

## Procedure

<b>Procedure Name:</b>	Procedure to Appoint an Individual to Fill a Vacancy
<b>Parent Policy:</b>	Council Vacancy Policy
<b>Procedure Owner:</b>	Corporate & Financial Services (Director, Legislative Services/City Clerk)
<b>Approved by:</b>	Council
<b>Effective Date:</b>	October 15, 2013
<b>Date of Last Revision:</b>	March 9, 2022
<b>Review Date:</b>	as required
<b>Procedure Status:</b>	Amended

## Purpose

The following procedure will be used when appointing an individual to fill a vacancy on Council.

## Definitions:

### In this procedure:

“Act”	means the <i>Municipal Act, 2001</i> , S.O. 2001, c.25, as amended.
“Chair”	means the member of Council presiding at the council appointment meeting.
“Clerk”	means the Clerk or his/her designate of the City of Richmond Hill as appointed by Council.
“Council”	means the Council of the City of Richmond Hill.
“Council appointment meeting”	means the regular or special council meeting called to appoint an individual to fill a vacancy.
“Electronic meeting”	means where the Council appointment meeting is conducted in accordance with the provisions of Article 12 of the Procedure By-law No. 74-12, as amended, or any replacement procedure by-law’s electronic meeting rules. For greater certainty, electronic meeting includes any Council meeting conducted where some or all Members are participating in the meeting using audio-only or audio-visual technology, and such participation is provided for in the By-law adopted under the provisions of Section 238 of the Act.
“Lot”	means a method of determination by placing the names of the nominees on equal size pieces of paper and placed in a container with one name being drawn by the Clerk.
“Member”	means a current and sitting member of Council of the Corporation of the City of Richmond Hill.

“Nominee” means those individuals seeking to fill a vacancy on Council who meet the eligibility requirements and who have completed the requisite documentation as outlined in this procedure.

“Voting Card” means the form created by the Clerk that permits all Members present at a Council appointment meeting to vote at the same time. The Voting Card shall require a Member to include the name of the nominee of their choice, the Member’s name and the Member’s signature when voting to comply with provisions of Section 244 of the Act which prohibits votes being taken by ballot or any other method of secret voting.

## Procedures:

### General

1. Council is required to declare a seat vacant in accordance with the Act.
2. Any individual filling a vacancy must meet the eligibility requirements of office as outlined in the Act and the *Municipal Elections Act, 1996* and as noted below:
  - 18 years of age or older;
  - a Canadian citizen;
  - a resident of the City of Richmond Hill, or an owner or tenant of land in the City or the spouse of such an owner or tenant; and
  - not prohibited from voting under any other Act or from holding municipal office.
3. If an employee of the City of Richmond Hill seeks appointment to Council, the employee shall give Council written notice, in advance, of his or her intention to take unpaid leave. If the employee is appointed to office, they will be deemed to have resigned from their position with the City immediately before making the declaration of office.

### Filling a Vacancy by Appointment

1. The Clerk shall post a Council Vacancy notice (in a form similar to Appendix A) on the City website for a minimum of four (4) consecutive weeks following Council's decision to fill a vacancy by appointment. The notice shall indicate Council’s intention to appoint an individual to fill a vacancy and shall outline the nomination process.
2. A vote to fill a vacancy on Council by appointment shall occur at an open Special Council Meeting.
3. Any individual wishing to be considered for appointment to the vacancy shall complete and sign a Council Vacancy Application Form (in a form similar to Appendix B) and a Council Vacancy Declaration of Qualification (in a form similar to Appendix C) and submit the forms by the deadline established by the Clerk. The Clerk may establish a deadline and process by which individuals

who have submitted an application may withdraw their application prior to a Council appointment meeting.

4. At the meeting, the following shall take place:
- (a) The Chair will make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
  - ~~(b) Individuals seeking appointment to the position of Mayor and/or Regional and Local Councillor who are also current members of Council (nominees) shall declare a pecuniary interest.~~
  - (c) The Clerk will provide to the Chair a list of the names of those individuals who have indicated, in writing, their interest in being appointed to the vacancy and the Chair will call for a motion from Council in the following form:

