

Aguila-Wong, Christine

To: Pettit, Martha
Subject: RE: Question Re: Members of Council Seeking Provincial Office

From: Kitteringham, Kimberley
Sent: November 20, 2017 8:45 AM
To: Mayor & Councillors <Mayor&Councillors@markham.ca>
Cc: Taylor, Andy <ataylor@markham.ca>; Conrad, Catherine <CConrad@markham.ca>; Cane, Trinela <TCane@markham.ca>; Pettit, Martha <MPettit@markham.ca>; Turpin, Carlie <CTurpin@markham.ca>; Frois, Bryan <BFrois@markham.ca>; Kester-Akrofi, Asare <AKesterAkrofi@markham.ca>
Subject: Question Re: Members of Council Seeking Provincial Office

Good Morning Members of Council,

As my Office has recently been asked about the rules surrounding Members of Markham Council seeking Provincial Office, I thought it useful to share the below information to all.

Councillors seeking office in the 2018 Provincial Election may do so without having to first resign their seat on Markham City Council. If a Councillor is successful in the Provincial Election they must resign their seat on Council. A Councillor is deemed to have resigned from local office immediately following the publication of the Provincial Election results in The Ontario Gazette (Section 83 of the Election Act).

Upon being notified of a vacancy, Markham Council must declare the seat vacant at its next regular meeting (Section 262 (1) of the Municipal Act). If a vacancy occurs after March 31 in an election year, Council is only permitted to fill the vacancy by appointment (Section 65(2) of the Municipal Elections Act). If the vacancy occurs within 90 days of Voting Day (Voting Day in 2018 is October 22, 2018), Council is not required to fill the vacancy (Section 263(5)3 of the Municipal Act) – in other words, the seat can remain vacant until the next term of Council is established.

Given Markham's proposed 2018 meeting schedule (which is on today's General Committee meeting for adoption) and the tentative Provincial election date of June 7, 2018, it is likely that a vacancy would be declared during the period where Council would be required to appoint someone to fill the vacancy. Council would be required to declare the seat vacant at the June 17th Council meeting.

The Municipal Act does not establish any process, or define any criteria, to assist Council in determining the process to use when appointing someone. In 2012, Markham City Council passed a Council Vacancy Policy to guide Council if a vacancy should occur. The Policy outlines a number of options available to Council for conducting an appointment, including appointing an unsuccessful candidate from the most recent regular election. The appointment process must be completed within 60 days of declaring the vacancy. The person appointed to fill the vacancy shall hold the office for the remainder of the current term. The decision on how to conduct the appointment lies with Council.

A link to the full policy can be found here:

<https://www.markham.ca/wps/wcm/connect/markhampublic/257a56f0-7505-4397-b730->

If you have any questions, please feel free to contact me.

Regards,

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