



Report to: General Committee

Meeting Date: January 16, 2017

SUBJECT: Ranked Ballot Elections Report
PREPARED BY: Kimberley Kitteringham, City Clerk
Martha Pettit, Deputy Clerk
Vanessa Rhodes, Legislative Coordinator (Acting)

RECOMMENDATION:

- 1) That the Ranked Ballot Election Report be received for information; and,
- 2) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

As a result of recent amendments to the Municipal Elections Act, 1996 (the Act), municipalities are now authorized to implement ranked ballots in municipal elections beginning in 2018. The purpose of this Report is to provide Members of Council with an overview of the new ranked ballot provisions of the Act.

BACKGROUND:

On April 4, 2016, Bill 181, Municipal Elections Modernization Act, 2016 was introduced to the Ontario Legislative Assembly. It received Royal Assent on June 9, 2016. Bill 181 amended various aspects of the Act. On September 26, 2016, representatives of the Ministry of Municipal Affairs and Housing provided an overview of Bill 181 to Members of General Committee (see **Attachment “A”** for a copy of Ministry Presentation). The focus of this Report is on the new ranked ballot provisions of the Act.

The current electoral model followed by Ontario municipalities is referred to as a “first-past-the-post” system. Under this system, the candidate who receives the most votes wins the seat and candidates are not required to achieve a set percentage of the votes to win (see **Attachment “B”** for more information on the first-past-the-post” system). Recent amendments to the Act now provide Ontario municipalities with the option of using ranked ballots in future elections for municipal Council seats onlyⁱ (see **Attachment “C”** for the Ranked Ballot Regulations released by the Province on September 16, 2016; see **Attachment “D”** for a copy of the Province’s literature explaining a ranked ballot system).

In ranked ballot elections, voters are generally able to rank their first, second and third choice etc. candidates. If no candidate wins a majority of the vote (50% plus 1), the candidate with the least amount of first place votes is eliminated and the voters’ second place choice is redistributed until a candidate wins by a majority (50% plus 1). Thus far, ranked ballots have been used in some international jurisdictions. For instance, Australia has used ranked ballots for their federal and local governments and Scotland uses ranked ballots for all local government elections. In the United States, a small number of jurisdictions (Minneapolis, San Francisco, Berkley, Oakland and Portland) have also implemented ranked ballots at the local government level.

Proponents of ranked ballots maintain that this election methodology is fairer than the first-past-the-post system because those who win the election ultimately represent the majority of votes cast. Opponents of ranked ballot elections argue that the complexities of introducing a new electoral process, especially in jurisdictions where language barriers exist, are particularly problematic. Further, opponents cite the potential for increased election costs associated with such things as equipment reprogramming and support, and expanded voter education requirements.

In order to implement ranked ballots for Markham's 2018 Municipal Election, City Council is required to pass an authorizing by-law. Prior to doing so, Council must consider the following:

- The public interest;
- The costs to the City of conducting ranked ballot elections;
- The availability of technology, such as voting equipment and vote-counting equipment and software, for conducting ranked ballot elections; and,
- Administrative practices and procedures that would be required to conduct ranked ballot elections.

The authorizing by-law may specify: 1) the maximum number of rankings for each office on Council; and, 2) a different number of rankings for each office on Council. If the by-law does not identify the maximum number of rankings a voter can make, the default maximum is three.ⁱⁱ The authorizing by-law for the 2018 Municipal Election must be passed no later than **May 1, 2017**.

Prior to passing the above-noted by-law, Markham City Council would be required to undertake a prescribed public consultation process which includes holding an open house and a public meeting. The open house would allow the public the opportunity to review the ranked ballot information and ask questions about the new process. The public meeting must be held 15 days after the open house and a notice of the open house and public meeting must be issued 30 days prior to each event. Table 1 below outlines the latest possible 2018 Open House and Public meeting dates, if such a by-law was passed by Markham City Council on May 1, 2017.

