

City of Mississauga Corporate Report



Date: January 22, 2024

To: Chair and Members of Governance Committee

From: Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor

Originator's files:

Meeting date:
January 29, 2024

Subject

Powers and Duties of the Acting Head of Council

Recommendation

That the report from the City Solicitor dated January 22, 2024 entitled "Powers and Duties of the Acting Head of Council" be received for information.

Executive Summary

- The seat of the Mayor of Mississauga is vacant pending the results of a by-election.
- During the vacancy period, members of Council will serve as Acting Head of Council / Mayor on a rotating basis.
- The Acting Mayor will fulfill the powers and duties of mayor pursuant to the *Municipal Act, 2001*, City by-laws and City policies.
- The powers colloquially known as "Strong Mayor Powers" cannot be exercised by an Acting Mayor.
- When a new mayor is sworn into office, they will acquire the "Strong Mayor Powers" and may choose to delegate some of the powers to Council and/or the CAO, where permitted by legislation.
- The Acting Mayor will preside over Council meetings and can exercise all of the powers given to the Head of Council in the Council Procedure By-law, including calling special council meetings.
- The Acting Mayor will represent the City at official events and community recognition events, when appropriate and available, in accordance with City policies.

Background

Bonnie Crombie resigned from the office of Mayor of the City of Mississauga effective January 14, 2024. On January 17, 2024 Council declared her seat vacant pursuant to s. 262 of the *Municipal Act, 2001*.

A by-election is required to fill the office of Mayor. For the next few months, the seat will be vacant and one or more members of Council are expected to serve as Acting Head of Council pursuant to By-law 0222-2022.

The Acting Head of Council must comply with duties and powers set out in the *Municipal Act, 2001*, City by-laws, including the Council Procedure By-law 0044-2022, and City policies.

Comments

Section 242 of the *Municipal Act, 2001* permits Council to appoint a member to act in the place of the Head of Council. The appointed member “has all the powers and duties of the head of council... with respect to the role of presiding at meetings.” In Mississauga, the Head of Council is known as “Mayor.”

At its inaugural meeting on November 15, 2022 City Council enacted by-law 0222-2022 to appoint an Acting Head of Council for the 2022-2026 Council term. The by-law sets out a schedule for ward councillors to act as Head of Council, when required, for two months at a time. The schedule for the first half of 2024 is as follows:

Ward 4	December 2023 and January 2024
Ward 5	February and March 2024
Ward 6	April and May 2024
Ward 7	June and July 2024

If the designated member of Council is absent and unavailable to act at any point during their assigned rotation, the next member in line will act instead. This schedule is not dictated by legislation and it is open to Council to amend by-law 0222-2022 to stipulate circumstances in which a scheduled member shall be deemed to be unavailable or ineligible to serve as Acting Head of Council.

The powers and duties of an Acting Mayor/Head are more limited than the powers of an elected Mayor and the primary function and power of the Acting Mayor is to preside over meetings and to represent the City at official functions during the vacancy period.

A. Strong Mayor Powers

Part VI.1 of the *Municipal Act, 2001* (ss. 284.2 to 284.17) sets out special powers and duties of the Head of Council that are known colloquially as “Strong Mayor Powers.” These sections apply in certain Ontario municipalities only and first took effect in Mississauga on July 1, 2023. The Strong Mayor Powers include the following:

- Duty to prepare annual budget and power to veto council amendments;
- Powers regarding the administrative structure of the municipality (appoint/terminate CAO and heads of organizational units);
- Power to determine committees of council and appoint chairpersons;
- Powers to advance Provincial Priorities (building homes and constructing and maintaining infrastructure to support housing, including transit, roads, utilities, and servicing) including:
 - Enacting certain by-laws with less than a majority of council votes (mayor plus 1/3); and
 - Vetoing certain by-laws.
 - Direct staff to undertake work

These powers cannot be exercised by the Acting Head of Council / Mayor.

All powers related to the annual budget revert back to City Council, although in Mississauga the 2024 budget has already been approved.

The power to determine the committees of Council and to appoint committee chairs reverts back to Council during the vacancy period, as well as the power to appoint/terminate the CAO and Commissioners. The balance of the powers related to the organizational structure of the municipality continue to be delegated to the City Manager/CAO.

The powers designed to advance Provincial Priorities, such as the mayoral veto, the ability to enact by-laws with less than a majority of Council support, and the power to direct staff to undertake work, are not delegable and do not transfer to the Acting Mayor.

Once a new mayor has been elected pursuant to a by-election, that person will be the head of council and will be able to exercise the strong mayor powers and duties. The new mayor may then choose to delegate certain strong mayor powers to Council or the CAO, but only as permitted by s.284.13 of the *Municipal Act, 2001*.

B. Council Meetings

The Acting Mayor assumes all of the Mayor's powers with respect to presiding over Council meetings as set out in Council Procedure By-law 0044-2022. In addition, the Acting Mayor:

- May request that the Clerk schedule a special meeting of Council; and
- Call emergency Council meetings; and
- May sign by-laws, agreements and other documents on behalf of the City where the Mayor would have been authorized to do so.

C. Events

Official City openings and events will be curtailed during the by-election period in accordance with the Use of City Resources During an Election Campaign Policy 02-04-01.

The Acting Mayor may be called upon to represent the City at community recognition events, such as flag raising ceremonies and the lighting of the clock tower, where appropriate and feasible. In the event the Acting Mayor is not available, or the requested attendance conflicts with other events or duties, The Community Recognition Events Policy 06-04-04 outlines a decision-making process that determines whether the Acting Mayor will attend:

In the event that a request appears to be in conflict with any of the criteria outlined in this policy, applicable staff will conduct an objective and impartial analysis of the request in relation to the criteria.

Staff involved in the analysis will make a recommendation, in writing, to the Mayor or Acting Mayor to either decline or approve the request. The Mayor's decision will be final and will be communicated to the applicant in a timely manner.

Recognition activities are issued at the discretion of the City of Mississauga. Requests will be reviewed and evaluated in the order they are received. The City of Mississauga will work to ensure approved community recognition requests are fulfilled on the agreed upon date; however, activities may be cancelled or rescheduled at the City's discretion at any time. In this case, the requesting group will be notified as early as possible.

Financial Impact

There are no financial implications from this report.

Conclusion

Until a new mayor is elected and sworn into office for the City of Mississauga, members of Council will serve as Acting Head of Council on a rotating basis and fulfill the powers and duties of Head of Council / Mayor as granted and limited by legislation, City by-laws, and City policies.



Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor