



## **Staff Report for Special Council Meeting**

**Date of Meeting:** September 29, 2021

**Report Number:** SRCFS.21.055

**Department:** Corporate and Financial Services

**Division:** Office of the Clerk

**Subject:** **SRCFS.21.055 – Options to fill the vacancy in the Office of Mayor**

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### **Purpose:**

To summarize Council's options to fill the vacancy in the Office of Mayor as described in detail in Staff Report SRCFS.21.049 (Attachment "A") and to seek direction on the appointment of an Alternate Regional Councillor during the vacancy in the Office of Mayor.

### **Recommendation(s):**

- a) That staff report SRCFS.21.055 be received.
- b) That Council provide direction on filling the vacancy in the Office of Mayor, and appointing an Alternate Regional Councillor during the vacancy.

### **Contact Person:**

Stephen M.A. Huycke, Director, Legislative Services/City Clerk, extension 2529.

Ryan Ban, Manager, Legislative Services/Deputy City Clerk, extension 5547.

### **Report Approval:**

**Submitted by:** Sherry Adams, Commissioner of Corporate and Financial Services

**Approved by:** Mary-Anne Dempster, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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### Background:

At the September 22, 2021 Council meeting, Council declared the Office of Mayor vacant when it adopted the recommendations in Staff Report SRCFS.21.048. Under Section 263(5) of the *Municipal Act, 2001*, within 60 days of having declared the Office of the Mayor vacant, or by **November 21, 2021**, Council is required to:

- appoint a qualified person to fill the vacancy under; or
- pass a by-law requiring a By-election be held to fill the vacancy.

At the same meeting, Council considered Staff Report SRCFS.21.049 - Options to fill the Vacancy in the Office of Mayor (Attachment “A”). Council also adopted the following resolution:

“That a Special Council meeting be scheduled to occur within one week for the purpose of staff presenting options and costs associated with options for the City to consult the public on options to fill the vacancy in the Office of Mayor.”

Staff Report SRCFS.21.054, Public Consultation Options for Vacancy in Office of the Mayor, has been prepared to provide Council with options and costs to consult the public before Council makes a decision on how to fill the vacancy in the Office of Mayor. Should Council choose to implement one of the options in Staff Report SRCFS.21.054, it would be necessary to adopt the following motion to defer the decision on filling the vacancy:

#### Defer decision until completion of public consultation – Resolution

- a) That, to permit public consultation, consideration of the options to fill the vacancy in the Office of Mayor be deferred to a future Council meeting.

### Summary of options to fill the vacancy in the Office of Mayor

Should Council decide not to implement one of the public consultation options in Staff Report SRCFS.21.054, Council will need to choose to fill the vacancy in the Office of the Mayor by selecting one of the options in Staff Report SRCFS.21.049. For ease of reference, this report summarizes the resolutions that Council should consider passing to implement one of those options.

#### Option 1 – By-election

Under Section 263(5) of the Act, Council could direct that the vacancy be filled by By-election conducted under the *Municipal Elections Act, 1996*.

As discussed in Staff Report SRCFS.21.049, it is recommended that Council pass the by-law requiring a by-election no earlier than the October 13, 2021 Council meeting. This will ensure that Voting Day does not occur within the Christmas holiday period. If Council passes a By-law requiring a By-election at the October 13, 2021 Council meeting, Nomination Day would occur between November 12, 2021 and Sunday

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December 12, 2021. Voting Day would occur 45 days after Nomination Day, or between Monday December 27, 2021 and Wednesday January 26, 2022.

### Option 1 – Resolution

- a) That the Clerk be directed to place a By-law requiring a By-election to be held to fill the vacancy in the Office of Mayor on the October 13, 2021 Council agenda for enactment;
- b) That the draft By-law include the following provisions:
  - i) That the costs incurred by the Clerk to conduct the By-election to fill the vacancy in the Office of Mayor, including any post-election costs, be fully funded from the Tax Rate Stabilization Reserve;
  - ii) That notwithstanding anything in the Procurement By-law No. 113-16, as amended, and the Financial Control By-law No. 114-16, as amended, to the contrary, the Clerk be authorized to acquire any goods or services, and to enter into and execute any contracts which the Clerk deems necessary for the purpose of conducting a By-election to fill the vacancy in the Office of Mayor;
  - iii) That notwithstanding anything in the Procedure By-law No. 74-12, as amended, to the contrary, the Clerk be authorized to amend the 2021 and 2022 Council/Committee Meeting calendar, by cancelling or adding meetings to accommodate the 2021 By-election as determined by the Clerk;
  - iv) That if, as a result of the cancellation of meetings by the Clerk in accordance with paragraph “b) iii)” of this resolution, no regular Council meetings shall be held for four or more consecutive weeks, the definition of “Recess Period” in By-law 86-20, a By-law to delegate certain powers and duties during a recess of Council of the Corporation of the City of Richmond Hill, as amended, is deemed to include those days between the last regular Council meeting held prior to the By-election and ending on the day prior to the first regular Council meeting following the By-election.

