

Corporate Services Committee

Report

17th Meeting of the Corporate Services Committee
October 12, 2021

PRESENT: Councillors M. Cassidy (Chair), M. van Holst, J. Morgan, E. Pelozo, Mayor E. Holder

ALSO PRESENT: Councillor S. Lewis; J. Taylor, B. Westlake-Power

Remote Attendance: Councillors J. Helmer, S. Lehman, A. Hopkins, S. Turner, S. Hillier; L. Livingstone, A. Barbon, B. Card, S. Corman, G. Dale, J. Dann, J. Davison, K. Dawtrey, K. Dickins, J. Raycroft, C. Saunders, K. Scherr, M. Schulthess, B. Somers, B. Warner

The meeting is called to order at 12:01 PM; it being noted that Councillor E. Pelozo was in remote attendance.

1. Disclosures of Pecuniary Interest

That it BE NOTED that Councillor J. Morgan disclosed a pecuniary interest in item 2.1, having to do with the Council Compensation Review Task Force, by indicated that one of candidates is his direct supervisor at his place of employment, Western University.

2. Consent

Moved by: E. Pelozo
Seconded by: E. Holder

That Items 2.2 and 2.3, BE APPROVED.

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

Motion Passed (5 to 0)

2.2 Various By-law Amendments to Implement Organizational Structure Change

Moved by: E. Pelozo
Seconded by: E. Holder

That on the recommendation of the City Clerk, the following action be taken with respect to various By-law amendments to implement organizational structure changes:

a) the proposed by-law as appended to the staff report dated October 12, 2021 as Appendix "A", being "A by-law to amend By-law No. A.-7922-3, entitled "A by-law to approve a Neighbourhood, Children and Fire Services Funding Agreement Template; and to authorize the Managing Director, Neighbourhood, Children and Fire Services, or in their absence the Manager IV Neighbourhood, Children and Fire Services, to approve and execute agreements using the Neighbourhood, Children and Fire Services Agreement Template" to reflect the current organizational structure", BE INTRODUCED at the Municipal Council meeting to be held on October 26, 2021;

b) the proposed by-law as appended to the staff report dated October 12, 2021 as Appendix "B", being "A by-law to amend By-law No. A.-6945-

139, being “A by-law to establish the Child Care and Early Childhood Development Reserve Fund” to reflect the current organizational structure”, BE INTRODUCED at the Municipal Council meeting to be held on October 26, 2021;

c) the proposed by-law as appended to the staff report dated October 12, 2021 as Appendix “C”, being “A by-law to amend By-law No. A.-7100-150, as amended, being “A by-law to approve Service Contracts/Agreements, Schedules, and Amendments with Her Majesty the Queen in Right of Ontario with respect to Social Services; and to authorize the Mayor and the City Clerk to execute these Contracts/Agreements” to reflect the current organizational structure”, BE INTRODUCED as the Municipal Council meeting to be held on October 26, 2021;

d) the proposed by-law as appended to the staff report dated October 12, 2021 as Appendix “D”, being “A by-law to amend By-law No. A.-7551-146, being “A By-law to approve the Contribution Agreement between The Corporation of the City of London and Her Majesty the Queen in Right of Canada, as represented by the Federal Minister of Health through the Public Health Agency of Canada; and to authorize the Mayor and the City Clerk to execute the Agreement” to reflect the current organizational structure”, BE INTRODUCED at the Municipal Council meeting to be held on October 26, 2021; and,

e) the proposed by-law as appended to the staff report dated October 12, 2021 as Appendix “E”, being “A by-law to amend By-law No. A.-7253-138, being “A by-law to approve and adopt the standard form Children’s Services Wage Enhancement Grant Agreement and to delegate authority to the Managing Director, Neighbourhood Children and Fire Services as Administrator, *Day Nurseries Act* to insert information, amend the Schedules and execute agreements which employ this form” to reflect the current organizational structure, BE INTRODUCED at the Municipal Council meeting to be held on October 26, 2021.

