

Thursday, October 1, 2020

TO: Mayor John Tory and Members of City Council
Toronto City Hall, 100 Queen Street West
Toronto, M5H 2N2, Ontario

c/o Ms. Marilyn Toft, Clerk
councilmeeting@toronto.ca

FROM: Eileen Denny
[REDACTED]

2020-EX16.8

The Impact of COVID-19 on 2022 Election Preparation Activities

City Council Meeting No. 24 – SEPTEMBER 30, 2020 – October 1, 2020

I write to request City Council register “my vote” in support of Executive Committee’s Recommendations with suggested amendments, that may not be consequential, as summarized below.

Council’s Agenda EX16.8 Recommendations (extracted on October 1, 2020 at 2:02PM)

The Executive Committee recommends that:	Eileen Denny’s Vote (Eligible Voter)
1. City Council direct the City Clerk to cease any further work on Ranked Ballot Elections for the 2022 Municipal Election, as previously directed in Item GV5.1 on November 26 and 27, 2019.	<ul style="list-style-type: none"> • AGREE, immediately.
2. City Council request the City Clerk to evaluate alternative voting methods used in other jurisdictions <u>”in Ontario or Canada”</u> that may provide electors with additional options during a pandemic <u>“only”</u> and to report back to City Council by May 1, 2021 as required.	<ul style="list-style-type: none"> • AGREE. • to consider adding “in other jurisdictions <u>in Ontario or Canada</u>” and “additional options during a pandemic <u>only</u>”
3. City Council request the City Clerk to provide regular updates to the Executive Committee on the procurement process to acquire new equipment for future elections.	<ul style="list-style-type: none"> • Yes, without making contractual commitment.
New Recommendation 4 that: City Council request the City Solicitor and City Manager to report back to Executive Committee with a debriefing of the legal matters concerning “Bill 5”.	<ul style="list-style-type: none"> • New Recommendation request for Council to consider
Notes: Proposed Amendments inserted in the Body of Text	<ul style="list-style-type: none"> • Underlined, within quotations.

In addition, I ask that an additional Recommendation 4 be considered such that Legal Services and City Manager report back with a full debriefing on the legal matters as “mentioned” in the City Clerk’s Report dated September 9, 2020 on pages 4 and 7 (extracted below) concerning Bill 5 (or was it Bill 31).

I also note the shortened time frames as this matter appeared on at Executive Committee on September 23, 2020 and is now before City Council for the September 30 – October 1, 2020 Meeting.

City Clerk Report, September 9, 2020 attached to Agenda Item EX16.8, The Impact of COVID-19 on 2022 Election Preparation Activities – Relevant Extracts:

Bill 5, Better Local Government Act, 2018

City Council, at its meeting on January 30 and 31, 2019, instructed the City Solicitor to oppose the Province's appeal relating to Bill 5, Better Local Government Act, 2018 at the Court of Appeal and pursue a leave to appeal application to the Supreme Court of Canada in the event the Province is successful on its appeal at the Court of Appeal.

[...]

5. There is continued uncertainty about the number of wards under which the 2022

Election will be administered In November 2016, City Council approved a new 47-ward model for Toronto, to be implemented through the 2018 general election. The 2018 election period had already begun under this 47-ward model when the Province of Ontario introduced Bill 5, Better Local Government Act, 2018 to reduce the number of Toronto wards from 47 to 25.

The introduction of Bill 5 resulted in a series of legal challenges and appeals that briefly reinstated the 47-ward model before ultimately upholding the reduction to 25 wards, and the 2018 City of Toronto election was finally run on the basis of 25 wards. However, Council directed the City Solicitor to exhaust all legal avenues in challenging the legality of Bill 5, and the appeal regarding its constitutionality will now be heard by the Supreme Court of Canada. It is anticipated that a Supreme Court decision may not be rendered until mid- to late 2021.

