



MEMO / NOTE DE SERVICE

To / Destinataire	City Council	File/N° de fichier:
From / Expéditeur	M. Rick O'Connor, CMO City Clerk	
Subject / Objet	Filling a Council Vacancy (Ward 19 – Cumberland)	Date: 28 February 2020

Further to the February 27, 2020 Provincial By-election in which Stephen Blais was elected as a Member of Provincial Parliament for Orléans, the purpose of this memorandum is to provide Members of Council with information related to filling a vacancy on Council.

By way of brief summary, when a Member of Council resigns, Council is required to declare the Office “vacant” at its next meeting following the resignation of the Member. There are two options available for Council to select a new Member: either by appointing a replacement, or by holding a by-election to elect a new Member. Within 60 days of declaring the Office to be vacant, Council must choose one of these options and either appoint a replacement, or pass a by-law requiring a by-election to be held. Additional details on the two processes are set out below.

Declaring an Office Vacant

In accordance with Section 262 of the *Municipal Act, 2001*, when a Member resigns, Council must at its next meeting declare the Office to be vacant.

Filling a Vacancy on Council

Section 263 of the *Municipal Act, 2001* provides that a municipality shall fill a vacancy on Council by:

- appointing a person who has consented to accept the Office if appointed; or
- requiring a by-election to be held to fill the vacancy in accordance with the *Municipal Elections Act, 1996* (the “MEA”).

A person appointed or elected to fill a vacancy under Section 263 shall hold Office for the remainder of the term of the person they replaced.

Option 1: Appointing a New Councillor

Section 263(5) of the *Municipal Act, 2001* sets out the rules to fill a vacancy on Council by appointment. Within 60 days after declaring the Office vacant, Council would be required to

appoint a person who has consented to accept the appointment. To be eligible to hold Office, a person must be:

1. 18 years of age or older;
2. a Canadian citizen;
3. a resident of the City of Ottawa, or an owner or tenant of land in the City or the spouse of such an owner or tenant; and
4. not be prohibited from holding municipal Office or from voting under the MEA or otherwise by law.

Appointment Process and Cost

Neither the *Municipal Act, 2001* nor the MEA provide a specific appointment procedure should Council choose to fill the vacancy by appointment. Therefore, if Council decides to fill a vacancy by appointment, staff will develop a process for Council's consideration. This would include advertisements, application forms, interviews of candidates at a separate meeting of Council, and a voting process for Members.

In addition, staff anticipate that there would be some minimal costs for advertising, which could be absorbed within the operating budget of the Office of the City Clerk.

Appointment Timelines

Should the seat be declared vacant at the next Council meeting on March 25, 2020, the last possible day for an appointment will be May 22, 2020, pursuant to the *Municipal Act, 2001*.

Option 2: Hold a By-election to Elect a New Councillor

Alternatively, Section 263(5) of the *Municipal Act, 2001* provides that, within 60 days of Council declaring an Office to be vacant, Council shall pass a by-law requiring a by-election to be held to fill that vacancy.

As is the case with regular municipal elections, the Clerk is responsible for the preparation and conduct of a by-election, and has a duty to adhere to provisions of the MEA and administer the by-election in a manner consistent with the principles of the statute as determined by the courts. These principles include secrecy and confidentiality of the voting process, as well as maintaining integrity of the process throughout the by-election.

Under Section 65 of the MEA, if Council determines that a by-election is to be held, the Clerk is responsible for setting the date of Nomination Day, which cannot be less than 30 days and no more than 60 days after the passing of the by-law requiring the by-election. Thereafter, Voting Day is 45 days after Nomination Day and is, thus, dependent on the date the Clerk establishes for Nomination Day. Subsection 65(3) also mandates that "by-elections shall be conducted as far as possible in the same way as regular elections."

By-election Timelines

Should the seat be declared vacant at the next Council meeting on March 25, 2020, the last possible day to pass the required by-law to hold a by-election will be May 22, 2020, pursuant to the *Municipal Act, 2001*.

Should Council choose to fill the vacancy by way of a by-election, staff will recommend that the by-law requiring a by-election to be held be passed on March 25, 2020 in order to immediately start the by-election process.

By-election Cost

The total cost of a by-election for Ward 19 (Cumberland) is estimated to be approximately \$375,000 and would be funded from the *Tax Stabilization Reserve*, which is the primary fund for municipal elections. The estimated budget for a by-election includes such costs as compensation, printing ballots, renting vote tabulators, and expected overtime associated with meeting statutory deadlines.

Next Steps

The Office of the City Clerk will bring forward a report to Council on March 25, 2020 outlining the above noted options in further detail.

When considering that the vacancy in the Office of Councillor, Ward 19 (Cumberland) has occurred less than two years into the four-year term of Council, staff will recommend that a by-law requiring a by-election be held be approved and enacted on March 25, 2020. While a by-election is more expensive and will take slightly longer to complete than appointing a new Councillor to fill the vacancy, it would provide residents with an opportunity to have direct input in selecting the person who will serve as their elected representative for more than half of the 2018-2022 Term of Council.

Based on the above noted timelines and recommendations, a brief summary of how a by-election would be conducted by the Clerk is provided for Council's information:

- The Clerk would conduct a by-election on the shortest possible calendar permitted under the MEA. Should Council enact the by-law to trigger a by-election on March 25, 2020, the following milestones would be established:
 - **March 25, 2020** – Nomination Period Begins (following Council approving the by-law requiring a by-election);
 - **April 24, 2020 at 2 p.m.** – Nomination Day (last day to submit or withdraw a nomination);
 - **May 29, 2020** – Advance Vote Day;
 - **June 8, 2020** – Voting Day; and
 - **June 9, 2020** – Declaration of Results and Declaration of Office.

Lastly, staff will recommend that Council approve interim delegations of authority with respect to Ward 19 (Cumberland) matters until such a time that a new Councillor is sworn in and takes

Office. Addressing these legislative and administrative matters will assist ward residents with the transition over the next few months. The Office of the City Clerk will provide support until such a time that Council has considered this matter.

I trust this information is satisfactory. Should you have any questions, please do not hesitate to contact me.

M. Rick O'Connor, CMO | OMA
City Clerk | Greffier municipal

cc. Michèle Rochette, Manager Municipal Elections and French Language Services
Milan Stevanovic, Program Manager, Elections