Agenda – Council – June 20, 2019

Report – Executive Policy Committee – June 11, 2019

Item No. 4 Paid Leave of Absence for Elected Officials Charged with Criminal Offences

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 11, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That this report be received as information.

Agenda – Council – June 20, 2019

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DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 11, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

COUNCIL DECISION:

On December 13, 2018, Council concurred in the recommendation of the Executive Policy Committee and directed the Winnipeg Public Service to do a cross-jurisdictional analysis of other Canadian municipalities regarding their policies on elected members of Council taking a paid leave of absence while facing criminal charges including, but not necessarily limited to, assault and sexual assault, and report back in 180 days.

ADMINISTRATIVE REPORT

Title: Paid Leave of Absence for Elected Officials Charged with Criminal Offences

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
C. Gameiro	M. Lemoine	N/A	D. McNeil

EXECUTIVE SUMMARY

On December 13, 2018, Council directed the Winnipeg Public Service to conduct a cross-jurisdictional analysis of other Canadian municipalities regarding their policies on elected members of Council taking a paid leave of absence while facing criminal charges including, but not necessarily limited to, assault and sexual assault, and report back in 180 days.

Of the major cities contacted, none had any regulations that would allow for the suspension of an elected official when facing criminal charges. However, similar to the City of Winnipeg, most of the cities surveyed indicated that a member of Council does forfeit their seat if they are convicted of certain offences.

RECOMMENDATIONS

1. That this report be received as information.

REASON FOR THE REPORT

On December 13, 2018, Council directed the Winnipeg Public Service to conduct a cross-jurisdictional analysis of other Canadian municipalities regarding their policies on elected members of Council taking a paid leave of absence while facing criminal charges including, but not necessarily limited to, assault and sexual assault, and report back in 180 days.

IMPLICATIONS OF THE RECOMMENDATIONS

N/A

HISTORY/DISCUSSION

Currently there are no regulations in the City of Winnipeg Charter Act (the Charter) or any City of Winnipeg by-law that allows for the suspension of a member of Council, with or without pay, under any circumstances.

On December 13, 2018, Council directed the Winnipeg Public Service to conduct a cross-jurisdictional analysis of other Canadian municipalities regarding their policies on elected members of Council taking a paid leave of absence while facing criminal charges including, but not necessarily limited to, assault and sexual assault, and report back in 180 days.

The Winnipeg Public Service conducted a review of major Canadian cities including the cities of Vancouver, Calgary, Edmonton, Regina, Saskatoon, Ottawa and Toronto. The results of the review concluded that none of the cities surveyed have regulations regarding the imposition of disciplinary action for elected members of Council who have been charged with a criminal offence.

Similar to the City of Winnipeg, most of the cities surveyed indicated that a member of Council does forfeit their seat if they are convicted of certain offences.

Section 47(1) of the Charter states that:

> A member of council forfeits the member's seat on council if the member:
> (a) is convicted of an offence
> (i) punishable by imprisonment for five or more years,
> (ii) under section 122 (breach of trust by public officer), 123 (municipal corruption), 124 (selling or purchasing office), or 125 (influencing or negotiating appointments or dealing in offices) of the Criminal Code (Canada),
> (iii) under section 496 (unauthorized expenditures), or
> (iv) under a by-law passed under clause 74(a), if the by-law provides that the penalty for being convicted of the offence is forfeiture of the member's seat on council;

The provisions in the Charter for the forfeiture of a seat are only applicable when a member of Council is convicted of an offence, not charged with an offence. In order for Council to have the ability to suspend one of its members, an amendment to the Charter would be required.

The same holds true for individuals elected to other levels of Government. The laying of a criminal charge against a Member of the Legislative Assembly of Manitoba (MLA) or a

member of the House of Commons does not disqualify them from remaining in office. An MLA's seat is vacated if they are convicted of an indictable offence and sentenced to imprisonment for a term of five years or more, while a Member of the House of Commons loses their seat if convicted of an indictable offence and sentenced to a term of imprisonment of two years or more.

Although there are no provisions in place requiring members of the House of Commons to take a paid leave of absence while facing criminal charges, the House of Commons Procedure and Practice does allow the House to decide "if a Member should be permitted to sit on committees, receive a salary or even be allowed to keep his or her seat. A criminal conviction is not necessary for the House to expel a Member; the House may judge a Member unworthy to sit in the Chamber for any conduct unbecoming the character of a Member."

The authority to expel members from the House of Commons for having committed serious offences has only been exercised four times since Confederation in 1867. Two of those instances occurred in 1874 and 1875, both for Louis Riel.

FINANCIAL IMPACT

Financial Impact Statement **Date:** May 1, 2019

Project Name:
Paid Leave of Absence for Elected Officials Charged with Criminal Offences

COMMENTS:
There are no financial implications associated with the recommendations in this report.

original signed by T,Yanchishyn
Tanis Yanchishyn
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

N/A

OURWINNIPEG POLICY ALIGNMENT

The recommendations contained in this report align with OurWinnipeg Direction 1: Provide efficient and focused civic administration and governance.

SUBMITTED BY

Department: City Clerks
Prepared by: C. Gameiro
Date: May 1, 2019