

To: Council in Committee of the Whole

From: Andrew Brouwer, City Clerk,
Corporate Services Department

Report Number: CNCL-18-27

Date of Report: April 20, 2018

Date of Meeting: April 30, 2018

Subject: Regional and City Councillor Vacancy

File: A-1000

1.0 Purpose

The purpose of this report is to request Council declare the Regional and City Councillor seat vacant; seek Council authorization of meeting dates required to comply with the Council Vacancy Policy; and inform Council and the public of the administrative processes required by legislation and the Council Vacancy Policy.

2.0 Recommendation

It is recommended to City Council:

1. That, in accordance with the Municipal Act, Section 262 (1), Council declare the Regional and City Councillor seat vacant; and,
2. That, in accordance with the Council Vacancy Policy:
 - a. An open house be held on May 10, 2018 at 6:30 p.m. in the Committee Room, seeking public input on the method of appointment to fill the Regional and City Councillor vacancy and City Councillor vacancy [should a City Councillor be appointed as Regional and City Councillor]; and,
 - b. Council determine the method of appointment to fill the Regional and City Councillor vacancy and City Councillor vacancy [should a City Councillor be appointed as Regional and City Councillor] at the May 22, 2018 Council meeting; and,
 - c. Council appoint a qualified individual to fill the Regional and City Councillor vacancy at the June 25, 2018 Council meeting or a special Council meeting to be held June 28, 2018 if required; and,

- d. Council appoint a qualified individual to fill the City Councillor vacancy at the June 25, 2018 Council meeting or a special Council meeting to be held June 28, 2018 if required [should Council appoint a City Councillor to fill the Regional and City Councillor vacancy]; and,
3. That Council appoint a Chair and if required, Vice Chair for the Community Services Committee; and,
4. That Council nominate a Regional and City Councillor for appointment by Durham Region to the Central Lake Ontario Conservation Authority board of directors for a term ending November 30, 2018; and,
5. That Council appoint a Member to serve as a board director for the Multicultural Council of Oshawa and a Member to serve as a trustee for the Robert McLaughlin Gallery Board, for terms ending November 30, 2018; and,
6. That the City Clerk advise the Regional Clerk of the foregoing.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

Not applicable.

5.0 Analysis

5.1 Vacancy Requirements

The City Clerk received written notice of resignation from Regional and City Councillor Bob Chapman effective April 13, 2018 at 5:00 p.m. As a result, the Regional and City Councillor seat is vacant.

The Municipal Act requires that the Regional and City Councillor vacancy be declared vacant at the next City Council meeting following a Member's resignation, being April 30, 2018.

After March 31 in an election year, Council is required to fill the Regional and City Councillor vacancy by means of an appointment. The Regional and City Councillor seat can only be left vacant should the vacancy occur within 90 days of voting day for a regular election, being July 24, 2018. Following Council's declaration of the vacancy, Council must fill the vacancy by way of appointment within 60 days, being June 29, 2018.

5.2 Council Vacancy Policy

On November 15, 2017, Council adopted a Council Vacancy Policy (see Attachment 1) which directs a transparent process to guide the manner of Council's deliberation and public input on the method to fill the vacancy at any point in time, save and except for the limitations set out in the Municipal Act.

The Policy requires that after Council has declared the Regional and City Councillor seat vacant, an open house be held to provide an opportunity for City Clerk Services to outline appointment options and considerations and for the public to provide their input on the method of appointment to fill the vacancy. As one of the options includes appointing a City Councillor to the Regional and City Councillor seat, the open house will also seek input on the appointment process to fill the subsequent City Councillor vacancy should Council choose that approach.

It is recommended that the open house be scheduled on May 10, 2018 at 6:30 p.m. in the Committee Room.

Following the open house, it is recommended that the method to fill the vacancy be considered by Council at its May 22, 2018 meeting. It is recommended that the appointment of a Regional and City Councillor (and a City Councillor, should Council choose to appoint a City Councillor to fill the Regional and City Councillor vacancy) be made at the June 25, 2018 Council meeting, or a special Council meeting to be held June 28, 2018, if required. The June 28, 2018 special Council meeting will be required if Council cannot make a determination on June 25, 2018 or where a public call for qualified individuals is chosen, to allow additional time for delegations and deliberation by Council. A public swearing-in ceremony will be scheduled to follow.

Advanced public notice of the identified meetings will be provided on the City's website and social media accounts as well as local newspapers in keeping with the Corporate Advertising Policy.

