

POLITICS AS USUAL

By Alison Collins-Mrakas

With the resignation of Newmarket Councillor Joe Sponga, the issue of how to fill a municipal council vacancy has reared its ugly head again.

While a Council vacancy is most definitely not common, the trouble it causes most definitely is. That is because the Municipal Act has still not been revised to address the crazy and maddeningly vague process currently on the books speaking to how vacancies should or could be filled.

The language is so vague that Councils are left to fend for themselves on how they deal with the loss of a member. Unlike our Provincial or Federal counterparts ? where the rules are pretty straightforward ?the hows and whys of replacing an elected member are pretty much a free-for-all.

As it stands, the Municipal Act ? section 264, for those that are interested ? states Councils have two options. And here are only two options, not three as some folks mistakenly believe. Specifically, the Legislation states:

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 (emphasis mine) 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).

And that's it. A Council may appoint someone or they may hold a by-election. No guidance on when or if they should appoint someone, no criteria for how or what an appropriate appointment process would look like; just, that it's dealers choice ? choose someone from the community or deign to let the community chose for itself through a by-election.

Yes, some folks seem to think that there is a third option ? the so-called ?runner up? option. And yes, some municipalities have gone that route. It is a faster way of dealing with a vacancy ? especially if that vacancy has occurred fairly close to the election, but I do not think that this is a democratic option.

A municipal election is not a Miss America pageant; there is no runner up to wear the crown in the event the winner cannot fulfill their duties. It is elected office, and those that occupy it should be elected.

The legislation states that ALL council vacancies can be addressed via an appointment or a by-election ? including that of Mayor. Can you imagine appointing the runner up as Mayor? I doubt it would even be considered. So, why would it be considered for a Councillor vacancy?

Of course, there should always be room for exceptions. For example the last vacancy in Aurora, when then councillor now Minister Ballard, vacated his seat following his election to Provincial office, there was, I believe, just three or four months left in the term. An appointment, in that case, made sense.

In Newmarket's case, more than two years are left in the term. Clearly, an appointment would not be the democratic choice to make. Newmarket Council has, wisely, chosen to hold a by-election.

My point, and I do have one, is that it shouldn't have been a decision for the Council to make at all.

The Legislation should state clearly that a by-election is the default position for dealing with all vacancies save for the rare instances where an appointment may be appropriate ? and then spell out what those criteria are.

Take the politics out of politics.