

## Request for Decision

### Declaration and Filling of Council Vacancy in Ward Eight

Presented To:	City Council
Presented:	Tuesday, May 13, 2014
Report Date	Wednesday, May 07, 2014
Type:	Managers' Reports

### Recommendation

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

And That Council fill the vacancy for Councillor Ward Eight for the term ending November 30, 2014 by way of appointment, as described in Option One of the Report from the City Clerk dated May 7, 2014.

### Executive Summary:

As described in Legislation, Council must pass a resolution to declare the Council Seat for Ward Eight 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 that the seat is filled no later than the Council meeting of July 8, 2014. It is noted that the Vacancy in Ward Eight also creates a vacancy on the Planning Committee, which vacancy will be filled at the Council meeting of May 27, 2014.

### Background:

#### **Legislative Requirements:**

In accordance with the *Municipal Act*:

*259. (1) The office of a member of council of a municipality becomes vacant if the member, (h) dies, whether before or after accepting office and making the prescribed declarations.*

*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.*

#### Signed By

**Report Prepared By**

Caroline Hallsworth  
Executive Director, Administrative  
Services/City Clerk  
*Digitally Signed May 7, 14*

**Recommended by the Department**

Caroline Hallsworth  
Executive Director, Administrative  
Services/City Clerk  
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**Recommended by the C.A.O.**

Doug Nadorozny  
Chief Administrative Officer  
*Digitally Signed May 7, 14*

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 Eight***

Council is required to fill the vacancy in Ward Eight within 60 days of the vacancy being declared. The vacancy will be declared on May 13, 2014 and therefore the seat must be filled on or before July 12, 2014. At the time of the appointment, there will be approximately five months remaining in the term of office and only six 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.

### ***Qualifications for Appointment, Councillor, Ward Eight***

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; and
- Is not prohibited from voting under the *Municipal Elections Act, 1996* or otherwise by law.
- 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 and it is recommended that the City of Greater Sudbury Councillor's consider this factor when reviewing applications. Further in selecting a candidate to fill the vacancy in Ward Eight, the Nominating Committee may wish to consider each candidate's qualifications and look for both 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.

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 Eight***

Council has two options with regards to the Appointment of a Councillor in Ward Eight. The first and recommended 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 appoint a candidate who ran in Ward Eight in the 2010 Municipal Election.

### 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 Eight.

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 2010 Municipal Election

In this option, rather than going through a wide open public process, Council may choose to appoint a candidate from the 2010 Municipal Election who is still willing to serve and who is not running or planning to run in the 2014 Municipal Election.

In 2012, the City of Orillia used this methodology to fill a vacancy (resulting from the passing of a member of their Council) with the candidate having the next highest number of votes. The City of London has a policy in place that Council vacancies are filled by appointing the "runner-up" from the most recent municipal election, provided that the individual who finished second garnered at least 50% of the number of votes cast for the winning candidate. This policy ensures that there is a certain level of public support for the potential candidates for the vacant seat. During the 2010 Municipal Election, none of the other candidates in Ward Eight received at least 50% (996 votes) of the 1,991 votes cast for Councillor Belli.

Should Council select this option, Clerks Services staff will contact those candidates who ran in Ward Eight in the 2010 Municipal Election to verify their eligibility and to ascertain their interest in serving and their plans with regards to the 2014 Municipal Election. Those who express an interest in the appointment would be required to provide the same documentation as outlined in Option One so as to confirm their consent, qualifications and intentions with regards to the 2014 election. A report containing their responses would then be presented to a meeting of the Nominating Committee of Council for consideration and voting.

The results of the 2010 Municipal Election in Ward Eight are as follows:

<b><u>Candidate Name</u></b>	<b><u>Total Votes Received</u></b>	<b><u>Percentage of Votes</u></b>
Fabio Belli	1,991	44.78
Al Sizer	921	20.27
Lorenzo Tripodi	662	14.89
Leo Bisson	259	5.83
Ron Laplante	281	6.32
Ian McCracken	155	3.49
Louis Delongchamp	72	1.62
Harry Will	71	1.60
Alex Martinez - Did not file financial statements and therefore now ineligible	34	.76

### **Timelines**

Whichever option is adopted, the timelines that will be adhered in order to meet the sixty day period for filling of the vacant seat are as follows:

<b>Appointment Related Event</b>	<b>Date</b>
Declaration of Seat as Vacant and Staff report regarding process of filling vacancy	Tuesday, May 13, 2014
Advertising of Opportunity to Serve on Council (Option One) Outreach to 2010 Candidates (Option Two)	Week of May 19 – 23, 2014
Deadline for Interested Individuals to submit documentation and confirm interest	2:00 p.m. Friday, June 13, 2014
Nominating Committee Meeting	Tuesday, June 24 or Wednesday June 25
Ratification of Nominating Committee Meeting by Council	Tuesday, July 8, 2014
Councillor-Elect Takes Oath of Office	Tuesday, July 8, 2014