

## **Declaring the Office of Councillor, Ward 20 - Scarborough Southwest Vacant and Filling the Vacancy**

**Date:** August 3, 2023

**To:** City Council

**From:** City Clerk

**Wards:** 20

### **SUMMARY**

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This report outlines the options for filling the vacancy in the office of Councillor in Ward 20 - Scarborough Southwest as a result of Gary Crawford's resignation.

The City of Toronto Act, 2006 and the Municipal Elections Act, 1996 together prescribe rules and impose deadlines with respect to filling a vacancy. The former Councillor resigned as the Councillor for Ward 20 - Scarborough Southwest effective July 26, 2023. Consequently, Council must declare the seat vacant at its next meeting.

The City of Toronto Act, 2006 also provides that Council, within 60 days of the office being declared vacant, must decide whether to fill the vacancy by appointment or pass a by-law requiring that a by-election be held.

The person appointed or elected to fill the vacancy holds office for the remainder of the term, ending November 14, 2026.

### **RECOMMENDATIONS**

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The City Clerk recommends that:

1. City Council declare a vacancy in the Office of Councillor, Ward 20 - Scarborough Southwest;
2. City Council adopt one of the following two options to fill the vacancy:

## **Option A – Appointment**

a. Fill the vacancy by appointing a person qualified to hold office in the City of Toronto at a special meeting to be held on October 4, 2023 at 9:30 a.m. in the Council Chamber, in accordance with the following:

1. The City Clerk shall advertise the vacancy inviting any interested and qualified applicants to seek appointment to Council;
2. Interested persons shall complete a Consent of Nominee and Declaration of Qualification and provide personal identification showing their name and qualifying address within the City of Toronto;
3. The deadline for submitting the required forms to the City Clerk shall be September 25, 2023 at 4:30 p.m.;
4. The City Clerk shall submit a report with the list of applicants for publication on the agenda of the October 4, 2023 Council meeting;
5. Each applicant shall be provided the opportunity to address Council for up to 5 minutes;
6. The order in which applicants address Council shall be determined by lot drawn by the City Clerk when Council begins its debate on the item;
7. Members of Council shall be entitled to ask one question of each candidate;
8. Council shall vote on the appointment by ballot in accordance with the Council Procedures; and
9. Council shall enact a by-law confirming the appointment of the successful candidate to the office for the remainder of the term of the present Council.

OR

## **Option B – By-election**

b. Fill the vacancy by requiring a by-election be held for Ward 20 - Scarborough Southwest, and:

1. Approve an in-year budget adjustment to increase the City Clerk's Office 2023 Operating Budget by \$500,000 gross and \$0 net, fully funded from the Election Reserve Fund (XR1017) to reflect the funds required to conduct the by-election.

## **FINANCIAL IMPACT**

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If Council chooses to fill the vacancy by appointment, there will be minimal costs for advertising, printing and supplies, which can be absorbed in the 2023 City Clerk's Office Operating Budget.

If Council chooses to fill the vacancy through a by-election, the cost of administering the by-election would be approximately \$500,000, exclusive of the City's contribution rebate program costs. The City Clerk will also implement a contribution rebate program for by-election candidates, for which rebate payments are estimated to cost approximately \$200,000.

Funding for the Ward 20 by-election will be fully recovered from the Election Reserve Fund (XR1017) with net zero impact to the City Clerk's 2023 approved budget. There is sufficient funding from the Election Reserve Fund for this by-election cost.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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City Council, at its meeting on February 7, 2023, amended Municipal Code Chapter 53, Elections, to re-introduce the requirement that candidates participating in the contribution rebate program submit copies of all campaign invoices with their audited financial statement, to take effect for future by-elections and general elections.  
<https://secure.toronto.ca/council/agenda-item.do?item=2023.EX2.5>

City Council, at its meeting on October 1, 2021, amended Municipal Code Chapter 53, Elections, to authorize a mail-in voting program for the City's municipal and school board elections and by-elections and to provide for the payment of rebates to individuals who make contributions to candidates for office on Council in the City's municipal elections and by-elections.  
<https://secure.toronto.ca/council/agenda-item.do?item=2021.EX26.1>

## **COMMENTS**

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### **Issue Background**

Section 204(d) of the City of Toronto Act, 2006 provides that the office of a member of Council becomes vacant if the member resigns their position by written notice filed with the City Clerk. On July 24, 2023, Gary Crawford provided the City Clerk with a resignation letter which indicated that his resignation from office would take effect as of the end of the day on July 26, 2023.

