

Corporate Services Committee

Report

16th Special Meeting of the Corporate Services Committee
September 27, 2021

PRESENT: Councillors M. Cassidy , M. van Holst, Acting Chair, J. Morgan, E. Pelosa, Mayor E. Holder

ABSENT: A. Kayabaga

ALSO PRESENT: K. Van Lammeren, B. Westlake-Power
Remote Attendance: Councillors S. Lewis, J. Helmer, A. Hopkins and S. Turner; L. Livingstone, B. Card, S. Corman, J. Davison, J. Raycroft, M. Schulthess
The meeting is called to order at 12:00 PM; it being noted that the following Members were in remote attendance: Mayor E. Holder, and Councillors M. Cassidy, J. Morgan and E. Pelosa.

1. Disclosures of Pecuniary Interest

That it BE NOTED that no pecuniary interests were disclosed.

2. Consent

2.1 Declaration of Vacancy - Office of Councillor, Ward 13

That the following actions be taken with respect to the Office of Councillor, Ward 13:

a) consideration of the declaration of vacancy of the Office of Ward 13 BE REFERRED to the Municipal Council meeting to be held on October 5, 2021;

b) the report dated September 27, 2021 entitled "Declaration of Vacancy – Office of Councillor, Ward 13" BE RECEIVED;

it being noted that the Corporate Services Committee received a communication dated September 23, 2021 with respect to the resignation of Ward 13 Councillor, Arielle Kayabaga.

Motion Passed

Voting Record:

Moved by: M. Cassidy

Seconded by: J. Morgan

That consideration of the declaration of vacancy of the Office of Ward 13 BE REFERRED to the Municipal Council meeting to be held on October 5, 2021.

Yeas: (5): M. Cassidy, M. van Holst, J. Morgan, E. Pelosa, and E. Holder

Absent: (1): A. Kayabaga

Motion Passed (5 to 0)

Moved by: M. Cassidy
Seconded by: E. Holder

That the report dated September 27, 2021 entitled "Declaration of Vacancy – Office of Councillor, Ward 13" BE RECEIVED;

it being noted that the Corporate Services Committee received a communication dated September 23, 2021 with respect to the resignation of Ward 13 Councillor, Arielle Kayabaga

Yeas: (5): M. Cassidy, M. van Holst, J. Morgan, E. Peloza, and E. Holder

Absent: (1): A. Kayabaga

Motion Passed (5 to 0)

3. Scheduled Items

None.

4. Items for Direction

None.

5. Deferred Matters/Additional Business

None.

6. Adjournment

Moved by: E. Peloza
Seconded by: M. Cassidy

That the meeting be adjourned.

Motion Passed

The meeting adjourned at 12:23 PM.

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Cathy Saunders, City Clerk
Subject: Declaration of Vacancy – Office of Councillor, Ward 13
Date: Sept 27, 2021

Recommendation

That the following actions be taken with respect to the Office of Councillor, Ward 13:

- a) the report dated September 27, 2021 entitled “Declaration of Vacancy– Office of Councillor, Ward 13” **BE RECEIVED**; and,
- a) in accordance with section 262 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, the Office of Ward 13 **BE DECLARED** vacant.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

None.

1.2 Legislative Context

As a result of Arielle Kayabaga’s recent election as a Federal Member of Parliament, in accordance with section 258(1)3. of the *Municipal Act, 2001*, S.O. 2001, c. 25 (MA), Arielle Kayabaga is no longer eligible to hold office as a Member of Council:

Ineligible

258 (1) The following are not eligible to be elected as a member of a council or to hold office as a member of a council:

3. A member of the Assembly as provided in the Legislative Assembly Act or of the Senate or House of Commons of Canada.

As Arielle Kayabaga is now ineligible to hold office, the office Councillor, Ward 13 is deemed to be vacant as provided for in the MA:

Vacant seat

259 (1) The office of a member of council of a municipality becomes vacant if the member,

- (a) becomes disqualified from holding the office of a member of council under section 256, 257 or 258;

As a result, Municipal Council must undertake the following actions:

- i) declare the office vacant in accordance with section 262(1) of the MA;
- ii) within 60 days after the day a declaration of a vacancy of office is made, fill the vacancy by appointing a person who has consented to accept the office if appointed; or pass a by-law requiring a by-election to be held to fill the vacancy in accordance with the *Municipal Elections Act, 1996* (MEA).

In accordance with section 262 of the MA, the Municipal Council is required to declare the office Councillor, Ward 13 vacant at the Municipal Council meeting to be held on October 5, 2021:

Declaration

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.

The MA sets out the following with respect to the filling of a vacancy of the office of a Member of Council:

Filling vacancies

263 (1) If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section,

- (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.

Rules applying to filling vacancies

(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 under subsection (1) or (4), or
 - ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).

Term

264 A person appointed or elected to fill a vacancy under section 263 shall hold office for the remainder of the term of the person he or she replaced.

2.0 Discussion

2.1 Filling the Vacancy

Council is required to fill the vacancy by means of an appointment or by passing a by-law to hold a by-election within 60 days after October 5, 2021, (being the date on which Municipal Council declares the Office vacant) being December 3, 2021. As noted above, the MA provides two options for Municipal Council to consider when filling a council vacancy: appointing an individual that has consented to the appointment and is qualified to hold office; or the holding of a by-election. The City of London does not have a procedure regarding the filling of vacancies on Municipal Council and instead relies on the provisions set out in the MA. The City of London did undertake an appointment process in 2014, as a result of the vacancy of the office of Councillor, Ward 5, however in that circumstance, there was no other option available given that the vacancy occurred after March 31st in the year of a regular election. Section 65 of the MEA provides for the following:

No by-election after March 31 in year of regular election

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 and no by-election shall be held with respect to a question or by-law after March 31 in the year of a regular election unless it is held in conjunction with a by-election for an office.

Conclusion

It is within the purview of Municipal Council to determine the process that best fits the circumstances surrounding the vacancy (e.g. position, timing, etc.). More detailed information regarding options for filling the vacancy in Ward 13 will be provided in an upcoming report to the Corporate Services Committee.

Prepared by: Jeannie Raycroft, Manager, Licensing and Elections
Submitted by: Sarah Corman, Manager II, Licensing and Elections
Recommended by: Cathy Saunders, City Clerk

September 23, 2021

Chair and Members of the Corporate Services Committee

Re: Resignation of Ward 13 Councillor, Arielle Kayabaga

As you may be aware, I have been elected as the new MP for London West. Please consider this my official letter of resignation, as Ward 13 Councillor effective September 29, 2021.

It has been a pleasure being a part of a great council and I would like to take this opportunity to thank the Mayor and my colleagues for their past support. I have asked the Mayor to speak at the September 28, 2021 SPPC meeting for an opportunity to personally say a few words before my departure.

Please be advised that I may be sworn in as member of the house of Commons before September 29, 2021.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Arielle Kayabaga', with a stylized flourish at the end.

Arielle Kayabaga
Councillor, Ward 13