Minutes - Executive Policy Committee - September 22, 2004

REPORTS

Minute No. 499 Proposal to Amend The City of Winnipeg Charter - Nomination of Member of Council to be elected to the House of Commons File GL-5.1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee recommends to Council:

1. That the administrative report dated August 2, 2004 be received as information.

2. That the April 21, 2004 Council Motion, pertaining to amending The City of Winnipeg Charter as it relates to the nomination of a Member of Council to be elected to the House of Commons, be filed, inasmuch as over the next few months consideration will be given to proposing amendments so there is consistency and fairness to the legislation governing all municipalities in Manitoba, and throughout Canada.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Deputy Mayor Eadie,

That the administrative report dated August 2, 2004 be received as information, and the April 21, 2004 Council Motion be filed, inasmuch as over the next few months consideration will be given to proposing amendments so there is consistency and fairness to the legislation governing all municipalities in Manitoba, and throughout Canada.

and forwarded to Council.

Carried

COUNCIL:

On June 23, 2004, Council granted an extension of time of 60 days for the Executive Policy Committee to report back on the April 21, 2004 resolution.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 5, 2004, the Executive Policy Committee referred the April 21, 2004 Council Motion to the City Clerk for a report to clarify the rules/regulations regarding Members of Council who are nominated to be elected to the House of Commons and/or the Manitoba Legislative Assembly; said report to include the best practices of other Canadian cities; and recommendations (options) for possible legislative changes to The City of Winnipeg Charter and/or The Local Authorities Election Act.

COUNCIL:

On April 21, 2004, Council ruled automatic referral of the following motion to the Executive Policy Committee:

Moved by Councillor De Smedt,
Seconded by Councillor Wyatt,

WHEREAS section 47(1)(b) of The City of Winnipeg Charter directs that a member of council forfeits the member's seat upon being nominated to be elected as a member of the Legislative Assembly;

AND WHEREAS section 47(2) of The Charter directs that a member of the Legislative Assembly who is nominated to be elected as a member of council forfeits the member's seat in the Assembly;

DECISION MAKING HISTORY (continued):

AND WHEREAS section 23(2) of The Charter directs that a member of the Senate or House of Commons is disqualified from being nominated for, elected or remaining as a member of Council;

AND WHEREAS The Charter is silent on members of council being nominated to be elected as a member of the House of Commons;

THEREFORE BE IT RESOLVED that the City of Winnipeg request that the Province of Manitoba immediately amend The Charter by adding the words “House of Commons” to Section 47(1)(b), thereby directing that a member of council forfeits the member’s seat upon being nominated to be elected as a member of the House of Commons.

Report

Re: COUNCIL MEMBERS NOMINATED TO BE ELECTED TO OTHER OFFICES

For Submission To: Executive Policy Committee

Original Report Signed By: R. Kachur, City Clerk

Report date: August 2, 2004

Recommendation(s):

- That the attached report be received as information.

Report Summary

Key Issues:

- *The City of Winnipeg Charter* provides rules regarding members of Council who wish to run for office at a senior level of government. On April 21, 2004, Council referred a related motion from Councillors De Smedt and Wyatt to the Executive Policy Committee.

Implications of the Recommendation(s):

General Implications

X None

☐ For the organization overall and/or for other departments

☐ **For the community and/or organizations external to the City of Winnipeg**

☐ Involves a multi-year contract

Comment:

Policy Implications

X No

☐ Yes

Comment:

Environmental Implications

X No

☐ Yes

Comment:

Human Resource Implications

X No

☐ Yes

Comment:

Financial Implications

X Within approved current and/or capital budget

☐ Budget adjustment required

Report

Reason for the report:

Council, at its meeting of April 21, 2004, referred a motion moved by Councillors De Smedt and Wyatt to the Executive Policy Committee. The motion was as follows:

> *WHEREAS section 47(1)(b) of The City of Winnipeg Charter directs that a member of council forfeits the member's seat upon being nominated to be elected as a member of the Legislative Assembly;*
>
> *AND WHEREAS section 47(2) of The Charter directs that a member of the Legislative Assembly who is nominated to be elected as a member of council forfeits the member's seat in the Assembly;*
>
> *AND WHEREAS section 23(2) of The Charter directs that a member of the Senate or House of Commons is disqualified from being nominated for, elected or remaining as a member of Council;*
>
> *AND WHEREAS The Charter is silent on members of council being nominated to be elected as a member of the House of Commons;*
>
> *THEREFORE BE IT RESOLVED that the City of Winnipeg request that the Province of Manitoba immediately amend The Charter by adding the words "House of Commons" to Section 47(1)(b), thereby directing that a member of council forfeits the member's seat upon being nominated to be elected as a member of the House of Commons*

Executive Policy Committee, at its meeting of May 5, 2004, referred the motion to the City Clerk for a report to clarify the rules and regulations regarding Members of Council who are nominated to be elected to the House of Commons and/or the Manitoba Legislative Assembly with said report to include the best practices of other Canadian

cities and recommendations for possible legislative changes to *The City of Winnipeg Charter* and/or *The Local Authorities Election Act*.

