

## CITY OF VAUGHAN

### **EXTRACT FROM SPECIAL COUNCIL MEETING MINUTES OF JULY 16, 2015**

Item 2, Report No. 29, of the Special Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on July 16, 2015.

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### **MUNICIPAL ELECTIONS ACT REVIEW**

The Special Committee of the Whole recommends approval of the recommendation contained in the following report of the City Clerk, dated July 16, 2015:

#### **Recommendation**

The City Clerk, in consultation with the Interim Commissioner of Legal & Administrative Services/City Solicitor recommends:

1. That Council adopt the formal resolution included as attachment 1 to this report as Council's submission to the Ministry of Municipal Affairs and Housing on the *Municipal Elections Act* review; and
2. That this resolution be communicated to area municipalities, the Region of York, the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), and the Association of Municipalities of Ontario (AMO).

#### **Contribution to Sustainability**

The *Municipal Elections Act* is part of a legislative framework which supports democracy, openness and transparency which, in turn, contribute to the sustainability of the City and good government.

#### **Economic Impact**

The economic impact associated with potential legislative change is unknown at this time.

#### **Communication Plan**

Council's resolution in this matter will be submitted to the Ministry of Municipal Affairs and Housing.

#### **Purpose**

The purpose of this report is to provide a draft formal resolution for Council's approval for submission to the Ministry of Municipal Affairs with respect to the review of the *Municipal Elections Act*.

#### **Background- Analysis and Options**

##### Synopsis

*This report summarizes the results of internal consultations with Members of Council and City Staff and input from municipal administrators on the review of the Municipal Elections Act. As a result of these consultations, a number of recommendations are being put forward for changes to the Act to ensure that the rules governing municipal elections are clear and simple and reflect how modern campaigns and elections should be run. These recommendations are incorporated in a proposed formal resolution which, when adopted by Council, will serve as Council's submission to the Ministry of Municipal Affairs and Housing on the Municipal Elections Act review.*

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On September 25, 2014, the Premier provided the Minister of Municipal Affairs and Housing with a mandate letter, identifying Municipal Governance Review as a priority for the provincial government. The mandate letter identified Municipal Governance Review, more specifically, a review of the *Municipal Elections Act*, as a priority for the year. The *Municipal Elections Act* is normally reviewed following each municipal election. The mandate letter noted that the focus of the review is to ensure that the *Municipal Elections Act* meets the needs of communities and provides municipalities the option of using ranked ballots as an alternative to first-past-the-post elections, beginning in 2018.

On May 28, 2015, the Ministry of Municipal Affairs and Housing announced the review of the *Municipal Elections Act*. The public, Members of Council and City Staff may provide direct submissions to the Ministry on the proposed reforms to the *Municipal Elections Act* until July 27, 2015, either via mail or email or online. The Ministry's review will focus on several aspects of the legislation in addition to ranked ballots. Attachment 2 to this report contains a copy of the Ministry's public consultation guide for the *Municipal Elections Act* Review.

At its meeting of June 23, 2015, Council approved a recommendation [Report No. 28, Item 5 of the Committee of the Whole Working Session] directing the City Clerk to compile comments from Members of Council and staff and prepare a draft formal resolution for Council's consideration with respect to proposed modifications to the Municipal Elections Act. The City Clerk circulated copies of the Ministry of Municipal Affairs and Housing consultation guide on the *Municipal Elections Act* to Members of Council and City staff on June 19, 2015, with a request for comments by June 26, 2015. Nine (9) responses were received and that feedback is incorporated in this report.

#### Consultation Questions

The *Municipal Elections Act* Public Consultation Document circulated by the Ministry of Municipal Affairs and Housing seeks public input on the overall election process, campaign finance, third party advertising, accessibility, enforcement and ranked ballots.

The consultation questions focus on the following areas:

- the overall municipal election process and how the *Municipal Elections Act* can be improved, including how the election is run, rules related to voting, voter and candidate eligibility, methods of voting and the campaign period, and the length of the municipal election campaign period;
- campaign finance rules under the *Municipal Elections Act*;
- whether there should be rules governing third party advertising in municipal elections;
- people's experience with accessibility in municipal elections, including any barriers experienced and what could be done to overcome those barriers;
- enforcement tools under the *Municipal Elections Act* and whether the municipal elections rules are effectively enforced;
- the use of ranked ballots, including whether municipalities should be able to use ranked ballots for some office and not others, whether public consultation should be required before implementing ranked ballots, and how ranked ballot results should be reported.

