

# Staff Report



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To	<b>City Council</b>
Service Area	Corporate Services
Date	Tuesday, May 27, 2025
Subject	<b>Ward 6 Council Vacancy</b>

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## Recommendation

1. That the City Clerk be directed to conduct an appointment process based on an open call for nominations, as outlined in Attachment-1 to report 2025-264, as the method for filling the vacant office of Ward 6 Councillor.
  2. That a Special City Council meeting be held on July 23, 2025 to consider and appoint an individual to the office of Ward 6 Councillor.
  3. That the Council Vacancy Policy, included as Attachment-1 to report 2025-264, be approved.
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## Executive Summary

### Purpose of Report

To seek Council direction on the method to be used to fill the Ward 6 Councillor vacancy, following Councillor O'Rourke's election as the Member of Parliament for Guelph in the 2025 Federal Election.

To request that a Special Council meeting be held on July 23, 2025 for the purpose of considering and appointing an individual to the office of Ward 6 Councillor.

To seek Council approval of updates to the Council Vacancy Policy. The proposed updates to the Council Vacancy Policy clarify the processes and procedures to be used to fill any vacancies which occur on City Council during a Council term.

### Key Findings

In accordance with the Municipal Act, 2001 (the Act) Council has 60 days from the declaration of vacancy to either appoint a person to fill the vacancy or pass a by-law requiring a by-election be held to fill the vacancy.

As the Act does not provide any guidance on how an appointment should be made, City staff are recommending updates to the Council Vacancy Policy to clarify processes and procedures related to appointments.

This report provides three options for filling the vacancy.

- Option 1 - Appointment from previous election candidates
- Option 2 - Appointment by open call for nominees

- Option 3 - By-election

Staff recommend Option 2 – Appointment by open call for nominees. Given the limited amount of time remaining in the 2022 - 2026 term of Council, filling the vacancy through appointment is the most efficient and cost-effective approach while ensuring continuity of governance ahead of the next regular election in October 2026.

### **Strategic Plan Alignment**

This report aligns with the Future Guelph Strategic Plan Foundations theme. It supports the objective of leading with accountability, ensuring continued effectiveness of Council processes by addressing governance vacancies ahead of the next regular election in 2026.

### **Future Guelph Theme**

Foundations

### **Future Guelph Objectives**

Foundations: Lead with accountability

### **Financial Implications**

There is no financial impact if an appointment option is chosen by Council. No new or additional expenses are anticipated and there are no impacts on funding for the 2026 municipal and school board election.

Based on annual transfers, the Election Reserve will have a total of \$1,206,800 to cover election expenses until the end of 2026. A by-election is estimated to cost \$125,000. The 2026 regular election is estimated to cost \$1,112,000 which means the Reserve would only have \$94,800 remaining to deliver a by-election, which is \$30,200 short of the estimated cost. Should Council pursue a by-election option, an additional \$65,000 will be required to address the budget gap and provide financial security in the event of unexpected cost increases or future needs.

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## **Report**

### **Background**

[Section 259](#) of the Act establishes the conditions under which the office of a member of municipal Council becomes vacant. These conditions include disqualification under specific sections of the Act, including resignation or forfeiture of office. Section 258 establishes grounds under which someone is not eligible to hold office as a member of City Council, with [sub-section 258\(1\)](#) specifically referencing election to the House of Commons of Canada as one of those grounds. Through the federal election held on April 28, 2025, Dominique O'Rourke was elected to the position of Member of Parliament for Guelph. In accordance with [Section 260](#) of the Act, a formal resignation from her position on Council was received by the City Clerk and is effective as of May 14, 2025.

Based on [sub-section 262\(1\)](#) of the Act, a Council declaration of vacancy is required at the next meeting of Council on May 27, 2025. Once Council has declared the seat

vacant, the Act states that Council must decide on how to fill the vacancy within 60 days. [Sub-section 263\(1\)](#) of the Act provides two options; by appointing a person who has consented to accept the office if appointed, or requiring a by-election be held to fill the vacancy in accordance with the Act. By declaring a seat vacant on May 27, 2025, Council has until July 26, 2025 to either appoint a person to fill the vacancy or to pass a by-law requiring a by-election.

### **Options to fill vacancy**

The Act does not establish any regulations regarding how Council should fill a vacancy by appointment, with the exception of eligibility requirements regarding who can be appointed. There are three options to be considered in line with the City's Council Vacancy Policy, included as Attachment-1:

#### **Option 1 – Appointment from previous election candidates**

Council could choose to appoint the next place finisher from the 2022 regular election, in accordance with the process outlined in Attachment-1. In this case, Mark MacKinnon received the third highest vote total of the candidates running for the office of Ward 6 Councillor in the 2022 municipal and school board election. Staff have contacted Mr. MacKinnon and he has indicated that he is unwilling to stand for the appointment.

