and communication supports are available upon request. The City of Kawartha
Lakes is committed to accessibility for persons with disabilities. Please contact
AgendaItems@kawarthalakes.ca if you have an accessible accommodation request.**

1.	Call to Order	
2.	Adoption of Agenda	
3.	Disclosure of Pecuniary Interest	
4.	Deputations	
5.	Correspondence	
6.	Reports	
6.1	CLK2025-001	3 - 15
	By-Law for the 2025 By-Election and Internet Voting Method Cathie Ritchie, City Clerk	
	That Report CLK2025-001, By-Law for the 2025 By-Election and Internet Voting Method , be received; and	
	That the necessary by-law to authorize the 2025 By-Election and Alternative Voting Method attached as Appendix B to Report CLK2024-001, be brought forward to Council for adoption.	
7.	By-Laws	
7.1	CC2025-01.7.1	16 - 17
	By-Law to Authorize a By-Election and an Alternative Voting Method for the City of Kawartha Lakes	
	That a by-law to Authorize a By-Election and an Alternative Voting Method for the City of Kawartha Lakes be read a first, second and third time, passed, numbered, signed and the corporate seal attached.	
8.	Confirming By-Law	18 - 18
	By-Law to Confirm the Proceedings of the Special Meeting of Council of January 14, 2025	
9.	Adjournment	

Council Report

Report Number:	CLK2025-001
Meeting Date:	January 14, 2025
Title:	By-Law for the 2025 By-Election and Internet Voting Method
Description:	2025 Ward 5 By-Election (MA S.263 Alternative Voting Method (MEA S.42))
Author and Title:	Cathie Ritchie, City Clerk

Recommendation(s):

That Report CLK2025-001, **By-Law for the 2025 By-Election and Internet Voting Method**, be received;

That the necessary by-law to authorize the 2025 By-Election and Alternative Voting Method attached as Appendix B to Report CLK2024-001, be brought forward to Council for adoption.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Regular Council Meeting of November 19, 2024, Council considered Report CLK2024-003, being the Declaration of Vacancy and Options for Replacement – Councillor Ward 5, a copy of which has been attached as Appendix A. The purpose of Report CLK2024-003 was to declare the Office of Councillor for Ward 5 as vacant and to provide the legislative options that were available to Council so the method to fill the vacant position could be determined. The following resolution was adopted at the Regular Council Meeting of November 19, 2024:

CLK2024-003

CR2024-664

Moved By Councillor Warren

Seconded By Deputy Mayor McDonald

That Report CLK2024-003, **Declaration of Vacancy and Options for Replacement – Councillor Ward 5**, be received;

That the Council seat for Ward 5 in the City of Kawartha Lakes be declared vacant under 262 (1) of the Municipal Act, 2001, S. O. 2001, as amended, for the reason outlined within Section 259 (1)(d) of the Municipal Act, 2001, S. O. 2001; and

That City of Kawartha Lakes Council, in accordance with Section 263 (1) (a) of the Municipal Act, 2001 shall fill the vacant position of Ward 5 through Option #2, namely a By-Election with internet voting.

Carried

This report addresses that direction.

Rationale:

Council passed the motion on November 19, 2024 as required, declaring the Councillor vacancy in Ward 5. In addition, Council selected a By-Election to fill the vacancy. The Municipal Act, 2001 S. 263 (5.1.ii) requires the municipality to pass a by-law should a by-election be selected to fill the vacancy, within 60 days after the day a declaration of vacancy is made.

The City Clerk would be responsible for conducting a by-election in accordance with the Municipal Elections Act and all applicable City policies and procedures. Further, pursuant to Section 42 of the MEA an alternative voting method shall be identified in the by-law.