Motion Passed

2.3 Report on 2021 Association of Municipalities of Ontario Annual Conference

Moved by: E. Peloza
Seconded by: E. Holder

That the communication dated September 20, 2021 from Councillor A. Hopkins regarding the Report on 2021 Association of Municipalities of Ontario Annual Conference virtual meeting held on August 15 - 18, 2021 BE RECEIVED for information.

Motion Passed

2.1 2021 Council Compensation Review Task Force

Moved by: E. Holder
Seconded by: E. Peloza

That, on the recommendation of the City Clerk, the appointment of following individuals to the 2021 Council Compensation Review Task Force BE RATIFIED:

- a) Dan Ross
- b) Joe Lyons
- c) Christene Scrimgeour
- d) Jeff Tudhope
- e) Don Bryant

Yeas: (3): M. Cassidy, E. Peloza, and E. Holder

Nays: (1): M. van Holst

Recuse: (1): J. Morgan

Motion Passed (3 to 1)

3. Scheduled Items

None.

4. Items for Direction

4.1 Filling of Vacancies on Municipal Council

Moved by: E. Holder

Seconded by: M. van Holst

That the following actions be taken with respect to filling the vacancy of the Office of Ward 13:

- a) John Fyfe-Millar BE APPOINTED to the Office of Ward 13 for the term commencing October 26, 2021 and ending November 15, 2022 , pursuant to section 263(1)(a) of the Municipal Act, 2001;
- b) the City Clerk BE DIRECTED to confirm the consent of John Fyfe-Millar to be appointed to the Office of Ward 13 and to confirm the individual's eligibility to hold the Office of Ward 13, as set out in the *Municipal Act, 2001*;
- c) subject to the confirmation of the matters set out in b) above, the City Clerk BE DIRECTED to prepare the necessary by-law to appoint John-Fyfe Millar to the Office of Ward 13, in accordance with term set out in a) above, to be introduced at the Council meeting to be held on October 26, 2021; and,
- d) the report dated October 12, 2021, entitled "Filling Vacancies on Municipal Council", BE RECEIVED;

it being noted that the Corporate Services Committee received communications from the following individuals with respect to this matter:

- a communication dated September 22, 2021 from P. Cullimore
- a communication dated September 23, 2021 from H. D. Chapman
- a communication from A. Parekh, Co-Founder and CEO and A. Power, Co-Founder and CMO, Frontline Medical Technologies Inc.
- a communication dated October 4, 2021 from B. Lowe
- a communication dated October 4, 2021 from S. Holland
- a communication dated October 5, 2021 from J. Hall
- a communication dated October 4, 2021 from G. Edwards
- a communication dated October 5, 2021 from J. Fontana
- a communication from G. Avola, President, Signature Graphics (London) Inc.
- a communication dated October 5, 2021 from C. Miller
- a communication dated October 5, 2021 from J. Pease
- a communication dated October 5, 2021 from J. Winston
- a communication dated October 5, 2021 from D. Brown
- a communication dated October 6, 2021 from C. Dejaegher and J. Smeltzer, Owner/Operator, Kosmos Eatery and Catering
- a communication dated October 6, 2021 from C. Lyons, Owner, Chris' Country Cuts, Covent Garden Market
- a communication dated October 6, 2021 from P. Van Geffen
- a communication dated October 6, 2021 from F. Haller
- a communication dated October 7, 2021 from J. Duby, Owner, gNosh Restaurant

