

Minute No. 129 as recorded in the Minutes of the meeting of the Council of The Regional Municipality of York held on September 20, 2018.

129 Report No. 1 of the Commissioner of Corporate Services and Regional Clerk - Updating the Procedure Bylaw to Accommodate the Appointment of the Regional Chair

It was moved by Regional Councillor Davison, seconded by Mayor Dawe that Council waive the notice requirements to allow for the reconsideration of Bylaw No. 2018-40 which was considered at the May 17, 2018 Regional Council meeting.

Carried on a 2/3 majority

It was moved by Mayor Pellegrini, seconded by Mayor Van Bynen that Council reconsider Bylaw No. 2018-40, which was considered at the May 17, 2018 Regional Council meeting.

Carried on a 2/3 majority

It was moved by Mayor Hackson, seconded by Regional Councillor Ferri that Council adopt the following recommendation in the report dated September 11, 2018 from the Commissioner of Corporate Services and Regional Clerk:

1. The Region's Procedure Bylaw 2018-40 be amended to incorporate the changes set out in Attachment 1 to accommodate the appointment of the Regional Chair.

Carried

A recorded vote on the adoption of the report was as follows:

For: Altmann, Armstrong, Barrow, Bevilacqua, Davison, Dawe, Emerson, Ferri, Hackson, Heath, Hogg, Pellegrini, Quirk, Rosati, Scarpitti, Singh, Taylor, Van Bynen (18)

Against: Jones, Li (2)

Carried

Report dated September 11, 2018 from the Commissioner of Corporate Services and Regional Clerk now follows:

1. Recommendation

It is recommended that:

1. The Region's Procedure Bylaw 2018-40 be amended to incorporate the changes set out in *Attachment 1* to accommodate the appointment of the Regional Chair.

**A motion to reconsider the adoption of Bylaw 2018-40 at the May 17, 2018 Regional Council meeting must be approved before the above recommendation can be considered.*

2. Purpose

The Region's Procedure Bylaw governs the procedures for Regional Council and Committee meetings. This report presents amendments to the Procedure Bylaw that respond to legislated changes related to the appointment of the Regional Chair.

3. Background

The Region's Procedure Bylaw was last updated in 2018

Since the establishment of York Region in 1971, the Regional Chair position has been filled through an appointment process at the Inaugural Meeting of Regional Council. The method of administering the appointment process was most recently accounted for in Bylaw 2014-81 (Procedure Bylaw).

In December 2016, [The Building Ontario Up for Everyone Act \(Budget Measures\), 2016](#) came into force and required that all regional chairs across the province be directly elected by a general vote; commencing as part of the 2018 Municipal Election.

In response to this legislative change, on [May 17, 2018](#) Bylaw 2014-81 was amended to remove the appointment process and to enact other minor changes to the Procedure Bylaw.

On August 14, 2018, the Provincial Government approved [The Better Local Government Act, 2018](#) which reversed the 2016 legislation and re-enacted the appointment process for the Regional Chair position.

4. Analysis and Implications

The Procedure Bylaw must be updated to include the Regional Chair appointment process

As a result of the changes passed on August 14th, Regional Council will appoint the Regional Chair at its December 6, 2018 Inaugural Meeting. Consequently, the Procedure Bylaw should be updated to include the appointment process and to revise the order of business for the Inaugural Meeting.

The proposed provisions for handling the Regional Chair appointment are the same as those that were in place for the 2014 Inauguration, with the exception of two changes to provide additional clarity to the process.

The updated appointment process contains a mechanism to resolve a tie vote

Under Section 4.17 of the previous Procedure Bylaw, if after the first vote the nominees are tied a ten-minute recess would be held, followed by another vote. If the vote remained tied this process would be repeated. If the nominees remain tied following the third vote, the Clerk would adjourn the meeting to the following day(s) at which further votes shall be taken until a nominee is appointed. This process was open-ended and lacked a definitive mechanism to resolve the tie.

