



## Report to Council

Department: Office of the CAO  
Division: Legal and Legislative Services  
Date: July 20, 2020  
Prepared by: Robert W Auger, Town Solicitor, Legal and Legislative Services/Clerk  
Report Number: Legal and Legislative Services-2020-11  
Subject: Election Review of Policies and Procedures  
Number of Pages: 31

### Recommendation(s)

**That** Legal and Legislative Services-2020-11 entitled "Election Review of Policies and Procedures" prepared by Robert W Auger dated July 20, 2020, be received for Council and public information purposes.

### Purpose

After a Municipal Election and as part of the preparation process for the following general municipal election it is standard practice to conduct a review of election related by-laws, policies and procedures currently in place. This review is normally conducted with a view towards determining if amendments should be made either in response to current or updated legislative requirements or as a result of necessary or recommended changes identified by the Clerk as part of his legislative role under the Municipal Elections Act (MEA).

Council at its September 3, 2019 meeting, further directed Administration (via Resolution R19-09-376) to review and report back on said election policies, procedures and by-laws.

As a result, this Report contains the Clerk's comments and recommendations to date as a result of his ongoing review of the Town's election related by-laws, policies and procedures. This review and its recommendations will then form the basis of revised or new by-laws and policies that will come to Council for formal adoption at various points over the balance of this year.

This review is further based upon the assumption that the current method of voting (traditional in person voting with vote-counting tabulators) will be used in the 2022 Election. Under the Municipal Election Act (Section 42) Council has the authority (before May 1 2021) via by-law to direct that an alternative and/or additional form of voting for the 2022 general election (such as mail, telephone, internet) be used. It is expected per normal procedures that a Clerk's Report with recommendations on alternative voting methods will come to Council for its consideration in late winter (2020)/early spring of 2021. Certainly if Council at that time directs an alternative form(s) of voting to be used, there may be further review and required changes to the election policies, procedures and by-laws. Additionally, further review and changes may be required as a result of any forthcoming legislative election amendments and/or to address any changing circumstances, including the development of further policies that may be required to address election procedures during a time of pandemic.

## **Background and Discussion**

### **Duties and Powers of Clerk re: Elections**

The *MEA* (the "Act" or the "MEA")) provides the Clerk with special duties and powers as it relates to the conduct of Municipal elections. The following are some excerpts from the Act:

#### *Duties of clerk*

**11** (1) The clerk of a local municipality is responsible for conducting elections within that municipality...

#### *Same*

(2) Responsibility for conducting an election includes responsibility for,  
(a) preparing for the election;

- (b) preparing for and conducting a recount in the election;
- (c) maintaining peace and order in connection with the election; and
- (d) in a regular election, preparing and submitting the report described in subsection 12.1 (2). 1996, c. 32, Sched., s. 11 (2); 2009, c. 33, Sched. 21, s. 8 (7).

### *Powers of clerk*

**12** (1) A clerk who is responsible for conducting an election may provide for any matter or procedure that,

- (a) is not otherwise provided for in an Act or regulation; and
- (b) in the clerk's opinion, is necessary or desirable for conducting the election. 1996, c. 32, Sched., s. 12 (1).

It is these legislated duties and powers that provides the Clerk with the required authority, independence and integrity so as to be able to conduct municipal elections in the required objective, fair and transparent manner so that public confidence in our electoral systems is maintained.

Accordingly the following policies, procedures, and by-laws were reviewed:

### **1. Use of Corporate Resources Policy**

It is necessary to establish guidelines on the appropriate use of corporate resources during a municipal election period to order to protect the interests of Council Members, candidates and the Corporation of the Town of Essex.

Section 88.8 (4) of the MEA prohibits a municipality from making a contribution to a candidate. The Act also prohibits a candidate, or someone acting on the candidate's behalf, from accepting a contribution from a person who is not entitled to make a contribution. A contribution may take the form of money, goods or services. Any use by a Council Member/Candidate of the Corporation's resources for his or her election campaign could be viewed as a contribution by the municipality to the member/candidates campaign, which is a violation of the Act.

