

Presented To:	City Council
Presented:	Tuesday, Jun 24, 2014
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Type:	Managers' Reports

Request for Decision

Council Vacancy - Ward One

Recommendation

That the City of Greater Sudbury, as required by the Municipal Act, declare the Office of the Councillor, Ward One to be vacant;

And that the City of Greater Sudbury fill the vacancy for Councillor Ward One for the term ending November 30, 2014 by way of appointment, as described in Option ____ of the report dated June 16, 2014 from the City Clerk.

Executive Summary:

As described in Legislation, Council must pass a resolution to declare the Council Seat for Ward One to be vacant and must appoint a citizen to fill that vacancy within 60 days of this declaration. This report outlines options for the process to fill the vacant seat on Council to ensure compliance with legislation. Councillor Cimino was acclaimed as Councillor in Ward One in 2010.

Legislative Requirements:

In accordance with the Municipal Act:

258. (1) The following are not eligible to be elected as a member of a council or to hold office as a member of a council:

3. A member of the Assembly as provided in the Legislative Assembly Act or of the Senate or House of Commons of Canada

259. (1) The office of a member of council of a municipality becomes vacant if the member,

(a) becomes disqualified from holding the office of a member of council under section 256, 237 or 258.

262. (1) If the office of a member of a council becomes vacant under section 259, the council shall at its next meeting declare the office to be vacant, except if a vacancy occurs as a result of the death of a member, the declaration may be made at either of its next two meetings.

In accordance with the Legislative Assembly Act:

Signed By

Report Prepared By

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Jun 17, 14

Recommended by the Department

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Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
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9.(1) Subject to subsection (2), a member of the Assembly is not eligible to hold office as a member of the council of a municipality or as a member of a local board, as defined in the Municipal Affairs Act, of a municipality.

(2) Every person who is elected a member of the Assembly while holding an office referred to in subsection (1) may continue to hold such office, despite any other Act, until the end of the day on which the return of the election of such person to the Assembly is published in The Ontario Gazette under section 83 of the Election Act, at which time the member shall be deemed to have resigned such office.

In regards to the filling of vacancies, the Municipal Act states that:

263. (5)1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262, the municipality shall,

i. appoint a person to fill the vacancy under subsection (1) or (4), or

ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).

3. Despite subsections (1) to (4), if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy. 2001, c. 25, s. 263 (5).

There are however provisions in the Municipal Elections Act with regard to by-elections in a Municipal Election year:

65 (2) Despite any Act, no by-election shall be held to fill an office that becomes vacant after March 31 in the year of a regular election.

Expectations of Councillor, Ward One:

Council is required to fill the vacancy in Ward One within 60 days of the vacancy being declared. The vacancy will be declared on June 24, 2014 and therefore the seat must be filled on or before August 22, 2014 at which time there will be approximately three months remaining in the term of office and only five Council meetings scheduled. As most standing committees do not meet after August of an election year, the new Councillor would not be expected to participate in Committees, except for Committees comprised of all members of Council.

Other Council Appointments:

Councillor Cimino has been appointed by Council to sit on a number of other bodies. Those bodies which are still active are enumerated below. The need to appoint a replacement member and the process for doing so will depend on the governance structure of each of these bodies. For example, the participation of Members of Council on Advisory Panels is optional and there is no requirement for replacement of those members where as the Terms of Reference for some of the other bodies, as for example the Hearing Committee of Council, requires the appointment of a replacement member. Correspondence will be sent by the Clerk to these various bodies advising them of this matter. Where a replacement appointment is required that matter will be brought forward to Council by way of a report.

- Hearing Committee
- Nickel District Conservation Authority Board
- Greater Sudbury Housing Corporation Board
- Greater Sudbury Public Library Board
- Biosolids Master Plan Technical Working Group
- Source Water Protection Committee
- Lakes Advisory Panel
- Children and Youth Roundtable Advisory Panel

Qualifications for Appointment, Councillor, Ward One:

In accordance with the Municipal Elections Act the vacant seat must be filled by the appointment of a qualified person, which is defined in the Act as someone, who:

- Resides in the City of Greater Sudbury or is the owner or tenant of land in the City of Greater Sudbury or the spouse of such owner or tenant;
- Is a Canadian citizen;
- Is at least 18 years old;
- Is not prohibited from voting under the Municipal Elections Act, 1996 or otherwise by law; and
- Is not disqualified by the Municipal Elections Act, 1996 or any other Act from holding office.