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In reviewing the internal responses received, it was noted that a number of the comments relate specifically to how the City of Vaughan administers its election process, rather than potential amendments to the *Municipal Elections Act*. This input, while not included in this report, will be valuable in helping to shape the planning for the 2018 municipal elections. Comments relating directly to the public consultation questions and potential amendments to the *Municipal Elections Act* are summarized below.

#### Summary of Responses to Consultation Questions

**The use of alternative vote casting methods such as vote tabulators, internet and telephone voting and the ability to provide voters with options such as advance voting are positive aspects of the current legislation.**

The use of alternative vote casting methods such as vote tabulators, internet and telephone voting are seen as ways of implementing more convenience and cost-effectiveness in the election process. Advance voting provides voters with more convenient options if they are not able to vote on voting day, or simply wish to avoid potential line-ups on voting day.

**The municipal campaign period is too long.**

It was suggested that the municipal campaign period, which currently starts on January 1<sup>st</sup> of an election year, is too long and should be moved to April or May. A shorter nomination period would allow a more focused campaign and potentially assist in engaging voters.

**Municipalities should have the option of limiting or prohibiting corporate and trade union donations.**

The *Municipal Elections Act* does not provide municipalities with the option of limiting or prohibiting corporate and trade union donations. The City of Toronto, under the *City of Toronto Act*, has the authority to prohibit corporations or trade unions from making contributions to candidates for office on Toronto City Council. The *Municipal Elections Act* should be amended so that all municipalities have this option.

**Posting of lists of donors and amounts in advance of Voting Day should be considered where possible.**

Posting of campaign donors and amounts received prior to Voting Day was cited as a way to introduce more transparency to the process.

**The *Municipal Elections Act* should include rules governing third party advertising.**

The absence of rules regarding third party advertising is seen as a gap that needs to be addressed. A third party advertisement is a message that is not paid for or sponsored by a candidate which either supports or opposes a candidate or takes a position on an issue.

The process should be transparent and subject to some form of reporting and rules, such as registration of third parties and imposition of spending limits. Concern was expressed about negative advertising and it was suggested that third party advertising should be restricted to promoting a candidate without reference to his or her opponents.

**The current accessibility requirements under the *Municipal Elections Act* work well, but the *Municipal Elections Act* should be amended to give the Clerk more flexibility to provide accessible voting options.**

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Currently, the *Municipal Elections Act* requires the Clerk to have regard to the needs of electors and candidates with disabilities and ensure accessible voting places. Giving the Clerk more flexibility to provide accessible voting options would further enhance accessibility. For example, consideration could be given to allowing special ballots for home visits, similar to what is offered at the provincial and federal levels. Options such as extended voting hours (past 8 p.m.), mobile voting units, and the ability to provide special voting opportunities in designated institutions and nursing homes on days other than Voting Day should also be considered.

**Penalties and oversight provisions in the *Municipal Elections Act* should be reviewed as there is a perception that rules are not enforced, or consequences are not significant enough to dissuade someone from breaking the rules.**

In general, there is a need for greater enforcement and imposition of penalties for contraventions of the *Municipal Elections Act*. Currently, it is left to electors to initiate complaints and legal action and they may be dissuaded because of a perception that violations have no apparent consequences. A range of penalties could be considered, depending on the severity of the violation, including financial penalties, publicizing the names of candidates in contravention of the *Act*, up to forfeiture of office or prohibition from running for office. [It should be noted that consideration has been given by municipal administrators to recommending the establishment of a specialized tribunal to deal with municipal election compliance matters.]

**Stricter penalties should be imposed for candidates who do not file their financial statements.**

Under the current legislation, candidates who fail to file a financial statement (or provide written notice that they have applied to the court for an extension), forfeit their elected office (if elected) and are ineligible to run for office or be appointed to fill a vacancy until after the next election. It was suggested consideration should be given to stricter penalties whereby candidates would be prohibited from running in any future elections.

**The *Municipal Elections Act* should include provisions regulating the timing of election signs and include penalties for sign violations.**

Although elections signs are currently regulated at the municipal level, the prevalence of election signs and violation of municipal sign by-laws were cited as significant problems during the municipal election. Consideration should be given to adding the regulation of election signs to the *Act* to provide more consistent rules governing when signs can be erected and penalties for sign violations.

**There are potential benefits and drawbacks to using ranked ballots but ultimately the decision on whether to use ranked ballots should be left to the municipality.**

There are both potential benefits and drawbacks to using ranked ballots. It offers the voter the opportunity to indicate their preferences beyond their first choice and may encourage them to be more engaged in considering their choices. Potential drawbacks include voter confusion over how votes are tallied, the need for significant voter education, and increased expectations it places on what is already low voter turnout. The choice of whether to use ranked ballots should be left to the municipality.