The current Town of Essex Policy entitled *"Use of Corporate Resources for Election Purposes"* and attached hereto as Schedule "A" was originally approved by Council back on April 19, 2010. This policy has not been amended since 2010. While this Policy was a source of guidance for candidates during the 2018 election it became apparent during the election that the Policy at times could not be relied upon to provide clear direction to Candidates, Members of Council and even Town staff. The lack of clarity in the current policy became apparent during the 2018 Election as numerous inquiries were made by candidates asking for clarification as to if what they were proposing as a campaign matter or activity was permissible under the Policy. Accordingly, in many instances the Clerk had to engage in a reasonable exercise of his electoral discretion in interpreting the "spirit and intent" of the Policy when deciding upon its application.

For example, during the most recent election it was sometimes unclear from the Policy as to:

- what constituted "Town property or Facilities" versus "general public property or facilities";
- what print, photos or other types of material constituted a use of town resources; and
- what matters or actions constituted, for incumbent Council members, a proper use of Corporate resources in the furtherance of their council duties versus an inappropriate use of Corporate resources in furtherance of a campaign;

In these types of "gray" areas the Clerk had to exercise his electoral discretion and so in a fair and reasonable manner. While electoral discretion is always going to be required in the of the Clerk when conducting an election, a Use of Corporate Resources Policy that better defines from the outset the expectations and better clarifies what is permitted and what is not permitted will always be preferred as it will help Candidates, Council Members and Town Staff proactively make more consistent and reliable decisions as far as taking actions that are appropriate versus not appropriate.

A review of other Municipal Policies on use of Town/corporate resources reveals many policies are much more comprehensive in both scope and definition. While no one Policy, no

matter how comprehensive, will be able to capture and interpret all potential scenarios it is recommended that the current Town of Essex Policy be replaced with a completely new policy in order to hopefully bring improved clarity for candidates, members of council, third party advertisers and town staff alike. Further it is recommended that the Policy be adopted as a formal By-law of the Town of Essex such that Town of Essex By-law enforcement could possibly assist in reviewing and resolving quickly, alleged breaches of the Policy together with assisting the Clerk's office with potential enforcement measures if necessary.

As an overview the new *Use of Corporate Resources During Elections Policy* will:

- Provide a more expansive definition of "Town Property and Facilities" and their prohibited use thereof during an election period. This definition will be greatly expanded for clarification purposes and will include prohibitions on the use of any facilities, equipment, (including computer hardware and software), supplies, services, staff, staff offices or *any other resources of the municipality*.
- Provide more detail and information on specific examples of restrictions on the use of the Towns corporate identity or the use of any Town intellectual property during the election period. For example the use of Town logos, crest, coat of arms, Mission Statement, Strategic Plan Statements, tagline, etc.) or any similar likeness thereto may not be used, printed or distributed on any election material or at any campaign events nor included on any election campaign-related website
- Provide enhanced protocols and restrictions with respect to Town Cell phones of members of Council and prohibiting the use of any Town electronic devices to respond to campaign inquiries/matters or post or re-post matters on social media relating directly or indirectly to campaign matters. Included in that will be protocols giving the Town the right to audit such Town issued electronic devices.
- Prohibitions on canvassing or campaigning while wearing an article of clothing that bears a municipal logo/crest or any other item that displays the corporate logo/crest or any similar likeness thereto.

- Clarification and formalization of information sharing protocols by the Clerk's Office and candidates during the election. For example, all candidate questions and comments received by the Clerk's office and the answers thereto by the Clerk will be shared with all Candidates and made available on the town website in a timely manner.
- Provide further clarification and enhanced protocols as to procedures and restrictions re: access to Town information for candidates during an election period. For example Candidates will be informed that any and all requests for information during an election period cannot be made in the normal course and *must be made directly to the only the CAO and/or Clerk*. Town Staff will further be directed to refuse such requests made to them and to forward the same directly to the CAO or Clerk. This restriction will also apply to Members of Council during the election period.
- Provide further clarification and enhanced protocols for candidates as to procedures and restrictions re: temporary limitations on physical access to Town Hall and limitations on interaction with Town Staff during an election period.
- Clarification with enhanced protocols that will provide temporary restrictions on the full or normal range of Town services provided to members of council during the election period but without otherwise restricting those Council Members ability to conduct matter son behalf of their constituents.
- Clarification that the provisions of this Policy shall apply to third-party advertisers during the election period.

