

City of Mississauga
Corporate Report



<p>Date: January 19, 2022</p> <p>To: Mayor and Members of Council</p>	<p>Originator's files:</p>
<p>From: Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer</p>	<p>Meeting date: February 2, 2022</p>

Subject

Ward 2 Council Vacancy

Recommendation

1. That as a result of her resignation effective January 28, 2022, the office of Ward 2 Councillor held by Karen Ras, be declared vacant in accordance with Section 262(1) of the Municipal Act, 2001.
2. That Council provide direction on the preferred option for filling the Ward 2 Councillor vacancy.

Executive Summary

- Given the resignation of Councillor Karen Ras, the Ward 2 Councillor seat must be declared vacant.
- To fill a vacant seat, the Municipal Act states that Council may call for a by-election or appoint a member to fill the role.
- A by-election is a longer and more costly process, with the earliest date to schedule a by-election being May 2, 2022.
- The appointment process was used in 2018 to fill the Ward 1 Councillor seat due to the death of Jim Tovey. The earliest date for Council to consider the appointment process would be with the calling of a Special Council meeting on February 23, 2022.
- The appointment process would allow Council to: consider the applications received; provide candidates with the opportunity to address Council in support of their nomination; make a decision and pass a by-law regarding the appointment to fill the Ward 2 vacancy within a three-week period.

Background

Identifying and filling vacancies on a municipal Council are addressed in the Municipal Act, 2001 (the Act) and the Municipal Elections Act, 1996 (the MEA). The following are the relevant provisions in the Act:

Vacant Seat (Sec 259)

(1) The office of a member of Council of a municipality becomes vacant if the member:

(d) Resigns from his or her office and the resignation is effective under section 260;

Resignation of Member (Sec 260)

A member of Council of a municipality may resign from office by notice in writing filed with the clerk of the municipality.

Declaration of Vacancy (Sec 262(1))

If the office of a member of a Council becomes vacant, 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.

Rules Applying to Filling Vacancies (Sec 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 under section 262, 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

Term for Appointed/Elected Person (264)

A person appointed or elected to fill a vacancy shall hold office for the remainder of the term of the person he or she replaced.

Comments

In accordance with the Act, a vacancy on Council shall be filled by:

- a. appointing a person to fill the vacancy; or
- b. passing a by-law requiring a by-election be held to fill the vacancy.

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In the recent past, the City has held two by-elections, one in 2011 for a vacancy in Ward 5 and again in 2015 for a vacancy in Ward 4. On the other hand, after the passing of Councillor Jim Tovey in 2018, Council chose to use the appointment process given that the vacancy occurred within an election year.

The cost of the by-elections in 2011 and 2015 were \$458,000 and \$285,000 respectively and took approximately four (4) months to elect the new member of Council.

For either option, the eligibility to apply as a candidate are:

- 18 years of age or older;
- A Canadian Citizen; and
- A resident of the City of Mississauga, or an owner or tenant of land in the City of Mississauga or the spouse of an owner/tenant of land in the City of Mississauga;

A person who is not eligible to vote is ineligible from being elected as a member of Council or to hold office as a member of Council. Similarly, an employee of the City is not eligible to be elected or appointed unless they meet the above criteria and take an unpaid leave of absence beginning the day they file their nomination.

The following outlines the appointment and by-election processes and proposed timelines for filling the vacancy in Ward 2:

APPOINTMENT OPTION

Detailed procedures and processes related to the Appointment option are outlined in Appendix 1 and 2.

ACTION:	TIMELINE:
Council declares the Ward 2 seat vacant.	The next Council meeting after the January 28th resignation is February 2nd.
Candidate Nominations open Each candidate to complete the nomination form, accompanied by 25 endorsements from eligible Mississauga voters and any supporting supplemental information (if desired).	February 3, 2022 – February 16, 2022 at 4:30 pm. Nominations can be submitted online 7 days a week.
Special Council Agenda is made available online including all Nomination Forms and supporting documentation provided by Nominees	February 18, 2022 agenda will be issued

<p>Each qualified applicant will be scheduled to present to Members of Council for a maximum five (5) minutes regarding their interest and qualifications for the position of Ward 2 Councillor. The order of speaking will be in alphabetical order of candidate’s last name.</p> <p>Following each candidate’s deputation, Members of Council will each be entitled to ask questions of each candidate for up to 2 minutes. Candidates will have a maximum of 2 minutes to respond to each Councillor’s questions.</p> <p>Council shall convene in Closed Session to deliberate on the appointment. An appointment must occur within 60 days of the declaration of the seat being vacant – last day to appoint is April 3, 2022.</p> <p>Council shall vote on the appointment in open session.</p> <p>The candidate receiving the majority vote shall be appointed as Councillor for Ward 2.</p> <p>After the vote, Council shall enact a by-law confirming the appointment of the successful candidate to the office for the remainder of the term of the present Council.</p>	<p>February 23, 2022 Special Council meeting at 2:00 pm</p>
<p>Newly appointed Councillor shall take the Oath of Office and commence in their role as Ward 2 Councillor</p>	<p>February 23, 2022</p>

BY-ELECTION OPTION

ACTION	TIMELINE
<p>Council declares the Ward 2 seat vacant.</p>	<p><i>The vacancy must be declared at the next Council meeting after the resignation.</i></p> <p>The next Council meeting after the January 28th resignation is February 2nd.</p>

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By-law requiring a by-election is passed	<p><i>A by-law to call a by-election must be passed within 60 days of the declaration of the seat being vacant – last day to enact a by-law requiring a by-election is April 3, 2022.</i></p> <p>Proposed date: February 16, 2022</p>
Nomination Period (30-60 days after by-law to call a by-election is passed)	March 18, 2022 – April 17, 2022
Voting Day - 45 days after Nomination Day (section 65 (4) 3 of the MEA)	<p>May 2, 2022 – June 1, 2022 (dependant on length of nomination period noted above)</p> <p>With the above timeline in mind, it is important to note that nominations for the 2022 General Municipal Election will be open as of May 2, 2022. In addition, due to supply chain issues related to the COVID-19 pandemic, staff have concerns about the City's ability to source ballot and voter notification card paper within a short timeframe. Due to the pandemic, the school boards have also expressed concern at allowing the City to use their facilities that could reduce the number of voting locations available during a by-election.</p>

Financial Impact

The appointment option will have no financial impact.

The by-election option would have a financial impact. The Ward 4 By-election cost approximately \$330,000.

Conclusion

With the resignation of Councillor Karen Ras, Council is required to declare the seat vacant and decide how the seat should be filled. The two options provided by the Municipal Act are to fill the vacancy by the appointment of an individual or the holding of a by-election.

Attachments

Appendix 1: 2022 Ward 2 Detailed Appointment Process

Appendix 2: 2022 Ward 2 Appointment Process Guide



Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer

Prepared by: Diana Rusnov, Director, Legislative Services and City Clerk