a communication dated October 6, 2021 from N. Niro
 a communication dated October 6, 2021 from C. Hopper, President,
 London's Source for Sports
 a communication dated October 6, 2021 from S. Thomas, Pastor, Founder
 and CEO, W.E.A.N Community Centre
 a communication dated October 6, 2021 from B. McArthur
 a communication dated October 6, 2021 from T. de Langley
 a communication dated October 6, 2021 from M. Smith, Toboggan
 Brewing, Fellini Koolini's, The Runt Club, Joe Kool's
 a communication dated October 8, 2021 from M. Walker
 a communication dated October 6, 2021 from K and D. Bice
 a communication dated October 6, 2021 from D. Lewis and A. Dodge
 a communication dated October 7, 2021 from D. Gilmore
 a communication dated October 7, 2021 from P. Sandor, President,
 London Downtown Community Association
 a communication dated October 7, 2021 from C. Wilton
 a communication dated October 7, 2021 from N. N. Sproule
 a communication dated October 7, 2021 from L. Lowe
 a communication dated October 7, 2021 from W. Flintoff
 a communication dated October 7, 2021 from B. Whitlock
 a communication dated October 7, 2021 from S. Laidlaw, To Wheels
 Bicycles
 a communication dated October 7, 2021 from M. Fitzgerald
 a communication dated October 7, 2021 from S. Sproule
 a communication dated October 7, 2021 from M. Schmidt
 a communication dated October 5, 2021 from M. M. Lerner, Lerner
 Lawyers
 a communication dated October 7, 2021 from S. D. rooks and W. J. Smith
 a communication dated October 7, 2021 from P. Fedkowicz
 a communication dated October 7, 2021 from T. Butt
 a communication dated October 7, 2021 from C. Rice
 a communication dated October 7, 2021 from C. Hunter
 a communication dated October 7, 2021 from J. F. Macoun, President and
 Chief Operating Officer, Canada Life
 a communication dated October 7, 2021 from D. Schmidt
 a communication dated October 7, 2021 from P. Cuddy, TVDSB Trustee
 a communication dated October 7, 2021 from P. Crawford
 a communication dated October 7, 2021 from W. Dunn
 a communication dated October 7, 2021 from C. Kelsey and J. Broeze
 a communication dated October 7, 2021 from J. Rother
 a communication dated October 7, 2021 from B. Lansink, Lansink
 Appraisals and Consulting
 a communication dated October 7, 2021 from C. Seguin
 a communication dated October 7, 2021 from D. Imeson and T. Bitz
 a communication dated October 7, 2021 from A. Richardson
 a communication dated October 7, 2021 from B. Lucier, President,
 Provincial Glass and Mirror Ltd
 a communication dated October 7, 2021 from L. Taylor
 a communication dated October 7, 2021 from G. Danner
 a communication dated October 7, 2021 from N. and F. Stevens
 a communication dated October 7, 2021 from J. Pribil, Marienbad
 Restaurant and Chaucer's Pub
 a communication dated October 7, 2021 from J. Wilcox, Owner, Jill's
 Table
 a communication dated October 7, 2021 from J. McCall
 a communication dated October 7, 2021 from B. C. Gibson
 a communication dated October 7, 2021 from C. Talbot
 a communication dated October 7, 2021 from K. Smith
 a communication dated October 7, 2021 from M. Perzia.

Yeas: (3): M. van Holst, J. Morgan, and E. Holder

Nays: (2): M. Cassidy, and E. Peloz

Motion Passed (3 to 2)

5. Deferred Matters/Additional Business

5.1 Council Vacancy - Ward 6

That the following actions be taken with respect to the office of the Ward 6 Councillor:

a) the Office of Councillor Ward 6 BE DECLARED vacant; based on the information provided from P. Squire, with respect to his ineligibility to hold municipal office; and

b) the matter of determining the means to fill the vacancy of the Ward 6 Council seat, BE REFERRED to Council for consideration at the meeting to be held on October 26, 2021;

it being noted that the attached report from the City Clerk, was received by the Corporate Services Committee.

Motion Passed

Voting Record:

Moved by: E. Holder

Seconded by: M. van Holst

That the Office of Councillor Ward 6 BE DECLARED vacant; based on the information provided from P. Squire, with respect to his ineligibility to hold municipal office.

