

Municipality of East Ferris

Report to Council

Report No.: CLERK-2022-03

Date: March 22nd, 2022

Originator: Monica L. Hawkins, Clerk

Subject: Lamé Duck Periods - From August 19th, 2022 to October 24th, 2022 and from October 24th, 2022 to November 15th, 2022 (Inaugural Meeting – November 15th, 2022)

RECOMMENDATION

That the Clerk's report titled "Lamé Duck Periods" be received and that the Clerk be directed to prepare the necessary By-law prior to Nomination Day (August 19th, 2022) delegating authority to the CAO/Treasurer from August 19th, 2022 to November 15th, 2022 (Inaugural Meeting) to:

1. Be the financial signing authority for expenditures, outside the current budget, exceeding \$50,000 and/or for the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
 2. Be the authority to hire or remove any officer from/to employment with the Municipality of East Ferris.
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BACKGROUND/HISTORY

Section 275 of the *Municipal Act, 2001, S.O. 2001, c.25* sets out the restricted acts that a Council shall not take after Nomination Day (August 19th, 2022) and after Voting Day (October 24th, 2022) if the Council is in a lame duck position.

Lamé Duck Position

The determination of whether Council is in a lame duck position occurs twice during the municipal election process:

1. Between August 19th, 2022 to October 24th, 2022 - The determination shall be based on the nominations to the new Council that have been certified by the Clerk on August 19th, 2022. If less than 75% of the existing members are not running for Municipal Council in the capacity of Council, the restrictions set out in the Act will apply; and
2. Between October 24th to November 15th, 2022 - The election results are declared by the Municipal Clerk shortly after the municipal election. If the election results are less than 75% of the incumbent Councillors returning to Council, the restrictions set out in the Act will apply.

Restrictions:

Restrictions if a Council is in a lame duck position, the Council shall not take any of the following actions:

- (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.

Exceptions Clauses:

(c) and (d) above do not apply if the disposition or liability was included in the most recent budget adopted by the Council before nomination day in the election.

Land Matters:

With respect to Section 275(3)(c) (land matters), a municipality can close a real estate transaction during the lame duck period only if the council passed a By-law approving the execution of the agreement of purchase and sale in advance of the lame duck period.

Expenditures:

A contract could be awarded by a lame duck council in excess of \$50,000 so long as the amount was included in the annual budget. The lame duck council would not be able to award the contract, however, if the amount of the tenders or bids exceeded the amount included in the budget.

Emergencies:

The Act provides at Section 275(4)(4.1) that nothing in this section prevents a municipality taking any action in the event of an emergency.

Delegation of Authority:

Section 275(6) provides that the authority of a municipality can be delegated to a person or body prior to Nomination Day for the election of the new Council.

Appointment/Removal of Officers or Hiring/Dismissal of an Employee:

The CAO/Treasurer recommends to Council, in the appointment, promotion, demotion, suspension or dismissal of all department heads and oversees the same for all non-unionized employees.

Delegating of Authority to CAO/Treasurer:

It is recommended that a By-law be prepared prior to Nomination Day (August 19th, 2022) delegating financial and staffing authority to the CAO/Treasurer from August 19th, 2022 to November 15th, 2022 as follows:

1. That the CAO/Treasurer shall be the financial signing authority for expenditures, outside the current budget, exceeding \$50,000 and/or for the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
2. That the CAO/Treasurer shall be the authority to hire or remove any officer from/to employment with the Municipality of East Ferris.

Determination of Lame Duck Position:

The Clerk will advise Council after August 22nd, 2022, once nominations have been certified and after voting day, once the election results have been determined, if Council is in a lame duck position. At the November 15th, 2022 Inaugural Meeting of the Municipality, the By-law delegating authority to CAO/Treasurer during lame duck period will expire.

FINANCIAL IMPLICATIONS

There is no financial impact on the Municipality.

RECOMMENDATION:

That the Clerk's report titled "Lame Duck Periods" be received and that the Clerk be directed to prepare the necessary By-law prior to Nomination Day (August 19th, 2022) delegating authority to the CAO/Treasurer from August 19th, 2022 to November 15th, 2022 to:

1. Be the financial signing authority for expenditures, outside the current budget, exceeding \$50,000 and/or for the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
2. Be the authority to hire or remove any officer from/to employment with the Municipality of East Ferris.

Respectfully Submitted,



Monica L. Hawkins,
Clerk

I concur with this report and recommendation,



Jason H. Trottier, HBBA, CPA, CMA
CAO/Treasurer