



Report to: General Committee

Meeting Date: February 20, 2018

SUBJECT: Restricted Acts After Nomination Day in a Municipal Election Year
PREPARED BY: Carlie Turpin, Manager, Elections ext. 2083

RECOMMENDATION:

- 1) That the report titled, “Restricted Acts After Nomination Day in a Municipal Election Year” be received for information purposes; and,
- 2) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to provide Council with information regarding the restricted acts provisions contained in the Municipal Act, 2001.

BACKGROUND:

Section 275 of the Municipal Act, 2001 prohibits municipal Councils from undertaking certain acts after Nomination Day in a municipal election year and prior to a new Council taking office under specific conditions. This legislative restriction is commonly referred to as the “lame duck” provision.

A municipal Council can be in this situation during one or both of the following time periods:

- 1) Nomination Day (Friday, July 27, 2018) to Voting Day (Monday, October 22, 2018); and,
- 2) Voting Day (Monday, October 22, 2018) to Friday November 30, 2018 (the end of the current Council term).

OPTIONS/ DISCUSSION:

The “lame duck” provision is calculated based on two dates: Nomination Day (July 27, 2018), and Voting Day (October 22, 2018). If, on either of those dates, it can be determined with certainty, that the new Council will include less than three-quarters (75%) of the outgoing Council Members, “lame duck” applies and Council is restricted from taking certain actions until the new term of Council begins on December 1, 2018. This period of time is referred to as the “lame duck” period.

Since Markham City Council is comprised of thirteen Members, the “lame duck” provision would be triggered if fewer than ten existing Members of Council were returning for the 2018-2022 Council term.

If a “lame duck” situation did occur, Council would be restricted from making decisions on the following, until the end of the current term (Friday November 30, 2018):

- A) The appointment or removal from office of any officer of the City of Markham;
- B) The hiring or dismissal of any employee of the City of Markham;
- C) The disposition of any real or personal property of the City of Markham which has a value exceeding \$50,000; and,
- D) Any expenditures, or incurring any other liability which exceeds \$50,000.

Note: C) and D) do not apply if the disposition or liability was included in the most recent budget adopted by Markham City Council before Nomination Day (July 27, 2018).

Below are the scenarios that Markham City Council may be faced with following Nomination Day (July 27, 2018):

- If 10 Members of Markham City Council were acclaimed – no lame duck restrictions would apply (because 10 current Markham City Councillors would be returning to Markham City Council for the 2018-2022 term).
- If 4 or more Members of Markham City Council decided not to run again, the lame duck restrictions would apply from July 27, 2018 (Nomination Day), through to December 1, 2018 (because 10 current Markham City Councillors would NOT be returning for the 2018-2022 Council term).
- If 10 Members of Markham City Council registered as candidates, then there would NOT be a lame duck period from July 27, 2018 (Nomination Day) through to October 22, 2018 (Voting Day) because it would NOT be certain that $\frac{3}{4}$ (10) of Council would NOT be returning.
- If 10 Members of Markham’s current City Council were re-elected there would NOT be a lame duck period (because 10 current Markham City Councillors would be returning for the 2018-2022 Council term).
- If fewer than 10 Members of Markham’s current City Council members (10) were re-elected, then the lame duck period would commence on October 22, 2018 and continue to November 30, 2018 (because 10 current Markham City Councillors would NOT be returning for the 2018-2022 Council term).

Delegation of Authority

Council has delegated the following approvals to the Chief Administrative Officer (CAO) during a restricted election period (“lame duck” period):

- make any expenditure or incur any liability in excess of \$50,000.00; and
- dispose of any personal or real property with a value of \$50,000.00 or more when it was acquired by the City.

The CAO is further authorized to appoint or dismiss employees below the level of Commissioner.

FINANCIAL CONSIDERATIONS

None.

HUMAN RESOURCES CONSIDERATIONS

None.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable.

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable.

RECOMMENDED BY:

2018-02-13


X

Kimberley Kitteringham
City Clerk
Signed by: cxa

2018-02-13


X

Trinela Cane
Commissioner, Corporate Services
Signed by: cxa