

To: COUNCIL

Meeting Date: 8/15/2023

Subject: 23-131-CRS Declaration of Vacancy for the Office of Councillor, Ward 1

Submitted By: Danielle Manton, City Clerk

Prepared By: Danielle Manton, City Clerk

Report No.: 23-131-CRS

File No.: C1101

Wards Affected: Ward 1

RECOMMENDATION(S):

THAT Report 23-131-CRS Declaration of Vacancy for the Office of Councillor Ward 1 be received;

AND THAT Council declare a vacancy for the office of Councillor, Ward 1;

AND FURTHER THAT the City Clerk be directed to bring a report regarding methods to fill the Ward 1 Councillor Office to the August 29, 2023 Council meeting

EXECUTIVE SUMMARY:

Purpose

- This report is required as a result of the passing of Ward 1 Councillor, Donna Reid on August 13, 2023. In accordance with Section 262 (1) of the Municipal Act, 2001 (the Act) Council is required to formally declare a Council vacancy at either of its next two meetings.
- This report requests Council to direct the City Clerk to provide a report on August 29, 2023 regarding methods to fill the Office of Councillor for Ward 1.

Key Findings

- Section 262 (1) of the Act states 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. 2001, c. 25, s. 262 (1).

- Council has 60 days after declaring a seat vacant to either appoint an individual to fill the vacancy or pass a by-law declaring a by-election.

Financial Implications

There are no financial implications associated with declaring a vacancy for the office of Councillor, Ward 1.

The report to be provided on August 29, 2023, will provide estimated financial impacts of the various options Council will have in determining the method by which to fill the vacancy of the Office of Councillor, Ward 1.

STRATEGIC ALIGNMENT:

Strategic Action

Objective(s): Not Applicable

Strategic Action: Not Applicable

OR

Core Service

Program: Council Support

Core Service: Council and Citizen Committees

In accordance with the Act, Council is required to declare a vacancy for the Office of Councillor, Ward 1. This declaration ensures the City is in compliance with the Act and initiates next steps to fill the vacancy.

BACKGROUND:

When a vacancy on Council occurs, Council is faced with the decision on how to fill the vacant seat for the remainder of the term.

The Act provides two options to fill a vacancy on Council.

Subsection 263 (1) notes those options to be:

- a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or
- b) require a by-election to be held to fill the vacancy in accordance with the Municipal Elections Act, 1996.

Council is required to determine the method to fill the vacancy within 60 days of the declaration. A report will be provided to Council on August 29, 2023 outlining the options available to fill the vacancy and estimated costs and timelines for the options. Council will be required to determine on August 29, 2023 how they wish to proceed.

Section 263(5) establishes the rules applying to filling vacancies.

Rules applying to filling vacancies 263 (5)

The following rules apply to filling vacancies:

1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy, the municipality shall,

- i. appoint a person to fill the vacancy or
- ii. pass a by-law requiring a by-election be held to fill the vacancy.

Section 264 of the Act, provides that a person appointed or elected to fill a vacancy shall hold the office for the remainder of the term of the person he or she replaced.

Section 256 of the Act sets out the eligibility requirements for persons qualified to be elected or to hold office as a member of a Council of a local municipality.

To be an elector, the person under consideration must, on voting day,

(a) reside in the municipality or be the owner or tenant of land there, or the spouse of such owner or tenant,

(b) be a Canadian Citizen

(c) be at least 18 years old and

(d) not be prohibited from voting.

Under section 258 (1) of the Act, the following are not eligible to be elected as a member of a council or to hold office as a member of a council:

- an employee of the municipality;

- a person who is not an employee of the municipality but who is the clerk, treasurer, Integrity Commissioner, Auditor General, Ombudsman, registrar or an investigator of the municipality;
- a person who is not an employee of the municipality but who holds any administrative position of the municipality;
- a judge of any court;
- a member of the Legislative Assembly or of the Senate or House of Commons of Canada;
- and a public servant, with certain exceptions set out in Part V of the Public Services of Ontario Act, 2006.

ANALYSIS:

Further analysis around the method by which Council wishes to fill the vacancy will be provided through a report to Council on August 29, 2023.

EXISTING POLICY / BY-LAW(S):

The 2018 term of Council approved Policy A09 GOV 006 – Council Vacancy.

This policy sets out the requirements under the Municipal Act, 2001 to address a vacancy on Council and is attached as Appendix 1.

FINANCIAL IMPACT:

The request to declare the office of Councillor, Ward 1 does not have a financial impact to the City of Cambridge.

The City Clerk will provide Council with a report at the August 29, 2023 Council meeting that will provide options and costs for Council's consideration of a By-election or Appointment process to fill the vacancy for Ward 1.

Any costs associated with the option Council selects will require that funds from the Tax Rate Stabilization Fund be transferred to the Election Reserve Fund.

PUBLIC VALUE:

The requirement for declaring a position on Council vacant following the unfortunate passing of Ward 1 Councillor, Donna Reid also ensures transparency and engagement as the process to fill the vacancy will be a public process regardless of the method selected.

ADVISORY COMMITTEE INPUT:

Not Applicable.

PUBLIC INPUT:

Posted publicly as part of the report process.

INTERNAL / EXTERNAL CONSULTATION:

“There was no internal/external consultation undertaken.

CONCLUSION:

As per the Municipal Act, 2001, Council is required to declare the seat of Councillor, Ward 1 vacant within two meetings following the death of a Member of Council. Following this declaration, the City Clerk will report to the August 29, 2023 Council meeting with methods and recommendations for next steps in filling this position.

REPORT IMPACTS:

Agreement: **No**

By-law: **No**

Budget Amendment: **No**

Policy: **No**

APPROVALS:

This report has gone through the appropriate workflow and has been reviewed and or approved by the following as required:

Director

Deputy City Manager

Chief Financial Officer

City Solicitor

City Manager

ATTACHMENTS:

1. 23-131-CRS Appendix A – Council Vacancy Policy