



THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

FYI REPORT

Subject: Legal Rules Regarding Council Vacancies

FYI Report Number: 2021 - 05

Meeting Date: Monday, March 1, 2021

Report: This report is to explain the legal rules regarding Council vacancies in general and Councillor Haight's absence specifically.

Section 259 (1) of the Municipal Act, 2001, s.o. 2001, c.25 (the "Act") states that

"The office of a member of council of a municipality becomes vacant if the member,

(c) is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council"

Section 262 of the Act indicates that "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"

As indicated the legal opinion provided by Steven O'Melia from Miller Thomson LLP, it is up to Council's discretion in these matters if they wish to grant an authorization by resolution to extend the absence from Council for greater than three months. There is no specified limit on the length of time that an absence can be authorized and it can be done in a series of authorizations over time.

Councillor Laura Haight has been absent from Council from the special meeting of January 6, 2021 due to an illness. In his letter, Mr. O'Melia outlines the two interpretations of "three successive months". In either case, the last meeting that Councillor Haight would be able to attend would be March 15, 2021 as there are no further scheduled meetings until April 7, 2021.

Per Mr. O'Melia's letter, "the Councillor will have to either attend Council on or before the March 15, 2021 meeting or have a Council authorization in place prior to the April 7, 2021 meeting".

Mr. O'Melia was also asked to comment on what constitutes attendance at a meeting. "Attendance at a meeting does not mean attendance for the full meeting. If a councillor

attends for at least a portion of a meeting, that would in my opinion satisfy the requirements of the Act and stop the three-month clock from running.”

Attachments: Letter from February 8, 2021 from Steven J. O’Melia, Miller Thomson LLP