

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.

2

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.

CITY OF VAUGHAN

EXTRACT FROM SPECIAL COUNCIL MEETING MINUTES OF JULY 16, 2015

Item 2, SPCW Report No. 29 – Page 2

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.

CITY OF VAUGHAN

EXTRACT FROM SPECIAL COUNCIL MEETING MINUTES OF JULY 16, 2015

Item 2, SPCW Report No. 29 – Page 3

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 1st 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.

CITY OF VAUGHAN

EXTRACT FROM SPECIAL COUNCIL MEETING MINUTES OF JULY 16, 2015

Item 2, SPCW Report No. 29 – Page 4

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.

CITY OF VAUGHAN

EXTRACT FROM SPECIAL COUNCIL MEETING MINUTES OF JULY 16, 2015

Item 2, SPCW Report No. 29 – Page 5

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.

CITY OF VAUGHAN

EXTRACT FROM SPECIAL COUNCIL MEETING MINUTES OF JULY 16, 2015

Item 2, SPCW Report No. 29 – Page 6

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:

Barbara A. McEwan
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.)

MUNICIPAL ELECTIONS ACT REVIEW

Recommendations

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

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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.

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.

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- 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.

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.

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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 1st 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.

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.

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.

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:

Barbara A. McEwan
Deputy City Clerk

Respectfully submitted,

Jeffrey A. Abrams
City Clerk

Attachment 1 – Proposed Council Resolution – Municipal Elections Act Review

WHEREAS the *Municipal Elections Act* and associated regulations have not been the subject of a comprehensive review in several years;

AND WHEREAS municipal election administrators have over the years suggested substantive and technical amendments to enhance fairness and clarify and simplify the rules governing municipal elections;

AND WHEREAS the Ministry of Municipal Affairs and Housing is undertaking a review of the *Municipal Elections Act* to ensure that the rules governing municipal elections are clear and simple and reflect how modern campaigns and elections should be run;

AND WHEREAS this review will also include consideration of how the *Municipal Elections Act* could give municipalities the option of using ranked ballots in their elections as an alternative to the current system;

NOW THEREFORE BE IT RESOLVED that following in the spirit of accessibility, flexibility, clarity and fairness in the election process, the Ministry of Municipal Affairs give consideration to the following:

1. THAT municipal clerks be given the flexibility to provide more accessible voting options for voters, including extended voting hours, mobile voting, home visits and special voting opportunities in institutions and nursing homes on days other than Voting Day;
2. THAT the election campaign period be shortened so that it commences no earlier than May of an election year;
3. THAT municipalities be given the option of limiting or prohibiting trade union and corporate donations;
4. THAT the scheme of penalties for violations of campaign finance rules be reviewed with a view to matching the seriousness of the penalty to the degree of the financial transgression;
5. THAT Third Party Advertising be regulated under the Act through a transparent set of rules that includes the registration of third parties, imposition of spending limits, and reporting requirements;
6. THAT the general enforcement provisions under the Act be strengthened, including consideration of a specialized tribunal to ensure consistency and fairness, a broader range of clearly defined and set fines for violations, and additional options for electors to pursue complaints in lieu of or prior to taking legal action in the courts;
7. THAT the Act include provisions regulating the timing of election signs and include penalties for sign violations;
8. THAT the decision on whether or not to use ranked ballots, and for which offices, be left to the municipality;
9. THAT public consultation be a requirement before implementing ranked ballots;
10. THAT where ranked ballots are used, a full audit trail and publication of results occur after each round of counting to ensure transparency;
11. THAT the *Municipal Elections Act* be modernized throughout, including to permit electronic signatures and to eliminate the requirement to send documents by registered mail;
12. THAT the province implement new options for producing a Municipal Voters' List that is accurate and reliable in time for the 2018 municipal elections; and
13. THAT the *Education Act* be amended so that Voting Day is a mandatory Professional Activity Day throughout Ontario.



