

## **Executive Summary:**

This report summarizes key changes made through the Municipal Elections Modernization Act 2016 which was passed in June of this year. The report also makes recommendations to Council on Ranked Ballot Voting and the Method of Vote to be used in the 2018 Municipal and School Board Elections. These two decisions are crucial steps in planning for the 2018 elections.

In delivering the 2018 Municipal and School Board Election, all decisions and actions will be based on the requirements of the *Municipal Elections Act* and the following principles:

- the secrecy and confidentiality of individual votes is paramount;
- the election should be fair and non-biased;
- the election should be accessible to the voters;
- the integrity of the process should be maintained throughout the election;
- there be certainty that the results of the election reflect the votes cast; and
- voters and candidates should be treated fairly and consistently.

## **Background:**

### What's New: Municipal Elections Modernization Act 2016

In June of this year, the Ontario government passed the Municipal Elections Modernization Act, 2016 which makes a number of substantial amendments to the Municipal Elections Act and the rules which election officials, candidates and electors must follow. This new legislation was passed following extensive consultations with election and elected officials and the public and the receipt of some 3,400 written submissions. Many of the recommendations from AMCTO were included in the bill.

For both election organizers and candidates, the shortening of the Municipal and School Board Election period to 120 days is much welcomed. Nominations will open on May 1st of the election year, as opposed to in the past when nominations opened on January 1st. Nominations will need to be accompanied by the declarations of twenty-five eligible electors who support the nomination. The Nomination period will close on the fourth Friday in July, rather than on the second Friday in September. This will allow much needed time for the design of ballots and programming of electronic election equipment.

In reflection of the changes being made by all levels of government in the area of campaign financing rules, several amendments have been made in regards to both campaign contributions and enforcement of campaign financing rules. In addition to the changes, described in the new Act, Council has formally adopted a Policy on the Use of Municipal Resources during an Election (By-Law 2016-17F) to provide further guidance in this regard.

The new provincial legislation limits contributions to individual citizens who are residents of Ontario and introduces bans on corporate and trade union donations to candidates for municipal and school board positions. Further the legislation sets out more detailed

guidelines around post-election spending including gifts and parties. Another change of note are new provisions which require third parties to register prior to advertising for or against a candidate or issue and to comply with contribution and spending limit rules. At the same time the Act continues to allow for issues based advocacy during the election under specific conditions.

Nomination fees will now only be refundable to those candidates who file their financial statements by the deadline and there are significant new obligations on the Clerk to review financial filings for compliance against the legislation and to cross reference donations across all candidates' financial statements to ensure that no individual donor exceeds their limit of a total of \$5,000 in donations between all candidates and to report any donor violations to the Election Compliance Audit Committee.

Other administrative details which are changed include simplification of the process for making changes to the voters list, increased flexibility in how notice and documents are provided and filed, restrictions on electors taking pictures or images of their own or other ballots and publication of the accessibility portion of the election plan.

### Ranked Ballot Voting

The most significant change in the Municipal Elections Modernization Act, 2016 is the introduction of provisions that provide municipalities with the option to use ranked ballot voting for Mayor and Council elections only, beginning in the 2018 municipal elections. Ranked ballots will not be permitted for School Board elections.

Should a Council wish to implement ranked ballot voting, the Regulations will most likely require that the municipality hold a public open house where detailed information regarding the election and election equipment is provided to the public, followed by a public input meeting and passage of the necessary by-laws before the legislated deadline of May 1, 2017.

Currently, all municipal, provincial and federal elections use "First Past the Post" voting, meaning that the candidate with the most number of votes is elected. In "Ranked Ballot" voting, all candidates must achieve +50% of the votes in order to be elected.

In a Ranked Ballot Election, rather than voting for just one candidate, the elector ranks the candidates in their order of preference, beginning at one for their top choice, two for the second choice etc. In the first round, all the first choice votes are counted. If a candidate receives +50% of the votes, they are elected. If no candidates receive the majority of the votes, the candidate with the lowest number of votes is eliminated and ballots are recounted, using the second choice of the elector for ballots which initially supported the candidate who is eliminated. This process is continued in subsequent rounds until a majority winner is declared. A quick and easy demonstration of ranked ballot voting works is found at: <https://www.youtube.com/watch?v=oHRPMJmzBBw>

In the 2014 Municipal Elections, two of the thirteen successful candidates for Mayor and Council received more than +50% of the votes. Had this been a ranked ballot election, eleven of the thirteen races for Mayor and Council would have proceeded through subsequent rounds of ballots and vote counting in order to declare a winner.

Greater Sudbury's City Clerk sat on the provincial Ranked Ballot Implementation Working Group which discussed over three lengthy meetings, the technical aspects associated with implementing ranked ballots. The group noted that there have been no ranked ballot elections at the municipal, provincial or federal level anywhere in Canada and only a very small handful of American cities have implemented rank ballots, with very mixed results from a technical perspective.

Challenges and complexities associated with ranked ballot voting are numerous as this methodology is in its infancy and include but are not limited to: ballot design; number of rankings permitted; vote counting formulas and algorithms; vote casting and counting technology; election staff requirements; financial resources; election timelines; and elector and candidate education. Two examples of these challenges will be described below for the information of Council and the public.

