



Committee of the Whole Report

Report Number: CLK2022-001

Meeting Date: February 8, 2022

Title: **2022 Municipal Election Update and Related By-laws**

Description: Timelines, Procedures and Restrictions, Delegate Authority for Decisions to the Chief Administrative Officer for Restricted Acts, Amendments to the Elections Accessibility Plan (2022) and Procedural By-law (3.02)

Author and Title: Cathie Ritchie, City Clerk

Recommendation(s):

That Report CLK2022-001, **2022 Municipal Election Update and Related By-laws** be received;

That the By-law to Delegate Authority for Decisions to the Chief Administrative Officer for Restricted Acts after Nomination Day in the City of Kawartha Lakes, attached to Report CLK2022-001 as Appendix A, be brought forward to Council for adoption;

That the By-Law to Approve the 2022 Election Accessibility Plan for the City of Kawartha Lakes, attached to Report CLK2022-001 as Appendix B, be brought forward to Council for adoption;

That the Procedural By-law Amendment to set the date of the Inaugural Meeting for each term of Council attached to Report CLK2022-001 as Appendix C be brought forward to Council for adoption; and

That these recommendations be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Chief Administrative Officer: _____

Background:

The Municipal Elections Act 1996, as amended (MEA) and other relevant legislation sets out the regulations for conducting Municipal Elections.

Duties of the Clerk Section 11 (2) MEA

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).

The overarching principles of the Act according to case law are the following:

- The secrecy and confidentiality of the individual votes is paramount;
- The election should be fair and non-bias;
- The election should be accessible to the voter;
- The integrity of the process should be maintained throughout the election;
- There be certainty that the results of the election reflect the votes cast;
- Voters and candidates should be treated fairly and consistently with a municipality; and
- The proper majority vote governs by ensuring the valid votes be counted and invalid votes be rejected so far as reasonably possible.

Electors and candidates with disabilities 12.1 (2) MEA

Plan re barriers:

The Clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before voting day in a regular election.

2018 Municipal Election Accessibility Report:

In accordance with the MEA Section 11.2 (d) Council was provided a report in 2018 Municipal Election Accessibility Report which concluded that the Clerk's Services and Election Team ensured that electors who required accessibility services were provided with the best opportunity to vote as independently as possible in the 2018 Municipal

Election. The adopted 2018 Municipal Election Accessibility Plan was fully implemented and adhered to.

Voting Method

In 2018, Council adopted internet/telephone voting as the method to conduct the Municipal Election. This was the first election for the City of Kawartha Lake to be conducted electronically. With change comes opportunities and challenges. The approach in keeping with the overarching principle was to transition from paper based to electronic formats. Providing the electors with a wide range of options to participate from home where ever that may be, kiosks that were available across the city and by telephone. The success was measured by voter turnout and positive feedback. The service disruption on Election night was unanticipated, however the ability to extend the voting period by 24 hours gave electors the ability to vote with over 2,700 additional votes cast.

The voter turnout in 2018 was slightly higher than the Provincial average at 38% compared to 37.5%. In the 2014 Municipal Election (vote by mail) the voter turnout was lower than the Provincial average at 41.5% compared to 43%. There are several variables that influence voter turnout, including but not limited to; a competitive candidates' race, inclusive voters list, voting method, and public awareness.

On January 28, 2021, Council adopted By-law 2021-002 to Authorize the Use of Alternative Voting Methods and Advance Vote for the City of Kawartha Lakes 2022 Municipal Elections. An RFP was issued and an evaluation team was established to acquire an Internet/Telephone Voting Service provider, comprising of staff from the Clerks Office, Information and Technology Division and Purchasing. The procurement process has commenced and is in the final stages of evaluation.

Summary

This report is an update to Council and the Public for the upcoming 2022 Municipal Election, to recommend a by-law giving the Chief Administrative Officer delegated authority for Restricted Acts MA 275(6), update the Election Accessibility Plan for 2022 and to give notice of a proposed amendment to the Procedural By-law adjusting the date of the Inaugural Meeting inline with the new term of Council commencing November 15th.

Rationale:

2022 Municipal Election Procedures s.42(3):

The clerk shall, establish procedures and forms on or before June 1st, for the use of any voting authorized by by-law and provide a copy of the procedures and forms to each candidate when his or her nomination is filed.

The procedures and forms, if they are consistent with the principles of this Act, prevail over anything in the MEA and the regulations made under it.

Timelines and Restrictions:

The most significant change to the Municipal Elections Act, 1996 s.6(1) is the term for the new Council commencing **November 15, 2022** until **November 14, 2026**.

The other key dates are listed below:

Nomination Period – May 2, 2022 8:30am ending Nomination Day August 19, 2022 2pm

Nomination Day – August 19, 2022 9am to 2pm

Campaign Period – Restrictions for members of Council/Staff in accordance with the [Use of Corporate Resources for Election Purposes Policy](#) (including but not limited to Town Hall Meetings, newsletters, ordering of office supplies, etc.) – May 2, 2022 to October 24, 2022

Voters' List – September 1, 2022

Voters' List Revision Period – September 1 to October 24, 2022

Election Voting Period – Friday, October 14, to Monday, October 24, 2022 (10 days)

Election Day- Monday, October 24, 2022 ending at 8pm

Restricted Acts After Nomination Day (Lame Duck) - August 19, 2022

The Municipal Act, 2001 s.275 provides that there are certain restrictions for actions after Nomination Day if the new council will include less than three-quarters of the members of the outgoing council.