MUNICIPAL ELECTIONS ACT REVIEW

PUBLIC CONSULTATION DISCUSSION GUIDE

Spring 2015

ontario.ca/municipalelections

Front cover photo credit: flickr.com/markwatmough

MUNICIPAL ELECTIONS ACT REVIEW

PUBLIC CONSULTATION DISCUSSION GUIDE

TABLE OF CONTENTS

INTRODUCTION	1
Objectives	1
What is Being Reviewed?	1
Ways to Get Involved	1
USER INFORMATION	2
OVERVIEW OF THE MUNICIPAL ELECTIONS ACT	2
Questions on Voting in Municipal Elections	3
CAMPAIGN FINANCE	3
Campaign Finance Questions	4
THIRD PARTY ADVERTISING	4
Third Party Advertising Question	4
ACCESSIBILITY	4
Accessibility Question	5
ENFORCEMENT	5
Enforcement Question	5
RANKED BALLOTS	5
Municipal Choice	6
Why Ranked Ballots?	6
PUBLIC CONSULTATION	7
Ranked Ballot Public Consultation Questions	7
Public Reporting of Election Results	8
Ranked Ballot Election Public Reporting Question	8
Other Decisions Regarding Ranked Ballots	8
Other Comments on Ranked Ballots	8
WHAT'S NEXT?	8

INTRODUCTION

Municipalities are the government level closest to people in communities. They provide front-line services like public transportation, garbage collection and recreation facilities. They also deal with other local issues like fixing local roads and collecting property taxes.

The Ministry of Municipal Affairs and Housing reviews the Municipal Elections Act after each Ontario municipal election to determine if it meets the needs of Ontario communities.

This is your opportunity to help shape important provincial legislation and have your say about specific parts of the legislation and broader municipal election-related themes.

Objectives

We want to make sure that the rules governing how municipal leaders are elected are clear and simple, and reflect how modern campaigns and elections should be run.

We also want to allow more choice for municipalities in how municipal elections are run. As part of our review of the Municipal Elections Act, we will explore how we could give municipalities the option of using ranked ballots in their elections as an alternative to the current system.

What is Being Reviewed?

The government will focus on the following five themes:

1. Campaign finance
2. Third party advertising
3. Accessibility
4. Enforcement
5. Ranked ballots

Ways to Get Involved

We want to hear from Ontarians across the province. To share your feedback with the government through this workbook, there are a number of options:

Online: access this workbook online at ontario.ca/municipalelections and follow the survey links.

E-mail: e-mail your responses to some or all of the questions with any other comments or questions you may have about the review to mea.info@ontario.ca

Mail: send a written submission with your suggestions for changes to the legislation, or any other comments to:

Municipal Elections Act Review
Ministry of Municipal Affairs and Housing
Local Government Policy Branch
777 Bay Street, 13th Floor, Toronto ON M5G 2E5

Please note that the deadline for submitting comments is **July 27, 2015**.

USER INFORMATION

To help us make the most effective use of your comments, please consider identifying your municipality or, if you prefer, your geographic region of the province (for example, Southwestern Ontario) or whether you live in a rural or urban area.

If you are providing comments on behalf of an organization, please provide its name. If you are providing comments on behalf of a municipality, please provide its name and indicate whether the submission has been endorsed by a council resolution.

Your responses may be used for the purposes of the Ministry's consultation process. Please note the Ministry may summarize and share them, including with other ministries and the public. Names of organizations and persons who indicate an affiliation may also be shared.

Please do not provide any additional personal or identifying information such as opinions about individuals or names and addresses as part of your response.

OVERVIEW OF THE MUNICIPAL ELECTIONS ACT

The Municipal Elections Act covers the conduct of municipal and school board elections in Ontario. In addition to setting out rules for candidates and voters, it also sets out rules for the administration of elections, including:

- questions on the ballot (also known as referendums)
- roles and responsibilities of the municipal clerk in administering municipal elections
- roles and responsibilities of the municipal council, school board, school board secretary, candidates and voters
- rules related to voting
- voter and candidate eligibility
- methods of voting, including use of internet, telephone and vote by mail
- campaign and campaign finance rules
- compliance, enforcement and penalties
- important dates in the election cycle, including the length of the campaign period and voting day

For more information on the Municipal Elections Act, you may wish to read the following additional materials:

- Voter's Guide to Municipal Elections: ontario.ca/cadn
- Candidates' Guide to Municipal Elections: ontario.ca/cado
- Ontario e-laws: ontario.ca/e-laws

For the complete legislation, please visit Ontario e-laws at [Municipal Elections Act, 1996](#).

Questions on Voting in Municipal Elections

We are interested in your experience taking part in Ontario municipal elections. Please answer the following questions to let us know your views on the municipal election process and how you think we can improve the Municipal Elections Act. In your responses, you may want to consider:

- how the election is run,
 - rules related to voting,
 - voter and candidate eligibility,
 - methods of voting,
 - the campaign period, including the length of the municipal election campaign.
1. From your experience, what parts of municipal elections in Ontario currently work well?
 2. From your perspective, what parts of municipal elections in Ontario should be changed?
 3. Is there anything else you want to tell us about your experience with municipal elections?