Timelines:

Ward 5 Vacancy Declared – November 19, 2024

By-Law for a By-Election and Alternative Voting Method – January 14, 2025

Voters List Updates – Ongoing

Nominations Open – following the By-Law adoption (January 15, 2025 9:00 AM)

Beginning of Candidate Campaign Period – upon nomination certification of qualifications

Nomination Day: not less than 30 days and not more than 60 days after a By-law is passed

Voter Information Letters – to be determined

Voting Period – April 1 to 10, 2025

Voting Day – Thursday April 10, 2025, closed at 8:00 PM

Candidate Elect, Oath of Office – April 22, 2025

Other Alternatives Considered:

No other alternatives are being recommended.

Alignment to Strategic Priorities

Good Government:

Applying a democratic process to fill the Ward 5 Councillor vacancy.

Financial/Operation Impacts:

Any costs associated with a By-Election would be expensed through the Election Reserve. The reserve would be reconciled in the 2026 budget to fund the forecasted expenditures to implement the 2026 General Election.

Accessibility issues will be considered in the planning and implementation of this decision to ensure that the vote is accessible to all voters in accordance with legislation.

Consultations:

Deputy Clerks

Elections Ontario

Attachments:

Appendix A – Report CLK2024-003, Declaration of Vacancy and Options for Replacement Councillor – Ward 5



CLK2024-003.docx

Appendix B – Draft By-Law to authorize the 2025 By-Election and Alternative Voting Method



2025-XXX By-law to
Authorize a By-Electio

Department Head email: rtaylor@kawarthalakes.ca

Department Head: Ron Taylor, Chief Administrative Officer

Council Report

Report Number: CLK2024-003
Meeting Date: November 19, 2024
Title: Declaration of Vacancy and Options for Replacement – Councillor Ward 5
Description: Municipal Act, 2001 Sections 259 (1d), 262 (1) and 263
Author and Title: Cathie Ritchie, City Clerk

Recommendation(s):

That Report CLK2024-003, **Declaration of Vacancy and Options for Replacement – Councillor Ward 5**, be received;

That the Council seat for Ward 5 in the City of Kawartha Lakes be declared vacant under 262 (1) of the Municipal Act, 2001, S. O. 2001, as amended, for the reason outlined within Section 259 (1)(d) of the Municipal Act, 2001, S. O. 2001; and

That City of Kawartha Lakes Council, in accordance with Section 263 (1) (a) of the Municipal Act, 2001 shall fill the vacant position of Ward 5 through Option _____, namely

_____.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Effective November 1, 2024 Eric Smeaton Ward 5 Councillor resigned formally by delivering his letter of resignation to the City Clerk.

The purpose of this report is to declare the Office of Councillor, Ward 5 vacant and for Council to determine the method to fill the vacancy.

Rationale:

Council is required to set the direction for the City Clerk to ensure the method to filling the vacancy for Office of Councillor, Ward 5 is within the timelines and provisions set out by the Municipal Act.

To consider any necessary funding and by-laws is dependent on the method selected by Council to provide for next steps to be carried out by the City Clerk.

Vacant seat

259 (1) The office of a member of council of a municipality becomes vacant if the member,(d) resigns from his or her office and the resignation is effective under section 260;

Resignation as member

260 (1) A member of council of a municipality may resign from office by notice in writing filed with the clerk of the municipality.

Declaration

262 (1) If the office of a member of a council becomes vacant under section 259, the council shall at its next meeting declare the office to be vacant, except if a vacancy occurs as a result of the death of a member, the declaration may be made at either of its next two meetings.

Rules applying to filling vacancies

263 (5) The following rules apply to filling vacancies:

1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262, the municipality shall,
 - i. appoint a person to fill the vacancy under subsection (1) or (4), or
 - ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).

Term

264 A person appointed or elected to fill a vacancy under section 263 shall hold office for the remainder of the term of the person he or she replaced.

Options for Method to Fill Vacancy

Appointment Process

The Act does not set out requirements relating to the process for appointment of an individual to fill a Council vacancy, other than those relating to qualifications.