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

Motion Passed (5 to 0)

Moved by: M. van Holst

Seconded by: J. Morgan

That the Corporate Services Committee recess at this time, until 12:35 PM.

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

Motion Passed (5 to 0)

Moved by: J. Morgan

Seconded by: E. Holder

That the matter of determining the means to fill the vacancy of the Ward 6 Council seat, BE REFERRED to Council for consideration at the meeting to be held on October 26, 2021.

Yeas: (4): M. Cassidy, M. van Holst, J. Morgan, and E. Holder

Nays: (1): E. Peloz

Motion Passed (4 to 1)

6. Confidential (Enclosed for Members only.)

That the Corporate Services Committee convene, In Closed Session, for the purpose of considering the following:

6.1 Land Acquisition / Solicitor-Client Privileged Advice / Position, Plan, Procedure, Criteria or Instruction to be Applied to Any Negotiations

A matter pertaining to the proposed or pending acquisition of land by the municipality, including communications necessary for that purpose; advice that is subject to solicitor-client privilege; commercial and financial information, that belongs to the municipality and has monetary value or potential monetary value and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

6.2 Land Acquisition / Solicitor-Client Privileged Advice / Position, Plan, Procedure, Criteria or Instruction to be Applied to Any Negotiations

A matter pertaining to the proposed or pending acquisition of land by the municipality, including communications necessary for that purpose; advice that is subject to solicitor-client privilege; commercial and financial information, that belongs to the municipality and has monetary value or potential monetary value and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

The Corporate Services Committee convenes, In Closed Session, from 2:05 PM to 2:14 PM.

7. Adjournment

Moved by: M. van Holst
Seconded by: J. Morgan

That the meeting BE ADJOURNED.

Motion Passed

The meeting adjourned at 2:17 PM.

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Cathy Saunders, City Clerk
Subject: Filling of Vacancies on Municipal Council
Date: October 12, 2021

Recommendation

That on the recommendation of the City Clerk, the following actions be taken with respect to the Office of Councillor Ward 6:

- a) the Office of Councillor Ward 6 BE DECLARED vacant; and,
- b) the vacancy of the Office of Councillor Ward 6 BE FILLED by means of the appointment of an individual in accordance with section 263(1)(a) of the *Municipal Act, 2001*.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

None.

1.2 Legislative Context

Councillor Phil Squire has advised the City Clerk that he has been appointed as a member of the Consent and Capacity Board by an Order in Council. We have been advised that this appointment takes effect immediately. As a result, Phil Squire, is defined as a public servant in accordance with the *Public Service of Ontario Act, 2006* and therefore, in accordance with section 258(1) 4. of the *Municipal Act, 2001* ("MA"), 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:

4. Except in accordance with Part V of the *Public Service of Ontario Act, 2006* and any regulations made under that Part, a public servant within the meaning of that Act. 2001, c. 25, s. 258 (1); 2006, c. 32, Sched. A, s. 110; 2006, c. 35, Sched. C, s. 86.

Section 2 of the *Public Service of Ontario Act, 2006* states the following with respect to a public servant:

(2) For the purposes of this Act, the following are public servants:

1. Every person employed under Part III.
2. The Secretary of the Cabinet.
3. Every deputy minister.
4. Every employee of a public body.
5. Every person appointed by the Lieutenant Governor in Council, the Lieutenant Governor or a minister to a public body. 2006, c. 35, Sched. A, s. 2 (2)

As Phil Squire is now ineligible to hold office, the Office of Councillor, Ward 6 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;

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.

In accordance with section 262(1) of the MA, the Municipal Council is being asked to declare the Office of Councillor, Ward 6 vacant at the Municipal Council meeting to be held on October 26, 2021.

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

As noted above, provincial legislation 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 *Municipal Act, 2001*. 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.).

