TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON JULY 19, 2016
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	AMENDMENTS TO *MUNICIPAL ELECTIONS ACT*

RECOMMENDATION

That, on the recommendation of the City Clerk, this report outlining recent changes to the *Municipal Elections Act,* 1996 and advising of the City Clerk's intent to issue a Request for Proposal for voting technology that would incorporate touch screen voting and seek information on vendor capability, technology and experience for ranked ballots, BE RECEIVED for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Corporate Services Committee – October 20, 2015 – Ranked Balloting Process

Corporate Services Committee – July 21, 2015 – Province of Ontario Consultation – Municipal Elections Act

Corporate Services Committee – June 15, 2015 – Submission: Ranked Ballots for Municipal Elections in Ontario

Corporate Services Committee – June 15, 2015 – Submission: Province of Ontario – Legislation Review Municipal Elections Act, Municipal Conflict of Interest Act and Municipal Act

BACKGROUND

In 2015 the Province of Ontario conducted an extensive public consultation process to receive feedback on the *Municipal Elections Act*, 1996 (MEA) as to whether it was meeting the needs of electors. The key areas of focus and review were campaign finance, third party advertising, accessibility, enforcement and ranked ballots. As part of the overall review, the Province consulted with Municipal Clerks across Ontario and London's City Clerk's staff were involved in several consultation groups. The City of London also provided a formal submission to the Ministry of Municipal Affairs and Housing (MMAH).

DISCUSSION

Following the consultation undertaken in 2015, on April 6, 2016, the Province announced proposed amendments to the *Municipal Elections Act* (Bill 181). Bill 181 received Royal Assent on June 9, 2016. There are two associated Regulations detailing the requirements for how municipalities would implement ranked ballots, should they choose to do so, including how the public is to be consulted, timelines for implementation and the counting of votes. The first Regulation pertaining to the public consultation and by-law requirements was made available online on June 15, 2016. The Ministry is currently developing the Regulation for vote counting. The following summarizes the amendments and the impact on future elections in the City of London.

General Changes

There have been a number of changes to the MEA that provide for a more streamlined process. Some of the changes include:

- Removing the requirement for original signatures on forms other than nomination forms, proxy appointments and third party registration forms. This will allow Municipal Clerks to use electronic methods to add voters, remove voters and make other amendments to the Voters' List.[1]
- Adding specific provisions to allow candidates to access apartment buildings, condominium buildings, non-profit housing cooperatives or gated communities for the purposes of campaigning.[2]
- Providing for tenants to be able to display signs in relation to an election,[3] though landlords or agents in control of apartment buildings, condominium buildings, non-profit housing cooperatives or gated communities, may set reasonable conditions relating to size of signs and may restrict the placement of signs in common areas.[4]

Election Timelines/Calendar

There were many changes to the timing of certain election processes. A key change is the nomination period, detailed below. Other changes include:

- The last day to pass or amend a by-law to submit questions to the electors is now March 1 of a regular election year. Previously, it was 180 days prior (now 240 days).[5]
- The deadline for questions on the ballot from a Minister or school board is now May 1 of an election year.[6]
- By-laws for the authorization of alternative voting methods and equipment are required to be enacted significantly earlier. These By-laws must now be in place by May 1 in the year before an election and procedures are required to be established by December 31 in the year before an election.[7] Previously, procedures were required to be established by June 2 of an election year.

Nomination Process

There have been significant changes made to the nomination period and process. Some of the key changes are:

- The nomination period for candidates is much shorter, opening May 1 and closing the fourth Friday in July (July 27, 2018). [8] Previously, nominations opened on January 1st of an election year and closed the second Friday in September (September 14, 2018).[9]
- This reduces the municipal campaign period by 120 days and provides municipalities much need time to close nominations, prepare ballots and test voting equipment.
- In 2014, the City of London Election Office processed a total of 126 nominations. Nine (9) nominations were received opening day, and twelve (12) on closing day. In 2014, there were nineteen (19) nominations filed within the equivalent time that will apply to the 2018 Election.
- Nomination of a person for an office of council must now be endorsed by 25 persons who are eligible to vote in an election for an office within the same municipality, as of the date they make the endorsement.[10] The Province is currently working on amending the nomination form to provide space for the required endorsement.

Campaign Finance

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[1] Section 14
[2] Section 88.1
[3] Section 88.2 (1)(2)
[4] Section 88.2(3)
[5] Section 8.1(1)
[6] Section 8 (5.1)
[7] Section 42(2) and 42(4)
[8] Section 31
[9] Section 33(4)
[10] Section 33(1.1)(1.2)(1.3)

Significant changes were made to campaign financing and will affect how candidates campaign and report out on their campaigns. Key changes include:

- Corporations and trade unions are now prohibited from making contributions to candidates (council and school trustee).
- Candidates will be required to identify themselves (name of candidate, as well as business address, telephone number of person who deals with broadcaster or individual under direction of the candidate) on signs and advertisements.[11]
- The Clerk will now be required to prepare a report to the Compliance Audit Committee identifying contraventions to any of the contribution limits under section 88.9.[12]
- Candidates will receive a refund of the nomination fee, only upon filing their financial statement.[13]
- There is now a 30-day grace period for candidates who miss the filing deadline for a financial statement. This applies if the candidate files the relevant document and pays the Clerk a late filing fee of $500.00 in the appropriate time period.[14]

Third Party Advertising

This is a new provision in the *Municipal Elections Act* and it is related to candidates and their campaign financing.