Option #1A - By Results from Previous Election

Council has the option of filling the vacancy through appointment of a 2022 Council Candidate starting with the candidate who received the second-most number of votes in the previous Municipal Election. Should the second Candidate decline, the City Clerk is authorized to offer the Councillor vacancy to the next Candidate with the most number of votes. If declined, the offer process would continue until the list of 2022 Ward 5 Candidates is exhausted. Absent of an acceptance from any of the Candidates, the matter would be brought back to Council for further direction.

Should Council wish to pursue this option, the City Clerk would seek written confirmation of acceptance from the candidate(s) and confirm qualifications.

This option does not include financial implications other than staff time.

Option #1A could result in an Oath of Office being administered to the new Councillor in the next few months.

Councillor Ward 5 (Elector Count 9,969 based on 2022 Election)

Candidate	Votes	Percentage of Eligible Votes
Janet Di Bello	569	15.11%
Duncan Gallacher	699	18.57%
Gloria Graham-Weir	125	3.32%
Wesley Letsholo	190	5.05%
Eric Smeaton	2182	57.95%
Declined to Vote	50	
Spoil This Ballot	12	
Implicit Blanks	16	
Total Number of Votes:	3843	

Option #1B - By Simple Appointment

Council has the option to fill the vacancy without a formal selection process. Council may choose to fill the vacancy by appointing any qualified individual as outlined in Section 256 of the Act.

The City Clerk would seek written confirmation and qualifications and determine if the individual is interested in accepting the appointment.

This option does not include financial implications other than staff time.

Option #1B could result in an Oath of Office being administered to the new Councillor within the 60-day period following the declaration of office vacancy.

Option #1C - By Advertising

Council could follow an appointment process, which would permit interested, eligible persons to submit an application for appointment to Council. This open call for applications would be advertised, and would include a process through an application, declaration of qualifications and a recommended procedure to include an interview/presentation to Council in an open Council Meeting.

At an Open Meeting, Council would request each eligible candidate to provide a presentation. Council will ask the candidates predetermined questions. This process also could include a voting procedure to ensure fair and transparent voting occurs, to select

a final candidate within the 60-day period following the declaration of office vacancy. This option has minimal financial implications other than staff time and advertising.

By-Election

Option #2 - Internet Voting

The City Clerk would be responsible for conducting a by-election in accordance with the Municipal Elections Act and all applicable City policies and procedures. Council is required to pass a by-law to ensure the City Clerk can carry out the by-election. Further, pursuant to Section 42 of the MEA an alternative voting method will be identified in the by-law.

Over the past two elections, Internet voting has proven to be straight forward, cost effective and accessible. The primary benefits offered by internet voting are convenience and accessibility, with the potential for minimal to moderate increase in voter turnout. Municipal By-Elections often have significantly lower turnout than General Elections.

Internet voting provides an effective and rapid count of the votes at the close of voting, usually in less than an hour.

Potential barriers to participation by internet voting include internet access and requirements for assistance. Voter assistance would be available at City Hall where Election Staff can provide computers and support to help guide electors through the process. Internet voting provides additional accessibility options to electors, including the ability to vote away from home for students studying outside the geographic area, and for electors working or vacationing away from home.

The internet voting option also negates ballot waste and the potential for an elector to incorrectly mark a ballot, with a virtual ballot and defined fields to mark the ballot.

The By-Election process is mandated by the Municipal Elections Act and will be conducted in the same manner as the 2018 and 2022 Elections. Even though the Election is reduced to Ward 5, it will take several months to complete. The successor would not be sworn in until likely Q2 of 2025, and as such, the seat will remain vacant until then.

The estimated cost is approximately \$25,000-\$40,000 for software vendor, hardware rental, printing and mailing, advertising, staff overtime.

Summary and Time Restrictions

Section 263 (1) of the Municipal Act, 2001 (Act) authorizes a municipality to fill a vacancy either by by-election or appointment.

Section 263 (5) (1) notes that a municipality must select the method to fill the vacancy within 60 days after declaration of vacancy has been made. (January 18, 2025)

Council is to declare a vacancy for the Office of Councillor, Ward 5 on November 19, 2024; therefore, Council must decide how to fill the vacancy within 60 days of declaring the vacancy. (January 18, 2025)

Should Council wish to conduct a by-election to fill the vacancy, a by-law is required. A By-law would be brought forward at a duly called Council Meeting (Written depending on the option selected).

