The Corporation of the City of Kawartha Lakes

Council Report

Report Number CLK2017-012

Date: December 12, 2017
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: All Wards

Subject: Municipal Election Recount Policy

Author Name and Title: Joel Watts, Deputy Clerk

Recommendation(s):

Resolved That Report CLK2017-012, **Municipal Election Recount Policy**, be received; and

That the policy entitled Municipal Election Recount Policy, appended to Report CLK2017-012, be adopted, numbered and inserted in the Corporate Policy Manual; and

That the necessary by-law be brought forward for adoption.

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

Background:

In previous municipal elections The Municipal Elections Act, 1996 (the Act) permitted that a recount could only be conducted under the following three circumstances:

- Where the counting of the ballots resulted in a tie vote and one candidate wouldn't be elected
- Where a municipality passed a resolution to order a recount; or
- Where an electors' request for a recount has been granted by the Superior Court of Justice

Recent amendments to the Act permit Municipal Councils to conduct a recount in accordance with a pre-established policy adopted by by-law. This report addresses the changes to the Act.

Rationale:

Section 56 (3) of the Act states the following:

> 56 (3) A municipality may, by by-law, adopt a policy with respect to the circumstances in which the municipality requires the clerk to hold a recount of the votes cast in an election. 2016, c. 15, s. 40

Establishing a policy would permit the City Clerk to conduct a recount automatically, upon receipt of a written request for a recount from the second-place candidate, in the event of a close vote.

The adoption of a recount policy does not restrict:

- the power of Council to direct a recount pursuant to section 57 of the Act
- an order by the Minister of Municipal Affairs for a recount pursuant to section 57; or
- an electors' right to seek an order for a recount pursuant to section 58 of the Act.

The adoption of a Municipal Election Recount Policy would, in advance of voting, provide a simple and clear solution that would identify to candidates and voters the circumstances where a recount will automatically be completed. Additionally, a policy would permit the Returning Office (City Clerk) to proactively plan for and manage a recount, rather than having to react, often on short notice, to an order or resolution. The policy does not guide how a recount is conducted, but rather, when a recount is conducted in the event of a close vote.

Historically, the City has conducted 2 recounts. In 2014, a recount of the Ward 1 results was directed by Council (Council Resolution CR2014-1030) with the difference between the top two candidates being 32 votes. The recount of the

mail-in ballots (using vote tabulators) identified no change in the vote count. In 2003, a recount of the Ward 11 results was directed by Council (Council Resolution CR2003-1077) with the difference between the top two candidates being 5 votes.

The proposed threshold for the Municipal Election Recount Policy (attached as Appendix A) identifies that a recount would commence in the event of a close vote. A close vote is defined as being the difference between the number of votes separating a candidate who was not declared elected and a candidate who was declared elected which is <u>less than the greater</u> of,

1. 10 votes; or
2. 0.25 per cent of the total number of votes cast for that office (rounded up or down to the nearest whole number).

As an example, the greatest total number of votes cast in the previous Mayoral race (27677 votes cast), a close vote would be identified if the difference between the top two candidates was less than 70 votes (the percentage threshold of 0.25% of the total votes cast being greater than 10 votes). The smallest number of votes in the last election cast for Councillor was in Ward 1 (1081 votes cast). The close vote threshold for a recount in that ward would be 10 votes, as the percentage threshold of 0.25% (3 votes) would be less than 10.

The recount would be conducted in the same manner as the original count. In accordance with legislation the process for a recount is set out in Section 60(1) which states:

> 60 (1) A recount under section 56, 57 or 58 shall be conducted in the same manner as the original count, whether manually or by vote-counting equipment. 2016, c. 15, s. 41 (1).

As such, all potential 2018 recounts would be conducted by recalculation of the internet-telephone votes in consultation with the City's third party election software provider (Dominion Voting Systems).

The proposed policy would only apply to Mayoral and Councillor elections, and not apply to School Board trustee elections.

The policy, shall be adopted by by-law as per the Act. The draft by-law adopting the policy is attached to the Agenda under section 15.

Other Alternatives Considered:

Council may consider recommending alternate thresholds, for a close vote in addition to allowing for other recounts as prescribed by the Municipal Elections Act. Not having a Municipal Election Recount Policy is not an option at this time, as the agreement signed by the City's third party election software provider (Dominion Voting Systems) requires the City to establish a policy for recounts.

Financial/Operation Impacts:

Costs for any potential recount will be minimal, as no manual counting would occur as all results are electronically stored, and no paper ballots will be printed. No additional election staff would be required for a recount, and consultation with the City's third party election software provider (Dominion Voting Systems) would be covered under the election budget. The City's service agreement with Dominion Voting Systems includes support for a recount if required beyond October 22, 2018.

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

Enabler 3 of the Strategic Plan identifies that the City provide Municipal Service Excellence. Having a Municipal Election Recount policy allows for service excellence by providing for a recount in a timely, transparent, and organized manner.

Consultations:

City Clerk

Attachments:

Appendix A – Municipal Election Recount Policy

Municipal Election
Recount Policy.docx

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