Currently most Ontario municipalities use "Composite Ballots" meaning one ballot is used for multiple races. If ranked ballots are introduced for municipal elections it is probable that municipalities will have to use two separate ballots, one for municipal and another for school board elections as the counting methodologies will be different for each. This will add costs and equipment and require additional time for the elector to cast two ballots instead of one. A further challenge will be the size and design of the ballot to allow for ranking of multiple candidates, particularly so in Greater Sudbury which uses bilingual ballots.

Another significant challenge relates to vote casting and counting technology. Set-up, testing and use of vote casting and counting technology will be significantly more complex in a ranked ballot environment. Canadian vendors have no experience with ranked ballots, though some have provided tabulators to American elections. Timelines are short and with a perfect storm of elections across Canada within a three week period in the fall of 2018, there is concern about the availability and capacity of voting equipment and vendor staff to support ranked ballot elections. A ranked ballot election with a manual count is extraordinarily difficult and time consuming, as evidenced in one American jurisdiction that required two full weeks of staff working twelve hour days to produce a final result after several rounds of hand counting and eliminations.

With a new, untested voting methodology recently approved and just two years before the next municipal election, it is highly probable that all the pieces required to protect the integrity of the election process and to ensure with absolute certainty that the results of the election reflect the votes cast, will not be in place if ranked ballots are used in 2018. AMCTO surveyed its members and only 8% of Clerks feel ready to run a ranked ballot election in the narrow timelines leading to 2018. CGS staff can not recommend the introduction of ranked ballot voting in the 2018 Municipal Elections. Staff will monitor the implementation of ranked ballot voting and bring report to Council in the first half of the next term of office with an analysis and recommendations for 2022.

Method of Vote 2018 Municipal and School Board Elections

*My family, friends and I found the web process clear, easy to follow, quick and secure. My husband had recently been hospitalized and may not have voted otherwise. Another family member who was out of the country was also able to vote on line. Having been involved with the school trustee elections for the unorganized townships, I remember the issues with low voter turnout due to vast geographic areas served by remote polling stations and often affected by weather issues. I would find it difficult to believe that the new process would not benefit voter accessibility for these and similar areas and also reduce taxpayer election costs.*

J. H. Email dated November 26, 2014.

The City of Greater Sudbury was one of 97 Ontario municipalities, representing one quarter of the population of the province of Ontario, who made online voting available in the 2014 municipal election. In Greater Sudbury there was widespread take-up on the Online Voting and 26,826 electors representing 44.9% of those who cast a ballot, did so online, far exceeding expectations for online voting turnout.

Based on reports generated by the system, we know that voters of all ages from 18 to 100 years old cast ballots online and at all hours of the day and night. The busiest times for online voting were in the evenings with many other votes cast over morning coffee and the fewest votes cast in the overnight hours.

The City of Greater Sudbury participated in the Internet Voting Project through the University of Toronto. 98.6% of our citizens who responded to the survey were either fairly satisfied or very satisfied with the online voting process and 98.9% are likely or somewhat likely to vote online in the next municipal election. Candidates were somewhat less enthusiastic about online voting than citizens, primarily as it related to changes in campaign methodology. The results for Sudbury are available online at: <http://www.greatersudbury.ca/sudburyen/assets/File/Greater%20Sudbury%20Internet%20Voting%20Survey.pdf>

At the close of Online Voting on October 24<sup>th</sup>, there was a perfect reconciliation between the votes cast and the names crossed off the list, which is something never achieved with traditional, paper based voting. There were twenty-seven ballots set aside by the vendor due to inconsistent voter information for further investigation. In twenty-five cases the vendor was advised to release the ballots into the count as the Electors were found to be Eligible

All electors, voting either Online or In Person Voting Locations, are asked to affirm that they have not previously voted in the election. As was well documented in the media during Election 2014, some voters appeared on the voter's list more than once. This created a public perception that some voters may have had the opportunity to cast more than one vote in the online environment.

In reality, this is not a new issue. An individual who has received two packages, perhaps because of name variations (hyphenated or double barreled surnames) or because of name changes (most common with maiden and married names) and who has government issued identification with both forms of those names would equally be able to vote at in person voting locations as they would be able to vote online. In the

remaining two instances from the online vote, the votes were not released into the count as the voter was ineligible. Removal of ineligible votes is not possible in the paper ballot environment.

For the 2014 Election, costs per ballot cast were assigned by method of vote, with common costs, such as the costs of communications and issuance of the Voter's Information Package divided proportionally between the in-person and online ballots cast. Each online ballot cast cost \$6.77 as compared to \$10.84 per ballot cast in person. The annual contributions to the Election Reserve Fund for the period 2015-2018 have been reduced, based on using a blend of internet and in person voting, when budgeting for the 2018 election.

Staff is recommending that the City of Greater Sudbury continue the practice of using online voting during the advance vote period, extending that period until the opening of in person polls on Election Day. It is also recommended that CGS takes the next small step forward in electronic voting, using touch screen or tablet based technology to vote in person at all advance and mobile locations. Paper ballots with tabulator counts will be used in all voting locations on Election Day, Monday, October 22, 2018.