With regards to administration and enforcement the Town Clerk, or designate, shall have the delegated authority under the Policy/By-law to review and resolve any issues arising from any written complaint regarding an alleged contravention of this policy. The Clerk or designate shall further be authorized and directed to take the necessary action to give effect to the Policy. All complaints received from the public shall be in writing and addressed to the Clerk. If a breach of this policy is confirmed, the candidate may be required to personally reimburse the Municipality for any of the costs associated with the breach. Candidates will also be reminded that their actions may also possibly subject them to

offences and/or penalty provisions for violations under the Municipal Elections Act.

The new *Use of Corporate Resources During Elections Policy* is currently in draft form for administration review and it is expected to come to Council with an adopting by-law by early fall 2020 (September/October).

## **2. “Stand Alone” Election Sign by-law**

It is recommended that a more comprehensive stand-alone Election Sign By-law be adopted by Council. Currently the provisions that address election signs are included as part of the Town of Essex General Sign By-law 1350 (as amended). However these provisions specifically regulating the display of election signs are embedded into what is a very extensive and comprehensive general sign by-law. However the current election sign provisions in that general sign by-law are not only insufficient in detail, but these provisions also tend to get “lost” within the context of the much larger general Sign by-law. This has led to the existing provisions either not being followed, understood, or interpreted correctly. In particular there appears to be confusion at times as to whether and which of the general sign by-law provisions apply to election signs and which did not.

Accordingly it is recommended that these election sign provisions be removed from the general sign-by-law 1350 and made part of a more extensive and understandable “stand-alone” election sign by-law that does not get lost in the context of the much larger general by-law.

A separate “stand-alone” election sign by-law will make it easier to communicate sign rules to candidates during federal, provincial and municipal elections, and will allow for the by-law to be updated with any relevant legislation changes from time to time without impacting the larger general sign by-law and its ongoing regulation thereof.

The proposed by-law (in draft at the moment) has been written to make it easier to understand for candidates, the public, and Town officials. The simplified language, and the

inclusion of all relevant material within one by-law dedicated to just elections, will hopefully mean that the by-law is easier to administer.

During and coming out of the 2018 municipal election it became apparent that the current provisions of the general sign by-law that address election signs do not go far enough in providing clarity as to what is a valid election sign and what is not a valid election sign. This especially became an issue during the 2018 election in that candidates were not clear on whether for example, a billboard, a banner, or vehicle magnetic stickers or other variations thereof constituted an election sign subject to the restrictions thereof re: timing, size and location of placement and removal.

Another issue common to all elections are the complaints relating to the timing, placement and location of signs throughout the Municipality. The most common complaints related to the length of time election signs were posted, the proximity of election signs to intersections and rights of way, the density of election signs and election signs interfering with sight lines. With respect to many of these complaints a simple call from the Clerk's office to the candidate or their representative would result in the removal and/or re-location of the offending sign but in every case the complaints of course came after the fact in that the sign had already been placed in violation of current restrictions. What is lacking from the current provisions is a deterrence factor in order to prevent the placing of the violating sign in the first place. Further, the current election sign provisions really do not give the Clerk direct authority to deal with the offending signs. While the Clerk has general authority for the running of elections there is actually no provision in the current by-law that states that the Clerk or their designate can remove and/or confiscate (destroy) election signs that have been placed in violation of the by-law. The authority, under current By-law 1350, actually lies with the By-law Enforcement Officer. However, due to time constraints and lack of resources it is not remotely feasible to send the by-law enforcement officer out to conduct regular patrols to review the placement and location of election signs throughout the municipality. The approach instead has to be complaint driven and only then if there are specific details of violation(s). Only in those limited cases would we ask the By-law enforcement officer to



attend to a location to review and possibly remove the offending sign but even then the By-law enforcement officer, due to other competing commitments, may not always have the ability to immediately attend to the request and so there lies the very real possibility that an offending sign placement or location may continue for a period of time due to lack of sufficient resources to monitor and enforce.

