



Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From: Fernando Lamanna

Position: Clerk / Deputy CAO

Title / Subject: Alternative Voting Methods for the 2022 Municipal Election

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Date of Meeting: October 4, 2021

Report No: 2021-GG-009

1.0 Issue / Origin

The purpose of this report is to provide information and seek Council direction with respect to voting methods for the 2022 Municipal and School Board Elections.

2.0 Background

New Changes to the *Municipal Election Act, 1996* (“MEA”)

On November 20, 2020, Bill 218, Supporting Ontario's Recovery and Municipal Elections Act, 2020, received Royal Assent making a number of changes to the MEA. These changes include:

- Removing the option to hold ranked ballot elections in Ontario municipalities.
- Moving Nomination Day in a regular election from the fourth Friday in July to the third Friday in August.
- Amending Section 42 to allow by-laws authorizing the use of vote-counting equipment and alternative voting methods to be passed on or **before May 1, 2022**.
- Moving the date for establishing procedures and forms for the use of any voting and vote-counting equipment or alternative voting method to **June 1, 2022**.

The province is recognizing the success of modernization advancements during the COVID-19 pandemic, and it appears that some modernization is being introduced into the MEA as recently as April 19, 2021 with the passing of Bill 254. Clerks may now allow candidate nominations and third-party advertiser registrations to be filed electronically, including the required 25 nomination signatures for candidates.

Section 42(1) of the MEA, provides that the Council of a local municipality may pass by-laws to:

- (a) authorize the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scan vote tabulators; and,

- (b) authorize electors to use an alternative voting method, such as voting by mail or by telephone, that does not require electors to attend at a voting place in order to vote.

Section 42 further provides that the Clerk shall establish procedures and forms for the use of any voting and vote-counting equipment authorized by by-law. The procedures and forms must be established by June 1 in the year of the election (June 1, 2022).

In establishing these procedures and forms, the Clerk must ensure consistency with the following principles of the MEA:

- *The election should be fair and non-biased.*
- *The integrity of the process should be maintained throughout the election.*
- *Voters and candidates should be treated fairly and consistently within a municipality.*
- *The election should be accessible to all voters.*
- *The secrecy and confidentiality of an individual's vote is paramount.*
- *There is certainty that the results of the election reflect the votes cast.*
- *A proper majority vote decides the election by ensuring, so far as reasonably possible, that valid votes be counted, and invalid votes be rejected.*

2022 Municipal Election Important Dates

The table below highlights key dates impacting Council, Candidates, and town staff:

| | |
|----------------------------|--|
| Monday, May 2, 2022 | Nominations Open - Candidates may file their nomination form including the list of 25 persons endorsing the candidate. |
| Friday, August 19, 2022 | Nomination Day – Last day for Candidates to file their nomination form between 9:00 a.m. – 2:00 p.m. |
| Monday, October 24, 2022 | Election Day |
| Tuesday, November 15, 2022 | New Council takes office for the term 2022-2026. |

3.0 Analysis

COVID-19 Implications

While the 2022 Municipal Election is still a year away, the course of the COVID-19 virus remains uncertain. Planning for municipal elections begins well in advance so that practices and procedures can be safely implemented by Voting Day. At the same time, the COVID-19 pandemic presents an ongoing concern and health experts believe there may be additional waves of the virus for months or years to come. Accordingly, electors may feel anxious about gathering in public spaces to vote. Given the risk of continued impact on public health and civic participation, election planning for 2022 should acknowledge and accommodate for potential COVID-19 restrictions.

The pandemic introduces new challenges and complexities into nearly all election processes, including the availability and acquisition of voting technology, the possibility of alternative voting methods, the safe operation of voting locations, and the hiring of Election Day staff.

Since many of the pandemic's long-term effects are difficult to forecast, significant contingency planning will be required to cover a range of possible pandemic scenarios that may exist through to October 2022.