Given that the general Municipal Election is to be held on October 24, 2022 and nominations for that election open on May 1, 2022, Municipal Council may wish to considering implementing an appointment process rather than holding a by-election to fill the Office of Ward 6 vacancy. It is noted that the timelines for a by-election as set out in this report and as determined by the MEA, would result in the vacancy not being

filled until early February 2022, three months before nominations open for the regular election. It is also noted that should a by-election be held, resources in the City Clerk's Office that will be focusing on preparing for the regular election, will also need to focus on preparing for a by-election. This will be challenging from a resources and timing perspective.

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 *Municipal Elections Act, 1996* (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.

Appointment Process

As noted above, the City Clerk recommends that the Municipal Council proceed with an appointment process to fill the vacancy in accordance with a procedure to be established by Municipal Council which is discussed later in this report. It is also noted that Municipal Council has deemed the Office of Councillor Ward 13 to be vacant.

In accordance with Section 263(5)(1)(i) of the MA, if a vacancy is to be filled by appointment, it shall be filled within 60 days of declaring the vacancy. If Municipal Council wishes to fill the vacancy in Ward 6 via an appointment process, the appointment would need to be made on or before December 21, 2021.

The City Clerk's Office previously canvassed a number of municipalities' processes and has found the following options have been used to fill vacancies on council, other than the Head of Council:

1. Invite applications from any interested qualified elector to be considered for the vacancy and provide applicants with an opportunity to address Municipal Council and respond to questions before a vote is taken.
2. Appoint an eligible candidate from the most recent municipal election who ran for the same office or another office.
3. Appoint any other qualified individual who consents to the appointment.

A draft appointment process has been attached as Appendix "A" to this report for Municipal Council's consideration.

The following table sets out the vacancy appointment timelines based on the Council Meeting schedule should Municipal Council wish to undertake an appointment process.

FILLING OF VACANCY TIMELINES – APPOINTMENT PROCESS

October 26, 2021	Council declares the office of Ward 6 Councillor vacant
No later than December 25, 2021	Council appoints a person to fill the vacancy (latest Council Meeting to meet the deadline December 21, 2021)

By-election

Although the City Clerk is not recommending that a by-election be held, should the Municipal Council determine otherwise, by-elections are to be conducted by the Clerk in accordance with section 65 of the *Municipal Elections Act, 1996* (MEA). The following

section summarizes the requirements under the MEA and MA when holding a by-election to fill a vacancy:

FILLING OF VACANCY TIMELINES – BY-ELECTION PROCESS

October 26, 2021	Council declares the office of Ward 6 Councillor vacant
No later than December 25, 2021 (latest scheduled Council Meeting to meet deadline is December 21, 2021)	Council passes a by-law requiring that a by-election be held to fill the vacancy
No later than February 14, 2022 (2 PM) (based on the by-law passing on December 21, 2021).**note that Voting Day cannot be later than March 31, 2022.	Clerk to fix date of Nomination Day not less than 30 days and not more than 60 days after the council of the clerk’s municipality passes a by-law indicating a by-election is required
March 31, 2022 (based on a Nomination Day of February 14, 2022)**note that Voting Day cannot be later than March 31, 2022	Voting day shall be 45 days after nomination day. No election shall be held after March 31 in the year of a regular election.

To assist the Municipal Council, should it be determined that a by-election is to be held, the Civic Administration has prepared the following draft motion and the attached proposed by-laws and timelines for Municipal Council’s consideration:

“That the following proposed by-laws BE INTRODUCED at the Municipal Council meeting to be held on October 26, 2021 with respect to the filling of the vacancy of the Office or Ward 6, Council