- "Third Party Advertising" is defined as "an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a candidate or an issue in relation to an election in the local municipality, but does not include an advertisement by or under the direction of a candidate an advertisement"[15] that does not incur expenses by the person or entity that causes the advertisement.
- It is also not considered a third party advertisement "if the advertisement is given by an individual to his or her employees, by a corporation to its shareholders, directors, members or employees or by a trade union to its member or employees".[16]
- Individuals, corporations and unions are permitted to both make contributions to third party advertisers and register to be third party advertisers.
- A third party that registers in the local municipality is able to advertise in relation to a candidate or question being voted on by voters in that municipality.
- Third party advertisers and candidates will be required to identify themselves on signs and advertisements.

Accessibility

Municipal Clerks are now required to prepare accessibility plans to identify, remove and prevent barriers that could affect electors and candidates with disabilities, and make the plans available to the public before Voting Day, in addition to the post-election reporting they have previously done and are still required to do.[17] This is an improvement to the openness and transparency of the process.

Ranked Ballots[18]

As indicated in previous reports, ranked ballots may reduce strategic voting and negative campaigning and encourage more candidates to remain in the race without the threat of "vote splitting" between like-minded candidates. However, it is also noted that any changes to the legislation and the associated Regulations would need to provide a solid framework and clear direction to help ensure the successful implementation of this method of voting, including adequate protection of the validity of results, should the election result in a recount. There is also the need for adequate time for Municipal Clerks to administer this significant change to voting process, in order to mitigate risk, procure a knowledgeable and experienced vendor, as well as to be prepared administratively and financially. The City Clerk's Office, together with Information Technology Services and the Purchasing Office, will be releasing an RFP for voting technology by September 2016 in order to have the systems confirmed and in place in sufficient time for the 2018 Election. The timing of the regulation changes for ranked ballots does present a significant challenge for municipalities. Some points to note regarding ranked ballots are:

[11] Section 88.3(2)(3)
[12] Section 88.35
[13] Section 34
[14] Section 88.24(9)
[15] Definitions and section 1(2)
[16] Section 1(2)
[17] Section 12.1(2)
[18] Section 41.1 and Regulation

- The specific requirements for the adoption of ranked ballots for 2018 are contained in two separate Regulations. The first Regulation addresses the by-law authority and public consultation required for a municipality to implement ranked ballots. The draft consultation related to the first Regulation is <u>attached</u> to this report as "Appendix A".
- The first Regulation requires the municipality to pass a by-law in order to conduct ranked ballot elections.[19] It is important to note that this does not apply to school board elections, only elections for municipal offices.
- If a by-law approving ranked ballots for an election is passed:
  - Ranked ballots must be used for all offices of Council; and
  - The maximum number of rankings that an elector can make must be specified, noting that different number of rankings can be applied to each office; and
  - Ranked ballots must be used in any subsequent by-elections held during that term of Council
- Before passing a by-law for the use of ranked ballots, public consultation must occur in the form of an open house to provide electors information on how elections would be conducted, including a description of vote counting and estimated costs of conducting the election. The open house must also provide information on any alternative voting methods and vote counting equipment, technology, and software that is to be considered for use in the election.
- Following the open house, the municipality must also hold a public meeting to allow the public to speak to Council about the proposed by-law. This must occur 15 days after the open house.
- The by-law authorizing ranked ballots must be passed before May 1, 2017.
- The second regulation addresses vote counting and reporting requirements for ranked ballot elections. A summary of the Regulation has been posted on Ontario's Regulatory Registry and is <u>attached</u> as "Appendix B" to this report, but the draft consultation has not been finalized as of this report's submission. The draft consultation will address four main areas of focus regarding the rules and directions for implementing ranked ballots, namely:
  - Requirements for Ballots
  - How Rankings will be Interpreted
  - Elimination of Candidates
  - Calculation of the Threshold

At this time, a general survey has been conducted of other municipalities to investigate their current interest in moving forward with ranked ballots for the 2018 Election. Only one (1) of the thirteen (13) municipalities surveyed have made an official decision as to whether to move forward (or not) with ranked ballot options. The City of Mississauga has decided to wait for the Province to test the ranked ballot option before it would consider implementing this option in a municipal election. There is general consensus among Municipal Clerks, that it is difficult to move forward or even determine whether to move forward with a ranked ballot option without the Regulations being in place and the governance to conduct such an election being clearly outlined. Other municipalities are looking at expanding upon the legislated public consultation portion before making a final decision to proceed, and some are considering including a question on the ballot for the 2018 Election as to whether or not to implement a ranked ballot process for the 2022 Election. Many municipalities are waiting until both Regulations are released before bringing a decision report forward on the ranked ballot option.

