

THE CORPORATION OF THE TOWNSHIP OF HORTON

## Special Council Meeting

November 28, 2014

There was a Special Council Meeting held in the Municipal Council Chamber on Friday November 28, 2014. Present was Mayor Don Eady and Councillors Bob Kingsbury, Glen Campbell and Jamey Larone. Absent was Margaret Whyte. Staff present was Mackie McLaren, CAO/Clerk.

1. CALL TO ORDER

Mayor Eady called the meeting to order at 4:30 p.m.

2. DECLARATION OF PECUNIARY INTEREST

There was no declaration of pecuniary interest by Members of Council or Staff.

3. REQUEST FROM RALPH MILLER FOR RECOUNT

The CAO/Clerk informed Council that shortly after the election, Mr. Miller asked him what his time line was to request a recount. He had finished 6 highest, 4 votes below the 5<sup>th</sup> place finisher. Mr. Miller was told he had 30 days from the posting of the declaration of election results which were posted October 28. The 30 days would expire November 27. However, Section 57 of the Municipal Election sets out that Council must make a decision on the request within 30 days of the declaration.

Mr. Miller dropped his request off in the afternoon of November 27<sup>th</sup> during yesterday's Orientation Session for the new Council. No attempt was made by the CAO/Clerk to arrange for a Special Council Meeting yesterday evening, as he wasn't aware of the 30 day requirement for a Council decision until this morning while preparing a report to the new Council on this request. However under the Municipal Elections Act, it is now too late to order a recount.

The CAO/Clerk pointed out that Mr. Miller's request noted his reason for applying for a recount was that the person with the 5<sup>th</sup> highest votes would be automatically selected to replace a sitting Councillor if a vacancy occurred during the upcoming 4 year term. The CAO/Clerk reviewed Section 263 of the Municipal Act which states that Council shall appoint a replacement or shall hold a by-election. There is no reference to the candidate with the next highest votes automatically being appointed to fill a vacancy.

The CAO/Clerk noted that it would cost a minimum of \$1350.00 to carry out a recount. He would have to bring back the 10 DRO's and 10 Poll Clerks who would be paid the same amount of \$75.00 and \$60.00 respectively that they received for their 2 – 3 hour of work after the close of poll on October 27<sup>th</sup>.

Mayor Eady asked Mr. Miller for his comments. He said he had been thinking about the recount. He said he has been approached by people urging him to apply for the recount. He said he feels he has to act with this to clear his mind.

Councillor Larone said that as a result of an error, Council is one day late considering this request. He noted that it is up to Council to grant a request at their discretion.

Other Council Members comments: Councillor Kingsbury said it is too late. Councillor Campbell said that Mr. Miller is aware that Council is now too late. He added that he would support if a legal answer was we could go forward.

Mayor Eady asked for direction from Council. The following resolution was presented:

Moved by Bob Kingsbury,  
Seconded by Jamey Larone

That Council refuses the request of Ralph Miller who petitioned Council to order a recount.

Discussion:

Councilor Kingsbury said he couldn't support this request when it would not make a difference if Mr. Miller was 5<sup>th</sup> highest or 6<sup>th</sup> in the event of a vacancy at Council.

Councillor Larone said he was concerned with the potential cost for the recount when it wasn't going to make any difference to the elected candidates.

Councillor Campbell suggested that a candidate in the 5<sup>th</sup> highest position may be given more consideration even though the Municipal Act does not specifically state the next highest must be appointed.

Mayor Eady asked if Mr. Miller had recourse to the courts. The CAO/Clerk said he had the same time line of 30 days to apply to the court. Mayor Eady said he can't support this resolution when a mistake was made and the opportunity should be given to Mr. Miller to have resolved.

Motion Lost on Tied Vote

For: Councillors Kingsbury and Larone  
Against: Mayor Eady and Councillor Campbell

Mayor Eady asked what can be done now. Can there be different view brought forward. Can we phone our solicitor?

Councillor Campbell said he can understand the mistake. He understands why the request would be made. Had it fallen within the deadline he would support.

Ralph Miller was given an opportunity to comment and he reiterated the information he presented earlier. He asked if the Township's solicitor could make a decision.

Councillor Larone said that under the Municipal Act, Mr. Miller could be appointed to fill a vacancy still at #6. It won't make a difference where he sits on the number of votes received list.

Mayor Eady asked if Council would entertain Mr. Miller seeking his own legal advice to be shared with Council. Mr. Miller said the onus would be on the Township to seek an opinion. He would abide by the Township's lawyer's comments.

Moved by Jamey Larone

Resolution No. 2014-359

Seconded by Glen Campbell

That Council authorize the CAO/Clerk to seek legal advice on whether the error made by him cancelled Ralph Miller's legal rights to a recount and if there are other avenues open to Mr. Miller for Council to consider a recount.

Discussion:

Councillor Larone said he would support this resolution as it shows Council is trying to address the question of was Mr. Miller's rights violated and if so are there any solutions to the request.

Carried.

4. CONFIRMING BY-LAW

Moved by Glen Campbell

Resolution No. 2014-360

Seconded by Jamey Larone

That Council enacts By-law 2014-53A, being a Confirming By-law for this Special Council Meeting.

Carried

5. ADJOURNMENT

Moved by Bob Kingsbury

Resolution No. 2014-361

Seconded by Jamey Larone

That Council adjourns this Special Council Meeting at 5:20 p.m.

Carried

---

MAYOR

CAO/Clerk