Methods of Voting & Options

The main methods of voting used by Ontario municipalities are:

- Paper ballot: manual counting or vote tabulators
- Vote-by-mail
- Internet and telephone voting

The following options exist for Council's consideration. The various advantages and disadvantages of each method are summarized below.

Option 1 – Traditional Paper Ballots with Manual Counting

The default election method contemplated under the MEA is paper ballots with manual counting by election officials. Most municipalities have abandoned manual counting due to the time and effort involved in counting votes.

This option is not recommended by staff as there exists higher possibility of human error (interpretation of a vote cast), challenges in finding reliable Election Day staff, extensive training requirements for Election Day staff, significant delay in announcing results, and limited accessibility options. This option does not provide electors with an alternative voting method should the pandemic continue, or electors feel unsafe voting in person.

Option 2 – Optical Scan Vote Tabulators

Optical scan vote tabulators ("tabulators") are a proven technology whereby electors feed their ballot into the tabulator (See Figure 2) which scans the ballot and counts the vote cast for each office, while maintaining a running tally for each office. After the close of the polls, Election Officials can obtain the running tally for each office and results can be announced within minutes.

Figure 2:



Tabulators include accessibility features to assist voters with disabilities to vote independently and in private. A voter who wishes to vote with this equipment uses headphones to hear the ballot presentation and a handheld controller device to control the voting session and select votes. Other assistive devices available are foot paddles and sip and puff devices for voters who are unable to use their hands to press the selection buttons.

This option generally has an increased cost due to the acquisition of paper ballots, rental of tabulators and accessible equipment, hiring Election Day staff and extensive training. This option was prevalent in other municipal elections including the 2018 Provincial Election. The technology is effective and proven in delivering accurate results in minutes.

Option 3 – Vote-by-Mail

This method of election is typically used by rural municipalities where electors would otherwise be required to travel some distance to vote at a polling station. Vote-by-mail has been used by Brock Township since 2000 as well as neighboring municipalities in north Durham Region, which have found the method to be very successful. Additionally, several larger voting districts such as Toronto, Guelph, Mississauga, Elections Ontario, and Elections Canada have or are considering vote-by-mail for the 2022 Elections.

Generally, in a vote-by-mail method, a voting package is mailed to every eligible elector on the Voters' List. The voting package includes a self-addressed return envelope, declaration form, ballot, and ballot secrecy envelope. The elector marks their ballot and places it in the ballot secrecy folder, signs the voter declaration and returns both documents by mail or in person to a polling station, by a cut-off date (typically 10 days before Voting Day).

Ballots that are mailed in or dropped off in person, are counted either manually or by tabulators after the polls close on Voting Day.

Vote-by-mail is convenient and accessible for electors. This option has significant cost savings as there is limited need to hire Election Day staff.

Option 4 - Internet and Telephone Voting

Internet voting is often available as part of a voting online platform that also includes a telephone voting option. This means that voters can mark their ballots using a computer, tablet or mobile device, or by selecting options over the phone. Accordingly, internet and telephone voting are often offered together as one voting method.

When internet and telephone voting are used, a voter notice is mailed to every eligible elector identified on the Voters' List, which includes a Personal Identification Number (PIN) and instructions to access either the website or telephone number to cast their vote. During the voting period, an elector can register to use the online voting system by using the PIN provided to vote for their preferred candidates. If voting by telephone, the elector calls the provided telephone number and is prompted via verbal instructions to input the PIN provided and cast their votes for their preferred candidates.

Telephone voting technology is becoming antiquated and municipalities that have used telephone voting in conjunction with internet voting have experienced challenges with the system. Telephone voting also adds an additional level of complexity for election administrators as election procedures are also required for this system, to ensure the integrity of the election. As such, staff do not recommend the use of telephone voting as an option for the 2022 Municipal Election.