Correspondence and delegations from the public are welcome at all meetings outlined above.

5.3 Appointment Options

Council is required to fill the vacancy by means of an appointment. The individual must be eligible to hold office in the City of Oshawa as confirmed by the City Clerk, being (as of the date Council formally appoints the individual):

- 18 years of age; and,
- A Canadian citizen; and,
- A resident in the City of Oshawa or the owner or tenant of property in the City of Oshawa, or the spouse of an owner or tenant of property in the City of Oshawa; and,
- Not prohibited from running for office in the City of Oshawa by-law.

The individual must also consent to their appointment by Council.

The Municipal Act does not prescribe a specific process Council is required to follow to fill a vacancy by appointment; however, the process Council chooses to fill the vacancy by appointment should be transparent to the public and allow for public notice in keeping with the principles of the Municipal Elections Act, 1996.

CM-17-31 directed in part: “that City Clerk Services develop procedures outlining the general practices for appointments in the 2018 or 2019 business plan”. City Clerk Services will outline appointment practices at the public open house on May 10, 2018 and in the staff report addressing the method to fill the vacancy for consideration at the May 22, 2018 Council meeting. Once Council chooses a method of appointment, City Clerk Services will develop more precise procedures to give effect to Council’s direction, as set out in the Council Vacancy Policy.

Some of the processes Council could consider include the following, among others:

- Appointment of a City Councillor to the Regional and City Councillor vacancy;
- Appointment of a Regional and City Councillor candidate from the 2014 municipal election;
- Nomination of qualified individuals by Council;
- Open call for qualified individuals for consideration by Council; and,
- Combinations of the above.

In assessing its options, Council may wish to give consideration to the following, among other things:

- Progression and time remaining in the term of Council (ending November 30, 2018);
- Readiness of qualified individual to fulfill the role;
- Proximity to the October 22, 2018 municipal election;
- Representative needs at the City and Regional level; and,
- Administrative considerations, such as staff resources required for appropriate on-boarding and orientation.

5.4 Committee Vacancies

Former Councillor Chapman served as Chair of the Community Services Committee and member of the Development Services Committee. In addition, he was a board director for the Central Lake Ontario Conservation Authority and Multicultural Council of Oshawa and board trustee for the Robert McLaughlin Gallery.

Council is required to appoint a Chair and if required, a Vice Chair for the Community Services Committee.

Correspondence was received from Durham Region requesting Council nominate a Regional and City Councillor to the Central Lake Ontario Conservation Authority (see Attachment 2) for a term ending November 30, 2018. In addition, should interest and capacity exist, Council may appoint a Member to serve as a board director for the Multicultural Council of Oshawa and a Member to serve as a board trustee for the Robert McLaughlin Gallery for terms ending November 30, 2018.

It is recommended that Council fill the vacancy on the Development Services Committee following the Regional and City Councillor appointment process.

6.0 Financial Implications

The cost of an appointment process may be negligible to \$3,000, depending on the process selected (mainly advertising). All costs incurred to fill the vacancy will be funded from the election reserve account.

7.0 Relationship to the Oshawa Strategic Plan

The report's recommendations support the goals of "Accountable Leadership: Ensure respect, responsiveness and transparency".



Andrew Brouwer, City Clerk,
Corporate Services Department

Attachments



Council Vacancy Policy

Approved: November 15, 2017

1. Policy Statement

The Council of the City of Oshawa is committed to an open and transparent process when determining how vacancies on City Council will be filled that provides opportunities for public input and incorporates procedures which support the legislative roles and responsibilities of City Council and the City Clerk.

2. Scope

This policy applies to any vacancy that occurs on City Council.

3. Sources

Municipal Act, 2001, S.O. 2001, c. 25
Municipal Elections Act, 1996, S.O. 1996, c. 32
Corporate Advertising Policy
Report CM-17-31 – Council Vacancy Policy

4. Procedure

4.1. Declaration of Vacancy

Where a vacancy on City Council occurs, in accordance with Section 259 (1) of the Municipal Act, City Council shall declare the seat vacant at the next regularly scheduled Council meeting, or in the case of the death of a Member at one of the next two regularly scheduled Council meetings.

Following the declaration of the Council vacancy, a notice will be provided on the City's website, social media and in newspapers, in accordance with the City's Corporate Advertising Policy, advising of:

- The office for which the vacancy applies; and,
- The date, time and location of an open house hosted by the City Clerk to gather input on the method of filling the Council vacancy; and,
- Any additional public consultation measures to gather input on the method of filling the Council vacancy deemed appropriate by the City Clerk; and,
- The date and time of the meeting where Council will determine the method used to fill the Council vacancy.