- a) the attached proposed by-law (Appendix “B”) being “A by-law to provide for a by-election for the Office of Councillor, Ward 6” to be held in accordance with the *Municipal Elections Act, 1996*;
- b) the attached proposed by-law (Appendix “C”) being “A by-law to establish the dates for advance voting and the hours during which voting places shall be open on those dates for the by-election being held to fill the vacancy of the Office of Councillor, Ward 6”;
- c) the attached proposed by-law (Appendix “D”) being “A by-law to authorize the use optical scanning vote tabulators and proxy voting for the by-election being held to fill the vacancy of the Office of Councillor, Ward 6”;

it being noted that in accordance with Bill 218, Supporting Ontario's Recovery and Municipal Elections Act, 2020 and in accordance with the *Municipal Elections Act, 1996*, the by-election to fill the vacancy of the Office Councillor, Ward 6 shall be a First Past the Post election; and,

- d) the by-election BE HELD pursuant to section 263(1)(b) of the *Municipal Act, 2001* in accordance with the *Municipal Elections Act, 1996* on the timelines set out in the attached Appendix “E”.

Given that there is also a vacancy in the Office of Ward 13, should the Municipal Council pass a by-law to hold a by-election in Ward 13 and passes a by-law to hold a by-election in Ward 6, the City Clerk recommends the following timelines be followed:

FILLING OF VACANCY TIMELINES – 2022 WARD 6 BY-ELECTION

By-law passed to hold a by-election	October 26, 2021
Nomination Period ends (Nomination Day)	December 17, 2021
Advance Voting Day	January 16, 2022
Voting Day	January 31, 2022

By-election Covid-19 Impacts

In response to COVID-19, the City Clerk's Office has reached out to the Middlesex London Health Unit (MLHU) for guidance regarding hosting a potential by-election within the timelines outlined above. In summary, the MLHU has provided the following guidance:

Encourage physical distancing to be enforced at all polling stations:

- 2 m distance in line
- 2 m distance between voting booths
- Maximize physical distancing between staff
- Masking required for all staff and voters
- If polling station is at a school, make sure there is a completely separate entrance and no mixing of students and voters.
- Ensure line management will be key, particularly given that it will be the winter. The line-up must be controlled and spaced, and no crowding can occur.
- Hand sanitizer should be abundant.
- Staff should all be vaccinated.

Should a by-election be held, the City Clerk is recommending that the Ward 6 By-election be conducted with in-person voting with the option to vote by mail. Voters would also have the option to use proxy voting or curbside voting at the polling station. The Elections Office will focus on increased communication to the public about voting options to ensure a safe and inclusive election process. The Elections Office will work to implement the measures recommended by the MLHU.

3.0 Financial Impact/Considerations

A by-election to fill the vacancy in Ward 6 is estimated to cost between \$165,000 to \$180,000. Costs associated with holding a by-election include but are not limited to election technology, election workers, voting locations, voting supplies (including PPE), voter education and election accessibility. Costs for the by-election would be funded from the Municipal Election Reserve Fund.

If Municipal Council wishes to fill the vacancy by appointment, financial implications are anticipated to be minimal. Costs associated with the attached appointment process in [Appendix "A"](#) are estimated to be between \$3,000 - \$3,500. Costs associated with the appointment process would be funded from the Municipal Election Reserve Fund.

Financial Planning and Business Supports has confirmed that the Municipal Election Reserve Fund has sufficient available funding to finance the costs of either a by-election or position appointment.

Conclusion

Given the timing of the regular Municipal Election to be held on October 24, 2022 and the process, resources and costs to carry out a by-election, the City Clerk recommends that the Municipal Council undertake the appointment process to fill the Office of Ward 6 vacancy, rather than requiring that a by-election be held.

Prepared by and Recommended by: Cathy Saunders, City Clerk

Appendix “A”

Procedure to Appoint a Member of Council to Fill the Vacancy in the office of Councillor, Ward 6 2021

1.0 Definitions

“Absolute Majority” – means fifty percent plus one (50% +1) of the available votes.

“Appointment” shall mean an appointment by Council to fill a vacancy in a Ward seat, in accordance with the *Municipal Act, 2001, c.25*.

“Chair” shall mean the member of Council presiding at the Council meeting at which an appointment to fill the vacancy in a Ward seat is being considered.