Preliminary investigation into the implementation of ranked ballots has determined that the equipment leased for the previous election is capable of performing in a ranked ballot election. There are additional costs to consider with the number of ballots to be printed (school board, municipal mayor, and ward councillor ballots will be on separate ballots versus a composite ballot), as well as substantive additional time to count the ballots and produce results. More answers will be found through the RFP process, but it is already clear that the City of London would lose some automation of the election reporting process by implementing a ranked ballot election.

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[19] Section 41.2(3)

The City of Minneapolis conducted its first ranked ballot election in 2009. There is no state-certified voting equipment able to count the ranked ballots beyond a candidate not receiving the predetermined number of votes for that office to be elected. Therefore, at the end of election night, unverified first round results were compiled and released using vote counting equipment (similar to the 2014 Election in the City of London). Following the first round of counting, ballots were hand counted starting Wednesday, November 4, 2009 and the count was completed Friday, November 13, 2009. Attached as Appendix "C" to this report is the Minneapolis Ranked-Choice Voting History which outlines the "Minneapolis Method" for counting a ranked ballot election. That method would be similar to the one the City of London would likely undertake in a ranked ballot election.

Without the Regulation outlining vote counting and reporting, it is difficult to comment with respect to the exact procedures. Through the consultation process with Ministry staff, Municipal Clerks stressed the importance of legislation and regulations stipulating exact rules surrounding several important issues and specifically: the maximum number of rankings, certification of election technology at a Provincial level, and the method for eliminating candidates (single or batch elimination). This was not included in the amendment to the legislation or in the Regulations to date. With this significant change in municipal democracy, consistency in how elections are conducted across Ontario are important to achieve successful public education and outreach programs. Having different methodologies across the Province will only lead to further voter confusion. Further, certification of the election technology at a Provincial level is important in supporting municipalities in election recounts and court challenges to process and procedure. Municipal Clerks also requested the Province to take a lead in the production of public education materials.

As noted above, there are a number of challenges for Municipal Clerks to implement a ranked ballot election in 2018 given the legislative timeline to have by-laws and procedures in place and given that the second Regulation has not yet been released.

Resource Implications

The anticipated costs of implementing the policy, procedure, and by-law changes, excluding those related to ranked ballots, will be minimal. However there is a pressing need to get staff resources in place as quickly as possible in order to undertake the necessary work for the RFP process and other election preparation work; noting that the City Clerk's Office must still continue to carry out its day-to-day administrative and statutory roles, while also preparing and conducting the election. The City Clerk's Office is hopeful that the Human Resources Division will be able to fulfill the City Clerk's request to hire an intern as quickly as possible and to find a suitable longer term temporary employee to assist with election documentation and administrative duties. The associated costs will be accommodated through the existing budget.

Voting Options

The City of London was one of the first large urban centres to implement 'Vote Anywhere' during the Advance Vote and in 2010 we implemented our first alternative voting method with Vote by Mail. In 2014 we upgraded to an in poll tabulation method and moved from 10 centrally-located vote counting machines to over 150 machines in polls throughout the city. Further, the election management software was updated by obtaining the service of an internet-based application called Datafix Municipal Voter View which provided municipal election officials the ability to access all electoral planning information (polling locations, election workers, voter counts, elector list, and candidate information) in one place. The software also allowed for live voter strike off in advance polls with barcode technology to register the voter from their voter card or drivers' licence. Further, the software allowed for voters to find out if they were on the Voters' List with an online check and also allowed them to look up their voting location from our City of London website.

The City Clerk's Office is preparing to move forward with touchscreen vote stations at all advance vote locations for the 2018 Election. This will reduce the impact on the environment

with a "paperless" advance vote process. There will be additional costs for vendors to supply the service, for Election office staffing, as well as an enhanced communication outreach to promote and educate the electors on this new voting option. However, provisions have been made to accommodate the additional costs from the election reserve and has been reflected in the Multi-Year budget documents. The possibility of expanding the "paperless" program to Voting Day is also being investigated.

Additional costs would be incurred, outside of the approved budget, should a decision be made to proceed with ranked ballots. These costs are currently unknown, but preliminary costs will be determined by the information gathered through the RFP process. It is known that there will be substantial cost increases related to staffing and communication/outreach budgets as well as vendor services, expert consultants, and ballot costs. Moving to a hand counted system would also increase costs for Voting Day workers and post-Voting Day workers in order to tally results. To provide an idea of these increased costs, the City of Mississauga has estimated their costs to increase by $991,000 in a recent report to their Governance Committee. It should be noted a significant portion of this cost is to upgrade their existing purchased equipment, but additional costs mentioned above would all be applicable to London.

Although the City Clerk will continue to investigate the potential for Internet voting for the advance vote, to date, concerns remain with respect to security risks and additional costs for a service which statistics have shown does not increase voter participation.

The Elections Office must also be mindful of introducing too many new voting options at once and inadvertently leading to voter confusion, which could potentially place the Election at risk.

