



CITY OF HAMILTON
Office of the City Clerk
Elections

TO:	Mayor and Members of Council General Issues Committee
COMMITTEE DATE:	December 9, 2020
SUBJECT/REPORT NO:	2022 Municipal Elections: Alternative Voting Options (FCS20081) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED AND SUBMITTED BY:	Andrea Holland, City Clerk
SIGNATURE:	

RECOMMENDATION

- (a) That the City Clerk be directed to prepare and issue a competitive procurement process in accordance with the City's Procurement Policy for the lease of a vote tabulation system for the 2022 municipal election, with options to extend the contract to include any by-elections leading up to 2026, and the 2026 municipal election;
- (b) That the City Clerk be directed to evaluate the vote from home program and special vote by mail option for the 2022 municipal election and report back to the General Issues Committee by Q2 2021 with recommendations for alternative voting methods and an authorizing by-law, and that a one-time increase of \$125,000 to the Election Expense Reserve (112206) be referred to the 2020 Year-end Variance Disposition Report for consideration, to support these initiatives;
- (c) That a one-time increase of \$350,000 to the Election Expense Reserve (112206) be referred to the 2020 Year-end Variance Disposition Report for consideration, to support the general administration of the 2022 municipal election;
- (d) That the annual contribution to the Election Expense Reserve (112206) be increased by \$75,000, to a total of \$550,000, to cover increased costs associated with municipal election administration and that this request be referred to the 2021 Operating Budget deliberations for consideration;

- (e) That the annual contribution to the Election Expense Reserve (112206) be increased by 2.5% in 2022 and subsequent years to cover continuing inflationary costs associated with municipal election administration; and
- (f) That the City Clerk be directed to report back to the General Issues Committee in Q2 2021 on Election Expense Reserve needs related to consideration of internet voting for the 2026 municipal election.

EXECUTIVE SUMMARY

- The next municipal election will be held on October 24, 2022. In preparation, the City must determine what voting and vote counting equipment will be used, and what, if any, alternative voting methods will be offered.
- Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020*, which received Royal Assent November 20, 2020, removes the option to use ranked ballots for municipal council elections, changes Nomination day from the “fourth Friday in July” to the “third Friday in August”, and changes the deadline to pass a by-law authorizing the use of voting and vote-counting equipment, and a by-law authorizing electors to use an alternative voting method, from May 1st in the year before the year of the election, to May 1st in the year of the election.
- Offering an alternative voting method (internet/telephone) as a complementary channel is cost prohibitive for the 2022 municipal election.

HISTORICAL BACKGROUND

Municipal and School Board elections are planned and delivered in accordance with policies and procedures that are necessary to conduct an election in a manner that reflects the principles of the *Municipal Elections Act, 1996*, (the *MEA*) as amended, and its regulations. The Office of the City Clerk is responsible for administering municipal elections in a fair and objective manner and strives to deliver progressive and innovative elections that support the democratic voting process and makes the voting experience accessible and convenient, while maintaining the integrity of the election process. Staff continuously monitor legislation updates and municipal trends and practices.

For the 2018 municipal election, the City of Hamilton entered into an agreement with Elections Ontario to use their tabulators, manufactured and supported by Dominion Voting Systems (in accordance with By-law 17-059). The tabulators proved to be a valuable tool for counting votes as well as getting expedient and accurate results. Vote tabulators are commonly used to support municipal elections in Ontario as they significantly increase the efficiency of election administration. Their use has also enhanced the verification of voter intent as well as elevated the accuracy and security associated with ballot tabulation. Staff recommend the lease of vote tabulators for the 2022 municipal election for the purposes of scanning and counting votes.

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INFORMATION

COVID-19 remains an ongoing concern, as a result, all aspects of 2022 election planning must shift to accommodate the reality of this global pandemic, which will have significant effects on programs, procedures, and technology. This report takes into consideration how the COVID-19 pandemic has had an impact on the behaviours and expectations of people, and the long-term impacts on the ways in which electors feel comfortable voting. Office of the City Clerk staff are monitoring municipal election activity and undertaking research into leading practices on safe voting during a pandemic. This includes rethinking the function and operation of voting places during an election and exploring alternative methods of voting that allow electors to cast ballots without having to physically attend a voting place.