Internet voting, however, provides a convenient and secure method of voting that allows electors to cast their ballot online anywhere with internet access using a number of devices including computers, laptops, tablets, smartphones, etc. Electors can vote from anywhere including their home, work, in transit and at any time of day.

Internet voting is a more accessible method of voting given that electors with accessibility challenges do not have to travel to specific locations to vote. Electors may be able to vote more independently without reliance on assistance and can avail themselves of screen reading technology.

In addition, internet voting can offer a faster voting experience for an elector than traditional in-person voting, as most voters can complete their ballot in a few minutes. Internet voting reduces the need for a person to appoint a proxy, as an elector may vote from anywhere.

Internet voting also reduces the number of spoiled ballots, as the system does not allow for overvotes or ballots to be spoiled unintentionally. The system also reduces the chance of electors being issued the wrong ballot and allows for electors who wish to decline their vote to do so.

The Clerk, selected vendors, and service providers are responsible for ensuring that security and internal processes are put in place so that the integrity of the election process is upheld, and the secrecy of the vote is maintained.

Internet voting provides improved convenience and accessibility for the electorate. For voters needing assistance or who do not have access to technology, polling stations can be made available to allow them to go in person to cast their votes using electronic equipment. Typically, with internet voting, fewer polling stations are required; and each polling station will be supplied with Town equipment and Town staff trained to assist voters.

Of the municipalities that have facilitated internet voting in previous elections, many have noted the need for an increased budget for communications/public education, especially during the first election that internet voting option is implemented.

Hybrid Option

Any combination of Options 1 to 4 can be incorporated together to offer electors in Brock a hybrid option in which they can choose their preferred voting method.

A phased approach to the introduction of internet voting allows the electorate the opportunity to become familiar with the technology, and give staff the opportunity to evaluate the interest, use and success of internet voting before considering exclusive implementation in future elections.

Disadvantages with hybrid voting methods include increased costs and greater staffing demand as staff are tasked to run two separate systems that require separate procedures and testing to ensure the integrity of each method. Staff do not support any hybrid option with manual counting as the results of a manual count require additional election night staff and the results are slower than when tabulators or internet are used.

Municipalities that used Internet Voting in Past Elections

Municipalities across Ontario are increasingly using internet voting in their elections, either exclusively, or in combination with another form of voting. 194 Ontario municipalities offered internet voting in 2018, an increase from 97 municipalities in 2014.

For example, in Durham Region:

- Town of Ajax has used internet voting exclusively since 2014
- Town of Pickering used internet voting in 2018
- Town of Whitby used internet voting in 2014.

Addressing risks, privacy, and security concerns

While there are certain risks associated with online voting, it is important to note that all election models carry inherent risks. With every election – whether conducted with paper, by-mail, telephone, or online – there is the potential for illicit behaviour by actors determined to disrespect the spirit of our democracy. Coercion, manipulation, personation, and other forms of fraudulent behaviour can occur in any voting system, whether supervised or unsupervised. Regardless of the voting channel(s) used in an election, risk cannot be completely eliminated – it can only be mitigated. The role of election administrators are to identify and understand the risks surrounding each available model, evaluate the costs and benefits of adopting one approach over another, and take every reasonable step to mitigate and manage the risks associated with a given system.

Additionally, the MEA does not have any standards in relation to online and telephone voting, and in the absence of any standards, it means many municipalities rely heavily on academic research and best practices learned from other municipalities to create the voter experience. If Council selects internet voting as a voting method, staff will ensure adequate measures such as firewalls, encryption protocols and user authentication are in place. Testing and auditing will be required throughout the various stages of implementation to ensure the security of the system is maintained.

Voter Turnout

The Association of Municipalities of Ontario has reported that the average voter turnout across Ontario municipalities in 2014 was 43.12% (based on 389 municipalities) and 38.30% (based on 388 municipalities) in 2018, indicating decreased voter turnout generally across Ontario. Brock's voter turnouts have traditionally been higher than the Provincial average with 2018 having 47%, 2014 having 44% and 2010 having 46%.