The ongoing legal challenge to Bill 5 has meant continued uncertainty about which ward model will be in place for the 2022 election and planning must therefore take place for both scenarios. The additional work required by this dual planning is now compounded by the new complexities resulting from the COVID-19 pandemic.

2020-EX16.8 Agenda Summary (Last paragraph):

Finally, the report notes that there is still uncertainty about the City's future ward structure. The Supreme Court of Canada has agreed to hear the City's legal challenge to Bill 5, Better Local Government Act, 2018—which reduced the number of Toronto wards

from 47 to 25—but a decision is not expected until mid - to late 2021. Election planning for 2022 must therefore account for both 25 and 47 ward scenarios, adding further complexity to COVID-19 contingency planning.

This matter warranted its own Agenda Item and should not have been part of this RFP for new voting equipment. I learned that the legal case moved to the Supreme Court in the newspaper article at the height of the COVID-19 pandemic during its lockdown phase.

Respectfully,
Eileen Denny

████████████████████

Attachment: City Council's Agenda Item 2020-EX16.8 as Retrieved on October 1, 2020 at 2:02PM

NOTE: The highlighted Communications EX16.8.3 TO EX16.8.7 have been submitted on this Item but they have not been uploaded as revealed by what I can see from my system.

Tracking Status

- This item was considered by [Executive Committee](#) on September 23, 2020 and was adopted with amendments. It will be considered by City Council on September 30, 2020.

City Council consideration on September 30, 2020

EX16.8	ACTION			Ward: All
--------	--------	--	--	-----------

The Impact of COVID-19 on 2022 Election Preparation Activities

Communications EX16.8.3 to EX16.8.7 have been submitted on this Item.

Committee Recommendations

The Executive Committee recommends that:

1. City Council direct the City Clerk to cease any further work on Ranked Ballot Elections for the 2022 Municipal Election, as previously directed in Item GV5.1 on November 26 and 27, 2019.
2. City Council request the City Clerk to evaluate alternative voting methods used in other jurisdictions that may provide electors with additional options during a pandemic and to report back to City Council by May 1, 2021 as required.
3. City Council request the City Clerk to provide regular updates to the Executive Committee on the procurement process to acquire new equipment for future elections.

Committee Decision Advice and Other Information

The City Clerk gave a presentation on 2022 Election Preparation Activities: The Impact of COVID-19 and The Ward Structure.

Summary

The purpose of this report is to update City Council on the planning and preparation underway in advance of the October 2022 municipal election, particularly as it relates to the unexpected challenges posed by the COVID-19 pandemic and its impact on a number of election initiatives.

COVID-19 remains an ongoing concern, and health experts believe there may be additional waves of the virus for months or years to come. All aspects of 2022 election planning must shift to accommodate the reality of this global pandemic, which will have significant effects on programs, procedures, and technology. This report focuses on the pandemic's impact on election initiatives that may require Council consideration, including the acquisition of new

voting equipment, preparation for Ranked Ballot Elections, and the exploration of alternative methods of voting.

The City's current vote counting equipment has reached the end of its life and a competitive procurement process is underway to acquire new equipment for use in the 2022 election. The City Clerk will further report to Council with recommendations resulting from this process. However, the pandemic has introduced new risks that may impact the acquisition of new equipment in time for its use in the 2022 general election and short-term options are therefore also being explored to mitigate these risks, if required.

This report also describes how the delays and risks introduced by the pandemic now mean that the pre-conditions required for Council to authorize Ranked Ballot Elections can no longer be fulfilled in accordance with the legislative and regulatory requirements for implementation in the 2022 election. The report therefore recommends that Council request the City Clerk to cease work on fulfilling the pre-conditions required to allow for possible Ranked Ballot Elections in 2022. If Council wishes to implement Ranked Ballots in the 2026 general election, Council can direct the City Clerk to begin fulfilling the legislative pre-conditions immediately following the 2022 election for possible implementation in 2026.