### Option 1a – Authorize Internet Voting

- c) That the Clerk be directed to place a By-law authorizing the use of internet voting as an additional voting method for the By-election to fill the vacancy in the Office of Mayor on the October 13, 2021 Council agenda for consideration and enactment.

### **Option 2 – Appoint a current Member of Council to fill the Vacancy**

Council could choose to fill the vacancy by appointing a current Member of Council to fill the vacancy.

### Option 3 – Resolution

- a) That the vacancy in the Office of Mayor be filled by appointing a current Member of Council.

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- b) That the four week advertising and notice requirements in the “Procedures to Appoint an Individual to Fill a Vacancy” be waived.
- c) That the Clerk be directed to schedule a Special Council for the purpose of appointing a current Member of Council to fill the vacancy in the Office of Mayor in accordance with the “Procedures to Appoint an Individual to Fill a Vacancy”.

### **Option 3 – Appoint a qualified individual to fill the vacancy**

Council could choose to fill the vacancy by appointing any qualified individual to the position.

#### Option 3 – Resolution

- a) That the vacancy in the Office of Mayor be filled by appointing any qualified individual to fill the vacancy;
- b) That the Clerk be directed to schedule a Special Council meeting for the purpose of appointing a current Member of Council to fill the vacancy in the Office of Mayor in accordance with the “Procedures to Appoint an Individual to Fill a Vacancy”.

### **Option 4 – Defer Decision on Filling the Vacancy**

Council can choose to defer the decision on filling the Vacancy to a further meeting. However, Council can only defer the decision if it limits its choice to by-election or appointment of a current Member of Council. Staff would not recommend deferring this decision beyond the October 27, 2021 Council meeting.

#### Option 4 – Resolution

- a) That Council resolves that it shall only fill the vacancy in the Office of Mayor by either passing a By-law requiring a By-election, or by appointing a current Member of Council to fill the vacancy;
- b) That Council defer its final decision on how to fill the Vacancy in the Office of Mayor until [a Special Council Meeting – or the Council meeting on \_\_\_\_\_].

### **Regional Representation during Vacancy**

Section 267(2) of the Act states that:

“If the offices of a person who is a member of council of both a local municipality and its upper-tier municipality become vacant and the vacancies will not be filled for a period exceeding one month, the local council may appoint one of its members as an alternate member of the upper-tier council until the vacancies are filled permanently.”

Council can choose to appoint a current Ward Councillor as an alternate Member of Regional Council until such time as the vacancy in the Office of the Mayor is permanently filled.

#### Resolution to appoint an Alternate Regional Representation

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- a) That Council appoints Ward \_\_\_\_ Councillor \_\_\_\_\_ as an alternate member of Regional Council pursuant to Subsection 267(2) of the *Municipal Act, 2001*, to act as an alternative Member of Regional Council until the vacancy in the Office of Mayor of Richmond Hill is filled permanently.
- b) The Clerk be directed to notify the Regional Clerk of the appointment of Ward \_\_\_\_ Councillor \_\_\_\_\_ as an alternate member of Regional Council pursuant to Subsection 267(2) of the *Municipal Act, 2001*.

### **Financial/Staffing/Other Implications:**

If Council selects to fill the vacancy in the Office of Mayor by By-election (Option 1), it is estimated that the total cost of a By-election would be between \$575,000 and \$625,000. It is recommended that the full cost of a By-election, including any post-election expenses, be funded from the Tax Rate Stabilization Reserve.

### **Relationship to the Strategic Plan:**

The decision for the Council Vacancy Option help fulfill Council's Strategic Priority of a Strong Sense of Belonging and Financial Responsibility by ensuring that the way in which the vacancy of the Office of Mayor is done with consideration for participation and representation of Richmond Hill's residents in a fiscally responsible way.

### **Climate Change Considerations:**

Climate change considerations are not applicable to this staff report

### **Conclusion:**

As a result of Mayor Barrow's resignation, the Office of Mayor is vacant. Council is required within 60 days of declaring the seat vacant to either appoint a qualified person to fill the vacancy, or pass a by-law requiring a By-election to be held to fill the vacancy.

Council has four options to fill the vacancy:

- Option 1 – Fill the Vacancy by By-election.
- Option 2 – Fill the Vacancy by appointing a current Member of Council.
- Option 3 – Fill the vacancy by appointing any other qualified individual.
- Option 4 – Defer the decision on filling the vacancy by either a By-election or the appointment of a current Member of Council to the Council meeting no later than October 27, 2021.

Council can also choose to appoint a current Ward Councillor as an Alternate Regional Councillor until the vacancy in the Office of Mayor is permanently filled.

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### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

- Attachment “A” - Staff Report SRCFS.21.049 - Options to fill the Vacancy in the Office of Mayor

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### Report Approval Details

Document Title:	SRCFS.21.055 - Options to fill the Vacancy in Office of Mayor.docx
Attachments:	- SRCFS.21.055 - Attachment A - Staff Report SRFCS.21.049.pdf
Final Approval Date:	Sep 27, 2021

This report and all of its attachments were approved and signed as outlined below:

**Sherry Adams - Sep 27, 2021 - 10:03 AM**

**MaryAnne Dempster - Sep 27, 2021 - 3:25 PM**