



Report to Council

Department: Office of the CAO
Division: Legal and Legislative Services
Date: March 7, 2022
Prepared by: Robert W. Auger Town Solicitor/Clerk
Report Number: Legal and Legislative Services-2022-09
Subject: 2022 Municipal Election Voting Method
Number of Pages: 13

Recommendation(s)

1. **That** Legal and Legislative Services-2022-09 entitled 2022 Municipal Election Voting Method prepared by Robert W. Auger Town Solicitor/Clerk dated March 7, 2022 be received;
2. **That** the method of voting for the 2022 Municipal Election be a hybrid method of:
 - **Internet Voting only for Advance Polls** with an advance poll period commencing 12:00 a.m. on October 10, 2022 and ending at 12:00 p.m. on October 21, 2022; and
 - **In-person voting only on Voting Day** (October 24, 2022) using paper ballots with optical scan vote tabulators with voting locations to be determined and located in each of the four (4) town centres (Essex Centre, Harrow, McGregor and Colchester); and
3. **That** By-Law 2132 to authorize the use of Internet voting as an alternative voting method for the Advance Polls during an advance poll period of October 10, 2022 to October 21, 2022 -) and to authorize the use of mark sense ballot and optical scan vote tabulators on Voting Day in the 2022 Municipal Election receive a first, a second and third reading and be finally passed on March 7, 2022.

Purpose

Municipal elections in Ontario are governed by the Municipal Elections Act, 1996 (the "MEA").

Section 42(1) of the Municipal Elections Act, 1996 (the "Act"), provides that Council may pass by-laws to:

- a) Authorize the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators, and
- b) Authorize electors to use an alternative voting method, such as voting by mail or by telephone.

Background and Discussion

Election Legislative Changes since 2018

Following each election, the MEA is reviewed, and inevitably revised. This past election cycle was no different and within the last year several amendments were introduced.

On November 20, 2020, Bill 218, Supporting Ontario's Recovery and Municipal Elections Act, 2020 received Royal Assent and on April 19, 2021, Bill 254, Protecting Ontario Elections Act, 2021 received Royal Assent. Between these two pieces of legislation, the following changes were made to the MEA:

- The option to hold a ranked ballot election has been revoked.
- Nomination Day for a regular election has been moved from the fourth Friday in July to the third Friday in August.
- By-laws authorizing the use of vote-counting equipment and alternative voting methods to be adopted on or before May 1 in the year of the election.
 - The date to establish procedures and forms for the use of any voting or vote-counting equipment or alternative voting method has changed to June 1 in the year of the election.
 - The Clerk may put conditions in place to allow candidates and third-party advertisers ("TPA") to submit their nomination and registration forms electronically.

Endorsements of a nomination that is filed electronically must be collected as original signatures and the person filing electronically must retain a copy of the documentation bearing the original endorsement signatures.

- A registered TPA may withdraw their registration by filing a written withdrawal with the Clerk during the time for filing a notice of registration (no later than the Friday before Voting Day, at a time when the Clerk's office is open).
- If a registered TPA files a nomination to run for office, their TPA registration is deemed withdrawn and their advertising campaign automatically closes.

Despite the changes to the legislation regarding the extended timelines for making a decision about alternative voting methods, vote counting equipment, and the establishment of the applicable procedures for the election, it would be beneficial for Council to make a decision with respect to the method of election to enable the Clerks Department to continue ongoing election preparations (i.e. reviewing/revising/establishing any procedures and forms for the election, and initiating any other formal processes required etc.).

Voting Methods

The Act provides that the municipal council determines the method of voting to be used.

A significant number of Ontario municipalities now use some alternative or hybrid form of voting other than or in combination with paper ballots at polling stations.

The Association of Municipalities of Ontario reported that in 2014, 97 municipalities (representing about 22% of all municipalities in Ontario) used internet voting for their municipal election. In 2018, that number almost doubled and 178 municipalities (42.3% of Ontario municipalities) offered internet voting to its residents.

Alternative methods to choose from include mail-in balloting, telephone and/or internet. A combination of these methods is often used by municipalities. Alternative voting methods can also be used as a hybrid form of voting in combination with traditional in-person polling stations.

In the 2018 municipal election the Town of Essex offered in-person voting only using optical

scan tabulating equipment to assist with vote counting. In the 2014 and 2010 elections mail-in voting only was employed.