Next Steps

Over the next eight months, the City Clerk's Office will be updating policies, procedures, and by-laws to ensure compliance with the amendments to the *Municipal Elections Act*, including such tasks as:

- Review of the current Election Sign By-law and Use of Corporate Resources for Election Purposes Policy to ensure new legislated timelines and third party advertising regulations are incorporated and compliant within the by-law and policy.
- Review and update of Municipal Compliance Audit Committee By-law and Terms of Reference.
- Review and update of all Election procedures, policies, and forms to reflect changes to the *Municipal Elections Act* and the new Regulations.
- Conduct a Request for Proposal (RFP) process for vote counting equipment, potential internet voting (during the advance voting period), results display, election supplies and touchscreen devices for the 2018 Election, with the option to extend into the 2026 Election and any by-elections in between. As well, vendors will be asked general questions related to their experience and ability to accommodate rank ballot elections. At this time, a comprehensive RFP for ranked balloting is not possible without the Regulations in place. However the RFP process cannot be delayed as a vendor needs to be secured for vote equipment well in advance of the May 1, 2017 deadline in order to pass a by-law, with public consultation beforehand.
- Review of ward boundaries.

CONCLUSION

The Election preparation is well under way for 2018. Staff will continue to monitor legislative activity at the provincial level and will continue to undertake due diligence to improve its election processes. While it is very likely that ranked ballots will not be a viable option for the 2018 Election, the information obtained through the RFP process and finalization of the related Regulations should place the City of London in a better position to consider ranked ballots for the 2022 Election. The steps the City Clerks' Office has taken towards a responsive and staged implementation of new voting options will place the City of London in a good position for success for 2018 from both an administrative and electorate perspective. Further, the addition of an intern and a long-term temporary staff person will in the immediate future, ensure the City

of London is able to meet the legislative provincial requirements and ensure a successful election in 2018.

PREPARED BY:	RECOMMENDED BY:
SARAH CORMAN **MANAGER, LICENSING & ELECTIONS**	**CATHY SAUNDERS** **CITY CLERK**

Appendix "A"

Caution:
This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

MUNICIPAL ELECTIONS ACT, 1996

RANKED BALLOT ELECTIONS

CONTENTS

INTERPRETATION

Interpretation

    1. In this Regulation, a reference to a by-law with respect to ranked ballot elections means a by-law that may be passed by a municipality under section 41.2 of the Act.

AUTHORITY TO CONDUCT RANKED BALLOT ELECTIONS

Authority conferred, single-tier or lower-tier municipality

    2. (1) Subject to subsection (2), the council of a single-tier or lower-tier municipality is hereby authorized to conduct ranked ballot elections for offices on the council in accordance with the rules set out in subsection 41.1 (1) of the Act.

    (2) Ranked ballot elections for offices on the council of a single-tier or lower-tier municipality are authorized only if they are conducted for all offices on the council.

Authority conferred, upper-tier municipality

3. (1) Subject to subsections (2) to (4), the council of an upper-tier municipality is hereby authorized to conduct ranked ballot elections for offices on the council in accordance with the rules set out in subsection 41.1 (1) of the Act.

(2) Ranked ballot elections are not authorized for any office on the council of an upper-tier municipality unless they are authorized for all offices on the council of every lower-tier municipality within the upper-tier municipality.

(3) Ranked ballot elections are not authorized for any office on the council of an upper-tier municipality unless both of the following circumstances exist:

1. One or more members of the council of the upper-tier municipality are elected to the council by the electors of all or part of one or more lower-tier municipalities within the upper-tier municipality.

2. The members referred to in paragraph 1 who are elected to the council of the upper-tier municipality are not also elected to the council of a lower-tier municipality within the upper-tier municipality.

(4) Ranked ballot elections are authorized only for the offices of members described in paragraphs 1 and 2 of subsection (3) and they are authorized only if they are conducted for the offices of all of those members of the council of the upper-tier municipality.

Elector's right to vote

4. (1) An elector is entitled to rank as many candidates for an office as the by-law with respect to ranked ballot elections specifies or, if the by-law does not specify the number of rankings, three candidates.

(2) Paragraph 3 of subsection 51 (2) of the Act does not apply with respect to a ranked ballot election.

BY-LAWS WITH RESPECT TO RANKED BALLOT ELECTIONS

Matters to be considered by council

5. (1) Before passing a by-law with respect to ranked ballot elections, the council of a single-tier or lower-tier municipality shall consider the following matters:

1. The public interest.

2. The costs to the municipality of conducting the elections.

3. The availability of technology, such as voting equipment and vote-counting equipment and software, for conducting the elections.

4. Administrative practices and procedures that would be required to conduct the elections.

(2) Before passing a by-law with respect to ranked ballot elections, the council of an upper-tier municipality shall consider the following matters:

1. The public interest.

2. The costs to the municipality of conducting the elections.

3. The technology, if any, being used by the lower-tier municipalities within the upper-tier municipality for conducting their ranked ballot elections.

Contents of by-law

6. (1) A by-law with respect to ranked ballot elections may specify the maximum number of rankings for each office on council.