There are no associated timelines, financial or operational considerations as this is not an option that Council can pursue unless the previous election candidate is willing to stand for appointment.

#### **Option 2 – Appointment by open call for nominees**

Council could issue an open call for applications from individuals that are eligible and interested in being appointed to Council, in accordance with the process outlined in Attachment-1.

The call for applications would be advertised to the public and individuals would have the opportunity to demonstrate their eligibility and submit a personal statement of qualifications. Staff are recommending that a Special Council meeting be called on July 23, 2025 so that applicants are given the opportunity to address and respond to questions from Council. A July meeting would allow time to advertise the vacancy and give interested individuals time to consider the opportunity before filing a nomination. Council would then make the decision to appoint based on a transparent public voting process.

#### **Timelines**

- May 27 – Declaration of vacancy and Council decision on how to fill vacancy
- July 23 – Special Council meeting to hear from applicants and vote to appoint

#### **Considerations**

**Financial** – There are no financial impacts if the vacancy is filled by appointment.

**Operational** – This option can be accommodated within existing work plans and allows for proactive planning for the 2026 municipal and school board election to continue unaffected. Election staff are currently focused on early planning for the

2026 regular election that will lead to a reduction in barriers to voting and enhanced customer service for the public and election workers. These include procurement and internet voting testing, community stakeholder engagement planning, improved payment processes, online training tools and voters' list data improvements with Elections Ontario. There will be only minor impacts to pre-emptive planning timelines that can be accommodated if the appointment by open call for nominees option is chosen.

**Governance** - This option will address the current vacancy in the most time and cost efficient manner. With a vacancy called at the end of May, this option would resolve the vacancy by the end of July 2025. Council would be acting as elected representatives of the public to select an individual to appoint to the vacant Ward 6 Councillor seat. Public engagement and interest in voting in a third election in 2025 is likely low. Voter fatigue should be considered as it relates to potential turnout for a by-election.

Staff recommend this option given the limited impacts on Election Reserve funding, efficiency of filling the vacancy, ability to strategically plan service enhancements for the 2026 regular election and limited time remaining in the current term of Council.

### **Option 3 – By-election**

Council could choose to fill the vacancy through a by-election. The Act stipulates that nomination day for a by-election must be scheduled no less than 30 days, and no more than 60 days, after Council passes a by-law for the by-election. Voting day must be scheduled 45 days after nomination day. If Council opts to hold a by-election, the City Clerk, as the municipal returning officer, will work to finalize dates for the by-election and present a by-law before the July 26 legislative deadline.

### **Timelines**

- May 27 – Declaration of vacancy and Council decision on how to fill vacancy
- June 24 to July 22 – By-law passed if by-election preferred
- July 24 to September 20 – Nomination day (close of nomination period 30 to 60 days after by-law)
- September 7 to November 4 – Voting day (45 days after Nomination day)

### **Considerations**

**Financial** – The cost of a by-election is estimated at approximately \$125,000.

**Operational** – This option will have a significant impact on existing annual work plans in the City Clerk's Office, Information Technology, and the Strategic Communications and Community Engagement departments who all support the delivery of an election. Current strategic investments are underway in 2025 to complete essential procurement and internet voting testing, as well as to plan for community stakeholder engagement, improved payment processes and training for election workers and voters' list data improvements to assist with voter registration for the 2026 regular election. If this option is chosen by Council, current work plans

will be reviewed and any non-essential operational work will be re-prioritized to make time for the following key tasks:

- Procure election equipment including vote tabulators, laptops and barcode scanners
- File nominations
- Prepare and order ballots
- Prepare and mail voter notification cards
- Logic and accuracy test equipment
- Hire and train staff to work advanced and election day polls
- Declare unofficial and official results
- Assist candidates with financial filing and complete financial reporting
- Prepare for and facilitate the compliance audit process

Any non-essential preparations for the 2026 election would be paused. Given that Council has directed staff to deliver four voting methods in 2026, a significant portion of time in 2025 work plans has been dedicated to the procurement and testing of an internet voting solution. Council's direction to staff was "that Guelph City Council directs the City Clerk's Office to offer internet voting as an alternative voting method for the 2026 municipal and school board election subject to all security requirements and testing meeting the satisfaction of the City Clerk." To meet the satisfaction of the City Clerk, procurement and testing must be completed in 2025, prior to public communications in 2026. Conducting a by-election simultaneously may delay a final decision from the City Clerk regarding the use of internet voting for the 2026 election.