An additional consideration for this Report is that it is expected that public interest in alternative voting methods will increase throughout Ontario leading up to this 2022 election, especially given the concerns still associated with the recent COVID-19 pandemic. It is respectfully submitted that offering the public an alternative or hybrid method of voting will be seen as important in not only providing options from an accessibility point of view but also as a viable option associated with what may be continuing concerns or apprehension surrounding the pandemic. The Provincial Government and Health Units across the Province have begun lessening or removing some of the recommended health measures and orders associated with the pandemic and ideally all of these public health measures will largely be lifted, if not entirely eliminated; by Voting Day. However, in the event that such regulations are still in place, or perhaps are more restrictive at Voting Day then the use of an alternative method of voting will offer the electors in the Town of Essex a safe voting option that does not require in-person contact. Further it would allow eligible electors who need to consider their health, or the health of someone else, the opportunity to vote in the environment they choose.

In preparing this report Administration conducted a brief review of the various voting methods for consideration for the 2022 Municipal Election. Listed below is a brief summary of these methods of voting.

Traditional In-Person Voting with Polling Stations

This method of vote (used in the 2018 election) requires printing hard-copy ballots that are provided to voters in person at their designated voting location. The counting of the ballots can be enhanced through the use of automatic optical scan electronic voting tabulators.

While the use of in-person voting locations is certainly effective it is also by far the most labour-intensive option which will require additional considerations for COVID-19 safety and accessibility requirements.

Vote By Mail

The Town of Essex used this method to vote in both the 2010 and 2014 municipal elections. This method relies on significant up-front planning prior to mailing the voting kits but is overall less labour intensive than traditional in-person polling stations.

A continuing concern with this method of voting is the reliance on the mail delivery system and the potential for delivery delays. In particular there is exposure to disruptions in Canada Post the mail service due to labour disruptions or changes in post office operations/procedures. An additional layer of challenge that led in 2018 to the move away from mail-in voting was the fact that Canada Post back in circa 2013 closed its local sorting station and moved the mechanical sorting and processing for delivery function to London Ontario. In the 2014 election this led to increased delays in turnaround time as far as mailing out voter kits and receiving back ballots in a timely manner.

“e-Voting” (Internet or Telephone Voting)

The use of remote internet or telephone voting for municipal elections has become more popular over the past decade, as it allows for convenient and accessible voting from any location. Electors are mailed a confidential access code that must be used inconjunction with a personal identifying code, such as birth date, in order to access the ballot online or by telephone.

Both of these methods allow for the most flexibility in the voting process, as votes can be cast any time during the defined voting period from virtually anywhere. Although the voting process is very accessible, it would still be recommended that with the use of one of these forms of voting “Voter Help Centres” should be established at physical locations within Town so as to assist voters that are not comfortable with technology or simply wish to cast their ballot “in-person”.

e-Voting offers a remote option that is fair, consistent, and unbiased. The voting screen,subject to any customization options described above, is the same for each voter and does not influence how their ballot should be cast. In turn, this method of voting also treats voters and candidates fairly by using technology that is widely available to all.

One of the often stated concerns in connection with e-Voting revolves around the security of

the process, secrecy of the ballots, and the overall integrity of the election. All electronic service providers have measures in place to prevent breaches of security, maintain the secrecy of the ballot, and ensure the capacity of the system to deal with increased traffic volumes (i.e. firewalls, encryption protocols, user authentication systems).

As previously mentioned, 178 municipalities offered e-Voting to its electors in 2018. Although a number of those municipalities experienced issues on Voting Day, which caused those municipalities to extend voting into the next day, those issues were technical in nature and limited to a specific service provider. Administration is not aware of reports related to voter fraud, security breaches or other issues that could call into question the integrity of those elections, or any election in which e-Voting was offered. Regardless, Administration will conduct testing of any e-Voting system that is implemented to ensure the security of the system.

In addition to these features, e-Voting offers some other benefits and conveniences:

- Faster voting experience for an elector as internet ballots can be completed within minutes and without the need to attend at a voting location.
- Elimination of spoiled ballots as the system does not allow for over-voting, nor does it permit an elector to unintentionally spoil their ballot. Voters can still under-vote (when an elector votes for less candidates than permitted) or decline to vote altogether).
- Environmentally friendly option. There is no need to print off paper ballots or the vote-by-mail kits, nor will electors be required to travel to a voting location thereby reducing greenhouse gas emissions.
- No need to appoint a proxy since electors can vote anytime, and from anywhere, once voting opens.
- Faster results, as the software will tabulate the votes cast. There will be no need to source tabulators to count ballots.

Recommended Method (s) of Voting for the Town of Essex 2022 Municipal Election

It is important, perhaps more so than at any other point in history, to strike the appropriate balance between traditional voting and offering alternative ways to vote. The COVID-19 pandemic taught us about the need to adapt and offer hybrid or alternative models for delivering essential services. The Town of Essex already has a history of considering hybrid or alternative models for delivering its essential services and that has also extended to the use of alternative voting methods in its elections (vote by Mail in 2010 and 2014). The holding of a municipal election is one of the most essential services to deliver and so the following hybrid model is being recommended for the 2022 municipal election:

- Internet Voting only for Advance Polls.
- In-person voting only on Voting Day.

