



The Corporation of the Town of Milton

Report To:	Council
From:	Meaghen Reid, Director, Legislative & Legal Services/Deputy Clerk
Date:	October 25, 2021
Report No:	CORS-053-21
Subject:	Voting systems and alternative voting methods for the 2022 Municipal Election
Recommendation:	THAT the necessary by-law be adopted to support the use of vote tabulators in the 2022 Municipal Election;

AND THAT the necessary by-law be adopted to support the use of vote by mail as an alternative voting method in the 2022 Municipal Election.

EXECUTIVE SUMMARY

- Staff recommend the continued use of vote tabulators with paper ballots at in-person voting locations.
- Vote by mail is recommended as an additional remote voting option for eligible voters who opt or are unable to come to an in-person voting location to cast their ballot, to be implemented during the election period at the discretion of the Town Clerk.

REPORT

Background

The purpose of this report is to provide an overview of voting methods used in Ontario municipal elections and to provide a recommendation for the 2022 Municipal Election, which will take place on October 24, 2022.

Prior to each municipal election, Section 42 (1) of the *Municipal Elections Act* (MEA) allows the council of a local municipality to pass by-laws:

- authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators;
- 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.

Background

While a decision on vote-counting equipment and alternative voting methods has previously been required by May 1 in the year before the election, Bill 281 *Supporting Ontario's Recovery and Municipal Elections Act* has changed this date for the 2022 Municipal Election. The MEA has been amended so that May 1st in the year of the election is the date for which decisions must be made about voting counting equipment and alternative voting methods.

Staff are seeking Council direction about voting equipment and methods for the 2022 Municipal Election at this time in order to sufficiently plan for the upcoming election, including additional considerations that may be required as a result of the COVID-19 pandemic.

Ranked Ballot Voting - Update

As follow-up to a previous discussion with Council, there has been a recent legislative change with respect to ranked ballot voting. The *Municipal Elections Modernization Act, 2016*, gave Ontario municipalities the option to use ranked ballots for the first time in 2018.

On April 27, 2020, Council received Staff Report CORS-014-20 with respect to ranked ballot voting. Council approved the staff recommendation to maintain the first-past-the-post election model for municipal elections and staff were directed to monitor developments in Ontario and other relevant jurisdictions with respect to use of the ranked ballot voting model and report back to Council after the 2022 Municipal Election. On October 20, 2020, Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act* was introduced to the Legislative Assembly of Ontario. Bill 218 proposed several amendments to the MEA, including the removal of sections that permit municipalities to offer a ranked ballot election and received Royal Assent on November 20, 2020. Therefore, ranked ballot voting would no longer be possible as an election model for the 2022 Municipal Election and no further staff reporting would be required at this time.

Discussion

Overview

In accordance with the MEA, the Town Clerk is responsible for conducting municipal elections, which includes preparing and administering elections in an independent manner. The Clerk conducts elections for municipal council, regional council and school boards according to the established principles of the MEA, which are the following:

- 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;

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- there is to be certainty that the results of the election reflect the votes cast;
- voters and candidates should be treated fairly and consistently; and
- a proper majority vote decides the election by ensuring, so far as reasonably possible, that valid votes be counted and invalid votes be rejected.

As noted above, Section 42 (1) of the *Municipal Elections Act* (MEA) requires that the council of a local municipality may pass by-laws: 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.

In preparing of recommendations for vote counting equipment and alternative voting methods, staff take into consideration previous best practices, the current context, as well as trends in Municipal, Provincial and Federal elections. As such, staff have reviewed the previous use of vote tabulators, as well as remote voting options below.

Vote Counting Equipment - Paper Ballot Using Vote Tabulators

A vote tabulator (also called an optical scan unit or tabulator) reads and records how ballots are marked. The ballots are inserted into the vote tabulator and the tabulator reads and stores the information. At the close of voting on Election Day, the vote tabulator will produce the cumulative totals of all of the votes cast and the totals will be compiled to produce the final election results.

