



Staff Report for Council Meeting

Date of Meeting: March 9, 2022

Report Number: SRCFS.22.008

Department: Corporate and Financial Services

Division: Office of the Clerk

Subject: **SRCFS.22.008 – Technical Amendments to the Procedures to Appoint an Individual to Fill a Vacancy**

Purpose:

To recommend the approval of amendments to the “Procedure to Appoint an Individual to Fill a Vacancy” that are consistent with past practice and the *Municipal Act, 2001*, and that also clarify procedures when an appointment meeting is conducted as an electronic (fully electronic or hybrid) meeting.

Recommendation(s):

- a) That staff report SRCFS.22.008 be received
- b) That the amended “Procedures to Appoint an Individual to Fill a Vacancy,” attached as Attachment B to staff report SRCFS.22.008, be approved.

Contact Person:

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

Report Approval:

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

Approved by: Darlene Joslin, Interim 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:

On February 9, 2022, Council passed a resolution requiring that the vacancy in the Office of Ward 4 Councillor be filled by appointing a qualified individual. On October 15 2013, Council adopted “Procedures to Appoint an Individual to Fill a Vacancy” (the “Procedures”) which are attached as Attachment “A”. The Clerk recommends that Council approve amended Procedures (Attachment “B”). All proposed changes to the Procedures in Attachment “B” are noted in either red font (for amended or new provisions) or by using strikethrough (to indicate provisions that should no longer be included). The proposed changes are further described below.

Voting Procedures

The current voting rules includes the following provision.

“Members of Council shall verbally cast their vote.”

In other words, after all nominees have addressed Council the Clerk would call upon each Member of Council to verbally state who they are voting for (similar to a recorded vote).

Shortly after the Procedures were approved, however, Council at a Special Council meeting held on December 4, 2013 to fill the then Ward 4 Councillor vacancy changed the voting rules to the following:

“Upon hearing all the presentations of the nominees, Council will proceed to vote as follows:

1. Members of Council will vote by way of written vote using the form provided for that purpose by the Clerk.
2. Members of Council must sign and print their name on the written vote. Ballots that do not contain both the name and signature of the Member will be rejected from the count.
3. The Clerk, and any staff he designates to assist, shall tabulate the results. The Clerk will read the ballots individually and announce the results of the vote including how each Member voted.”

The Procedure, however, were never formally amended to include these different voting rules.

The use of ballots permits all Members of Council to vote at the same time during an appointment meeting. The use of ballots, as described above, complies with Section 244 of the *Municipal Act, 2001* (the “Act”), which prohibits secret voting, because the Members name and signature appear on the ballot, and individual Members vote is publicly announced by the Clerk. It is recommended that the use of ballots, to be called voting cards, be formally incorporated into the procedures and used for the appointment meeting to fill the current vacancy.

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Other Changes

In addition to the changes to the Procedures related to the use of Voting Cards, the amended Procedures include the following amendments:

- Inclusion of various procedures to address a scenario where the Special Council meeting is conducted as an electronic meeting (fully electronic or hybrid).
- Provide flexibility to the Clerk in creating the Public Notice, Application Form and Declaration of Qualification.
- Permit the Clerk to establish a process by which a person who applies to fill a vacancy can subsequently withdraw the application.
- Provide an option for Council to pre-select a set of uniform questions that will be asked to all nominees (instead of one question from each Member of Council).
- Removal of the requirement for a current Member of Council who is also a nominee for appointment to declare a pecuniary interest, which is contrary to Section 4(g) of the *Municipal Conflict of Interest Act*.
- Clarify that the required By-law to formally appoint a person to fill a vacancy should be enacted at the appointment meeting.

In addition to these, the proposed amended procedures remove the requirement that nominees be sequestered prior to their presentation and the question and answer session by Council. In an electronic meeting, this is technically impossible if a nominee is participating remotely. Additionally, this provision is arguably contrary to the open meeting rules in Section 239 of the Act. Section 239 of the Act does not provide a mechanism for Council to selectively exclude certain members of the public from a meeting that is not a closed session meeting.

Financial/Staffing/Other Implications:

There are no financial or other implications associated with amending the Procedures to Appoint an Individual to Fill a Vacancy

Relationship to Council's Strategic Priorities 2020-2022:

Amendments to the Procedures to Appoint an Individual to Fill a Vacancy are not directly related to Council's Strategic Priorities 2020-2022.

Climate Change Considerations:

Climate change considerations are not applicable to this staff report.

Conclusion:

The Clerk recommends Council approve amendments to the Procedures to Appoint an Individual to Fill a Vacancy as described in this report.

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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” – Procedure to Appoint and Individual to Fill a Vacancy – approved October 15, 2013
- Attachment “B” – Amended “Procedure to Appoint and Individual to Fill a Vacancy”

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Report Approval Details

Document Title:	SRCFS.22.008 - Amendments to the Council Vacancy Appointment Procedures.docx
Attachments:	- SRCFS.22.008 - Attachment A - Council Vacancy Procedures_October 15 2013_updated.pdf - SRCFS.22.008 - Attachment B - Amended Council Vacancy Procedures.pdf
Final Approval Date:	Feb 17, 2022

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

Sherry Adams - Feb 16, 2022 - 4:16 PM

Darlene Joslin - Feb 17, 2022 - 11:29 AM