The minimum time for the nomination period and Nomination Day is to be set not less than 30 days and no more than 60 days from the date Council passes the by-law to hold a by-election. Voting Day must be 45 days after Nomination Day.

Should Council wish to fill the vacancy via appointment, the appointment process shall be completed within the 60 days (on or before January 18, 2025).

Other Alternatives Considered:

The Municipal Act regulates the options for filling a vacancy.

Alignment to Strategic Priorities

1. Good Government

Following Council's selection of the preferred method to fill the vacancy for Office of Councillor, Ward 5, staff will ensure that the City's website is updated to provide further information related to the method, that constituents of Ward 5 are notified and that advertising is done to ensure any next steps are communicated in a manner that is inclusive of all and that processes are clear and transparent.

Should Council choose to have a by-election, accessibility issues will be considered in the planning and implementation of this decision to ensure that the vote is accessible to all voters in accordance with legislation.

Financial/Operation Impacts:

To mitigate the impact of the municipal election that occurs every four years, the City's operating budget includes a contribution annually to the Election Reserve to cover costs associated with regular municipal elections. Any costs associated with a By-Election would be expensed through the Election Reserve. The reserve would be reconciled in the 2026 budget to fund the forecasted expenditures to implement the 2026 General Election.

Consultations:

Director of Corporate Services
Deputy Clerks

Attachments:

None

Department Head email: rtaylor@kawarthalakes.ca

Department Head: Ron Taylor, Chief Administrative Officer

The Corporation of the City of Kawartha Lakes

By-Law 2025-XXX

A By-law to Authorize a By-Election and an Alternative Voting Method in the City of Kawartha Lakes

Recitals

1. Section 262 (5)(1ii) of the Municipal Act, 2001, S.O. 2001, c. 25 authorizes the City of Kawartha Lakes to pass a by-law requiring a by-election be held to fill the vacancy.
2. Section 42 of the Municipal Elections Act, 1996, S.O. c.32, as amended, provides the authority for the council of a local municipality to pass by-laws authorizing electors to use an alternative voting method that does not require electors to attend at a voting place in order to vote.
3. Section 43 of the Municipal Elections Act, 1996, c.32 as amended regarding advance voting shall apply in respect of the 2025 municipal by-election.
4. This by-law puts into effect the decision of Council made by Resolution CR2024-664.
5. Section 11 of the Municipal Elections Act 1996, S.O. 1996, c.32 the clerk of a local municipality is responsible for conducting elections within that municipality.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2025-_____.

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this by-law,

“By-Election” means an election other than a regular election as prescribed in Section 262 (5)(1ii) of the Municipal Act, 2001, S.O. 2001, c. 25;

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

"Clerk (City Clerk)" means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001;

“Council” or “City Council” means the municipal council for the City.

1.02 Interpretation Rules:

- (a) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

- 1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.
- 1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: By-Election

- 2.01 That a by-election be held to fill the vacancy of one (1) Councillor Position for Ward Five (5), in accordance with the Municipal Elections Act, 1996;
- 2.02 That the voting day for said by-election be Thursday, April 10, 2025 with Nomination Day being Monday, February 24, 2025.

Section 3.00: Alternative Voting Method

- 3.01 **Internet Voting:** That the City of Kawartha Lakes authorizes the use of internet voting and vote counting equipment for the 2025 Ward Five (5) Councillor Municipal By-Election.

Section 4.00: Advance and Proxy Vote

- 4.01 All advance voting, as established by the City Clerk, shall use the same alternative voting method of internet voting for the 2025 Ward Five (5) Councillor Municipal By-Election.
- 4.02 Proxy voting provisions shall not be permitted for the 2025 Ward Five (5) Councillor Municipal By-Election.

