

Review of Council Policies, Bylaws and Legislation

Areas identified in Council's direction	Applicable Council Policies, Bylaws and Legislation	Administration comments
<p>a. Departure of councillor before the end of the term</p>	<p><i>Municipal Government Act (“MGA”)</i></p> <p>Division 5 concerns vacancies and quorum on municipal councils.</p> <p>Section 162 provides that:</p> <p style="padding-left: 40px;">A council must hold a by-election to fill a vacancy on council unless</p> <p style="padding-left: 80px;">(a) the vacancy occurs after January 1 in the year of a general election,</p> <p style="padding-left: 80px;">(a.1) the vacancy is due to a declaration under section 175.1(1) and</p> <p style="padding-left: 120px;">(i) the application period under section 175.1(3) has not expired, or</p> <p style="padding-left: 120px;">(ii) less than 60 days have passed since an application under section 175.1(2) has been filed,</p> <p style="padding-left: 40px;">or</p> <p style="padding-left: 80px;">(b) the council consists of 6 or more councillors and the vacancy occurs</p> <p style="padding-left: 120px;">(i) in the 18 months before a general election and there is only one vacancy, or</p> <p style="padding-left: 120px;">(ii) in the 12 months before a general election and the number of councillors remaining is at least one</p>	<p>The City of Calgary does not have a specific Council policy to guide Council's decision-making respecting the vacancy of a councillor's seat.</p> <p>When previous vacancies have occurred, Administration has brought forward a report outlining options with respect to interim ward representation, continued employment for Ward Office staff and the distribution of responsibilities including service as deputy mayor among other councillors.</p> <p>In addition, Administration has brought forward a report to address vacancies with respect to appointments to City Boards, Commissions and Committees (“BCCs”).</p>

	<p>more than the majority of the number of councillors comprising the council under section 143.</p> <p>Section 165 provides for the timing of a by-election if one is required:</p> <p>Unless a council sets an earlier date, election day for a by- election under section 162 or 163 is 120 days after the vacancy occurs.</p>	
<p>b. Bereavement of medical leave of a councillor</p>	<p>MGA</p> <p>Subsection 174(1)(d) provides that a councillor is disqualified from council if:</p> <p>the councillor is absent from all regular council meetings held during any period of 60 consecutive days, starting with the date that the first meeting is missed, unless subsection (2) applies;</p> <p>Subsection 174(2) provides that:</p> <p>A councillor is not disqualified by being absent from regular council meetings under subsection (1)(d) if</p> <p>(a) the absence is authorized by a resolution of council passed at any time</p> <p>(i) before the end of the last regular meeting of the council in the 60-day period, or</p> <p>(ii) if there is no other regular meeting of the council during the 60-day period, before the end of the next regular meeting of the council,</p>	<p>Council does not currently have a Council policy or bylaw concerning bereavement or medical leave of a councillor.</p> <p>The MGA expressly provides for Council to establish a bylaw pertaining to maternity and parental leaves however no such provision exists for other types of leave.</p> <p>Council may, by resolution, excuse a councillor from one or more Council meetings on a case-by-case basis. There are no formal policies in place to address other duties of a councillor such as supervision of Ward Office staff during an absence, although certain human resources and financial functions may be temporarily delegated.</p>

	<p>or</p> <p>(b) the absence is in accordance with a bylaw under section 144.1.</p> <p>Section 144.1 empowers a council to establish a bylaw respecting whether councillors are entitled to take leave prior to or after the birth or adoption of their child. Council has adopted Bylaw 38M2018 to permit this type of leave.</p> <p>Procedure Bylaw 35M2017</p> <p>76.</p> <p>(1) A motion to excuse one or more Members of Council, absent for the whole of a Council meeting, is discretionary, and may be adopted prior to adjournment by a majority vote.</p> <p>(2) A Member of Council who is absent by reason of other Council business at the direction of Council is not considered to be absent.</p>	
c. Division of ward budget	<p>Councillors Budgets' and Expenses Bylaw 36M2021</p> <p>Subsection 24(2) provides that:</p> <p>In the event of a vacancy of a <i>Councillor's</i> seat, the balance of funds allocated to the ward can only be re-allocated or used to pay approved expenses where approved by the City Clerk or delegate.</p>	<p>Council has delegated the approval of expenditures or the re-allocation of the balance of funds allocated to a Ward Budget where a vacancy exists to the City Clerk or delegate.</p> <p>In the past, the City Clerk has considered the decisions of Council with respect to ward representation and the reporting structure for Ward Office staff in deciding how to allocate the ward budget for the vacant seat.</p>
d. Reporting structure for staff	<p>Councillors' Assistants Policy PAC005</p> <p>The "Employment Contract" division of the policy provides the following under section 7:</p>	<p>The position of Chair, Coordinating Committee of the Councillors Office no longer exists. The duties, functions or responsibilities pertaining to that role have been delegated to</p>

