



**CITY OF HAMILTON
CORPORATE SERVICES
OFFICE OF THE CITY CLERK**

TO:	Mayor and Members of Council
COMMITTEE DATE:	October 9, 2024
SUBJECT/REPORT NO:	English Public School Board By-Election: Voting Methods and Tabulating By-law (FCS24053) (Ward 4)
WARD(S) AFFECTED:	Ward 4
PREPARED BY:	Matthew Trennum, City Clerk
SUBMITTED BY:	Matthew Trennum, City Clerk, Office of the City Clerk, Corporate Services
SIGNATURE:	

RECOMMENDATION

- (a) That the use of optical scanning vote tabulators **BE APPROVED** for the purpose of counting votes cast during the 2025 Ward 4 By-Election to fill the English Public School Board Trustee Vacancy; and
- (b) That the draft By-law, attached as Appendix “A”, **BE PREPARED** and **PROVIDED** to Council for consideration and approval.

EXECUTIVE SUMMARY

- The City received notice from the Hamilton-Wentworth District School Board, dated September 24, 2024, respecting a resolution authorizing the City to initiate a By-Election to fill the Ward 4 English Public School Board Trustee Vacancy.
- The City Clerk is responsible for implementing the necessary By-Election in accordance with legislated timelines set in the *Municipal Elections Act, 1996*.
- The purpose of this Report is to obtain City Council’s approval of the use of vote tabulating equipment, and any alternative voting methods, in accordance with the *Municipal Elections Act, 1996*

Alternatives for Consideration – See Page 4

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial

In accordance with Section 7(3) of the *Municipal Elections Act, 1996*, (MEA), the City of Hamilton shall be reimbursed for reasonable costs when the Clerk conducts a by-election for a local board. The approximated costs of up to \$150,000 would be charged back to the Hamilton-Wentworth District School Board.

Staffing

There are no direct staffing implications related to the recommendations of this Report.

With respect to the staffing requirements of the By-Election itself, Elections staff, with the support of the City's Senior Leadership Team, plan to recruit City Staff to work polling stations during advance polls and on Election Day, with a preference to utilize staff already familiar with the polling locations that are selected, and with experience working previous Municipal Elections.

Legal:

n/a.

BACKGROUND

In accordance with Section 65(4) of the *Municipal Elections Act, 1996*, (MEA), the Clerk's Office received correspondence from the Hamilton-Wentworth District School Board (HWDSB), dated September 24, 2024, respecting the passing of the following resolution of the HWDSB:

RESOLUTION #24-124: Trustees Buck/White moved the following:

- That the City of Hamilton be authorized to initiate a by-election under the Municipal Elections Act to fill the public school board trustee vacancy in accordance with Section 221(2), Optional Election, of the Education Act, and
- That staff be authorized to promptly notify the Clerk of the City of Hamilton of the Board's decision as outlined in Section 221(3) of the *Education Act*.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Under the *Municipal Elections Act, 1996*, (the MEA) as amended, and its regulations, the City Clerk is responsible for ensuring that elections are planned and delivered in a manner that reflects the principles of the MEA.

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Section 65(3) of the MEA states that by-elections shall be conducted as far as possible in the same way as regular elections.

Prior to each Municipal Election, or in this case, By-Election, Section 42 (1) of the MEA allows for municipalities to enact by-laws for:

- (a) authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators; and
- (b) authorizing electors to use an alternative voting method, such as voting by mail or telephone, that does not require electors to attend at a voting place in order to vote.

Section 42(3) of the MEA states, the Clerk shall:

- (a) establish procedures and forms for the use of,
 - (i) any voting and vote-counting equipment authorized by by-law; and
- (b) provide a copy of the procedures and forms to each candidate when his or her nomination is filed.

RELEVANT CONSULTATION

Staff have been in contact with Trustee Services Staff with the Hamilton-Wentworth District School Board.

In preparation for the By-Election, Elections staff have already met with City of Hamilton IT Services Staff to begin planning technological requirements, security safeguards and staffing support throughout the By-Election period.