Table 1: Public Consultations Timeline for a Ranked Ballot Election

Public Notice of the Open House	March 17, 2017
Public Notice of the Public Meeting	April 1, 2017
Open House	April 15, 2017
Public Meeting	May 1, 2017
By-law Passed	May 1, 2017

OPTIONS/ DISCUSSION:

Changes made to the Act now provide the option for the use of ranked ballots in the 2018 Municipal Election for municipal Council seats only.

If Markham City Council decides to use ranked ballots in the 2018 Municipal Election, a single-member ranked ballot and a multi-member ranked ballot would be required. A single-member ranked ballot would apply to the Office of the Mayor and Ward Councillors, where only one candidate is elected to the Office. A multi-member ranked ballot would apply to the Office of Regional Councillors, where up to four candidates are elected to the Office.

When a ranked ballot is utilized in an election, candidates are required to meet a threshold of votes to win the election. The threshold that is required for a single-member ranked ballot is 50 percent plus 1 of the votes cast. This is calculated by dividing the total number of votes cast for the Office by the number of candidates to be elected plus one. The threshold for a multi-member ranked ballot is dependent on the number of candidates being elected. For Markham's Regional Councillors, the threshold that is required is 20 percent plus 1 of the votes cast.

On a single-member ranked ballot (i.e., for Mayor or Ward Councillors), the calculation would be as follows:

$$\text{Threshold} = \left(\frac{\text{number of votes cast}}{1 \text{ candidate will be elected} + 1} \right) + 1$$

On a multi-member ranked ballot (i.e., Regional Councillor), the calculation would be:

$$\text{Threshold} = \left(\frac{\text{number of votes cast}}{4 \text{ candidates will be elected} + 1} \right) + 1$$

For candidates on a single-member or multi-member ranked ballot, votes are distributed among candidates based on the rankings provided by the voter on the ballot. If no candidate obtains the required threshold of votes in the first round of vote counting, there would be multiple rounds of vote counting until the threshold is met. In the first round of vote counting, the candidate with the least amount of votes is dropped from the count and their votes are redistributed based on the rankings assigned to other candidates on the same ballot, until the threshold is met. For a multi-member ranked ballot, a candidate who passed the threshold at the outset would have their votes that exceeded the threshold redistributed to other candidates based on the voters' rankings.

To contextualize, if a ranked ballot election were implemented in Markham, based on the 2014 Municipal Election results, four current Members of Council would have met the threshold for the single-member ranked ballot calculation in the first round of vote counting. Further, for the multi-member ranked ballot election, no current Regional

Councillor would have reached the threshold required to be elected in a ranked ballot election in the first round of vote counting. Therefore, there would have been multiple rounds of vote counting for the Offices of Ward and Regional Councillors required to calculate voters' second, third and fourth choices to be elected.

CONCLUSION:

In May 2016, the Province's standing committee on Finance and Economic Affairs requested public feedback on Bill 181 (including ranked ballots). Staff provided the following three suggestions with respect to ranked ballots:

1. The Province should hold a referendum or other public consultation process prior to amending the Act to adopt ranked ballots beginning in 2018 for municipal elections; and,
2. The Province should pilot a ranked ballot election in 2018 and then consult with municipalities regarding proposed training, legislative framework, technology and educational material, to ensure a successful transition to a ranked ballot electoral process in municipalities across the Province; and,
3. If the Province amended the Act to allow ranked ballot elections, the legislation should stipulate the following: (a) candidates names should appear in random order on the ballot; (b) in cases of multiple rounds of vote counting, results should be published after each round to ensure transparency; and (c) candidates should be nominated by no less than 20 eligible electors.