(2) The by-law may specify a different number of rankings for each office.

(3) In this section, a reference to the number of rankings for an office is a reference to the number of candidates for the office in respect of whom an elector is permitted to indicate a preference when voting.

Application of by-law to elections

7. A by-law with respect to ranked ballot elections applies to all regular elections and by-elections of the municipality.

When by-law comes into force

8. (1) A by-law with respect to ranked ballot elections does not come into force until,

(a)   if it is passed after May 1, in the case of a single-tier or lower-tier municipality, or after July 1, in the case of an upper-tier municipality, in the year before the year of a regular election, the day a newly-elected council is organized following the second regular election after the passing of the by-law; or

(b)   in any other case, the day a newly-elected council is organized following the first regular election after the passing of the by-law.

(2) Despite subsection (1), the regular election that is held immediately before the coming into force of a by-law with respect to ranked ballot elections shall be conducted as if the by-law were already in force.

INFORMATION ABOUT PROPOSED BY-LAWS

Proposed by-law: information for the public

9. (1) Before passing a by-law with respect to ranked ballot elections, the council shall ensure that the following information is made available to the public with respect to the proposed by-law:

1. A detailed description of how the elections would be conducted, including a description of how votes would be distributed to candidates based on the rankings marked on ballots.

2. An estimate of the costs of conducting the elections.

3. For a proposed by-law of a single-tier or lower-tier municipality, a description of the voting equipment and vote-counting equipment, if any, that is being considered.

4. For a proposed by-law of a single-tier or lower-tier municipality, a description of any alternative voting method being considered.

(2) If the proposed by-law would repeal a by-law with respect to ranked ballot elections, paragraph 1 of subsection (1) requires only a detailed description of how the elections would be conducted.

(3) The council shall ensure that the information required by this section is made available free of charge to any member of the public upon request.

(4) The council of an upper-tier municipality shall ensure that the information required by this section is made available to the public at least 15 days before the public meeting required by section 11 is held.

Proposed by-law: open house (single-tier or lower-tier municipality)

10. (1) Before passing a by-law with respect to ranked ballot elections, the council of a single-tier or lower-tier municipality shall ensure that at least one open house is held in accordance with this section for the purpose of giving the public an opportunity to review and ask questions about the information required by section 9.

(2) The open house shall be held at least 15 days before the public meeting required by section 11 is held.

(3) At least 30 days before the open house is to be held, the council shall publish notice of the open house in a newspaper having general circulation in the municipality.

(4) The council shall give at least 30 days notice of the open house to every person and organization that has, within two years before the day of the open house, requested that the municipality provide the person or organization with such notice and has provided an address for the notice.

(5) The council shall ensure that the information required by section 9 is available at the open house.

Proposed by-law: public meeting

11. (1) Before passing a by-law with respect to ranked ballot elections, the council shall ensure that a public meeting is held in accordance with this section in respect of the proposed by-law.

(2) At least 30 days before the public meeting is to be held, the council shall publish notice of the public meeting as follows:

1. For a proposed by-law of a single-tier or lower-tier municipality, in a newspaper having general circulation in the municipality.

2. For a proposed by-law of an upper-tier municipality, in one or more newspapers that, together, have general circulation in each lower-tier municipality within the upper-tier municipality.

(3) The council shall give at least 30 days notice of the public meeting to every person and organization that has, within two years before the day of the public meeting, requested that the municipality provide the person or organization with such notice and has provided an address for the notice.

(4) The council shall ensure that the notices required by subsections (2) and (3) set out the intention of the municipality to pass the by-law.

(5) The council shall ensure that any person who attends the public meeting is given the opportunity to make representations in respect of the proposed by-law.

(6) The council shall ensure that the information required by section 9 is available at the public meeting.

CONDUCTING A RANKED BALLOT ELECTION

Responsibilities of clerks re upper-tier municipalities

12. (1) The clerk of an upper-tier municipality is responsible for conducting a ranked ballot election for offices on the council of the municipality, except as otherwise specified in this Regulation.

(2) When an upper-tier municipality passes a by-law with respect to ranked ballot elections, the clerk of the municipality shall give a copy of the by-law to the clerks of every lower-tier municipality within the upper-tier municipality.

(3) As soon as possible after the upper-tier municipality passes a by-law with respect to ranked ballot elections, the clerk of each lower-tier municipality within the upper-tier municipality shall tell the clerk of the upper-tier municipality how many eligible electors were on the voters' list for the lower-tier municipality, as the voters' list existed at the close of voting on voting day in the previous regular election.

Responsibility for counting votes re upper-tier municipality

13. (1) In a regular election for offices on the council of an upper-tier municipality, the clerk of the lower-tier municipality within the upper-tier municipality that has the greatest number of eligible electors is responsible for counting the votes in the ranked ballot election for offices on the council of the upper-tier municipality.