CAMPAIGN FINANCE

Campaign finance refers to all of the funds raised or spent during an election campaign. This includes the value of contributions of goods and services as well as cash.

The Municipal Elections Act sets out the municipal campaign finance rules that candidates and campaign contributors must follow. For example, under the Act, any person who is a resident of Ontario may make a contribution to a municipal candidate's campaign at a maximum of \$750 to a single candidate (\$2,500 to a mayoral candidate in the City of Toronto).

The Ministry intends to review the financial rules in the Municipal Elections Act to see if the rules are consistent and set out transparent, accountable, fair and modern election finance practices.

For further information on the campaign finance rules set out in the Municipal Elections Act, please refer to:

- Municipal Elections Act, 1996: ontario.ca/cadk
- Voter's Guide to Municipal Elections: ontario.ca/cadn
- Candidates' Guide to Municipal Elections: ontario.ca/cado

Campaign Finance Questions

Please answer the following questions to let us know about your experience with campaign finance rules under the Municipal Elections Act.

1. If you were a voter, candidate or supporter of a candidate, what was your experience with financing an election campaign? What areas might be improved, and how?
 - In your response, consider areas where you felt that the process was complex or difficult, and any ideas for simplifying the process or making it easier to understand.

THIRD PARTY ADVERTISING

In the context of an election, a third party is an individual or group that is not a candidate.

A third party advertisement is a message that is not paid for or sponsored by a candidate. A third party advertisement either supports or opposes a candidate or takes a position on an issue.

A third party advertisement can be communicated through radio, television, newspaper, the internet or any other type of media. Campaign buttons, signs, or other things that identify supporters or opponents of any candidate can also be types of third party advertising.

Currently, there are rules for people who want to campaign for the “yes” or “no” side of a municipal question on the ballot. There are no rules for third party advertising that supports or opposes a candidate (or candidates) in Ontario municipal elections.

Third Party Advertising Question

Please tell us about your thoughts on third party advertising in municipal elections.

1. Should there be rules for third party advertising? If so, what should these rules require?

ACCESSIBILITY

Municipal clerks, who are responsible for conducting municipal elections, must consider the needs of voters and candidates with disabilities. Under the Municipal Elections Act, all voting places in municipal elections must be accessible to people with disabilities.

We want to determine if the accessibility rules under the Municipal Elections Act meet the needs of Ontarians.

Accessibility Question

Please tell us about your thoughts and, experience with accessibility in municipal elections.

1. Have you experienced accessibility challenges or barriers related to voting or running for office? If so, what were those challenges and what would help overcome those barriers?

ENFORCEMENT

The Municipal Elections Act sets out some automatic penalties for candidates that break rules set out in the Act. For example, if a candidate fails to file a financial statement that candidate automatically loses their office (if they won the election). He or she also becomes ineligible to serve on municipal council until after the next municipal election.

Not all penalties are automatic. For example, if a voter believes that a candidate has broken the election finance rules, they may apply for a review, called a compliance audit, of the candidate's campaign finances.

For further information on the enforcement tools in the Municipal Elections Act, please refer directly to:

- Municipal Elections Act, 1996: ontario.ca/cadk
- Voter's Guide to Municipal Elections: ontario.ca/cadn
- Candidates' Guide to Municipal Elections: ontario.ca/cado

Enforcement Question

Please tell us about your thoughts and, experience with enforcement tools under the Act.

1. Do you feel that municipal election rules are effectively enforced?
Why? Why not?

RANKED BALLOTS

Ontario has committed to providing municipalities with the option of using ranked ballots in future elections, starting in 2018, as an alternative to the current system.

Ranked ballots allow a voter to rank candidates in order of preference (first choice, second choice, third choice, etc.) instead of just voting for one candidate.

There are different degrees to which ranked ballots could be used. For example, some municipalities in other countries use ranked ballots for all of council. Some other municipalities use ranked ballots for only the mayor or head of council while the rest of council is elected using a first past the post system.

Please note that ranked ballots are not being considered for school boards. If a municipality decided to use ranked ballots to elect council positions, voters would still use the current voting method to vote for school board trustee.

Municipal Choice

Municipalities already have a lot of flexibility in the way they run their elections. Introducing ranked ballots as an option for municipalities would add to the range of options available to decide how we elect local representatives.