Section 5.00: Administration and Effective Date

- 5.01 **Administration of the By-law:** The City Clerk is responsible for the administration of this by-law.
- 5.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 14th day of January, 2025.

Doug Elmslie, Mayor

Cathie Ritchie, City Clerk

The Corporation of the City of Kawartha Lakes

By-Law 2025-XXX

A By-law to Authorize a By-Election and an Alternative Voting Method in the City of Kawartha Lakes

Recitals

1. Section 262 (5)(1ii) of the Municipal Act, 2001, S.O. 2001, c. 25 authorizes the City of Kawartha Lakes to pass a by-law requiring a by-election be held to fill the vacancy.
2. Section 42 of the Municipal Elections Act, 1996, S.O. c.32, as amended, provides the authority for the council of a local municipality to pass by-laws authorizing electors to use an alternative voting method that does not require electors to attend at a voting place in order to vote.
3. Section 43 of the Municipal Elections Act, 1996, c.32 as amended regarding advance voting shall apply in respect of the 2025 municipal by-election.
4. This by-law puts into effect the decision of Council made by Resolution CR2024-664.
5. Section 11 of the Municipal Elections Act 1996, S.O. 1996, c.32 the clerk of a local municipality is responsible for conducting elections within that municipality.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2025-_____.

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this by-law,

“By-Election” means an election other than a regular election as prescribed in Section 262 (5)(1ii) of the Municipal Act, 2001, S.O. 2001, c. 25;

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

"Clerk (City Clerk)" means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001;

“Council” or “City Council” means the municipal council for the City.

1.02 Interpretation Rules:

- (a) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

- 1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.
- 1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: By-Election

- 2.01 That a by-election be held to fill the vacancy of one (1) Councillor Position for Ward Five (5), in accordance with the Municipal Elections Act, 1996;
- 2.02 That the voting day for said by-election be Thursday, April 10, 2025 with Nomination Day being Monday, February 24, 2025.

Section 3.00: Alternative Voting Method

- 3.01 **Internet Voting:** That the City of Kawartha Lakes authorizes the use of internet voting and vote counting equipment for the 2025 Ward Five (5) Councillor Municipal By-Election.

Section 4.00: Advance and Proxy Vote

- 4.01 All advance voting, as established by the City Clerk, shall use the same alternative voting method of internet voting for the 2025 Ward Five (5) Councillor Municipal By-Election.
- 4.02 Proxy voting provisions shall not be permitted for the 2025 Ward Five (5) Councillor Municipal By-Election.

Section 5.00: Administration and Effective Date

- 5.01 **Administration of the By-law:** The City Clerk is responsible for the administration of this by-law.
- 5.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 14th day of January, 2025.

Doug Elmslie, Mayor

Cathie Ritchie, City Clerk

The Corporation of the City of Kawartha Lakes

By-law 2025-____

A By-Law to Confirm the Proceedings of a Special Meeting of Council, Tuesday, January 14, 2025

Recitals

1. The Municipal Act, 2001, S.O. 2001 c. 25 as amended, provides that the powers of a municipal corporation are exercised by its Council.
2. The Municipal Act, also provides that the Council's powers must be exercised by by-law.
3. For these reasons, the proceedings of the Council of The Corporation of the City of Kawartha Lakes at this meeting should be confirmed and adopted by by-law.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2025-____.

Section 1.00: Confirmation

- 1.01 The actions of the Council at the following meeting:

Tuesday, January 14, 2025 Special Council Meeting

and each motion, resolution and other action passed or taken by the Council at that meeting is, except where prior approval of the Ontario Municipal Board is required, adopted, ratified and confirmed as if all such proceedings had been expressly embodied in this By-law.

- 1.02 The Mayor and the proper officials of the City are authorized and directed to do all things necessary to give effect to the actions of the Council referred to in Section 1.01 of this By-law. In addition, the Clerk is authorized and directed to affix the corporate seal to any documents which require it.

Section 2.00: General

- 2.01 This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 14th day of January, 2025.

Doug Elmslie, Mayor

Cathie Ritchie, City Clerk