Elections staff have also connected with Corporate Communications to set communications plans for the nomination period and the period after nomination day, through Voting Day.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Elections staff are not recommending any deviation from past practice for this By-Election. This By-Election is limited to Ward 4, and solely for the purpose of electing an English Public School Board Trustee, and staff are recommending proceeding with paper ballots and optical scan tabulators.

Paper Ballot with Vote Tabulators

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A vote tabulator (optical scan unit) reads and records how ballots are marked. A ballot is marked by indicating the voter's choice(s). The ballot is then inserted into the vote tabulating unit. The tabulator reads and stores the information in the unit. At the close of voting on Election Day, the vote tabulator will produce cumulative totals of all votes cast and the totals will be compiled to produce the final election results.

The use of vote tabulators has become a generally accepted vote counting method in Ontario municipal elections over the last several years and has been used at the provincial level of government. The City of Hamilton has previously supported the use of technology to support enhancements to voting, including optical scan tabulators. The City has utilized vote counting technology since 1997, including the most recent 2022 Municipal Election.

Given the extensive use of this technology, the City benefits from the use of established and recognized best practices for municipalities to use for effective implementation, including those already created at the City of Hamilton in previous elections.

The use of vote-counting equipment, such as vote tabulators, allows for:

- efficient vote counting - making it possible to report unofficial election results on election night.
- secret and confidential voting process - ballots and voters cannot be connected.
- accurate and non-biased vote count - automated counting processes ensure that determination of voter intent and what is counted is consistent.
- the integration of accessible technology, which allows for independent marking of a ballot which is indistinguishable from any other ballot once cast in the tabulator.
- certainty and integrity of the process - results reflect votes cast. The system is precise, easy to use for voters, and capable of generating final election results very quickly following the close of voting. Moreover, manual counting of ballots is not required.

ALTERNATIVES FOR CONSIDERATION

1. Council could use the upcoming By-Election in this one ward as an opportunity to test alternative voting methods, such as internet voting. This would allow for valuable data collection and provide staff with experience working with a vendor to facilitate an alternative method of voting. The insights could inform Council's decision on voting methods for the 2026 Municipal Election.

APPENDICES AND SCHEDULES ATTACHED

Appendix A – Draft By-law

Authority: Item 6.7 (a), English Public School Board By-Election: Voting Methods and Tabulating By-law (FCS24053)
CM: October 9, 2024 Ward: 4
Written approval for this by-law was given by Mayoral Decision MDE-2024-____
Dated October 9, 2024

Bill No.

CITY OF HAMILTON

BY-LAW NO. 24-

A By-law to Authorize the Use of Optical Scanning Vote Tabulators for the 2025 Ward 4 By-Election to Fill the English Public School Board Trustee Vacancy, and to Repeal By-law 21-147

WHEREAS Section 42 of the *Municipal Elections Act, 1996*, SO 1996, c32 provides that the Council of a local municipality may, by by-law, authorize the use of an alternate voting method that does not require electors to attend at a voting place in order to vote;

WHEREAS Section 42(5) of the *Municipal Elections Act, 1996*, SO 1996, c32 provides when a by-law authorizing the use of an alternative voting method is in effect, sections 43 (advance votes) and section 44 (voting proxies) apply only if the by-law so specifies;

WHEREAS Section 42 of the *Municipal Elections Act, 1996*, SO 1996, c 32 provides that the council of a local municipality may, by by-law, authorize the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators;

WHEREAS Council recognizes the benefits of alternative voting methods to remove voting barriers for the electorate who are unable to attend voting in person;

WHEREAS research and practice has overwhelmingly shown that vote-by-mail is a safe and secure method of voting; and,

WHEREAS Council is committed to accessibility to City government that engages with and empowers all citizens to be involved in their community.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That this By-law be referred to as the *Municipal Election Voting Methods and Tabulating By-law*.
2. That the use of optical scanning vote tabulators for the purpose of counting votes in municipal elections is hereby authorized for municipal elections in accordance with Section 42(1)(a) of the *Municipal Elections Act, 1996*.

3. That this By-law shall come into force on the date of its enactment.
4. That By-law 21-147 be repealed.

PASSED this 9th day of October, 2024.

A. Horwath
Mayor

M. Trennum
City Clerk