	<p>In the event that a Councillor leaves office prior to the end of the Councillor's elected term, whether by resignation, retirement or some other reason, and either a by-election is called or there is a period of time before a municipal election that will determine who the new elected Councillor for that Ward office will be (the "Transition Period"), the Assistants in that Ward office may continue to perform their duties for the Ward office during the Transition Period so long as a new personal service agreement is signed between the Assistants and the Chair, Coordinating Committee of the Councillors Office ("CCCO"). The Chair, CCCO will become the employing Councillor of these Assistants for the duration of the Transition Period.</p> <p>The new personal service agreement entered into between the Assistants and the Chair, CCCO will ensure continuity of service, pay and benefits for the Assistants during the Transition Period.</p> <p>For clarity, the personal service agreement in this instance cannot extend beyond the Transition Period.</p> <p>Once a new Councillor has been elected, either through a by-election or municipal election, and should the new Councillor wish to retain the current Assistants, then a new personal service agreement with the newly elected Councillor will be required.</p> <p>Should an Assistant not wish to continue employment during the Transition Period the Assistant is entitled to any severance amounts owing as outlined in Assistants Severance Policy (CC030).</p> <p>City Clerk Bylaw 73M94</p>	<p>the City Clerk or delegate and therefore these provisions should be reviewed to clarify the reporting structure for Ward Office staff in the event of a vacancy of a councillor's seat.</p> <p>The most recent practice has been for Council to determine, by resolution, which councillor the Ward Office staff will report to following confirmation that a vacancy exists.</p> <p>Employment contracts are made directly between the employing councillor and assistant. As such, a new contract is required to continue employment, notwithstanding the decision of Council.</p>
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	<p>Subsection 5.2 provides that:</p> <p>Any duties, functions or responsibilities delegated to the Chair or Program Manager of the Coordinating Committee of Councillors' Offices, or delegated to the Coordinating Committee of Councillors' Offices itself, as provided for in any Council policy or guideline, is hereby delegated to the City Clerk.</p>	
e. Representation for communities	<p>MGA</p> <p>Section 162 provides that:</p> <p>A council must hold a by-election to fill a vacancy on council unless</p> <p>(a) the vacancy occurs after January 1 in the year of a general election,</p> <p>(a.1) the vacancy is due to a declaration under section 175.1(1) and</p> <p>(i) the application period under section 175.1(3) has not expired, or</p> <p>(ii) less than 60 days have passed since an application under section 175.1(2) has been filed,</p> <p>or</p> <p>(b) the council consists of 6 or more councillors and the vacancy occurs</p> <p>(i) in the 18 months before a general election and there is only one vacancy, or</p> <p>(ii) in the 12 months before a general election and the number of</p>	<p>Council does not currently have a Council policy or bylaw concerning the interim representation of wards in the event of a vacancy of a councillor's seat.</p> <p>In the past, Council has determined, by resolution, on what basis representation is to be managed following a vacancy. The most recent practice has been for one or more councillors of neighbouring wards to assume the responsibility to represent a portion of the ward on a geographical basis.</p>

	<p>councillors remaining is at least one more than the majority of the number of councillors comprising the council under section 143.</p> <p>Section 165 provides for the timing of a by-election if one is required:</p> <p>Unless a council sets an earlier date, election day for a by- election under section 162 or 163 is 120 days after the vacancy occurs.</p>	
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