

Background:

This report provides background information to the By-Law to Authorize Various Matters under the Municipal Elections Act 1996 as amended. The Act requires that Council pass a number of By-Laws related to the Election.

<https://www.ontario.ca/laws/statute/96m32>

Every municipality is required to adopt, by way of By-Law a Policy on the Use of Corporate Resources during an election. The City of Greater Sudbury adopted a Bylaw in Regards to the Use of Municipal Resources by a Candidate in an Election in 2016. See by-Law 2016-17F available online at:

<https://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&action=navigator&id=939&itemid=10964&lang=en>

Prior to May 1, 2017 municipalities are also required to pass by-laws which establish Vote Counting Equipment and Alternative Method of Voting (Internet) where those methodologies are being used in the 2018 Election. On September 13, 2016, Council passed the following resolution in regards to the method of vote:

CC2016-293: THAT the City of Greater Sudbury uses Internet Voting during the Advance Vote period and Paper Ballot, Tabulator Count at the In Person Voting Locations on Election Day 2018.

See full report:

<https://agendasonline.greatersudbury.ca/?pg=agenda&action=navigator&lang=en&id=951&itemid=11627>

In accordance with the Municipal Election Act, 1996 as amended, "*the Clerk of the local municipality is responsible for conducting elections within the municipality*" which responsibility includes preparing for and conducting the election. The Act requires a few other details associated with the Election to also be confirmed by way of Council By-Law. This includes, for example the use of the French Language French in notices, forms and other information and the proposed By-Law contains provisions to allow for the use of French in prescribed forms, notices and other information sent out to electors or used during the Municipal and School Board Elections.

The Act contains a provision that allows the municipality to adopt, by way of by-law, a policy with respect to the circumstances unique to that municipality in which the clerk would be required to conduct a recount (s. 56.4). The Act already contains specific provisions as to when a recount must be held, as for example in the event of a tie or when a recount has been requested and approved by way of Council resolution. These provisions have been reviewed by the Clerk and are both quite sensible and robust and would meet any anticipated needs and no additional policy is recommended in regards to recounts.

Recent changes to the Municipal Election Act include provisions for municipalities, to introduce a by-law which provides for the payment of rebates to individuals who make contributions to candidates for office. The City of Greater Sudbury's election budget is not funded to support the same and to this date. Should there be interest in this option in the future, a budget option would need to be developed and approved for funding by Council.

Finally, the Municipal Election Act contains a section which specifies that when a municipality has alternative voting methods in place, the advance voting and proxy provisions of the Act apply only if a by-law is passed specifying the same. The City of Greater Sudbury is including in this By-Law provisions for Advance Voting, as described in the Council Report noted above.

Historically, there have been significant challenges associated with the use of proxies, both in our jurisdiction and others. In the 2014 Election, while there were numerous applications for proxies for potentially vulnerable residents of two local care facilities, most of which applications were denied by the Clerk as they did not meet the documentary requirements set-out in legislation and in the municipality's Vote and Vote Counting Procedures. Ultimately, only five proxies were used to vote in the 2014 Election.

Issues associated with use of proxies elsewhere are described in the media, as for example:

<http://www.cbc.ca/news/canada/north/tamara-goeppel-proxy-votes-elections-yukon-1.3823292>

<https://www.sootoday.com/local-news/mayor-councillor-charged-with-voting-irregularities-93595>

<https://www.localxpress.ca/local-news/supreme-court-justice-voids-october-election-results-for-one-seat-in-municipality-of-district-of-st-marys-508504>

With internet voting available during the entire advanced voting period, and voting locations at all nursing and retirement homes as defined under the Act, there is no need for proxies to be made available for use during the Advance Voting Period in Election 2018. Proxies will only be accepted on Election Day.