4.2. Restriction on By-election

In accordance with Section 65(2) of the Municipal Elections Act, should a vacancy occur after March 31st in the year of an election, Council will not hold a by-election.

4.3. Restriction on Appointment

As permitted by Section 263(5)3 of the Municipal Act, should a vacancy occur within 90 days of Voting Day in the year of an election, Council will declare the seat vacant and will not appoint an individual. The office will remain vacant until the next term of Council is established and the provisions of this policy do not apply.

4.4. Staff Report

Following the public consultation period, the City Clerk shall prepare a public report to Council summarizing any public feedback received, assess the merits of various options available to Council and identify other relevant considerations and recommendations for Council's consideration.

4.5. Meeting to Determine Method of Filling Vacancy

The meeting where Council determines the method for filling the vacancy shall be a public meeting. At the meeting Council will consider the staff report prepared in Section 4.4 and will deal exclusively with how the vacancy will be filled, without making an appointment of any individual.

If Council determines that the vacancy is to be filled by an appointment, Council shall identify the preferred method of appointment and direct the City Clerk to take the steps necessary to facilitate Council's decision. Council's preferred method of appointment shall have regard to the City Clerk's legislative responsibility to qualify individuals for appointment.

If Council determines that the vacancy is to be resolved by a by-election, Council shall direct the City Clerk to bring forward a by-law for Council's approval at a time that most effectively facilitates the conduct of a by-election.

4.6. Subsequent Vacancies

Should Council's decision in Section 4.5 on the method used to fill a vacancy result in an immediate vacancy in another office, Council will determine, at the same meeting, the method used to fill any and all subsequent vacancies on Council arising from the initial decision.

For clarity, the requirements identified in Sections 4.1, 4.4 and 4.5 of this policy do not apply to subsequent vacancies.

4.7. Selection and Appointment of Individual or Approval of By-law

Should Council opt to fill the vacancy by appointing an identified individual, or seek applications from all qualified individuals, the City Clerk shall provide a notice of Council's intent to fill the vacancy by an appointment and the date, time and location of the meeting where Council intends to fill the vacancy. Notice will be provided on the City's website, social media and in newspapers in accordance with the City's Corporate Advertising Policy.

The City Clerk shall develop procedures deemed appropriate to give effect to the manner of appointment selected by Council and will ensure such procedures are in keeping with the provisions and principles of the Municipal Elections Act.

Should Council choose to fill the vacancy by by-election, the City Clerk shall prepare and bring forth a by-law authorizing a by-election within the statutory timeframes in a manner and at a time which in his or her opinion, most effectively supports the delivery of a by-election.

A notice of the date, time and location of the meeting where Council will approve the by-law authorizing a by-election will be provided on the City's website, social media and in newspapers in accordance with the City's Corporate Advertising Policy.

The City Clerk shall conduct the by-election in accordance with the provisions of the Municipal Elections Act.



April 17, 2018

The Regional
Municipality
of Durham

Corporate Services
Department
Legislative Services

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Don Beaton, B.A.S., M.P.A.
Commissioner of
Corporate Services

Mr. A. Brouwer
Clerk
City of Oshawa
50 Centre Street South
Oshawa, ON L1H 3Z7

Dear Mr. Brouwer:

**RE: Appointment to the Central Lake Ontario Conservation
Authority, Our File: C14**

Please be advised that Bob Chapman was appointed by Regional Council to represent the City of Oshawa on the Central Lake Ontario Conservation Authority on December 17, 2014.

As his office is now vacant, would you please arrange for your Council to nominate one Member to the Central Lake Ontario Conservation Authority, pursuant to the policy of Regional Council.

Please note that on October 4, 2006 the following policy was adopted:

"THAT only elected officials be appointed to Conservation Authorities and further, that only members of Regional Council be appointed unless the municipalities have insufficient Regional Council representation they shall be permitted to appoint a local Councillor or appoint a citizen representative to the Conservation Authority."

If you would kindly provide the name of your nominee at your earliest convenience, it would be greatly appreciated.

A handwritten signature in black ink, appearing to read 'RW' followed by a stylized flourish.

Ralph Walton,
Regional Clerk/Director of Legislative Services

RW/tf

c: C. Darling, CAO, Central Lake Ontario Conservation Authority

If this information is required in an accessible format, please contact
1-800-372-1102 ext. 2009.