“THAT the following individuals, who have signified in writing that they are legally qualified to hold office and consented to accept the office if they are appointed to fill the vacancy, be considered for appointment to fill such vacancy.”
  - (d) Each of the nominees shall be afforded the opportunity to address Council for a period of not more than ten (10) minutes. The order of speaking will be determined by Lot. ~~(The Clerk shall place the names of all nominees in a container and randomly draw the names).~~
    - (i) If the Council appointment meeting is conducted as an electronic meeting, the Clerk may require each nominee to select in-person or electronic participation prior to the meeting.
    - (ii) If the Council appointment meeting is conducted as an electronic meeting, the order of speakers shall be determined by Lot by the Clerk prior to the meeting, and the selection may be grouped according to in-person or electronic participation.
  - (e) Each member of Council will be permitted one (1) question to each nominee. ~~Alternatively, Council can determine by resolution a series of one or more questions to be asked to all nominees, in which case they shall be the only questions posed. Candidates will be sequestered in an adjacent room until it is their time to answer the questions posed by Council. Once a candidate has answered the questions, they may remain in the Council Chambers.~~
  - (f) Upon hearing all the submissions of the nominees, Council will proceed to vote as follows:
    - (i) Members will vote by way of public vote using Voting Cards;
    - (ii) Nominee names shall be displayed on the monitors in alphabetical order by last name, in the Council Chambers by the Clerk.
    - (iii) Subject to Section 4(f)(xi) below, to be appointed to fill a Vacancy a Nominee must be selected by Majority Vote of Members present at the meeting;
    - (iv) Members are only permitted to vote for one (1) Nominee in each round of voting;
    - (v) The Clerk will provide each Member with a Voting Card;

1. Where the Council appointment meeting is conducted an electronic meeting, the Clerk shall, on a best effort basis, provide Voting Cards to Members who are participating electronically prior to the meeting. In the event that it is not possible to provide Voting Cards to those Members prior to the meeting, Members may vote by clearly writing the name of their selected nominee on any piece of paper, and signing that piece of paper. The Member shall provide the original marked Voting Card or piece of paper, to the Clerk as soon as possible following the meeting.
- (vi) Members will cast his or her vote by writing the full name of one (1) Nominee where indicated on the Voting Card, and by writing the Members name and signing the Voting Card where indicated;
- (vii) The Clerk will collect all Voting Cards and, subject to Section 4(f)(viii) below, read aloud the Members name and the name of the Nominee voted for by that Member.
1. Where the Council appointment meeting is conducted as an electronic meeting Members participating electronically will be required to show their Voting Card at the same time as all other members participating electronically when requested by the Clerk. The Clerk shall verbally indicate the name of the Member and the Nominee voted for. The Clerk shall record the votes of Members participating electronically prior to the votes of Members participating in-person.
- (viii) A Members vote shall be rejected if his or her Voting Card;
1. Does not include the full written name of one (1) Nominee;
  2. Includes the name of more than one (1) Nominee unless it is obvious to the Clerk that the Member has crossed off other Nominees names such that there is only one (1) Nominee; or
  3. Does not included the Member's name and signature.
- (ix) The Clerk shall tabulate and announce the voting results for each round of voting.
- (x) If the nominee receiving the greatest number of votes cast does not receive more than one-half the votes of all voting members of Council present and voting, the nominee or nominees who received the fewest number of votes shall be excluded from further consideration, the vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive round of vote the nominee or nominees who receive the fewest number of votes. This process shall be repeated until the nominee receiving the greatest number of votes has also received more than one-half of the votes of the voting members of Council;
- (xi) Where the votes cast are equal for all the nominees and if:
1. There are three or more nominees remaining, the Clerk shall by Lot select one such nominee to be excluded from the subsequent voting;
  2. Only two nominees remain, the tie shall be broken by selecting a nominee by lot, as conducted by the Clerk.

- (g) Upon conclusion of the voting, the Clerk will note the nominee receiving the votes of more than one-half of the number of the voting Members of Council or the nominee selected through section (f)(viii)(2).
- (h) The appointment of the nominee shall be made by by-law. A by-law confirming the appointment shall be enacted by Council **at the appointment meeting**. ~~or Council shall direct the Clerk on how to proceed further.~~

## Roles and Responsibilities

### Clerk

- The Clerk shall be responsible for interpreting and administering the Council Vacancy Policy and the Procedure to Appoint an Individual to Fill a Vacancy.
- The Clerk shall be responsible for conducting any by-election in accordance with the *Municipal Elections Act* and all applicable policy and procedure.

### Related Documents:

- Appendix A - Council Vacancy Public Notice Template
  - Appendix B - Council Vacancy Application Form
  - Appendix C - Council Vacancy Declaration of Qualification
- Richmond Hill Council Vacancy Policy
- Municipal Act, S.O. 2001, c.25*
- Municipal Elections Act, 1996, c. 32*