**Public Consultation should be a requirement before implementing ranked ballots.**

Public consultation should be undertaken before implementing ranked ballots. This could take place through a variety of means, including focus groups, surveys, website, social media, public information sessions, public meetings, or even a referendum question on the ballot. It was also suggested that consultations and education on the system should be coordinated by the province to ensure consistency.

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**If a municipality chooses to use ranked ballots, it is preferable to use ranked ballots for all offices.**

Notwithstanding that under the current legislative proposal, ranked ballots would not be an option for the election of school trustees, most respondents felt that if a municipality chooses to use ranked ballots they should be used for all offices.

Another viewpoint was that ranked ballots should be used only where one member is to be elected, as it would be too confusing for the electorate where multiple candidates are to be elected as in the case, for example, in the election of Regional and Local Councillors.

**Where there are multiple rounds of counting ranked ballots, results should be published after each round to ensure transparency.**

Respondents agreed that full disclosure of results after each round of counting ranked ballots would be required to ensure transparency. A full audit trail of the process would also be required.

#### Additional Consultations

In preparing this report, the City Clerk's Office also reviewed comments provided by the York Region Area Clerks' Working group provided at a Ministry of Municipal Affairs and Housing consultation on the *Municipal Elections Act* Review at the City of Markham on June 5, 2015. The York Region Area Clerks' Working Group will be providing a formal joint-submission to the Ministry on those election matters exclusively within the jurisdiction of Municipal Clerks in administering elections, or which impact upon the fair and efficient delivery of elections. At the time of writing of this report, this submission has not yet been completed but once finalized it will be submitted in a follow up communication if available.

It should also be noted that while this report summarizes the results of the internal consultation with Members of Council and City Staff, the City Clerk's Office will continue to partner with the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), York Region Area Clerks' Working Group, and similar staff associations and working groups to develop potential legislative reforms for consideration.

Many of the themes identified in the internal consultation results summarized in this report align with concerns that have been identified by election administrators. Additional themes identified by election administrators are incorporated in the proposed resolution and include the following:

**The *Municipal Elections Act* needs to be modernized throughout to recognize, for example, modern mail delivery methods and the use of electronic documents and signatures.**

The *Municipal Elections Act* is very prescriptive in requiring original signatures and, in some instances, the use of registered mail. In the election finance area, payment methods do not reflect electronic/modern modes of payment such as Pay Pal, online payments and e-transfers. These requirements should be reviewed with a view to recognizing more modern communication and transaction methods.

**The quality of the Municipal Voters' List is an ongoing concern and the province must consider new options for producing a list that is accurate and reliable.**

The current approach whereby the voters' list is supplied by data from the Municipal Property Assessment Corporation (MPAC) is not reliable. With revisions to the voters' list permitted on Voting Day, voters whose names are not on the list or whose information is incorrect may be subject to long line ups at the poll. A new method of managing and producing a more accurate and reliable voters' list is required.

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#### **Voting Day should be a mandatory Professional Activity Day throughout Ontario.**

For the 2014 municipal elections, Municipal Clerks in York Region were successful in obtaining agreement from the Public and English Catholic School Boards to designate Voting Day as a Professional Activity (PA) Day. Securing this agreement was a major breakthrough for election administration. Generally speaking, the schools used as voting locations in 2014 were much better than in 2010, both from an accessibility and manageability standpoint. Access to school permits and parking was easier, and there were fewer security issues. This approach should be mandated in the *Education Act* so that it is consistent throughout Ontario.

#### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report promotes the following strategic goals of Vaughan Vision 2020/Strategic Plan:

##### **Service Excellence**

- Demonstrate Excellence in Service Delivery

##### **Organizational Excellence**

- Ensure a High Performing Organization
- Ensure Financial Sustainability

##### **Staff Excellence**

- Demonstrate Effective Leadership

#### **Regional Implications**

There are no regional implications associated with this report.

#### **Conclusion**

The current *Municipal Elections Act* Review is an important opportunity for the City of Vaughan to provide the Ministry of Municipal Affairs and Housing with constructive comments and proposed modifications to this key piece of municipal legislation. The consultations with Members of Council, City Staff and input election administrators have produced several key themes that are incorporated in the proposed Council resolution included as attachment 1 to this report. It is recommended that Council adopt this resolution and forward the resolution along with a copy of this report to the Ministry of Municipal Affairs as Council's submission on the *Municipal Elections Act* review.

#### **Attachments**

Attachment 1 – Proposed Council Resolution – *Municipal Elections Act* Review

Attachment 2 – *Municipal Elections Act* Review Public Consultation Discussion Guide

#### **Report Prepared by:**

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Deputy City Clerk

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)