As a result, one of the proposed changes that would be introduced in a stand-alone by-law would be the introduction of an "Election Sign Permit". This permit would have the requirement of a nominal non-refundable permit application fee to partially offset the cost of perhaps extra election staff to assist with election sign enforcement but more importantly there would also be the requirement of an "Election Sign Deposit" that the candidate or third party advertiser would pay to the Municipality in return for the issuance of the permit. The election sign deposit in the proposed amount of \$300 for Ward candidates and \$500 for an "at large" candidate would be returned in full where there has been no violation to the election sign by-law during the campaign and all signs have been removed after the election within the time period required. If there are any violations of the stand-alone sign by-law then fees in the range of \$25-\$50 per sign/occurrence would be applied by the Clerk as against the deposit together with the discretion to immediately remove and confiscate illegally placed election signs during the campaign and signs not removed following the election. Any additional fees or amounts payable relating to the violation of the By-law which remain outstanding after application of the deposit could be collectable in the same manner as Municipal taxes or by such other means available to the Town.

The Election Sign Permit fee application and its issuance would be administered by the Clerk's office and will include the applicant's written acknowledgement and agreement with the Election sign by-law provisions. The expectation with the introduction of an Election Sign Permit requirement is that this will hopefully serve as both a deterrent and incentive for candidates to be mindful of and remain in compliance with the new sign-by-law provision.

A further issue that became apparent during the 2018 election is that the current election sign by-law provisions lack greater clarity or more specific examples of what an election sign is. The definition in a new Election sign by-law will be designed to encompass “any and all types of signs, surfaces or structures that are used or capable of being used as a visual medium to attract attention or convey a message in relation to the election and includes a banner, awning, canopy, marquee, menu board, poster, billboards and vehicle magnets or decals”. In particular this was a source of confusion from the 2018 municipal election but the new election sign by-law for example will clarify that a billboard (existing billboards only) and signs (including in the form of a decal or magnet) that are on vehicles for election purposes will be considered as election signs subject to the provisions of the new by-law.

Further complaints related to election signs that came out of the 2018 election related to “visual clutter” concerns relating to the built up density of signs in some locations and the overall volume or number of candidate signs in certain areas of the Municipality.

To address this “visual clutter” the proposed new Election sign by-law will look to:

- a) impose limits on the number of signs (i.e. one sign per candidate per intersection)
- b) institute a minimum separation distance between signs in rural areas and signs in urban areas,
- c) Impose a minimum separation distance (rural and urban) between signs for the same candidate
- d) Clarify election sign placement at intersections
- e) Restrict elections signs from being placed outside the ward where a candidate is not running for office.

The new by-law will also provide clarification that the by-law applies to federal, provincial and municipal elections.

Finally, the number one complaint coming out of the 2018 election relating to election signs was the lack of proactive enforcement. At the time of the 2018 election the Town did not officially have a stand-alone By-law Enforcement Officer position. While there is one (1) such position now it will still be impossible to have our By-law Enforcement Officer dedicated solely to Municipal Election sign by-law enforcement during the 45 days that elections signs will be permitted in the Municipality. If the desire on the part of the Town is to have better and pro-active enforcement of an Election sign by-law then, in conjunction with the Election Sign Permit as proposed above, more resources would need to be dedicated to either By-law enforcement or to the 2022 election budget so that the Town has more “feet on the ground” to proactively address election sign violations.