“Council” shall mean the Municipal Council of The Corporation of the City of London.

“Council Appointment Meeting” means the regular or special council meeting where Council may appoint a member to fill a vacancy in a Ward seat.

“Member” shall mean a member of the Council.

“Motion” shall mean a proposal by a member for the consideration of Council that is moved by a member and seconded by another member.

“Slate of Nominees” shall mean a list of all individuals who have been nominated, and have consented to that nomination, for appointment to fill a vacancy in a Ward seat.

2.0 General

To be eligible for nomination for appointment to a vacant Ward seat, that individual must be eligible to hold office in accordance with the *Municipal Act, 2001, c.25* and the *Municipal Elections Act, 1996* and must not otherwise be disqualified from holding the office.

3.0 Process

The City Clerk shall post a Council Vacancy on the Municipal website and in the local newspaper for up to two (2) consecutive weeks.

Any individuals wishing to be considered for appointment to fill the Council vacancy shall complete an appointment application form approved by the Clerk and will submit the form to the Clerk, in person, by the date and time established.

Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification and qualifying address to the satisfaction of the City Clerk.

The City Clerk shall receive applications from individuals interested in appointment to the vacant Ward 6 seat by _____ on _____. Applicants will be required to provide a signed Declaration of Eligibility, as well as a signed Consent to Nomination. The City Clerk shall certify the eligibility of any applicants to fill the vacancy on the Municipal Council.

The City Clerk shall compile the applications for filling the Ward 6 vacancy and present the list of applicants to the Municipal Council, for its consideration at its meeting to be held at _____, on_____.

If the Official List of Candidate(s) includes only one (1) candidate, the City Clerk will declare the candidate elected by a by-law which will be prepared and submitted to Council for enactment.

If the official list of Candidate(s) includes more than one (1) candidate, voting will be conducted as follows:

All applicants who have consented to their nomination, confirmed their eligibility and whose eligibility has been certified by the City Clerk shall be included on the slate of nominees in alphabetical order, for consideration for appointment.

The Chair will then call for a motion to confirm the slate of nominees, which shall require a majority vote of Council.

The City Clerk shall prepare a ballot listing the Council approved slate of nominees and provide a copy of the ballot to each Member of Council.

Each Council Member may vote for one (1) candidate to be recommended for appointment. All votes will be tabulated electronically by the City Clerk.

The candidate that receives an Absolute Majority of the available votes shall be recommended for appointment.

If after the first round of counting, one candidate does not receive an Absolute Majority of available votes, the candidate(s) who received the least amount of votes and those with zero votes are removed from the slate and the vote is held again until one candidate to be recommended for appointment receives an Absolute Majority of the available votes.

Resolution of tie – recommended candidate

In the event of a tie between two or more candidates who receive the same number of votes, the following procedure shall be followed with any modifications Municipal Council deems necessary:

A run-off vote between the tied candidates shall be conducted and tabulated electronically. The candidate(s) that receive(s) the most votes in the run-off shall be recommended for appointment.

In the event of a tie between the same two or more candidates in a run-off vote, the tie will be resolved by lot as follows and the candidate chosen by lot shall be declared eligible for recommendation:

a) The Clerk shall, in full view of the Committee, write the name of each tied candidate on a similar size paper, fold the papers with each candidate's name in two (2) equal parts and deposit these papers, in full view of all persons present, in an open-end box.

b) The Clerk shall ensure that the contents have been displaced sufficiently, and proceed to draw name(s) for the purpose of determining the candidate(s) who shall be recommended for appointment.

If it becomes apparent by reason of an equality of votes that no candidate can obtain sufficient votes to be recommended for appointment by, Municipal Council may repeat the selection process detailed in this policy with any necessary modifications in order to make a recommendation for appointment.

If it becomes impractical to tabulate the votes electronically, the selection process may be conducted and recorded manually in accordance with this Policy. The manual process shall follow the procedures outlined in this Policy, to the extent possible.

