

SUBJECT: Question on the Ballot – 2022 Municipal Election

PREPARED BY: Kimberley Kitteringham, City Clerk / Returning Officer
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Scott Chapman, Manager, Elections

RECOMMENDATION:

1. That the report titled “Question on the Ballot – 2022 Municipal Election” dated January 17, 2022 be received for information.

PURPOSE:

To provide Council with information on the process for placing a question on the ballot in the 2022 Municipal Election.

BACKGROUND:

In Ontario, the conduct of municipal elections and by-elections is prescribed and regulated by the *Municipal Elections Act, 1996 (MEA)*. As part its overall governance framework, the *MEA* establishes a defined process and conditions for posing a question to voters on the ballot in a municipal election (**Appendix ‘A’**).

Under the *MEA*, any of the following entities can submit a question to Markham voters:

- Markham City Council;
- A local board; and,
- The Minister of Municipal Affairs and Housing

The *MEA* stipulates that a vote on a question should generally be administered at the same time as the next regular municipal election, unless otherwise specified by Council.

The next municipal election in Markham is scheduled for October 24, 2022. To place a question on the ballot for the 2022 Municipal Election, Council would need to pass a by-law authorizing this by March 1, 2022. Once this date passes, any by-law enacted by Council cannot be amended, but it can be repealed by the final day of candidate nominations (Friday, August 19, 2022).

Nature of the Question

To comply with the *MEA*, a question placed on the ballot must adhere to the following criteria:

- Concern a matter within the jurisdiction of the City of Markham, excluding any matters prescribed as being of ‘Provincial Interest’ (**see Appendix ‘B’**);
- Be worded in a clear, concise, and neutral manner; and,
- Solicit a response in the affirmative or negative (i.e., ‘yes’ or ‘no’)

Public Notice

If Council considers authorizing a question on the 2022 Municipal Election ballot, the City would need to provide notice to the public and the Minister of Municipal Affairs and Housing, and hold a minimum of one public meeting, at least 10 days before an enabling

by-law is passed. If a by-law were to be passed to authorize a question, the City would need to provide another public notice within 15 days of that by-law's passage.

In both cases described above, the notice issued by the City must include:

- The wording of the question to be asked of voters;
- A clear, concise, and neutral description of the consequences if the question is approved or rejected (including the estimated costs to be incurred by the City to implement the results of the question); and,
- A description of the right and process to appeal Council's decision.

Appeals

Within 20 days of the City providing notice of a by-law's passage placing a question on the election ballot, any person or entity (including the Minister of Municipal Affairs and Housing) can appeal Council's decision to the Chief Electoral Officer of Ontario on the grounds that the question does not comply with the *MEA*. To do so, they must file a notice of appeal with the City Clerk setting out their objections.

Binding Results

If at least 50% of all eligible Markham voters vote on the question, the results are binding on the City. If the results of the vote meet this threshold as to be considered binding:

- On a 'Yes' vote, the City must do everything in its power to implement the results in a timely manner (taking action between 14 and 180 days after the Voting Day).
- On a 'No' vote, the City cannot do anything to implement the matter which was the subject of the question for four years after Voting Day.

Voter turnout in Markham has averaged roughly 35% over the past five municipal elections (2003-2018), and has not surpassed 50% since before 1968.

OPTIONS / DISCUSSION:

Over the years, municipalities have added questions to the ballot in a municipal election to formally assess public opinion on topics of community interest. Locally within York Region, the Town of East Gwillimbury (2010) and Town of Aurora (2014) previously placed questions on the ballot to determine voter preferences on their respective council governance structures (i.e., at-large vs. ward-based representation). More recently, as part of the 2018 Municipal Election ballot, several municipalities across Ontario asked voters about moving from a first-past-the-post system of electing their municipal councils to ranked choice voting. With the passage of the *Protecting Ontario Elections Act, 2021*, Ontario municipalities are no longer authorized to unilaterally implement ranked choice voting.

To date, the City of Markham has not placed a question on the ballot in a municipal election. In 1997, Council deliberated on a motion about asking voters whether casinos should be permitted to operate in Markham. In 2010, Council considered posing a question to Markham voters regarding the City's Growth Management Strategy. In both cases, motions to authorize these questions were defeated (see **Appendix 'C'**).

Before authorizing a ballot question for the 2022 Municipal Election, Council should consider the following:

- Potential impact of the question on voter turnout;
- Costs associated with communicating the question and its implications to the public (e.g., statutory notices, statutory meeting, community engagement); and,
- Potential implementation costs and requirements if the results are binding.

FINANCIAL CONSIDERATIONS

The administrative costs associated with placing a question on the ballot for the 2022 Municipal Election are minimal and not likely to exceed \$5,000. However, the costs of implementing the results of the vote will vary depending on the nature of the question being asked. If Council decides to place a question on the ballot in 2022, it should be prepared to allocate funds to support the implementation of a possible binding result.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable.

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable.

RECOMMENDED BY:

Kimberley Kitteringham
City Clerk / Returning Officer

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Appendix 'A' – Excerpt from *Municipal Elections Act, 1996* (Section 8 – 'Submission of By-laws and Questions')

Appendix 'B' – List of Matters of 'Provincial Interest' (Ontario Regulation 425/00)

Appendix 'C' – Council Meeting Extracts (October 14, 1997 and April 13, 2010)