One proposal being contemplated by the Clerk is to utilize a certain number of election workers earlier in the election period so that election sign violations could be identified and addressed sooner. Traditionally the Clerk’s office hires and brings in additional election workers for mainly the Advance Polls and for Voting Day itself. With additional budget funds the Clerk’s office could perhaps hire and bring on a certain number of election workers on a part time and periodic basis commencing with the start of the 45 day election sign period. These election workers with appropriate training on the election sign by-law could assist in reporting and resolving sign violations but with recourse to the By-law enforcement Officer for only those more serious and ongoing violations.

The new Election Sign by-law is currently in draft form for administration review and it is expected to come to Council with an adopting by-law by late fall 2020 (October/November).

### **3. Election Complaint Policy**

During the 2018 and previous municipal elections, typical complaints about election related matters (candidate signs, candidate use of resources etc.) were received and resolved on an ad-hoc basis by the Clerk’s office. In the process of trying to acknowledge and promptly

resolve election complaints during the 2018 election what became apparent was that there were misperceptions as to what types of complaints fell within the jurisdiction of the Clerk and which complaints were matters outside the scope of the Clerk's jurisdiction. Further it became apparent that candidates assumed that the Clerk's office had the ability to resort to an existing toolbox with enforcement powers to deal with complaints, when in fact that was not the case in some instances. While the Clerk's office and elections staff made every good faith effort to acknowledge and promptly resolve election related complaints it was felt coming out of the 2018 election, that better and more transparent communication would be required as to the process for acknowledging, reviewing and responding to complaints related to the Election. The improved communication would be with respect to both how to direct/file complaints and who has responsibility to receive and resolve any such complaints. Therefore it is proposed that a formal Election Complaints Policy be established to communicate and guide candidates and members of the public alike when it comes to any concerns about services/processes during a municipal election. Attached hereto as Schedule "B" to this Report for reference purposes is an example of a typical Election Complaints Policy from the City of Oshawa that has been largely modelled from other municipal election complaint policies (including the City of Toronto). A similar Town of Essex policy has been prepared in draft. This Policy will provide direction and information on the complaint and review process for various aspects of the election as well as the basis of authority to address such complaints.

Specifically as it relates to the conduct of candidates during an election, a key point to note from the draft policy is that the Clerk performs largely an administrative and procedural function related to the conduct of the municipal election itself but all within the framework established by the Municipal Elections Act. It is also important to note that while Section 12 of the MEA gives the Clerk a wide range of powers to provide for any matter necessary *for conducting the election*, the Act specifically does not provide the Clerk with investigative or enforcement powers relating to the *conduct of candidates* and specifically as it relates to allegations that the MEA was violated. This was and is perhaps the most profound

misperception that came out of the 2018 election as some candidates and some members of the public believed that the Clerk's office had authority to investigate allegations relating to MEA violations. An individual with concerns that a candidate or other person may have violated either the MEA and/or any other legislation (i.e. Criminal Code etc.) should contact:

- their own legal counsel for further advice if necessary; and/or
- the Ministry of Municipal Affairs which has ministerial responsibility for the MEA; and/or
- the Ontario Provincial Police

Further as it relates to the conduct of candidates who are current Members of Council, one is reminded that the Town's Code of Conduct governing its members of Council could also play a role in ensuring the appropriate conduct of sitting Members of Council and sanctioning any inappropriate conduct. The new Election Complaints Policy is currently in draft form for administration review and it is expected to come to Council for adoption by late summer 2020 (September).