Academic studies and municipal statistics do not definitively confirm that internet voting has a significant impact on voter turnout. However, internet voting can be offered as a customer service initiative enhancement that reduces wait times and congestion at voting stations and makes voting more convenient and accessible.

Internet voting also provides a method of voting that may encourage participation from voters who may have previously faced barriers to voting such as mobility and time constraints.

Dominion Voting Systems Corporation

As noted previously the Township of Brock has used vote-by-mail since the 2000 Municipal Election and in election years 2006, 2010 and 2018, Dominion Voting Systems Corporation ("Dominion") provided the Township with tabulators. The use of tabulators versus manually counting the ballots expedites the counting process while eliminating the need for human error/judgement and reducing the need for additional election staff.

Brock Township had entered into an agreement with Dominion in 2018 which established pricing for the 2018 Municipal Election plus fixing the same 2018 price for the 2022 Municipal Election. As such, the municipality is contractually obligated to Dominion, unless Council wishes to break that contract, which staff advise against this, as there would be monetary penalties.

Staff have been in contact with Dominion and have obtained a quote for adding internet voting to the existing vote-by-mail option for an increased cost of approximately \$14,000.

4.0 Related Policies / Procedures

All Municipal and School Board Election planning, policies, and procedures fall within the legislated requirements of the *Municipal Election Act, 1996* ("MEA"). The Clerk must ensure consistency with the principles of the MEA and is responsible for:

- Preparing for the election
- Preparing and conducting a recount in the election
- Maintaining peace and order in connection with the election; and
- Reporting as outlined in the MEA.

This report is being presented to Council specific to Section 42(1) of the MEA, as Council has the authority to determine the use of vote-counting equipment and or the use alternative voting methods.

5.0 Financial / Budget Assessment

Annually, during the budget process, a contribution to the Election Reserve is allocated with a current election reserve of \$70,000 year to date.

Should Council entertain the addition of internet voting as a service enhancement to the existing vote-by-mail, then an additional transfer to the election reserve of approximately \$25,000 would be required for the 2022 budget process. This increase in the election budget would cover the added Dominion expense (\$14,000) plus any additional advertising and administrative costs required in promoting the internet voting method.

6.0 Climate Change Impacts

Any voting method that reduces or eliminates electors attending in person, may pose some environmental advantage as electors would not be required to drive to polling locations.

7.0 Communications

The 2022 Municipal Election will include an extensive amount of advertising throughout 2022 to help promote the process for voting and attempt to drive voter interest.

8.0 Conclusion

The Township of Brock has had above Provincial average voter turn out for the last 6 elections, meaning that close to half (5,000) electors have exercised their democratic right. One could conclude that Brock residents have been accustomed to the vote-by-mail method of voting and have some sense of satisfaction with this method.

The Covid-19 pandemic has pushed many organizations, including governments, to provide more services on-line. Brock Township, much like other rural municipalities, still experiences connectivity issues, which may impact some electors wishing to cast their ballot on-line.

Although internet voting has been used by municipalities in Ontario since 2003 and the number of municipalities offering internet voting doubling each election year, The Township of Brock may run into challenges in administering internet voting.

Staff value the opportunity of providing an increased level of service for the 2022 Municipal Election, however the enhanced level of service does come with a higher price tag which Council will need to weigh against an established vote-by-mail method that sees close to 50% voter turnout.

Staff recommend that internet voting should be monitored for future elections and public input be sought on the interest in internet voting.

9.0 Recommendation

BE IT RESOLVED THAT report 2021-GG-009, entitled Alternative Voting Methods for the 2022 Municipal Election, be received: and

THAT Council approve the use of vote-by-mail counted by optical scan voting tabulators for the 2022 Municipal Election and any necessary by-elections; and

THAT Council direct staff to prepare any by-laws necessary to authorize the use of alternative voting equipment.