Council should be aware that in-person voting and vote from home would be the only voting methods that could be offered in a by-election based on the limited 45 day turnaround from the close of nominations on nomination day to voting day. Vote by mail is not possible given the limited timelines to order and print ballots. There would not be enough time to ensure that ballots could be mailed out and returned by voting day. An online voting method would also not be possible. Procurement and testing for this method are underway in 2025 and will not be completed in time for a by-election. Should Council direct staff to conduct a by-election, a by-law approving the use of vote tabulators for in-person voting and a vote from home option will be brought forward with the by-law to approve the by-election. As a result, two standards of election service would be in place for the by-election versus the 2026 regular election. The by-election, in late 2025, would offer in-person, tabulator voting and vote from home while the 2026 election would include the [range of voting methods](#) already determined by Council.

There would be notable operational overlap between elections, with the financial filing and compliance audit processes for a by-election legislatively required to continue into 2026. If this option is chosen, staff capacity will be significantly challenged to meet core operational requirements while wrapping up a 2025 by-election and preparing for the delivery of a regular election simultaneously.

**Governance** - A by-election option would allow the public to directly select an individual to act as their representative in the office of Ward 6 Councillor. This is the most democratic option, but it also results in an extended vacancy on Council and increased costs for the limited amount of time the vacancy needs to be filled.

With a vacancy called at the end of May 2025, a by-election would likely occur in mid-September to early November, with a five-to-seven-month vacancy leading up to voting. The newly elected Ward 6 Councillor would serve a term of roughly one year. During that time, Council will only have regularly scheduled meetings until July 2026, approximately 10 months of regular meetings. [Sub-section 65\(2\)](#) of the Municipal Elections Act states that no by-election can be held as of March 31 in the year of a regular election. A deadline which is only six months from voting day if a by-election were to be called.

A by-election would be the third election in 2025 for eligible voters in Ward 6 when factoring in the early 2025 provincial election and the spring 2025 federal election. Voter fatigue should be anticipated. Increased communications and advertising would be required, at an increased cost, to ensure residents are aware of their right to vote to fill the Council vacancy. Staff would have a very limited capacity for community outreach and targeted community engagement given the tight timelines to deliver a by-election. Voter turnout following the 2022 regular election was 27.54%, the lowest turnout since before 1988. As the third election for Ward 6 voters, by-election turnout would likely be significantly lower with no Mayoral or school board trustee candidates on the ballot. The value of time and financial investment in a by-election option would be low if there is not strong public turnout.

Staff do not recommend this option given the anticipated cost to the Election Reserve, significant impacts to work planning for the 2026 regular election, limited time that this office will be vacant, and likely low public interest.

## **Council Vacancy Policy Updates**

Staff have revised the Council Vacancy Policy (Attachment 1) to align with current Council meeting procedures, including the hybrid meeting format. This policy update also reflects the current legislative context, particularly the Strong Mayor Powers, which have altered the process for filling a vacant mayoral position. Additionally, the appointment process by open call for nominations has been updated to incorporate best practices from other municipalities. Key changes to this process include:

- **Personal Statements:** The length of personal statements of qualifications has been updated, and guidelines on how this information will be made public have been revised.
- **Council Meeting Procedure:** During the Council meeting where candidates are appointed, each candidate will have up to five minutes to address the Council. Council members may ask up to two questions per candidate. Voting will commence after all candidates have addressed the Council. Each Council member may vote only once per round. The first candidate to receive more than 50% of the votes will be appointed. If no candidate achieves this

majority in the first round, the candidate(s) with the fewest votes will be eliminated, and subsequent rounds of voting will continue until a candidate receives more than 50% of the votes or a tie occurs. In the event of a tie, the Clerk will break the tie by selecting a candidate by lot.

## **Financial Implications**

**Appointment options** - There are no financial impacts if the vacancy is filled by appointment. Additional Council meetings and the appointment process would be covered within existing budgets and workplans. No new or additional expenses are anticipated and there is no impact on funding for the 2026 municipal and school board election.

**By-election option** - The City Clerk has estimated that, based on the costs of the regular election in 2022, the costs of a by-election for office of Ward 6 Councillor would be approximately \$125,000.

After each regular election, money unspent in the Election Reserve is set aside in the event of other election expenses, including by-elections. The Reserve will have a total of \$1,206,800 to cover election related expenses until the end of 2026.

Expenses for the 2026 regular election are currently budgeted at \$1,112,000 to deliver. This is staff's best estimate at the time of budgeting and it should be noted that vendor agreements have not yet been signed and the impacts of price increases and inflation are not yet known.

Based on the anticipated cost for 2026, there would only be \$94,800 remaining in the Reserve to deliver a by-election which is \$30,200 short of the estimated cost of a Ward 6 by-election. Should Council pursue a by-election option, an additional \$65,000 would be required to address the budget gap and provide financial security in the event of unexpected cost increases or future needs.

## **Consultations and Engagement**

Karen Newland, Manager Budget Services

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## **Attachments**

Attachment-1 Council Vacancy Policy

## **Departmental Approval**

None.

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