

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 14.1.3
Halifax Regional Council
May 9, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Brad Anguish, A/Chief Administrative Officer

DATE: March 31, 2017

SUBJECT: Special Elections: Appointment of Returning Officer and Delegation of Duties

ORIGIN

Special elections are required by section 13 of the *Municipal Elections Act*, to fill a vacancy on Council. The Election Office is bringing forward this report in anticipation of potential special elections prior to the next regular municipal election in October 2020.

LEGISLATIVE AUTHORITY

Municipal Elections Act, R.S.N.S. 1989, c. 300, including sections 4(1), 4(1A), 4(1C), 13(1), 114(4) and (4A), 139(1) and (1A).

Returning officer and assistant returning officer

4 (1) The council shall appoint a returning officer, who may be the clerk, another municipal employee or another person who is not a municipal employee, to conduct all regular and special elections required under this Act.

(1A) The council may appoint one or more assistant returning officers who shall assist the returning officer in carrying out the returning officer's duties and who shall act in the place and in the stead of the returning officer when the returning officer is absent or at the request of the returning officer.

(1C) The council may delegate its powers of appointment pursuant to this Section to the clerk or chief administrative officer.

Vacancy

Recommendation on next page

13 (1) Subject to subsection (8), within four weeks after a vacancy occurs on a council because

(a) an insufficient number of candidates are nominated to fill the vacancies at a regular or special election; or

(b) a councillor dies, resigns, becomes disqualified or forfeits office,

the council or, where there is no council, the Minister shall name a day for a special election to fill the vacancy and, if no regular meeting of the council is to be held within that time, the clerk shall call a special meeting for the purpose.

Advance poll

114 (4) An advance poll shall be held on

(a) Tuesday, the fourth day before ordinary polling day; and

(b) one other day fixed by council, by resolution, which shall be either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day.

(4A) Council may delegate its authority to fix a day pursuant to clause (4)(b) to the returning officer.

Fees and expenses

139 (1) The council shall, by resolution, make a tariff of fees and expenses to be paid to any person for his services and expenses under this Act and may similarly revise and amend the tariff and provide for a method of rendering and verifying accounts for payment.

(1A) The council may delegate its authority to make, revise and amend the tariff of fees and expenses and provide for a method of rendering and verifying accounts for payment pursuant to subsection (1) to the clerk or chief administrative officer.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Appoint Lori A. McKinnon, Election Coordinator, as the Returning Officer to conduct any special election that may be required prior to the 2020 regular municipal and school board election; and
2. Delegate duties and responsibilities as provided for under the *Municipal Elections Act* for any special election that may be required prior to the 2020 regular municipal and school board election as follows:
 - (1) to the Returning Officer, delegate Council's authority to fix a day for the second day of advance polls;
 - (2) to the Municipal Clerk, delegate Council's power to appoint assistant returning officers as required; and
 - (3) to the Municipal Clerk, delegate Council's authority to make, revise and amend the tariff of

fees and expenses and provide for the method of rendering and verifying accounts for payment.

BACKGROUND

Special elections are required by section 13 of the *Municipal Elections Act*, to fill a vacancy on Council.

This report is before Regional Council in order to ensure that, due to the short time lines associated with conducting a Special Election (11 weeks after the date is set by Council), as many administrative measures as possible are taken to prepare for any Special Election(s) in advance of the 2020 regular Municipal and School Board Election. Without this direction, Council would be required to address these issues when it sets the date for the special election, which it is required to do in accordance with section 13(1) within 4 weeks after a vacancy occurs.

To conduct a special election, Halifax Regional Council is required by resolution or delegation of authority to address a number of administrative matters under the *Municipal Elections Act*, including appointment of the Returning Officer and other election officials, setting of fees and tariff for payment of election workers, setting of dates for advanced polls.

The Election Office is bringing forward this report in anticipation of possible special elections prior to the next regular municipal election in October 2020.

DISCUSSION

Section 4(1) of the Municipal Elections Act (the “Act”) requires that Council appoint a Returning Officer to conduct a Special Election. The same section provides that the Returning Officer may be the Municipal Clerk, another municipal employee or another person who is not a municipal employee.

Several amendments to the Act passed in the fall 2011 sitting of the Nova Scotia Legislature allow Council to delegate specific duties, as outlined in the recommendations section of this report, to the CAO or Municipal Clerk.

Section 4(1C) permits Council to delegate its power to appoint Assistant Returning Officers under section 4(1A) to either the Clerk or Chief Administrative Officer.

Section 139(1A) permits Council to delegate its authority to make, revise and amend the tariff of fees and expenses and provide for a method of rendering and verifying accounts for payment to the Clerk or the Chief Administrative Officer.

Section 114(4A) permits Council to delegate its authority to fix the second day for the advance poll to the Returning Officer.

These duties are administrative functions that enable the Municipal Clerk and Returning Officer to conduct the election in accordance with the Act and direction of Council. Without delegation of duties each would require a subsequent report and motion of Council. Should Regional Council approve the recommendation, it will enable staff to have additional lead time to begin working on special election preparations the moment a vacancy occurs. In the event of a vacancy, Council is still required to meet within 4 weeks and are tasked to affix the date for Polling day (Saturday) which must occur no later than 11 weeks post-Council meeting (Section 13(1) and (2)).

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

RISK CONSIDERATION

There are no risks associated with the recommendations.

COMMUNITY ENGAGEMENT

The municipality completed a citizen engagement initiative in 2015 with respect to elections. There is also public feedback planned as part of the Campaign Finance Accountability engagement process. Where possible, input from the public will be referenced and incorporated in the planning process.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

Council may choose not to appoint the Returning Officer until a vacancy occurs. This approach is not recommended.

Council may choose not to delegate the duties and responsibilities, or to delegate only some of the duties and responsibilities. This approach would require subsequent reports to Council when a vacancy occurs and is not recommended.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Lori McKinnon, Election Coordinator, 902.490.6810