The use of vote-counting equipment allows for increased consistency in vote counting over a manual counting process and supports the efficient reporting of the unofficial election results on Election Night.

The Town began using optical scanners/vote tabulators in 2006 for all voting locations and has continued to use them in all subsequent municipal elections, as well. The use of vote tabulators has become a widely accepted vote counting methods in Ontario over the past several years, being used in provincial and municipal elections. The Association of Municipal Manager, Clerks and Treasurers of Ontario (AMCTO) conducted a 2018 post-election survey and its findings show that 58 of the 108 responding municipalities that offered paper ballots, used vote tabulators.

Staff recommend the continued use of vote tabulators for municipal elections. Due to its use in municipal and provincial elections, voters in Milton are familiar with this technology. Along with many municipalities in Ontario, the Town has established procedures and implemented best practices for the use of paper ballot and vote tabulators. Staff have followed procedures to ensure that vote tabulators are scanning and recording vote counts accurately prior to use at a voting location through a process known as logic and accuracy testing, where pre-marked ballots for every ward and school board candidate being tested and manually verified by the elections staff. Staff have also followed established

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procedures to ensure that the tabulators and results cannot be tampered with, including preventing the tabulator from transmitting results and ensuring that an Election Official is always present and monitoring the tabulator at all voting locations.

Staff recommend the continued use of vote tabulators for the 2022 Municipal Election for advance polls and Election Day voting.

Remote Voting Options

In addition to continuing the use of vote tabulators with paper ballots, staff recommend that Council approve one remote voting method for the 2022 Municipal Election, for the following reasons:

- A remote voting option provides eligible voters with the ability to cast their own ballot if they opt to or are not able to attend a voting location for various reasons, including mobility limitations, work or personal commitments, health concerns or non-resident voters. Elections Canada and Elections Ontario offer a remote mail-in ballot option in addition to home visit program when in-person voting options are not sufficient for a voter to cast their own ballot.
- The COVID-19 pandemic has further emphasized the need for remote voting options in elections. While the current context of the pandemic may be different at the time of the municipal election in October 2022, staff will need to consider and prepare for evolving circumstances, which may require alternatives to in-person voting and/or options that give more comfort to voters when casting their ballot.

Remote voting options are unsupervised voting and can raise concerns about maintaining the integrity and security of the election process. Well-developed procedures based on industry best practices and auditing processes form part of the Clerk's preparation and implementation of municipal elections. Ensuring that processes are in place to mitigate risk, maintain security and preventing fraudulent voting, are part of the Clerk's role and is a priority in conducting elections.

At this time, staff recommend that only one remote method be offered in the 2022 Municipal Election. Offering more than one remote option would require additional budget considerations and additional resources due to manage necessary procedures and specific considerations for each option.

Remote voting options discussed in this report include internet voting, vote by phone and vote by mail.

Discussion

Internet Voting

Internet voting, in which voters cast their ballot online, has been increasingly used in municipal elections in Ontario. It allows for a convenient and accessible way for voters to cast their ballot remotely - voting anywhere on a computer or other device.

Internet voting also provides for efficient automated administration of voter identity verification, ballot receipt, striking voters off the voters' list and the counting of votes.

While this remote voting option offers the convenience and accessibility to voters, concerns exist with respect to security and the lack of industry standards for conducting internet voting in elections. Municipalities have done considerable work over the years to develop their own procedures to address security risks, the verification of voters, auditing and testing, as well as internet access for voters. Considerable work and resources would be required for Town staff to establish customized procedures and standards to provide for internet voting during an election and ensure that these procedures are secure and uphold the established principles of the MEA.

Some additional concerns with internet voting is that some areas may have less available internet access, the potential for delays in voting due to technical difficulties and increased need for election staff to provide technical support for voters. There are also concerns related to the recount process and the inability to provide for a manual recount.

It is estimated that internet voting would cost approximately \$300,000 in additional election funds to support software costs, additional elections and IT staffing, resources and materials, as well as enhanced communications.