[Section 62\(3\)](#) of *The Municipal Election Act, 1996* sets out the process to resolve a tie vote in the Municipal Election. It prescribes that if following a recount the result of the vote remains a tie, the Clerk shall choose the successful candidate by drawing lots.

Section 4.17 of the Procedure Bylaw has been revised to contain a similar provision. Where upon the conclusion of a second vote on the day following the Inaugural Meeting the nominees remain tied, the Clerk shall choose the successful candidate by drawing lots. Under this process a total of five votes would have to take place before this happens.

A prior inconsistency in the tie-breaking process should be removed

Section 4.14 of Bylaw 2014-81 contained the following provision as part of the appointment process:

“To be appointed as Regional Chair, a nominee shall obtain the vote of a majority of the Members present. The Regional Chair may vote to break a tie.”

It is proposed that the last sentence of Section 4.14 be deleted as it is inconsistent with the tie breaking process provided for in Section 4.17.

The previous amendment to provide full voting rights to the Regional Chair can be maintained

Under Sections 9.6 and 19.8 of the old Procedure Bylaw the Regional Chair could only vote at Council to break a tie. This provision was a holdover from the [Regional Municipality of York Act](#), which was repealed on January 1, 2003.

Bylaw 2018-40 amended those provisions to enable the Regional Chair to vote at Council meetings. This served to align the Procedure Bylaw with [Section 218\(3\)](#) of *The Municipal Act, 2001*, which prescribes that each member, including the Chair, shall have at least one vote.

The recent legislated changes do not preclude Council from retaining this provision.

There is an additional opportunity to clarify current practices in the Procedure Bylaw

Section 9.1 of the current Procedure Bylaw contains a reference that in the absence of the Regional Chair the Clerk shall call upon the Acting Chair for the month. The role of Acting Chair is no longer rotated on a month-by-month basis; and therefore it is proposed that the wording be updated to reflect the current practice of having fixed alternates for the term of Council.

5. Financial Considerations

There are no financial implications associated with updating the Procedure Bylaw.

6. Local Municipal Impact

There is no local municipal impact associated with this report.

7. Conclusion

On August 14, 2018, [The Better Local Government Act, 2018](#) received royal assent and reversed the previous legislation requiring the Regional Chair to be directly elected by general vote. The Region's Procedure Bylaw should be updated to reflect this change, and include the process for appointing the Chair.

For more information on this report, please contact Christopher Raynor at 1-877-464-9675 ext. 71300.

The Senior Management Group has reviewed this report.

Recommended by:

Christopher Raynor
Regional Clerk

Recommended by:

Approved for Submission:

Dino Basso
Commissioner of Corporate Services

Bruce Macgregor
Chief Administrative Officer

September 11, 2018

Attachments (1)

8854796

Accessible formats or communication supports are available upon request

3. INAUGURAL MEETING OF COUNCIL

Order of Business

- 3.2 The order of proceedings at an inaugural meeting shall include:
 - (a) filing of certificates of election in accordance with Section 232(3) of the Act;
 - (b) filing or taking of Members' declarations of office;
 - (c) appointment of the Regional Chair;
 - (d) signing of the Regional Chair's declaration of office;
 - (e) passage of a confirmatory bylaw and any other relevant bylaws; and
 - (f) other ceremonial proceedings as deemed appropriate by the Regional Chair, the Chief Administrative Officer or the Clerk.

Reincorporates the previous process with highlighted changes

4. APPOINTMENT OF THE REGIONAL CHAIR

Regional Chair's Role

4.1 The Regional Chair shall be the Chief Executive Officer of the Regional Corporation and shall hold office for the term of Council and until the Regional Chair's successor is appointed in accordance with the Act.

Inaugural Meeting

4.2 The appointment of the Regional Chair shall be conducted at the inaugural meeting of Council.

Nominations

4.3 The Clerk shall act as presiding officer until the Regional Chair is appointed and shall call for nominations.

Form of Nomination

4.4 Each nomination shall be in writing and shall be signed by the nominator and a seconder to the nomination and shall have the written consent of the nominee.