Other municipalities, when filling a vacancy during the period of a Municipal Election, have also stipulated that in making the appointment, the Council does not wish to be perceived of as providing any advantage to candidates in that election, and that the Council would choose to only appoint an individual who is not and will not run for that seat in the upcoming Municipal Election. Hamilton and Toronto included these criteria in their considerations of recent appointments for vacant seats. Members of the Nominating Committee may wish to consider this factor and look for knowledge of municipalities and municipal operations as well as related governance experience, either by way of service on a prior Council, or on a public or private sector Board, when reviewing applications.

In all options, applications from all qualified candidates will be presented to the Nominating Committee of Council who will use a process of Simultaneous Recorded Vote (Procedure By-Law Articles 33.05 and 45.07) to select the qualified candidate. It is recommended that following the models used in other municipalities for appointments to the role of Councillor, that each qualified candidate is afforded the opportunity to make an address of no more than five minutes in length, to the Nominating Committee, prior to the voting.

Options for Appointment, Councillor, Ward One:

Council has two options with regards to the Appointment of a Councillor in Ward One. The first option is to hold an open and public process to seek interested and qualified candidates who are not candidates in the 2014 Municipal Election. The second option is to use the applicants who formally applied through the process established for filling of the vacancy in Ward Eight, to fill both of the Council vacancies, being Ward Eight and Ward One.

Option One: Hold an Open and Public Process to Seek Interested and Qualified Candidates

If this option is selected, the City would advertise for interested applicants for the position of Councillor in Ward One.

Individuals would be required to attend the Clerk's Department in person, much as they do to file nomination papers in the Municipal Election, so that identification and eligibility can be verified. Applicants would be required to provide the following information:

- a) Consent of Nominee;
- b) Declaration of Qualification;
- c) Proof of name and qualifying address within the City of Greater Sudbury;
- d) Written statement declaring their intentions with regards to the 2014 Municipal Election;
- e) Applicants would also be encouraged to submit a resume or similar document, of no more than two pages in length, detailing their qualifications and/or related experience;
- f) MFIPPA consent allowing all the documentation associated with their application to be a matter of public record.

Option Two: Appoint a Candidate from the Formal List of Applicants to the Ward Eight Vacancy

In this option, rather than going through a wide open public process and in recognition that there is not much time remaining in the Council term, Council may wish to truncate the process of filling the vacancy in Ward One. There are thirteen applicants to the Vacancy in Ward Eight, the majority of whom do not live in that Ward, which suggests that a process for Ward One might attract some of the same candidates. However, caution should be exercised as there may be other individuals who are only interested in the Ward One vacancy who did not apply to the Ward Eight vacancy and who would be excluded should this option be selected.

Should Council select this option, Clerks Services staff will contact each of the applicants who applied to the Ward Eight Vacancy and confirm their interest in also being considered for the Vacancy in Ward One. If this option is selected, the Nominating Committee would deal with an addendum at their meeting of June 25th which addendum item would be the filling of the vacancy in Ward One.

Timelines:

The timelines associated with each of the two options that will be adhered in order to meet the sixty day period for filling of the vacant seat are as follows:

Appointment Related Event	Option One	Option Two
Declaration of Seat as Vacant and Staff report regarding process of filling vacancy	Tuesday, June 24, 2014	Tuesday, June 24, 2014
Advertising of Opportunity to Serve on Council	Week of June 30 – July 4, 2014	Not Applicable
Deadline for Interested Individuals to submit documentation and confirm interest	2:00 p.m. Friday, July 25, 2014	Not Applicable
Nominating Committee Meeting	Monday, August 11, 2014	Wednesday, June 25, 2014 (Addendum Item)