A report titled "Online Voting in Ontario's Municipal Elections" co-authored by Dr. Aleksander Essex, Anthony Cardillo and Nicholas Akinyoukan, studied internet voting use in the 2018 municipal elections. The findings of this study highlight security concerns regarding the secrecy of the vote and the integrity of the voting process. This study found that some voters were re-identifiable based on login credentials that used date of birth. Given the questions that this study has raised with respect to integrity of the election process, further study and consideration of internet voting is required.

Currently, work is underway by a Canadian Forum called the COI Strategy Council (accredited by the Standards Council of Canada) to bring together technology leaders as part of a technical committee to inform and drive the development of a suite of national standards to support the implementation of online electoral voting technologies. Staff will continue to monitor the developments regarding standards for internet voting and will bring forward a fulsome report about internet voting in preparation for the 2026 municipal election.



Discussion

Internet voting is not recommended by staff for the 2022 Municipal Election, given staff's opinion that there is need for further review and the absence of industry standards for internet voting. Staff will consider all of the challenges discussed above in a future review of internet voting for municipal elections.

Vote by Phone

Vote by Phone requires the elector to use a touchtone phone to call a number provided on their voter notification card. The elector will then be prompted to follow a number of steps to verify their identity. Voters are prompted to make their ballot selections and upon completion of all the races, the voter is provided the opportunity to review the full ballot prior to providing final confirmation and casting the ballot.

Similar to Internet Voting, the use of Vote by Phone as a remote option allows voters to cast a ballot without attending a physical voting location. Generally, Vote by Phone has been used by smaller, more remote rural municipalities where voting locations may be distanced or there is less access to broadband. It has been reported that this remote option requires more time given the long phone automation scripts. Since Vote by Phone could operate on the same platform as internet voting systems, there are security and connectivity considerations that could also apply. There are also concerns related to the recount process and the inability to provide for a manual recount.

It is estimated that Vote by Phone would cost approximately \$24,500, based on 5,000 electors, which may fluctuate based on the number of voters who would opt to use this remote option.

Vote by Mail

Vote by Mail is a voting method in which voters receive their ballots through the mail in a voter kit, voters complete their ballot remotely and return their completed voter kit, including the ballot, via mail by a prescribed date.

The findings of the Association of Municipal Clerks and Treasurers of Ontario (AMCTO) 2018 post-election survey concluded that 48 of the 108 responding municipalities offered paper ballots using vote by mail. This method has been implemented in the City of Toronto for a recent by-election and is the only remote voting option for provincial and federal elections. Due to its use at higher levels of government, it is a method familiar to many voters.

The integrity and the confidence in the election results are paramount for any election and vote by mail offers the ability to consistently audit and recount in the same manner as ballots cast in-person. This method would allow an audit or recount of ballots in the same manner as they were originally counted, or by alternative methods, if ordered by a judge.



Discussion

Vote by mail is a remote voting option that could be provided by a third party service provider and, therefore, could be administered with existing staffing resources. For vote by mail, staff estimate that the implementation of a vote by mail option would cost \$48,750 to support 5,000 voters, which may fluctuate based on the number of voters who opt to use this remote option. This additional cost would include the cost of vote by mail kits, related vendor services, postage to send and return, as well as, any specified tabulator on Election night.

Mail processing time can pose challenges for vote by mail, however, staff will work to implement procedures and timeframes to account for mailing and returning completed voter kits, potential drop off locations and will seek to work productively with the vendor and Canada Post to support vote by mail requirements.

Conclusion and Recommendation

Staff recommend the continued use of vote tabulators for the 2022 Municipal Election for advance polls and Election Day voting due to the established best practices and procedures from previous municipal elections in Milton.

Staff recommend that Vote by Mail be approved for use as a remote voting option in the 2022 Municipal Election. Vote by Mail is a remote voting method that is most familiar to voters, widely used in municipal elections and provides the ability to thoroughly audit and verify recount with a paper ballot.

Upon Council direction, the Town Clerk and elections staff will proceed with implementation of this remote method and present the necessary by-laws for approval.