(2) In a by-election for an office on the council of an upper-tier municipality,

(a)   if the geographic area of the office is wholly within one of the lower-tier municipalities, the clerk of the lower-tier municipality is responsible for counting the votes in the ranked ballot election; and

(b)   if the geographic area of the office is within two or more of the lower-tier municipalities, the clerk of the lower-tier municipality that has the greatest number of eligible electors is responsible for counting the votes in the ranked ballot election.

(3) For the purposes of subsection (1) and clause (2) (b), the number of eligible electors is determined with reference to the voters' list for the lower-tier municipality, as the voters' list existed at the close of voting on voting day in the previous regular election.

(4) The clerk of the upper-tier municipality shall determine which lower-tier municipality is described in subsection (1) or clause (2) (a) or (b), as the case may be, based on information provided to him or her by the clerk of each lower-tier municipality, and shall tell the clerks of the lower-tier municipalities which clerk is responsible for counting the votes in the ranked ballot election.

Appendix "B"

Vote Counting and Reporting Requirements for Ranked Ballot Elections under the Municipal Elections Act, 1996

Summary of Proposal:

The Municipal Elections Modernization Act, 2016 (Bill 181) would, if passed, provide municipalities with the authority to conduct ranked ballot elections for offices on municipal councils if authorized by a regulation made by the Lieutenant Governor in Council. The Lieutenant Governor in Council could make regulations setting out:
-rules governing ballots, voting procedures, the counting of votes, recounts and reporting results
-conditions, limitations and procedural requirements for passing the by-law, including consultation requirements and timing
-powers that the clerk may exercise in administering a ranked ballot election

The government proposes a new regulation setting out the following rules governing ballots, voting procedures, the counting of votes, recounts and reporting results.

Requirements for Ballots
The general rules for what can appear on a ballot set out in the Municipal Elections Act would continue to apply to ranked ballots.
In addition, the ballots to be used in a ranked ballot election must contain the following information:
-the number of candidates to be elected for each office
-instructions to the voter on how to mark the ballot to rank their preferences
-the maximum number of preferences that may be ranked on the ballot for each office

How Rankings will be Interpreted
The voter's preference will be determined by looking at the rankings given to candidates.
If a voter gives the same candidate more than one ranking, only the highest of those rankings will be considered.
If a voter skips a ranking, the next highest ranking will be considered.
If a voter gives two candidates the highest ranking, so that it is not possible to determine which candidate is the voter's first preference, the ballot will be rejected.
In any round of counting after the first round, if a ballot is to be transferred, but it is not possible to determine which candidate is the voter's next preference, the ballot becomes exhausted.
A voter does not have to rank the maximum number of preferences. For example, if a voter only ranks one candidate, that candidate would be the voter's highest preference. If the ballot is to be transferred in a later round, it would become exhausted because it would not be possible to determine the voter's next preference.

Elimination of Candidates
Candidates may be eliminated either using single elimination or batch elimination.
The clerk has the authority to decide which elimination method will be used. The same elimination method must be used for all offices, and all rounds of vote counting.
In the single elimination method, the candidate who has the lowest number of votes is eliminated, and those votes are distributed to the remaining candidates according to the next preference shown on each ballot.
In the batch elimination method, all candidates who do not have a mathematical chance of being elected are eliminated at the same time, and those votes are distributed to the remaining candidates according to the next preference shown on each ballot.

Calculation of the Threshold
A candidate must receive a predetermined number of votes for that office in order to be elected. The regulation will set out the mathematical formula for calculating this number for each office to be elected.

Vote Counting – Single Member Offices
In the first round of counting, votes are counted according to the highest rankings indicated on the ballots.
If a candidate receives enough votes to meet or exceed the threshold, that candidate is elected and counting ends.
If no candidate has enough votes to meet or exceed the threshold, the candidate or candidates with the lowest number of votes is/are eliminated (depending on whether single or batch elimination is being used) and votes are distributed to the remaining candidates according to the next ranking on each ballot.
The steps described above are repeated in subsequent rounds until a candidate has enough votes to meet or exceed the threshold and is elected.
If no candidate has enough votes to meet or exceed the threshold, and eliminating the candidate with the lowest number of votes would only leave one candidate remaining, the counting ends and the candidate with the highest number of votes is elected.

Ties
If it cannot be determined which candidate should be eliminated because candidates with the lowest number of votes are tied, the process to determine which candidate to eliminate is the following:
The tied candidate that had the lower number of votes in the previous round is eliminated. If candidates were tied in the previous round, vote totals in the earlier round are used. If the candidates were tied in all previous rounds, the name of the candidate who will be eliminated is chosen by lot.

Vote Counting – Multi-member Offices
In the first round of counting, votes are counted according to the highest rankings indicated on the ballots.
If the number of candidates who have enough votes to meet or exceed the threshold is the same as the number of candidates that are to be elected, those candidates are elected and the counting ends.
If one candidate has enough votes to meet or exceed the threshold, that candidate is elected, and their surplus votes must be distributed to the remaining candidates. The regulation will set out mathematical formulas for calculating the value of the distributed votes.
If more than one candidate receives enough votes to meet or exceed the threshold, only the candidate with the highest number of votes is elected in that round, and that candidate's surplus votes are distributed to the remaining candidates.
If no candidate has enough votes to meet or exceed the threshold, the candidate or candidates with the lowest number of votes is/are eliminated (depending on whether single or batch elimination is being used) and votes are distributed to the remaining candidates according to the next ranking on each ballot.
The steps described above are repeated in subsequent rounds until the number of candidates elected equals the number of candidates that are to be elected.
If the number of candidates elected is less than the number of candidates to be elected, and eliminating the candidate with the lowest number of votes would leave the same number of candidates as the number of candidates to be elected, the counting ends and the remaining candidate with the highest number of votes is elected.