From staff's perspective, the implementation of ranked ballots for the 2018 Municipal Election in Markham is problematic for the reasons outlined below:

- 1) Complexity of Markham's Election – if a ranked ballot electoral process was adopted, Markham would be required to undertake three different types of elections: 1) single-member ranked ballot for Mayor and Ward Councillors; 2) multi-member ranked ballot for Regional Councillors; and, 3) first-past-the-post for School Board Trustees. This would cause additional confusion for voters. In previous elections, it has been difficult to educate Markham voters on their right to vote for up to four Regional Councillors, while limited to voting for one Ward Councillor. The reasons for this include language barriers, first-time voters and recent immigrants who are unfamiliar with the municipal election process. Staff maintain that to administer a ranked ballot election, extensive public outreach and education on the proposed new electoral process in the municipality is required. In light of the short timeframe for the upcoming 2018 Municipal Election, staff advise that there is insufficient time to properly educate election staff and the public on the new process to administer a successful ranked ballot election.
- 2) Voting Equipment - Undertaking a ranked ballot election would require modifications of well established vote counting equipment (tabulators) that have been used in Ontario elections for decades to administer and calculate in-person votes. Although there are some election equipment vendors who have the necessary technology to support a ranked ballot voting system, their equipment has not been used for this purpose for a binding election anywhere in Canada. As

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- ranked ballot elections have not been conducted in Canada before, there is a possibility that the vendors do not have sufficient voting equipment to supply multiple municipalities if there is an uptake on ranked ballots in the 2018 Municipal Election. Further, staff would need to test and audit the election results to confirm it meets legislative requirements. The accuracy testing of vote tabulators is imperative to ensure the reliability of the equipment and results produced. An independent verification of this would also be necessary. To ensure the above requirements are met would involve significant staff, time, and budget.
- 3) Availability of Election Results – As previously noted, some jurisdictions in the United States, Australia, Scotland and London, have implemented ranked ballots. Given the complexity of calculating the votes cast, specifically in circumstances that require multiple rounds of vote counting, the results have taken days, and sometimes weeks to produce. For instance, in the 2009 election in Minneapolis it took 15 days to produce final election results.
 - 4) Timelines – The Act states that a by-law must be passed no later than May 1 of the year prior to election year (i.e., May 1, 2017, for the 2018 election). Before a by-law to use a ranked ballot in a municipal election is passed, a public consultation process must take place. Council must hold at least one open house and one public meeting to allow the public to review and ask questions related to the ranked ballot by-law. The public meeting must be held 15 days after the open house and a notice of the open house and public meeting must be published in a newspaper that has local reach 30 days prior to each event. Therefore, if Council wanted to pursue a ranked ballot by-law for the 2018 municipal election, the public consultation process would need to begin no later than March 17, 2017. Additionally, staff would require time to understand the new process for administering a ranked ballot election, train staff, and develop public education material for the public. At this time, staff have developed an election working committee with other election administrators in various municipalities across Ontario, and do not feel adequately prepared to undertake a new electoral process within this timeframe.
 - 5) Outstanding Legislative Questions – A recent report by a committee comprised of MPs who studied electoral reform in Canada recommended holding a referendum before implementing a new electoral process for the 2019 Federal Election. Therefore, the Federal government is still uncertain about administering a ranked ballot election within a short timeframe. Accordingly, there is limited opportunity to learn from others that have successfully administered an election through this model. There are no best practice guidelines in Canada to test vote tabulators on ranked ballots to assist municipalities in administering a ranked ballot election. The lack of guidelines for testing vote tabulator systems and best practice procedures may have a detrimental effect on the administration of the 2018 Municipal Election.

Staff are unaware of any Ontario municipalities that have decided to adopt a ranked ballot process for the 2018 Municipal Election. If Markham City Council is interested in doing so, Staff will report back expeditiously with further administrative details (including financial implications) associated with the implementation. If Council elects not to pursue a ranked ballot election, no action is required and this report can be received for information purposes.

RECOMMENDED BY:

09/01/2017

09/01/2017


X

Kimberley Kitteringham
Clerk


X

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:[Attachment A](#)[Attachment B](#)[Attachment C](#)[Attachment D](#)

ⁱ Under the Act, ranked ballots are not permitted to be used to elect school board positions.

ⁱⁱ If Markham City Council adopted a By-law authorizing ranked ballots, ranked ballots must be used for regular elections and any by-elections.