The following is a summary of the recommendations:

1. Internet Voting for Advance Voting only

This method is being recommended based on the following rationale:

- Internet voting will allow electors to vote twenty-four (24) hours a day for a ten-day period from any location in the world. Back in the 2018 election Advance Voting was only available on two (2) designated days at in-person voting locations. The much greater accessibility for Advance voting by internet would for example allow “Snowbirds” and students away at school to vote themselves without the need of a proxy.
- It allows for convenience for the voter. The internet option allows individuals the ability to vote at home rather than driving to the voting location.
- Internet voting also addresses most accessibility issues since people can vote from anywhere. Many people with accessibility issues have, where necessary, already made accommodation to be able to use the internet. For example, people who have challenges with their sight may already have the use of an internet reader.

- Using internet voting is one way for the Town to encourage greater involvement in the election process. The more the Town uses technology to communicate and connect with its residents the more the municipality becomes relevant and the more interest is promoted by community involvement.
- Using this method of internet voting for just the advance polls will allow both the community and administration to explore the opportunity this type of voting provided.
- This method allows for another convenient option for the voters while still making the traditional method of voting available for those that are more comfortable with traditional in person voting using paper ballots.
- This method is being recommended over telephone voting because it may engage voter demographics that are typically harder to reach which may result in a higher voter turnout. A significant segment of potential voters today are particularly attracted to technology and its benefits. The idea of casting a vote by mail or over the telephone may be seen as time consuming and perhaps even outdated. Internet voting, on the other hand, can be done with a laptop or smartphone and a data connection. It fits in with many potential voter's lifestyle routines and this means voter demographics who may not normally vote could be encouraged to do so.
- Offering internet for advance voting only is being recommended due to the ability to strike off names on the voters list. The Town utilizes "Voterview" as our voter list software. Voterview can accompany internet voting. When a voter casts a ballot online their name is immediately stricken off the list. Once the advance polls are closed a final voters list can be printed with the voters names that have already voted marked off. This will be helpful on Voting Day for the Deputy Returning Officers to know who has already voted.
- We would not recommend the use of both internet and in person methods of voting concurrently on Voting day itself. The reason why is that significant additional costs would need to be incurred both administratively and in the way of further technology so as to ensure proper and reliable linkage between the two methods on Voting Day.

The Plan

The advance poll period for internet voting would commence at 12:00 a.m. on October 10, 2022 and end at 12:00 p.m. on October 21, 2022. It is recommended that the advance poll period end at this time so as to allow administration sufficient time to produce a Final Voters List in preparation for the In-person Voting Day . Once voting for the advance Poll opens, votes can be cast from computers, laptops, smartphones, landlines, tablets etc. at any time of the day, regardless of whether the voter is within the municipal boundaries. For those electors with mobility challenges, there is no need to travel to a polling station to cast their ballot. Moreover, the internet component of the platforms provide a range of customization options (i.e. increasable font size, adjustable contrast, language translation etc.) and are compatible with screen-readers to assist those who utilize that technology.

Despite the Advance polls being "internet only" and despite what will be a significant amount of pre-voting public education on the process, the Town will additionally set-up "Voter Help Centres" to be located likely at both Town Hall in Essex Centre and at the Harrow & Colchester South Community Centre in order to provide further in person assistance with the internet voting process during the advance poll period. The Voter Help Centres would assist those who may not have reliable access to Internet service or who may need help learning how to vote by internet. At minimum, the centres will be available to voters during regular business hours (Monday to Friday) during the advance voting period. In addition during the advance poll period special voting days will be designated for the retirement homes in the municipality. Testing and any required further measures to mitigate security concerns and ensure connectivity at the Voter Help Centres will be conducted in consultation with the service provider and the Town's IT manager.

Elections staff will visit the retirement homes on designated days to provide assistance to the residents with the Internet voting process. Finally and as always residents can call or contact the Clerks office if they require further assistance during this advance poll period.

2. Voting Day (October 24): In-Person Voting only.

As with all methods of voting, there are advantages and disadvantages to the traditional voting method.

Some of the advantages are:

- Electors are familiar and comfortable with the traditional method;
- Perceptually in-person voting is seen by some electors as the most reliable/transparent form of voting;
- Privacy is ensured during the casting of votes;
- Election results are prompt, timely and accurate;
- The Ballot is tabulated immediately, notifying the voters of any errors on the ballot, reducing the possibility of rejected ballots;

Conversely, there are some perceived disadvantages with this method, some of which include:

- Limits the flexibility of the voter (i.e. they cannot vote anytime, they are provided parameters);
- The voting process for the elector is more time consuming
- May require a significant number of electors to physically attend at the voting locations thereby presenting additional health and safety considerations
- May be difficulties for some electors in travelling to/finding voting locations;
- Weather may have a negative effect on voter turnout;
- Perceptually may be seem by some electors as an “outdated” and non-progressive form of voting;
- More labour intensive and thus increases workload and staffing.