Ties

If it cannot be determined which of the candidates who have enough votes to meet or exceed the threshold has the highest number of votes because candidates are tied, the tied candidate that had the higher number of votes in the previous round will be considered to have the highest number of votes.

If the candidates were tied in previous rounds, vote totals in the earlier round are used. If the candidates were tied in all previous rounds, the name of the candidate who will be considered to have the highest number of votes is chosen by lot.

If it cannot be determined which candidate should be eliminated because candidates with the lowest number of votes are tied, the process to determine which candidate to eliminate is the following:

The tied candidate that had the lower number of votes in the previous round is eliminated. If candidates were tied in the previous round, vote totals in the earlier round are used. If the candidates were tied in all previous rounds, the name of the candidate who will be eliminated is chosen by lot.

Reporting Requirements

In addition to declaring the candidates who have been elected, clerks must also report the following information to the public:

-the number of ballots cast
-the number of ballots that were declined or rejected
-the threshold for each office
-the number of votes each candidate received in the first round of vote counting
-the results of each round of vote counting, including the number of votes received by each remaining candidate and the number of exhausted ballots

Judicial Recount

An application may be made to the court for a determination of the validity of disputed ballots, and for a recount. The court will review the disputed ballots and determine which ballots should be included in the recount.

The clerk will conduct a recount of the ballots for the office, including or excluding the disputed ballots as determined by the court. The clerk will provide the results of the recount to the court.

Minneapolis Ranked-Choice Voting History

This page describes the process for ranked-choice voting that was first used in Minneapolis in November 2009. It also details how ranked-choice voting (RCV), or instant runoff voting (IRV) as it was called then, came to be in Minneapolis.

BACKGROUND

In 2006, the voters of Minneapolis approved a change from traditional balloting to Ranked Choice Voting for municipal elections. See how Ranked Choice Voting was approved.

Minnesota Election law requires both federal and state certification of all electronic voting systems. Since there was not any certified equipment that could conduct a Ranked Choice Voting election, the City of Minneapolis elections staff had to hand-count the 2009 election.

Research and Planning

As part of the 2006 Minneapolis Instant Runoff Voting Task Force, elections staff completed research and reports that would guide the planning for implementing Ranked Choice Voting in Minneapolis.

In December 2006, Minneapolis elections staff met with Secretary of State-elect Mark Ritchie to seek support for creation of the Minnesota Ranked Choice Voting Issues Task Force. This task force had an open membership and included two sub-committees: Technical Advisory and Legislative/Rules Committees.

Minneapolis in 2009

Election planning for the 2009 municipal election included a dual-track schedule, as it was possible that the City Council could postpone implementation of Ranked Choice Voting until a future year.

The 2009 municipal election would have 22 offices on the ballots. In each precinct, there would be five different offices on the ballot.

During the planning process that year, elections staff completed these tasks:

- Officially adopted Ranked Choice Voting as the name of the voting method to more accurately reflect the process voters use to rank candidates in single and multi-seat offices. In addition, "Ranked Choice" did not imply "instant" results from the process.

- Reviewed the newly-created Ranked Choice Voting city ordinance for housekeeping changes needed.

- Determined the best method to count the multiple seat offices that would comply with Minnesota law was the Weighted Inclusive Gregory Method (WIGM), which could produce the same election results in a recount.

- In May 2009, a "test election" was conducted for several purposes:

   o Develop the first-draft ballot design.

   o Work with different draft versions of materials to be used by election judges in the polling place to help voters.

   o Kick-off voter outreach efforts by inviting various groups to experience Ranked Choice Voting & share their feedback on that experience and the ballot itself.

- Develop the method for hand-counting the single seat and multiple seat offices to determine the winner(s). Ballots were counted by combining all of the ballots for an office. For a turnout of 70,000, it was estimated that the hand-count for the 22 offices could take between 24 and 129 8-hour shifts of 39 counters.

- In June 2009, the council confirmed the Ranked Choice Voting election schedule.

- The ballot design was improved based on the feedback from the Test Election and other community feedback.

- In August 2009, the hand-count process was redesigned. A one-week "work-out" session developed the Minneapolis Method of hand-counting the ballots at the precinct level to use the precinct level data for analysis by office. Based on the Minneapolis Method, with a 70,000 voter turnout, it was estimated hand-counting the 22 offices would take 37 8-hour shifts with 102 election judges serving as counters and data entry staff. This new method would assure seating elected candidates on time.