Every municipality must have a council of at least five members, but municipalities may decide to have more than five members.

Municipalities can also make decisions about how to structure their council. For example, many municipalities divide their territory into wards (often determined by population) and each ward elects one or more representatives to council.

Some municipalities do not use wards and choose to elect their entire council at-large. Others use a combination of wards and at-large representatives.

Municipalities also have a number of choices in the way voting works. Municipalities can make decisions on how voters cast their ballots. By default, Ontario voters vote in municipal elections in person at their voting place. However, the Municipal Elections Act allows municipalities to decide to use alternative voting methods to cast ballots and many municipalities have decided to do so. For example, in many municipalities, voters may have the option of voting online, by mail or via telephone.

Why Ranked Ballots?

Ranked ballots have the potential to give voters a greater say in who is elected and increase voter engagement.

As an example of how ranked ballots work, let's assume you voted for three candidates, you marked a "1" next to your first choice candidate's name, a "2" next to your second choice, and a "3" next to your third choice. If your first choice candidate is eliminated, ranked ballots take into account the next choices on your ballot. This helps to ensure that the winning candidate(s) receive support from a majority of voters more often.

By giving voters more choice, ranked ballots may also:

- reduce strategic voting, which may occur when a voter decides not to pick their first choice candidate in an election because they think their first choice candidate may not win the election.
- reduce negative campaigning — since voters can rank multiple candidates, there is an incentive for candidates to appeal to voters not just as a first preference vote, but also to gain a high ranking from supporters of other candidates.

- encourage more candidates to remain in the race until voting day, since the threat of “splitting the vote” between like-minded candidates is reduced.

There are two kinds of elections that are used in Ontario municipalities: single-member elections and multi-member elections.

Single-member elections are elections where only one candidate will win, such as:

- Elections for mayor
- A ward election where one person will be elected to represent the ward

Multi-member elections are elections where more than one candidate will win a seat, such as:

- When council members are elected at large
- A ward election where two or more people will be elected to represent the ward

In a ranked ballot election, there may be multiple rounds of counting before a candidate is declared the winner.

Single-member ranked ballot elections use a system called Ranked Choice Voting (RCV). Multi-member ranked ballot elections use a system called Single Transferrable Vote (STV).

You can find more information on ranked ballot elections, including how votes are counted in single-member and multi-member elections at ontario.ca/caeh.

PUBLIC CONSULTATION

Changing the voting system is a big decision for a municipality and its residents. There are a number of ways municipalities can consult their residents about council decisions.

The public could also be given the ability to formally petition council to adopt ranked ballots and require that council hold a referendum to determine if voters support the use of ranked ballots.

We’re interested in your views on how the public should be involved in municipal decision making on ranked ballots.

Ranked Ballot Public Consultation Questions

1. What are your thoughts on using ranked ballots for Ontario municipal elections?
2. Should municipalities be able to use ranked ballots for certain offices and not others? For example, only for mayor?
3. Should public consultation by a municipality be required before implementing ranked ballots or before changing from ranked ballots back to the current system?
4. What form should that consultation take?

Public Reporting of Election Results

Unlike the current system, ranked ballots can involve multiple rounds of counting before all the seats to be elected have been won.

Ranked Ballot Election Public Reporting Question

1. How much information would you want about election results? For example, where there have been multiple rounds of counting would you want to see the results of each round of counting or just the final results?

Other Decisions Regarding Ranked Ballots

There are a number of other important decisions that the province will need to consider when determining how ranked ballots could work in Ontario. Throughout this review we will be consulting with Ontarians, municipalities and experts on ranked ballots to help us make these decisions.

Other Comments on Ranked Ballots

1. Are there other ideas you wish to share on ranked ballots that you would like us to consider?

WHAT'S NEXT?

After the Ministry of Municipal Affairs and Housing has received all public submissions and input on the Municipal Elections Act review, we will assess the feedback received and develop recommendations for the government on how to improve the Municipal Elections Act. We hope to communicate the results of this process as they become available later this year.

For further information on the Municipal Elections Act, you may wish to read the following additional materials:

- Voter's Guide to Municipal Elections: ontario.ca/cadn
- Candidates' Guide to Municipal Elections: ontario.ca/cado
- Ontario e-laws: ontario.ca/e-laws

Thank you for providing your comments. Your feedback is very important to us and will be essential to improving the Municipal Elections Act so that it is better able to meet the needs of Ontario communities while maintaining a fair election process.



Ministry of Municipal Affairs and Housing

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