The City of Toronto Act, 2006 also provides that when a vacancy on Council occurs, Council must declare the seat vacant at its next meeting. Within 60 days of the office being declared vacant, Council must either fill the vacancy by appointment or pass a by-law requiring that a by-election be held.

The person appointed or elected to fill the vacancy holds office for the remainder of the term, ending November 14, 2026.

### **Option A - Filling the Vacancy by Appointment**

Section 208 of the City of Toronto Act, 2006 provides that Council may fill the vacancy by appointing a person who has consented to accept the appointment.

To be qualified to hold office, a person must be:

- 18 years of age or older
- A Canadian citizen
- A resident of the City of Toronto, or an owner or tenant of land in the City or the spouse of such an owner or tenant
- Not prohibited from holding municipal office or from voting under any Act.

As the legislation does not provide the process that Council must follow in order to fill a vacancy by appointment, if Council chooses this option, staff recommend the adoption of the process set out in Recommendation 2a. This is the same process that was followed for the most recent appointments in 2022 for Ward 1 - Etobicoke North, Ward 10 - Spadina-Fort York and Ward 13 - Toronto Centre.

If Council adopts this process, the City Clerk will advertise to invite applications from qualified electors for consideration by the City Council at a special meeting to be held at 9:30 a.m. on October 4, 2023.

### **Option B - Filling the Vacancy by By-Election**

Section 208 of the City of Toronto Act, 2006 similarly provides that, in the case of a vacancy, Council may pass a by-law requiring that a by-election be held to fill the vacancy.

The draft bill provides that the by-law will be enacted and passed on September 6, 2023, which meets the 60 day requirement under the City of Toronto Act, 2006 and would result in nominations opening on September 7, 2023. Under the Municipal Elections Act, 1996, the City Clerk fixes the nomination day (i.e., the close of the nomination period) between 30 and 60 days after the passage of the by-law requiring that a by-election be held. Voting day must be 45 days after nomination day. The earliest voting day would therefore be Monday, November 27, 2023.

A variety of factors will be considered in determining voting dates, including holidays and ensuring adequate time for the preparation of the by-election.

## **Mail-in Voting and Contribution Rebate Program**

In October 2021, Council passed a by-law amending Toronto Municipal Code Chapter 53, Elections to authorize mail-in voting for subsequent Toronto municipal elections and by-elections. The City has now offered mail-in voting as an alternative voting method in one general election and two by-elections, and mail-in voting will again be offered to all electors as an alternative voting option in the Ward 20 - Scarborough Southwest by-election.

Council also passed a by-law amending Toronto Municipal Code Chapter 53, Elections to authorize a contribution rebate program that provides for the payment of rebates to individuals who make contributions to candidates for office on City Council for all elections and by-elections. A contribution rebate program will be implemented for the Ward 20 - Scarborough Southwest by-election.

## **CONTACT**

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## **SIGNATURE**

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John D. Elvidge  
City Clerk

## **ATTACHMENTS**

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Attachment 1 – Draft Bill to Require a By-election for the Office of Councillor, Ward 20 - Scarborough Southwest

## **Attachment 1**

### **Draft By-law to require a by-election for the Office of Councillor, Ward 20 - Scarborough Southwest**

Whereas the Office of Councillor, Ward 20 - Scarborough Southwest has become vacant; and

Whereas section 208 of the City of Toronto Act, 2006 provides that, if the office of a Member of Council becomes vacant, Council may, by by-law, require a by-election to be held to fill the vacancy.

The Council of the City of Toronto enacts:

1. A by-election shall be held to fill the vacant Council seat for Ward 20 - Scarborough Southwest.
2. This by-law shall be deemed to be passed and come into force on September 6, 2023 at 5:00 p.m. Eastern Standard Time.

Enacted and passed on September 6, 2023

Frances Nunziata,  
Speaker

John D. Elvidge,  
City Clerk

(Seal of the City)