Eligibility

- 4.5 A nominee is a person whose candidacy for the position of Regional Chair has been moved and seconded by Members present at the inaugural meeting of Council and who is:
 - (a) A resident of the Region or the owner or tenant of land in the Region or the spouse of such owner or tenant;
 - (b) at least 18 years of age;
 - (c) a Canadian citizen; and

(d) not prohibited from voting in the municipal election.

- Nominations Closed 4.6 Where it appears to the Clerk, by asking for further nominations and receiving no response, that there are no further nominations, the Clerk shall call for a motion declaring nominations closed.
- Idem 4.7 After nominations have been closed, no motion shall be in order except a motion to recess for a specified time period.
- Speakers 4.8 After nominations have been closed, each mover and seconder of a nomination and each nominee shall, prior to the vote being taken, be permitted to speak to the nomination for not more than five (5) minutes.
- Order of Speakers 4.9 The speakers shall be called upon to address Council in alphabetical order of the nominees' surnames.
- Idem 4.10 The speakers shall address Council in the following order with respect to each nominee:
(a) the mover;
(b) the seconder; and
(c) the nominee.
- Withdrawal 4.11 A nominee may withdraw his or her name at any time prior to a vote being called.
- Vote 4.12 A vote shall be taken regardless of the number of nominations. Where there is only one nominee, the vote may be to close nominations and to recognize the acclamation of the one nominee to the position of Regional Chair. The Regional Chair shall be appointed by open vote, however, if there is more than one nominee the appointment may be by secret ballot or open vote, as determined by Council.
- Method of Voting 4.13 If there are two or more nominees, each Member shall vote. The order of calling the Members to announce their vote shall be randomly by lot drawn by the Clerk on each vote not conducted by secret ballot.
- Majority Vote 4.14 To be appointed as Regional Chair, a nominee shall obtain the vote of a majority of the Members present. **The Regional Chair may vote to break a tie.**
- No Majority Obtained 4.15 If there are more than two nominees who wish to stand and, if upon the first vote no nominee receives the majority required for appointment, the name of the nominee receiving the least number of

votes shall be dropped and Council shall proceed to vote again and continue until either:

- (a) a nominee receives the majority required for appointment at which time such nominee shall be declared appointed; or
- (b) it becomes apparent by reason of an equality of votes that no nominee can be appointed.

No Majority - Tie
for Least
Number

4.16 In the case of a vote where no nominee receives the majority required for appointment and where two or more nominees are tied with the least number of votes, a vote shall be taken to decide which one of the tied nominees' names shall be dropped from the list of names to be voted on in the next vote.

Tie - Two
Nominees
Remaining

4.17 If only two nominees remain, and if on the first vote the nominees are tied, a ten-minute recess shall be held, followed by a second vote. If on the second vote the nominees remain tied, a further ten minute recess shall be held followed by a third vote. If the nominees remain tied after the third vote, the Clerk shall adjourn the meeting until the following day(s) at which a further vote shall be taken **until a nominee is appointed.**

Tie -
determination by
lot **NEW**

4.18 ***Where upon the conclusion of a second vote on the day(s) following the Inaugural Meeting the nominees remained tied, the Clerk shall choose the successful candidate by drawing lots.***

Recorded Vote

4.19 Where there are two or more nominees, the Clerk shall record the votes of each Member on each vote that is not conducted by secret ballot.

9. PRESIDING OFFICER

Appointment of
Presiding Officer

9.1 In case the Regional Chair does not attend within fifteen (15) minutes of the time a quorum is present after the scheduled commencement time for a meeting of Council or Committee of the Whole, or after resumption of the meeting after an adjournment, the Clerk shall call upon the Acting Chair **for the month in question** and he or she shall preside until the arrival of the Regional Chair.