

**REPORT ON INVESTIGATION BY CLOSE MEETING INVESTIGATOR RELATED
TO APPOINTMENT TO FILL COUNCIL POSITION IN MAY, 2021**

This report results from a request by [REDACTED] conveyed in a letter by [REDACTED] solicitor [REDACTED] dated June 23, 2021. The request concerns Council's process in the appointment of Todd Poetter to fill a vacancy on Woodstock City Council. [REDACTED]
[REDACTED]
[REDACTED]

The request was forwarded to me as Closed Meeting Investigator and Integrity Commissioner for the City of Woodstock. Although reference is made in the letter to my position as Integrity Commissioner, no specific issue or request for investigation with respect to the Code of Conduct was made and therefore no investigation was made or finding rendered with respect to the Code of Conduct.

In the request, concern is raised with respect to a decision by Council to suspend the Procedural By-Law and to appoint Todd Poetter to fill the Council position. There is also a suggestion that Ms. Leatherbarrow's and Mr. Poetter's suitability for the vacant Council seat were evaluated during a closed session of Council.

PROCEDURAL BY-LAW

The City of Woodstock has in force a Procedural By-law to be followed by Council. The Procedural By-law contains in Article 11, Procedures for the Filling of a Vacancy on Council. Subsection 16.11.4 outlines the specific provisions for filling a vacancy for the position of City Councillor. Under those provisions there are progressive steps to be followed in filling the position:

1. The position is to be formally declared vacant.
2. The position is to be offered to the candidate who was the runner up in the last municipal election provided that candidate received a number of votes greater than 50% of the number of votes achieved by the candidate directly ahead of him or her. (It is to be noted that Ms. Leatherbarrow meets that criteria).

3. If the position is not filled by the first step, then advertisements are to be sent out requesting letters of interest. The identity of the applicants is to be made public and the applicants are to be reviewed in a Closed Session. A narrowed number are to be asked to make verbal presentations to Council. The Council will then select the replacement in Closed Session.
4. If no candidate is appointed under the Application Process, a By-Election is to be held. The Procedural By-law contains a further provision:

“Any one or more of these rules and orders may be temporarily suspended by a vote of 2/3 of the whole Council.”

In making its choice of Mr. Poetter to fill the Council position, Council appears to have departed from the process outlined in the Procedural By-law. I have reviewed the Minutes of the Council Meeting of May 6, 2021, at which a motion was passed to offer the vacant position to Mr. Poetter. The vote was unanimous, and the Minutes of the meeting contained the comment “Motion carried by a 2/3 majority”. Although the intent appears to be reflected in the Minutes, there appears to have been no clear Motion put forward or passed to suspend the Council vacancy provisions of the Procedural By-law. The question of what, if any impact this has on the validity of the appointment is not before me and does not fall under my jurisdiction as Closed Meeting Investigator.

Council went into Closed Session at the May 6, 2021 Meeting. The Clerk advises that suspending the Procedural By-law was not discussed at the Closed Meeting. I have reviewed the Closed Session Minutes from the May 6, 2021 Meeting which confirms the Clerk’s comments. Accordingly, it appears that the question of suspending the process in the provisions of this Procedural By-law were not discussed in Closed Session.

COUNCIL APPOINTMENT

The Council vacancy occurred as a result of the death of Councillor Ron Fraser on April 4, 2021. The first Council meeting after Councillor Fraser’s death was held on April 15, 2021. The meeting was largely taken up with paying respects to the Councillor and discussion of a process for filling the position of acting Mayor which had been occupied by Councillor Fraser. During the meeting the Council went into Closed Session. The Clerk advises that one of the matters

discussed was with respect to acquisition of land and the other was with respect to disposition of land. She advises that the vacant Council seat was not discussed during the Closed Meeting.

The next Closed Meeting was held on May 6, 2021. The Council Minutes indicate that the issue of filling the vacant Council seat was considered in Open Session and a Motion was passed to offer the position to Mr. Poetter. It was directed that a Special Council Meeting be held on May 7, 2021, to determine acceptance of the offer. Council went into Closed Session during the May 6, 2021, meeting. The Clerk advises that there were two items discussed during the Closed Session. One item concerned filling of committee vacancies and the other was with respect to disposition of land. The Clerk advises that the vacant Council seat was not on the Closed Meeting agenda, and it was not discussed during the Closed Session. A review of the Minutes of the Closed Session on May 6, 2021 confirms this.

A Special Meeting was held on May 7, 2021, to make the appointment. The Clerk advises that no Closed Session was held for that meeting. A review of the Agenda for the meeting confirms this to be the case.

Accordingly, after reviewing the relevant documents and considering the comments from the City Clerk, there does not appear to be any evidence that the appointment of Mr. Poetter to fill the Council position was discussed in a Closed Session of Council.

Dated: November 12, 2021

Gregory F. Stewart
Closed Meeting Investigator, City of Woodstock