Basis for determination:

- after nomination day but before voting day, the determination shall be based on the nominations to the new council that have been certified and any acclamations made to the new council; or
- after voting day, the determination shall be based on the declaration of the results of the election including declarations of election by acclamation.

Restrictions

- the appointment or removal from office of any officer of the municipality;
- the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
- making any expenditures or incurring any other liability which exceeds \$50,000.

The Delegation of Council Powers and Duties Policy currently gives the CAO delegated authority for the hiring or dismissal of any employee of the municipality, which is one of the restricted acts under section 275(3)(b) MA, 2001.

Exception

- If the disposition or liability was included in the most recent budget adopted by the council before nomination day in the election year.

Emergencies

- Nothing in this section prevents a municipality taking any action in the event of an emergency.

Requests to the Integrity Commissioner - Code of Conduct

In a municipal election year, **starting on Nomination Day and ending on Voting Day**, no requests for an inquiry shall be submitted to the IC and the IC shall not report to the City about whether or not a Member contravened the Council Code of Conduct.

Delegated Authority to the Chief Administrative Officer

The Municipal Act (MA) Section 275 (6) permits delegated authority to the person or body prior to nomination day for the election of the new council.

To ensure continuity of service delivery and decision making is maintained in the event that Section 275 of the Municipal Act becomes relevant following Nomination Day on August 19, 2022 or on Voting Day on October 24, 2022, a by-law is to cover instances where current delegated authority does not exist and to ensure that services continue to residents in an uninterrupted fashion. A Report to the new Council shall be provided by the Chief Administrative Officer identifying all decisions made that were subject to the Delegated Authority period which ends following the Inaugural Meeting of the new Council.

The By-law gives the Chief Administrative Officer the authority beyond the current delegated authority in the event that the municipality finds itself subject to Section 275 of the Municipal Act, 2001, as amended, regarding "Restricted Acts after Nomination Day":

- The appointment or removal from office of any officer of the municipality including an Integrity Commissioner;
- The disposition of any real or personal property of the municipality which has a value exceeding \$50,000.00 at the time of disposal; and
- Making any expenditure or incurring any other liability which exceeds \$50,000.00.

2022 Election Accessibility Plan:

An Election Accessibility Plan shall be adopted by Council prior to each election.

Staff are not recommending notable changes to the Election Accessibility Plan for 2022. The City of Kawartha Lakes Clerk's Division will continue to learn, develop, and adjust our approaches in order to meet the needs of persons with disabilities. The review of accessibility issues and initiatives and addressing barrier prevention and removal is an ongoing practice.

Attached as Appendix B to this report, is the updated 2022 Municipal Election Accessibility Plan for Council's consideration.

Amend the Procedural By-law for the new term of Council Inaugural Meeting:

In accordance with the Municipal Act, 2001 no business shall proceed until after the declarations of office have been made by all the members who present themselves for that purpose. A new council of a municipality shall be deemed to be organized after a

regular election or after a by-election under section 266 when the declarations of office under section 232 have been made by a sufficient number of members to form a quorum. The declarations of office are carried out at the Inaugural Meeting.

The date of the new Term of Council is November 15, 2022, therefore it was necessary to adjust the meeting schedule and the date of the Inaugural Meeting. The current provisions in section 3.02 of the Procedural By-law states that the Inaugural Meeting is to be held on the first Monday of the new term of Council which would be on Monday November 21, 2022 delaying the first Regular Council Meeting to November 29, 2022. It is recommended that the new Council be sworn in on Tuesday, November 15, 2022 holding Regular Council the following Tuesday. This would require an amendment to the Procedural By-law.

Proposed Amendment – Revised wording of Section 3.02:

Section 3.02 Time and Place of Inaugural Meeting:

“The Inaugural Meeting shall be held on the first day of the new term of Council provided that it falls on a business day, otherwise it will be held the first business day following the day that the new term commences. The Inaugural Meeting shall take place in the Council Chambers, Main Administration Building, 26 Francis Street, Lindsay.”

Other Alternatives Considered:

No other alternatives are being recommended.

Should Council decide not to amend the Procedural By-law to change the day of the Inaugural Meeting, it would mean a delay in scheduling the first Regular Meeting of Council for the newly elected Council.

Alignment to Strategic Priorities

The recommendations contained in this report supports the strategic priority of Good Government, through transparent and accessible procedures for conducting the municipal election and to provide the incoming Council the ability to proceed promptly with the business of the City.

Financial/Operation Impacts:

None identified.

Consultations:

Accessibility Coordinator
Deputy Clerk, Council Services
Deputy Clerk, Legislative Services

Attachments:

Appendix A – By-law to Delegate Authority for Decisions to the Chief Administrative Officer for Restricted Acts after Nomination Day in the City of Kawartha Lakes



2022-XXX Delegation
of Authority Restrictec

Appendix B - Election Accessibility Plan (2022)



2022-XXX By-law
2022 Election Accessit

Appendix C – Amendment to the Procedural By-law - Inaugural Meeting Date



2022-XXX
Amendment to 2020-(

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Department Head: Ron Taylor, Chief Administrative Officer