With respect to in-person voting, work is underway to reimagine voting places with a physical distancing lens, review current voting procedures to reduce touchpoints, and determine what Personal Protective Equipment (PPE) or additional safety measures may be required to protect both electors and voting place staff. As offered in previous elections, curbside voting will be offered for the 2022 municipal election and does not require the passing of a by-law. Curbside voting allows voters who are unable to go inside the voting place, to request to have a ballot brought to their vehicle, outside of the building, or to another area within the voting place. This will not be a drive-through voting option and will be limited to those who are not able to enter the voting place due to barriers of unreasonable difficulty, injury or disability. An option such as curbside voting is an imperative option to offer voters for both accessibility and pandemic response reasons.

Section 42 (1) of the *Municipal Election Act, 1996* (the *MEA*) allows the council of a local municipality to pass a by-law "authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators and "authorizing electors to use an alternative voting method, such as voting by mail or by telephone, that does not require electors to attend at a voting place in order to vote". City of Hamilton By-law 17-059, approved by Council in 2017, supports the use of vote tabulators in municipal elections. Should Council decide to support any complementary alternative voting method, a by-law must be approved no later than May 1, 2022.

Alternative voting methods (online, telephone, and mail-in ballot) have been offered by many Ontario municipalities for well over 20 years. Despite unsupervised voting not being directly addressed in the *MEA*, local municipalities within Ontario and across the country have become local leaders in digital elections in an effort to increase voter accessibility and convenience. There is a desire to stay current with technology, meet the demands for convenience, and ensure voting options are accessible. Staff supports the use of technology as a resource and encourages innovation, however, with no existing Canadian standards for administering electronic elections, staff are mindful of

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the risks and intends to manage risks proactively and communicate openly all risks involved.

Competitive Procurement Process

With Council direction, staff will initiate a competitive procurement process to select a vendor for the lease of a vote tabulation system for the 2022 municipal election, with options to extend the contract to include any by-elections leading up to 2026, and the 2026 municipal election. The procurement process will be guided by the City's Procurement By-law and a staff team will be engaged including representatives from the Office of the City Clerk, Procurement, and IT to develop the scope of work and ensure compliancy. Each proponent will be required to review the technical requirements, indicate compliance and provide comment where necessary. Most technical requirements will be mandatory. Staff anticipate that the procurement process will be released at the beginning of 2021 in order to secure a reputable and reliant vendor.

Recommended alternative voting methods

Election administrators must revisit and rethink the concept of voting in the advent of a pandemic so that electors feel safe when casting their ballot. Leading practices have been observed and will continue to be monitored in ensuring elector safety within the voting place and in providing alternative voting options. Due to this, the following alternative voting methods are recommended in addition to in-person voting.

Vote from home program

A vote from home program provides an option for those voters who choose not to leave their homes, perhaps for mobility reasons or health concerns. An application and registration process would be required when implementing this initiative. For the 2018 election, several municipalities, including the City of Toronto, successfully implemented a vote from home program. This option was also offered in the most recent provincial election. This program allowed voters to mark their ballot from their residence, which was brought to them by a team of two election officials. Registration would be required, and the City Clerk's office would set the parameters for eligibility.

The cost of implementing a home visit program for home-bound electors will be dependent on the numbers of voters taking up this alternative voting method. No vendor hosted solution is required for this program, however, staffing resources, including necessary training, has been considered.

Special vote by mail

Throughout the COVID-19 pandemic, several municipalities holding by-elections have received media attention for employing this special vote by mail initiative. The City of Ottawa introduced a [special mail in ballot](#) as a new way to vote in the 2020 Cumberland

By-election. Offering a special vote by mail option is a feasible alternative option to in-person voting.

A special vote by mail option may provide voters with the ability to mark their ballot from home at their convenience and may allow increased rights of privacy to voters who may find voting at traditional paper based voting places more difficult. Voters would be required to apply and register for a vote by mail kit.

The City of Toronto, Elections Services, is introducing [mail-in voting](#) for the January 15, 2021 By-election for Councillor Ward 22 Scarborough-Agincourt. The City is piloting this initiative to offer a safe and secure alternative to in-person voting.

To implement a vote from home program and/or a special vote by mail option, a by-law to support the use of alternative voting method(s) that does not require electors to attend at a voting place in order to vote, must be passed.