The COVID-19 pandemic is likely to have long-term impacts on the ways in which electors feel comfortable voting, and the report describes how the City Clerk is undertaking research into leading practices on safe voting during a pandemic. This includes rethinking the function and operation of voting places during an election and exploring alternative methods of voting that allow electors to cast ballots without having to attend at a voting place. Should alternative methods of voting be pursued, the City Clerk will report back to Council to ensure that any necessary by-laws are passed in time for their implementation in the 2022 general election.

Finally, the report notes that there is still uncertainty about the City's future ward structure. The Supreme Court of Canada has agreed to hear the City's legal challenge to Bill 5, Better Local Government Act, 2018—which reduced the number of Toronto wards from 47 to 25—but a decision is not expected until mid- to late 2021. Election planning for 2022 must therefore account for both 25 and 47 ward scenarios, adding further complexity to COVID-19 contingency planning.

Background Information (Committee)

(September 9, 2020) Report from the City Clerk on The Impact of COVID-19 on 2022 Election Preparation Activities

<http://www.toronto.ca/legdocs/mmis/2020/ex/bgrd/backgroundfile-156443.pdf>

Presentation from the City Clerk on 2022 Election Preparation Activities: The Impact of COVID-19 and The Ward Structure

<http://www.toronto.ca/legdocs/mmis/2020/ex/bgrd/backgroundfile-156961.pdf>

Speakers

Miriam Fine

Jesse Barke

Councillor Shelley Carroll

Communications (Committee)

(September 20, 2020) E-mail from Karen Gomez (EX.Supp.EX16.8.1)
(September 23, 2020) Letter from Glen Foote, Senior Managing Director, Canadian Operations, Election Systems and Software Canada (EX.New.EX16.8.2)
(<http://www.toronto.ca/legdocs/mmis/2020/ex/comm/communicationfile-118531.pdf>)

Communications (City Council)

(September 28, 2020) E-mail from Adam Growe (CC.Supp.EX16.8.3)
(September 28, 2020) E-mail from Michael Holloway (CC.Supp.EX16.8.4)
(September 28, 2020) E-mail from Christopher Hoyle (CC.Supp.EX16.8.5)

Executive Committee consideration on September 23, 2020

EX16.8	ACTION	Amended		Ward: All
--------	--------	---------	--	-----------

The Impact of COVID-19 on 2022 Election Preparation Activities

Committee Recommendations

The Executive Committee recommends that:

1. City Council direct the City Clerk to cease any further work on Ranked Ballot Elections for the 2022 Municipal Election, as previously directed in Item GV5.1 on November 26 and 27, 2019.
2. City Council request the City Clerk to evaluate alternative voting methods used in other jurisdictions that may provide electors with additional options during a pandemic and to report back to City Council by May 1, 2021 as required.
3. City Council request the City Clerk to provide regular updates to the Executive Committee on the procurement process to acquire new equipment for future elections.

Decision Advice and Other Information

The City Clerk gave a presentation on 2022 Election Preparation Activities: The Impact of COVID-19 and The Ward Structure.

Origin

(September 9, 2020) Report from the City Clerk

Summary

The purpose of this report is to update City Council on the planning and preparation underway in advance of the October 2022 municipal election, particularly as it relates to the unexpected challenges posed by the COVID-19 pandemic and its impact on a number of election initiatives.

COVID-19 remains an ongoing concern, and health experts believe there may be additional waves of the virus for months or years to come. All aspects of 2022 election planning must shift to accommodate the reality of this global pandemic, which will have significant effects on programs, procedures, and technology. This report focuses on the pandemic's impact on election initiatives that may require Council consideration, including the acquisition of new voting equipment, preparation for Ranked Ballot Elections, and the exploration of alternative methods of voting.