#### **4. Pandemic/Emergency and Municipal Election Procedures Policy**

Under the Municipal Elections Act, the Clerk already has authority to deal with and implement emergency measures relating to an election:

##### *Emergency*

*53 (1) The clerk may declare an emergency if he or she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with this Act. 1996, c. 32, Sched., s. 53 (1).*

##### *Arrangements*

*(2) On declaring an emergency, the clerk shall make such arrangements as he or she considers advisable for the conduct of the election. 1996, c. 32, Sched., s. 53 (2).*

##### *Conflict*

*(3) The arrangements made by the clerk, if they are consistent with the principles of this Act, prevail over anything in this Act and the regulations made under it. 1996, c. 32, Sched., s. 53 (3).*

### *Time*

*(4) The emergency continues until the clerk declares that it has ended. 1996, c. 32, Sched., s. 53 (4).*

### *No review or setting aside*

*(5) If made in good faith, the clerk's declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness or supposed unreasonableness. 1996, c. 32, Sched., s. 53 (5).*

The Town of Essex also has a policy entitled "2018 Municipal Election Procedures and Forms for voting and the use of Vote-counting equipment" and this policy also references the Clerks emergency powers under the MEA. However, what is not currently in place are specific protocols dealing with emergency measures and specific procedures and practices on how to conduct an in person election safely in accordance with social distancing best practices during a time of pandemic or otherwise. While it is uncertain at this time if a future election would need to be conducted during a time of pandemic, it is recommended that the above referenced election procedures policy receive an overall review and that such review include specific amendments to include procedures and practices to provide guidance for conducting an election during a time of pandemic or emergency. This review will consider alternative measures that may need to be implemented in order to conduct the election in such a scenario.

This review is ongoing at the moment and it is anticipated that a proposed and revised Municipal Election Procedures Policy will come to Council for adoption by the end of this year.

## **5. Proxy Vote Procedure**

Proxy voting is the procedure by which a qualified elector may appoint another person who is a qualified elector in the same Municipality to vote on their behalf in a Municipal election. The rules and qualifications surrounding "Proxy Voting " are set out in Section 44 of the Municipal Elections Act and the prescribed or required form to legally appoint someone to be their voting proxy is *Form 3: Appointment for Voting Proxy*, which is a form mandated by the

Ministry of Municipal Affairs. For reference purposes, a copy of this Form 3 is attached as Schedule C to this Report.

Council at its September 2, 2019 regular meeting passed the following resolution:

Moved by Councillor Bondy

Seconded by Councillor Bjorkman

***(R19-09-376) That Council direct Administration to review and report on election policies, including the use of corporate resources and the sign by-law, but excluding the review and report on proxy voting.***

The resolution did not include a direction to review proxy voting because there was (and remains) an ongoing investigation into alleged Municipal Election Act offence(s) surrounding the use of proxy vote/proxy vote forms during the 2018 election. Accordingly it is still not advisable to comment on any specific matters that came out of the 2018 election as the investigation has resulted in a Municipal Elections Act charge which still awaits a judicial determination.

However it is still fair to comment on the following general aspects as it relates to the use of proxy voting in a Municipal Election:

- The Proxy Forms (Form 3: Appointment for Voting Proxy) are provincial forms created by the Ontario Ministry of Municipal Affairs. The Town of Essex Clerk's office cannot unilaterally make changes to these forms. Any required changes to these forms would need to be mandated by the Ministry. At the time of writing this report the Clerk is not aware of any such changes being mandated by the Ministry.
- Section 44 of the MEA is the legislative authority for the use of a voting proxy in a municipal election. The rules including procedure for a Voting Proxy are as set out in section 44 and cannot be unilaterally changed by the Town of Essex Clerk's office. Any required changes to the rules set out in section 44 would need to be mandated by the

Ministry through a legislative amendment. At the time of writing this report the Clerk is not aware of any such changes being mandated by the Ministry.

That being said, the Clerk's office has some suggested Proxy Vote process changes that would fall under the Clerks general powers granted by Section 12 of the MEA, but still be in keeping with the Section 44 voting proxy rules and Form 3 as established and mandated by the Province . The following are those suggestions:

- That for the next Municipal election the Clerk's Office will only issue the required Form 3 directly to qualified electors who wish to appoint another person to vote on their behalf. Such qualified electors will be able to request and obtain the required Form 3 at Town Hall at the Clerk's Office during specified times and at such time Box A on Form 3 (the section of Form 3 in which the elector making appointment is identified) will be completed by Election/Town Staff and entered into the *Town of Essex Proxy Appointment Registry* showing the name of the elector making the appointment. If such qualified elector is not able to attend to Town Hall to obtain the required Form 3 then such Form may be requested by that elector to be mailed directly to the electors address and such Form will be mailed upon Box A again being completed by Election/Town Staff at the time of mail-out with the appropriate entry into the *Town of Essex Proxy Appointment Registry*.
- That for the next Municipal Election the required Form 3 will not be made available on the Town Website nor provided to any other persons other than qualified electors who have requested via the Clerk's office to make such appointment.
- That the Town of Essex request the Ministry of Municipal Affairs to mandate that Form 3 –Appointment for Voting Proxy can only be obtained/issued by the respective Clerk's offices across the Province such that the Elector could only obtain such forms as issued from the Clerk's office. Currently such forms can still be obtained directly via the Ministry's website.
- On Advance Poll days, Section 44 (6) of the MEA states that Form 3 can be presented for Clerk's Certification (in addition to the Clerks normal office hours) during the



specified hours at the Clerk's office or such place(s) to be specified by the Clerk. It is recommended for the next Municipal election that on the day(s) of an Advance Poll, Form 3 certifications will be conducted at locations that are physically separate and apart from the Voting Place locations. This will mean that a voter who decides not to obtain Form 3 certification until the day of an Advance Poll will be required to attend to two different locations : one location to obtain Form 3 Certification and another to attend to the actual voting place to present the certified form and obtain the proxy ballot to vote.

The implementation of the suggested changes above would be reflected as part of an amended Municipal Elections Procedures Policy (as previously referenced in Section 4 of this Report) .Again these matters may need to be re-visited and/or further reviewed depending on if/what direction Council gives as far as alternative voting methods for 2022 (prior to the May 1 2021 legislative deadline).

## **Summary and Next Steps**

It is again important to note the special role that a Municipal Clerk has in respect to a Municipal Election. The Municipal Elections Act gives special discretionary authority and/or special independence to the Clerk as it relates to conducting Elections. The Clerk's independence from Council in this area provides a two-fold benefit:

First, it eliminates allegations or suggestions that current Council members are in a conflict or a politically biased position due to exerting undue influence over the shaping of our election policies and procedures. The rationale is that these could be the very same election policies and procedures that will govern some of our current council members who decide to run in the next election; and

Secondly, and most importantly it helps maintain the integrity of the process and public trust in our elections.

Council of course has an fundamental role as representatives of the public in both the feedback process and in making certain election decisions that have been specifically legislated to Council (i.e. wards and boundaries, method of voting, etc.), but the independence that the Municipal Elections Act has specifically provided to Municipal Clerks is of vital importance.

Accordingly this Report was brought at this time for information purpose only, in order to update Council and the public as to the Clerk's ongoing review arising from the 2018 Municipal Election. This review will form the basis of revised or new by-laws and policies that will come to Council for formal adoption at various points over the balance of this year as summarized below:

**September 2020:** New Election Complaints Policy

**September/October 2020:** New "Use of Corporate Resources Policy" with adopting By-law.

**October /November 2020:** New Election Sign by-law with Election Sign permit provisions.

**December 2020:** Revised Municipal Election Procedures Policy with additional Emergency guidelines and additional proxy vote procedures.

## **Financial Impact**

At this time there is no financial impact associated with this Report as it is being provided for information purposes only. Budgetary impacts associated with any revised or new policies that are to be implemented in connection with or as a result of this report will be assessed at the appropriate time.

## Consultations

N/A

## 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.

## Report Approval Details

Document Title:	Election Policies and Procedures - Legal and Legislative Services-2020-11.docx
Attachments:	
Final Approval Date:	Jul 16, 2020

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

**No Signature - Task assigned to Chris Nepszy, Chief Administrative Officer was completed by workflow administrator Robert Auger, Town Solicitor, Legal and Legislative Services/Clerk**

**Chris Nepszy, Chief Administrative Officer - Jul 16, 2020 - 9:31 AM**