History & Discussion:

In June of 2004, the Mayor of the City of Winnipeg was nominated as a candidate in the 38th general federal election. Although the Mayor chose to resign his position as Mayor when he was nominated, there was no legislation in place requiring him to do so.

The City of Winnipeg Charter contains provisions regarding members of Council who wish to seek office with a senior level of government.

Section 23(2)(d) of *The City of Winnipeg Charter* states the following:

> ***The following individuals are disqualified from being nominated for, elected as or remaining as a member of council:***
>
> ***(d) a member of the Senate or House of Commons of Canada;***

Section 47(1)(b) of *The City of Winnipeg Charter* states the following:

> ***A member of council forfeits the member's seat on council if the member:***
>
> ***(b) is nominated to be elected as a member of the Legislative Assembly;***

The Municipal Act, which applies to most other municipalities in Manitoba other than Winnipeg, is silent on members of Council seeking Federal Office. Members of the Legislative Assembly are precluded from running for the office of local Councillor.

Section 23(2)(d) is a direct copy from the former *City of Winnipeg Act*. Section 47(1)(b) was changed with its inclusion in *The City of Winnipeg Charter*. In the former *City of Winnipeg Act*, members of Council forfeited their seats only upon election to the Legislative Assembly, not simply nomination.

The effect of the current legislation in *The City of Winnipeg Charter* is that members of Council must resign their seats on Council simply to be nominated provincially, i.e. seek a seat in the Legislative Assembly. In contrast, members of Council do not have to resign their seat in order to be nominated federally, i.e. seek a seat in the House of Commons. They are required to resign only if they are elected to the House of Commons. Further, Councillors in other Manitoba municipalities do not have to resign their seats on Council to be nominated provincially.

Other relevant legislation does not deal with a member of Council becoming nominated

federally.

The Local Authorities Election Act governs the operation of elections for Manitoba local governments. It concerns itself with candidates becoming members of Council, not whether they can remain as such. This Act is silent in regard to local government elected officials seeking office at a senior level of government.

The Canada Elections Act provides the Federal legislation governing federal elections including election of candidates to the House of Commons. Section 65 of this Act lists the circumstances where persons are not eligible to be nominated as a candidate in a federal election, including members of a provincial legislature. It is silent in regards to local government elected officials seeking office in the House of Commons.

A survey of other Canadian municipalities was undertaken, asking if a member of council must resign their seat in order to be nominated as a candidate in a federal election in their municipality.

Six municipalities responded to the survey as at the publication date of this report. Results are shown below.

Question: Does your municipal / provincial legislation require a Member of Council to resign his / her seat if he / she is a candidate in a Federal Election / running for Federal Office?		
Municipality	**Yes**	**No**
Vancouver		**X**
Calgary		**X**
Edmonton		**X**
Regina		**X**
Saskatoon		**X**
Ottawa		**X**
Toronto		**X**
Halifax		**X**

As such, the current legislation in place in Winnipeg regarding a member of Council seeking nomination to the House of Commons appears to be in keeping with existing federal and provincial legislation as well as the legislation that exists in other Canadian municipalities.

However, *The City of Winnipeg Charter* does provide for differing treatment for Winnipeg Council candidates running for provincial office versus candidates running for federal office or non-Winnipeg Councillors running for provincial office.

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH:
Corporate Services – Legal Services

THIS REPORT SUBMITTED BY:
The City Clerk's Department

Financial Impact Statement:

Project Name:

Date: First Year of Program:

	0	1	2	3	4
Capital					
Capital Expenditures Required					
Less: Existing Budgeted Costs					
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal					
Debt - External					
Grants (Enter Description Here)					
Reserves, Equity, Surplus					
Other - Enter Description Here					
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs					
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts					
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -
Additional Comments:					

Marc Lemoine

Department Controller

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