If recommendation (b) of this report is approved, staff will report back on these recommended alternative voting methods that may provide electors with options to vote from home, with an authorizing by-law, no later than Q2 2021. The report will include an analysis of the recommended options used in other jurisdictions, and a risk assessment of each option, but will not include internet or telephone voting.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial:

The total cost of the 2018 election was approximately \$1.7 million. The Election Reserve currently has a balance of \$713,031.48. To cover the general administration of the 2022 municipal election, a one-time increase of \$350,000 to the Election Expense Reserve is requested.

Estimated costs to lease of tabulators, including accessible units, to support physical voting locations for the 2022 election are \$350,000. This estimated cost includes software and technical support throughout the election period.

Estimated costs to offer the recommended alternative voting methods, including special vote by mail and the vote from home program is \$125,000.

Costs associated with the administration of municipal elections continue to increase year after year. The annual amount that is transferred to the election expense reserve has not been reviewed in a number of years. For these reasons, staff recommend an annual increase of \$75,000 to the Election Expense Reserve and that the annual contribution be increased by 2.5% in 2022 and subsequent years to cover continuing inflationary costs associated with municipal election administration.

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Ontario government recently approved Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020*. This Bill, which received Royal Assent November 20, 2020, removes the option to use ranked ballots for municipal council elections, making the electoral process consistent across municipal, provincial and federal elections. In addition, this Bill changes Nomination day from the “fourth Friday in July” to the “third Friday in August”. Lastly, and significant to this report, this Bill changes the deadline to pass a by-law authorizing the use of voting and vote-counting equipment, and a by-law authorizing electors to use an alternative voting method, from May 1st in the year before the year of the election, to May 1st in the year of the election (May 1, 2022).

Should Council wish to implement an alternative voting option, a by-law must be approved by May 1, 2022.

The competitive procurement process will be in accordance with By-law 20-205 the City's Procurement Policy.

RELEVANT CONSULTATION

Internal consultation

Consultation for this report was received from:

- Information Technology
- Legal Services
- Risk Management
- Procurement

Municipal Benchmarking

Surrounding and comparative municipalities have been examined to determine the methods of voting being implemented for 2022.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The behaviours and expectations of voters have been changed as a result of the pandemic. This must be considered when determining the methods of voting for the 2022 election. Jurisdictions that have run elections through the pandemic continue to be examined to identify leading practices in ensuring elector safety within the voting place and in providing alternative voting options. Alternative voting options recommended, as a complementary channel to in-person voting, will provide voters the option to vote from home, while considering the fiscal limitations of the City.

ALTERNATIVES FOR CONSIDERATION

Internet/telephone voting

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In 2018, 40% of Ontario municipalities (177 of the 444) offered internet voting for the 2018 election. Of the 177 municipalities that offered online voting, 131 municipalities eliminated paper ballots completely. Despite these numbers, consideration must be given to the significant legislation gaps that exist pertaining to online voting and unsupervised voting. Consideration of census data and demographics of the municipality is crucial in determining ways to engage voters. Electoral integrity is critical in maintaining trust in the democratic system.

Research has not concluded that these methods increase voter turnout, yet convenience and accessibility to voters is a major factor for consideration. However, there is substantial additional cost involved in offering this method as a complementary alternative voting method. A municipality cannot reap the cost benefits of internet voting when it is offered as a complementary channel. Given the current funding in the capital budget, staff have determined that internet and telephone voting is cost prohibited at this time, when offered as a complementary channel, and are therefore not recommending this alternative voting method

Considerable resources that extend well beyond the vendor solution would have to be utilized to identify, assess, and mitigate the significant security vulnerabilities and technical challenges identified with internet voting. To allow for Council consideration for this alternative voting method for upcoming municipal elections, staff recommend increasing the operational reserve for 2026.

Appendix A has been included to provide a high-level overview of the well-known risks related to the alternative voting methods not recommended. Should Council approve recommendation (f), Staff will come back with a more fulsome report and detailed risk analysis containing technical discussions, on the risks associated with these alternative voting methods.

Estimated costs for implementing internet/telephone voting as a complementary channel is, at minimum, \$600,000. This estimated number considers a vendor hosted solution, software, training, as well as estimated internal staffing costs to support this solution, primarily from Information Technology. Cost estimates provided for internet/telephone voting models are estimates only based on comparable municipal information from 2018. The issuance of a competitive procurement process would be necessary in order to determine exact costs.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS20081 – Review and risk assessment of alternative voting method options