The City's current vote counting equipment has reached the end of its life and a competitive procurement process is underway to acquire new equipment for use in the 2022 election. The City Clerk will further report to Council with recommendations resulting from this process. However, the pandemic has introduced new risks that may impact the acquisition of new equipment in time for its use in the 2022 general election and short-term options are therefore also being explored to mitigate these risks, if required.

This report also describes how the delays and risks introduced by the pandemic now mean that the pre-conditions required for Council to authorize Ranked Ballot Elections can no longer be fulfilled in accordance with the legislative and regulatory requirements for implementation in the 2022 election. The report therefore recommends that Council request the City Clerk to cease work on fulfilling the pre-conditions required to allow for possible Ranked Ballot Elections in 2022. If Council wishes to implement Ranked Ballots in the 2026 general election, Council can direct the City Clerk to begin fulfilling the legislative pre-conditions immediately following the 2022 election for possible implementation in 2026.

The COVID-19 pandemic is likely to have long-term impacts on the ways in which electors feel comfortable voting, and the report describes how the City Clerk is undertaking research into leading practices on safe voting during a pandemic. This includes rethinking the function and operation of voting places during an election and exploring alternative methods of voting that allow electors to cast ballots without having to attend at a voting place. Should alternative methods of voting be pursued, the City Clerk will report back to Council to ensure that any necessary by-laws are passed in time for their implementation in the 2022 general election.

Finally, the report notes that there is still uncertainty about the City's future ward structure. The Supreme Court of Canada has agreed to hear the City's legal challenge to Bill 5, Better Local Government Act, 2018—which reduced the number of Toronto wards from 47 to 25—but a decision is not expected until mid- to late 2021. Election planning for 2022 must therefore account for both 25 and 47 ward scenarios, adding further complexity to COVID-19 contingency planning.

Background Information

(September 9, 2020) Report from the City Clerk on The Impact of COVID-19 on 2022 Election Preparation Activities

<http://www.toronto.ca/legdocs/mmis/2020/ex/bgrd/backgroundfile-156443.pdf>

Presentation from the City Clerk on 2022 Election Preparation Activities: The Impact of COVID-19 and The Ward Structure

<http://www.toronto.ca/legdocs/mmis/2020/ex/bgrd/backgroundfile-156961.pdf>

Communications

(September 20, 2020) E-mail from Karen Gomez (EX.Supp.EX16.8.1)
(September 23, 2020) Letter from Glen Foote, Senior Managing Director, Canadian Operations, Election Systems and Software Canada (EX.New.EX16.8.2)
(<http://www.toronto.ca/legdocs/mmis/2020/ex/comm/communicationfile-118531.pdf>)

Speakers

Miriam Fine
Jesse Barke
Councillor Shelley Carroll

Motions

1 - Motion to Amend Item (Additional) moved by Councillor James Pasternak (Carried)
That City Council request the City Clerk to provide regular updates to the Executive Committee on the procurement process to acquire new equipment for future elections.

Motion to Adopt Item as Amended moved by Mayor John Tory (Carried)

Vote (Adopt Item as Amended)

Sep-23-2020

Result: Carried	Majority Required - Adopt the item as amended
Yes: 6	Ana Bailão, Gary Crawford, Frances Nunziata, James Pasternak, Michael Thompson, John Tory (Chair)
No: 1	Paul Ainslie
Absent: 1	Denzil Minnan-Wong

Vote (Adopt Item as Amended)

Sep-23-2020

Result: Carried	Majority Required - Adopt the item as amended - REVOTE
Yes: 7	Ana Bailão, Gary Crawford, Denzil Minnan-Wong, Frances Nunziata, James Pasternak, Michael Thompson, John Tory (Chair)
No: 1	Paul Ainslie
Absent: 0	

Motion to Reconsider Vote moved by Mayor John Tory (Carried)

That in accordance with the provisions of Chapter 27, Council Procedures, the Executive Committee reconsider the vote to adopt the item as amended.

Source: Toronto City Clerk at www.toronto.ca/council