However, many of these perceived disadvantages can be mitigated through proper election planning. For example, the perceived disadvantages of limiting voter flexibility together with health & safety concerns associated with physically attending to vote can be mitigated by holding an extended Advance Poll Internet voting period that will hopefully

result in a significantly lesser number of in-person voters on Voting Day.

The Plan

The polls on Voting day will be open for voting from 10:00 a.m. until 8 p.m. Voting locations will be at Town facilities located in each of the four (4) town centres (Essex, Harrow, McGregor and Colchester). Traditional paper ballots will be used but ballots will employ state of the art optical scan tabulators so as to ensure an efficient, reliable and quick release of results on Voting Day. In this method, qualified electors arrive at the polls and authenticate their identity. If authentication is successful, the voter will be presented with a ballot containing a list of qualified candidates for the contested offices. The voter proceeds to a private booth and marks their choices and the completed ballot is placed in a special secrecy envelope and inserted into the Ballot Box via an electronic counting device. The tabulator scans the ballot, interprets the digital image of the ballot, stores and tallies the results and prints a cumulative total of all votes cast after the polls have been closed.

Additionally, special voting polls will be designated at the retirement homes in the municipality. Elections staff will again visit the retirement homes during designated times on voting day to bring the voting process to the residents.

Special Considerations for In-person voting in the 2022 Municipal Election

While each election is unique, the 2022 election for in-person voting will have some special considerations that will make it unlike its predecessors. The COVID-19 pandemic has introduced new challenges to the election planning process. At this current time the Provincial Government and its Health Units have begun lessening or removing many of the recommended health measures and orders associated with the pandemic and ideally all of these public health measures will largely be lifted, if not entirely eliminated, by Voting Day. However, in the event that any such regulations are still in place, or perhaps are more restrictive at Voting Day or even just to provide assurance to allay any continuing electorate health and safety concerns, contingency plans are required for the safety of the voters and Voting Day staff, as well as preparing for the possibility of interruptions in the voting

process that may arise due to any new health concerns that may arise.

Any in-person voting location will consider safety protocols such as social distancing, reducing common touchpoints, Personal Protective Equipment (PPE) or other tools that may be needed to protect both electors and election officials. The Town in running the election will, much like it has throughout the entire Covid-19 pandemic, follow the recommended guidelines and orders from the Provincial government and its Health Units.

In addition to the health and safety considerations noted above, Administration must also ensure that the election process is accessible for all voters and complies with the *Accessibility for Ontarians with Disabilities Act* (AODA). For traditional voting methods, election officials must ensure that each voting location is physically accessible and ensure alternative methods are available for the casting of the ballot itself.

Financial Impact

If Council accepts the recommendations of this Report and opts to adopt a hybrid approach to the election with Internet voting for the Advance Vote and in-person voting on Voting Day then the cost of the election is estimated to be at the amount of \$139,000 of which \$140,000 has been budgeted for 2022.

Back In 2018 the Town conducted a 100% traditional in-person election but using optical scan vote tabulators at four voting locations on Voting Day together with conducting two in-person Advance polls at two voting locations in the Municipality. It is estimated that if this same method of voting is chosen by Council for the 2022 election the cost of the election is estimated to be at the amount of \$122,000 of which \$140,000 has been budgeted for the 2022 election.

Further if Council decides not to adopt a hybrid form of voting but instead opts to adopt just Internet and telephone voting for 2022 Municipal Election (advance Voting and Voting Day) then the cost of the election is estimated to be at the amount of \$156,000 of which \$140,000 has been budgeted for the 2022 election.

Consultations

Doug Sweet, Chief Administrative Officer

Kate Giurissevich, Director, Corporate Services/Treasurer

Shelley Brown, Deputy Clerk

Jack Barron, IT Manager

Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☒ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☒ Improve the Town's capacity to meet the ongoing and future service needs of its citizens while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.

Report Approval Details

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|----------------------|---|
| Document Title: | 2022 Election Voting Method - Legal and Legislative Services-2022-09.docx |
| Attachments: | - By-Law No. 2132 - Voting Methods for the 2022 Municipal Election.pdf |
| Final Approval Date: | Mar 2, 2022 |

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to read 'Doug Sweet', with a long horizontal stroke extending to the right.

Doug Sweet, Chief Administrative Officer - Mar 2, 2022 - 1:14 PM