The candidate that achieves the threshold or is the last remaining nominee on the ballot shall be appointed by a majority vote of Council.

APPENDIX “B”

Bill No.
2021

By-law No. E.-_____

A by-law to provide for a by-election for
the office of Councillor, Ward 6

WHEREAS there is a vacancy in the office of Councillor, Ward 6;

AND WHEREAS section 263(5)1.ii. of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (“*Municipal Act, 2001*”) requires the municipality to pass a by-law requiring a by-election be held to fill the vacancy under section 263(1) within 60 days after the day a declaration of vacancy of an office of a member of council is made with respect to the vacancy under section 259 of the *Municipal Act, 2001*,

NOW THEREFORE the Municipal Council of The Corporation of the City of London hereby enacts as follows:

1. That a by-election shall be held to fill the vacancy in the office of Councillor, Ward 6 .
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on October 26, 2021.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

APPENDIX “C”

Bill No.
2021

By-law No. E.- _____

A by-law to establish the dates for advance voting and the hours during which voting places shall be open on those dates for the by-election being held to fill the vacancy of the office of Councillor, Ward 6.

WHEREAS section 65(3) of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched, as amended (“*Municipal Elections Act, 1996*”), provides that the clerk shall conduct a by-election as far as possible in the same way as a regular election;

AND WHEREAS section 43(1) of the *Municipal Elections Act, 1996* provides that before voting day, each local municipality shall hold an advance vote on one or more dates;

AND WHEREAS subsection 43(2) of the *Municipal Elections Act, 1996*, provides that subject to subsection 43(3), the clerk shall establish, the date or dates on which the advance vote is held; the number and location of voting places for the advance vote; and the hours during which the voting places shall be open for the advance vote, which may be different voting places;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The advance voting date and time for the by-election being held to fill the vacancy of the office of Councillor, Ward 6 shall be held on Saturday, January 16, 2022 from 10:00 AM to 8:00 PM.
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on October 26, 2021.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

APPENDIX “D”

Bill No.
2021

By-law No.

A by-law to authorize the use of poll optical scanning vote tabulators, voting by mail, advance voting and proxy voting for the by-election being held to fill the vacancy of the office of Councillor, Ward 6;

WHEREAS subsection 42(1)(a) of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched. 1, as amended (“*Municipal Elections Act, 1996*”), provides that the council of a local municipality may pass a by-law authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators;

AND WHEREAS subsection 42(1)(b) of the *Municipal Elections Act, 1996*, provides that the council of a local municipality may pass a by-law authorizing electors to use an alternative voting method, such as voting by mail, that does not require electors to attend at a voting place in order to vote;

AND WHEREAS subsection 42(5) of the *Municipal Elections Act, 1996*, provides that when a by-law authorizing the use of an alternative voting method is in effect, sections 43 (advance vote) and 44 (voting proxies) apply only if the by-law so specifies;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The use of poll optical scanning vote tabulators for the purpose of counting votes at Municipal Elections is hereby authorized.
2. Sections 43 (Advance Votes) and 44 (Voting Proxy) of the *Municipal Elections Act, 1996*, apply to the by-election being held to fill the vacancy of the office of Councillor, Ward 6.
3. The use of voting by mail be provided upon request to qualified voters as an alternative voting method that does not require electors to attend at a voting place in order to vote at Municipal Elections is hereby authorized.
5. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on October 26, 2021

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

APPENDIX "E"

PROPOSED TIMELINES FOR HOLDING A BY-ELECTION

FILLING OF VACANCY TIMELINES – 2022 WARD 6 BY-ELECTION

Declaration of Vacancy	October 5, 2021
By-law passed to hold a by-election	October 26, 2021
Nomination Period ends (Nomination Day)	December 17, 2021
Advance Voting Day	January 16, 2022
Voting Day	January 31, 2022