

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Cathy Saunders, City Clerk
Subject: Restricted Acts of Council After Nomination Day and Voting Day
Meeting on: December 13, 2021

Recommendation

That, on the recommendation of the City Clerk, this report with respect to restricted acts of Council after Nomination Day and Voting Day, in accordance with section 275 of the *Municipal Act, 2001*, as amended, BE RECEIVED for information.

Analysis

1.0 Background Information

1.1 Provincial Legislation

On November 20, 2020, Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020* received Royal Assent. Bill 218 enacts several amendments to the *Municipal Elections Act, 1996* (MEA), one of which relates to the Nomination Period for candidates. Specifically, Nomination Day (the deadline to file as a candidate) is now the third Friday in August. For the 2022 Municipal Election, Nomination Day is Friday, August 19, 2022. For your information Nomination Day for the 2018 Municipal Election was July 27, 2018.

On June 9, 2016 the *Municipal Elections Modernization Act, 2016* (MEMA) received Royal Assent. The *Modernizing Ontario's Municipal Legislation Act* amended the start date for a new term of Council to November 15 following a Municipal Election to shorten the period during which Council may have its acts restricted. As amended by Bill 281, the *Municipal Act, 2001*, restricts certain acts of the Council from August 19 to November 15, 2022 where less than three-quarters of Council Members are potentially returning.

Section 275 of the *Municipal Act, 2001*, as amended, provides that:

(1) The council of a local municipality shall not take any action described in subsection (3) after the first day during the election for a new council on which it can be determined that one of the following applies to the new council that will take office following the election:

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council.
2. If the new council will have more members than the outgoing council, the new council will include less than three-quarters of the members of the outgoing council or, if the new council will include at least three-quarters of the members of the outgoing council, three-quarters of the members of the outgoing council will not constitute, at a minimum, a majority of the members of the new council.
3. If the new council will have fewer members than the outgoing council, less than three-quarters of the members of the new council will have been members of the outgoing council or, if at least three-quarters of the members of the new council will have been members of the outgoing council, three-quarters of the

members of the new council will not constitute, at a minimum, a majority of the members of the outgoing council. 2001, c. 25, s. 275 (1).

Subsection (3) provides that the actions referred to in subsection (1) are,

- (a) the appointment or removal from office of any officer of the municipality;
- (b) the hiring or dismissal of any employee of the municipality;
- (c) the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
- (d) making any expenditures or incurring any other liability which exceeds \$50,000. 2001, c. 25, s. 275 (3); 2006, c. 32, Sched. A, s. 114 (1).

Section 275 goes on further to say:

Exception

(4) Clauses (3) (c) and (d) do not apply if the disposition or liability was included in the most recent budget adopted by the council before nomination day in the election. 2001, c. 25, s. 275 (4).

Emergencies

(4.1) Nothing in this section prevents a municipality taking any action in the event of an emergency. 2006, c. 32, Sched. A, s. 114 (2).

Delegated authority unaffected

(6) Nothing in this section prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to nomination day for the election of the new council. 2006, c. 32, Sched. A, s. 114 (3).

2.0 Discussion and Considerations

Given that the incoming Municipal Council will have the same number of members (i.e. fifteen) as the outgoing Municipal Council, at least twelve (12) of the candidates nominated on Nomination Day would need to be members of the outgoing Municipal Council, in order for no Council acts to be restricted after Nomination Day (August 19, 2022). The City Clerk will review the list of candidates on Nomination Day to determine if the necessary threshold has been met.

The City Clerk will then have to review the Council's status when Voting Day results are available, to determine if at least twelve (12) of the Council-elect are members of the outgoing Municipal Council, in order for no Council acts to be restricted after Voting Day (October 24, 2022).

If, as a result of Nomination Day or Voting Day information, the City Clerk determines that Municipal Council is restricted from carrying out certain acts, the Municipal Council and the Civic Administration will be notified accordingly.

Given the extended period for which Council acts could be restricted, should the required thresholds not be met, the Civic Administration will be reporting, under separate cover, with suggestions for ensuring business continuity during that period.

5.0 Conclusion

This report with respect to restricted acts of Council after Nomination Day and Voting Day, in accordance with section 275 of the *Municipal Act, 2001*, as amended, is being provided for information purposes.

Prepared and Recommended by:

Cathy Saunders, City Clerk