- The training plan for election judges was designed to use at least one-half of the class time to explain Ranked Choice Voting to the judges.

- Hired an organization to conduct a impartial survey of voters, candidates and election judges concerning implementation.

- Recruited a Historian to document the implementation.

- In addition to traditional precinct staffing, election judges were recruited and scheduled to do counting and data entry.

The Minneapolis Method

The Minneapolis Method combines a hand-count with data analysis that avoids using an uncertified ballot counting program.

With the planned implementation in 2013 of certified equipment for use in the initial tabulation of ballots up to the point of data analysis, the hand-count portion of the Minneapolis Method remains as an efficient method for conducting a recount. In Minnesota, a recount must be conducted by hand. In 2013, data analysis will still be completed under similar procedures to those followed in 2009.

Overall, determining winners based on the ballot data rather than sorting and re-sorting the actual ballots was easier and saved time. Some advantages of the Minneapolis Method include:

- Ballots are counted by precinct rather than combining all ballots for the office. This avoids the problem of candidate rotation precinct by precinct that complicates sorting ballots.

- By precinct and office, ballots are sorted down to the unique 3-choice combination (including any possible write-in), counted and then documented on Precinct Ballot Summaries. For an office with 11 candidates, there can be up to 990 different 3-choice combinations…not including the write-ins.

- Counting offices by precinct allowed multiple offices to be counted simultaneously. Combining all of an office's ballots together for counting would have only allowed one city-wide office to be counted at a time.

- When the counting of all offices on the precinct ballots is completed, the ballots can then be sealed and stored by precinct as required by Minnesota law.

- Providing a means to verify that the same number of votes was counted for each of the five offices on the precinct ballots.

- Counting by precinct meant that many precincts could be counted simultaneously which allows expanding the counting process if necessary.

IMPLEMENTING THE MINNEAPOLIS METHOD

The Tabulation Center

The Minneapolis Elections Warehouse was converted to a tabulation center for counting, data entry and data analysis. Amenities included new vending machines in the break room, improved heating, ergonomic chairs, a cleaning crew and nametag racks to hold color-coded nametags to indicate political party affiliation.

Human Resources

Counters and data entry judges were selected from among chair and assistant chair judges as well as top performing team judges as recommended by chair judges. Every day as judges arrived at the tabulation center, they picked up their name tags and timesheets, signed in with staff and were directed to a precinct pod seated next to a counter with a different color-coded nametag.

Supply and Transport

A supply and transport crew was responsible for ballot security and delivering color-coded supplies to each precinct pod. The supplies were color-coded to help with organization and visual management.

Some highlights of color-coding of supplies:

- A different color was used for each of the five offices for both the name placards and also the ballot summaries.

- Beige was used for precinct supply lists, duty cards and timesheets.

- The only white paper allowed at the precinct pod was the actual ballots.

Other notes on organization:

- Tables were taped off to create different spaces.

- Each pod had three sets of name placards with the candidate names to label their sorting area.

- A three-letter abbreviation of each candidate name was taken from the first three letters of a candidate's last name. Using the 3-letter abbreviation saved time for counters writing and the abbreviations were also built into the data entry documents.

- Pods had two color-coded slips used to silently request assistance with supplies or process questions, which helped to reduce the background noise.

Sorting and Counting

Precinct pods for counting were designed using a combination of tables to hold the ballot length. Each pod was staffed with six counters, three teams of two judges of different political parties. A crew of up to six roamed the floor to help with on-going training and to answer questions.

Counters at each precinct pod:

- Staged the ballots for the precinct (sorted them all the same direction).

- Inspected each ballot for voter errors specific to Ranked Choice Voting and accounted for these errors.

- Sorted the ballots for each office down to the unique 3-choice combination (including all write-ins), counted the ballots with that combination and completed a ballot summary for each unique combination in the precinct.

When a precinct office was completely counted, the supply and transit crew would review the ballot summaries for completeness and then deliver them to the data entry teams.

Counting each precinct took between five and one-half hours and eight hours, depending on the total number of ballots and number of ballots with voter errors. Counting began Wednesday, November 4, and was completed Friday, November 13.

Data Entry

Data entry judges working at computers as a team of two judges of different parties, entered the precinct level data from the ballot summary sheets into the computer. The team also double-checked their work. A data analysis team then verified the data.

With six teams of two judges each, data entry of the ballot summaries for a precinct office took an average of one-half hour, depending on the number of ballot summaries. Data entry began Wednesday, November 4, and was completed Friday, November 13.

Data Analysis

Data analysis was conducted using a dual track system. Each of the two teams consisted of a lead analyst and an observer. Both teams did analysis on the same office, performing the exact same steps and calculations, and then verified their results with each other.

Data analysis of council offices (which have between 8 to 11 precincts) took 50 to 90 minutes. Analysis of the Park District offices (which have between 19 to 24 precincts) took 50 to 70 minutes. Determining the winning candidate for the city-wide office of Mayor (131 precincts) took four hours and 20 minutes for one round.

Data analysis for the two city-wide multiple-seat offices with five or six rounds took over eight hours each.