



**City of Kingston
Report to Council
Report Number 18-062**

To: Mayor and Members of Council
From: Denis Leger, Commissioner, Corporate & Emergency Services
Resource Staff: John Bolognone, City Clerk
Date of Meeting: February 6, 2018
Subject: 2018 Municipal Election – Referendum Question on the Ballot –
Ranked Ballot Voting

Executive Summary:

At its November 15, 2016 meeting, Council directed the City Clerk to initiate the process for submitting a referendum question (the Question) to the electors on the 2018 ballot with respect to the use of ranked ballot voting to elect the Mayor and District Councillors in future municipal elections. At its June 20, 2017 meeting, Council received Report 17-192 and approved a Public Education / Communications Strategy to ensure that the electorate is aware of the referendum question and how ranked ballot voting works.

In accordance with the approved Public Education / Communications Strategy a series of four (4) public Open Houses were held in January 2018 to provide information with respect to ranked ballot voting and the following Question to be included on the ballot for the 2018 municipal election:

“Are you in favour of using Ranked Ballot Voting to elect the Mayor and District Councillors in the City of Kingston? Yes. No.”.

In addition to the Open Houses, staff utilized the City’s website, signage, print media, social media, news releases and a video to explain how a ranked ballot election would work and how the votes would be distributed based on the rankings on each ballot. The foregoing media will continue to be used on an ongoing basis to provide information to the public about ranked ballot voting up to Voting Day on October 22, 2018. Another series of Open Houses will also be scheduled in September, 2018 closer to the election.

Subsection 8.1 (1) (a) of the *Municipal Elections Act* requires that the by-law to submit a referendum question to the electors must be passed by March 1, 2018. Prior to passing the by-

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law, at least ten days' notice of the City's intent to pass the by-law must be provided to the public and the Minister of Municipal Affairs and one public meeting must be held. Notice was published in the Kingston Whig Standard and posted on the City's website on January 23, 2018, a copy of the Notice was forwarded to the Minister on January 24, 2018, and a copy of the Notice was published in Kingston This Week on January 25, 2018. The public meeting has been scheduled as a special meeting of Council to be held prior to the regular meeting on February 6, 2018. Subject to the consideration of additional comments received at the public meeting, staff is recommending that Council give all three readings to the by-law attached as Exhibit A in order to authorize the City Clerk to submit the Question to the electors on the 2018 municipal election ballot.

Recommendation:

That the City Clerk be authorized to include the following referendum question on the ballot for the 2018 municipal election:

“Are you in favour of using Ranked Ballot Voting to elect the Mayor and District Councillors in the City of Kingston? Yes. No.”; and

That the by-law attached as Exhibit A to Report Number 18-062 be given all three readings at the February 6, 2018 Council meeting.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Denis Leger, Commissioner,
Corporate & Emergency
Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Gerard Hunt, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Commissioner, Community Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Mark Van Buren, Acting Commissioner, Transportation & Infrastructure Services	Not required

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Options/Discussion:**Purpose**

In accordance with Council's direction to staff on November 15, 2016 with respect to the submission of a referendum question (the Question) to the electors regarding ranked ballot voting, the purpose of this report is to:

- a. Provide Council with a summary of the public input received at the Open Houses held across the municipality on January 10th and 11th, 2018 with respect to Ranked Ballot Voting and the Referendum Question on the 2018 ballot;
- b. Present the wording of the Question to be included on the ballot for the 2018 municipal election, which wording was presented at the Open Houses and included in the Notice of Council's Intention to Pass a By-law; and
- c. Present a Draft By-law for three readings that finalizes the wording of the Question and authorizes the City Clerk to include the Question on the ballot for the 2018 municipal election.

Background

On November 15, 2016 Council received [Report 16-366](#) that provided information with respect to ranked ballot elections. At that meeting, Council passed a motion directing the City Clerk to initiate the process, as outlined in the *Municipal Elections Act, 1996*, for submitting a referendum question (the Question) to the electors on the 2018 municipal election ballot with respect to the use of ranked ballot voting to elect the Mayor and District Councillors. Council also directed staff to report back in Q2 2017 on a public education plan to engage the public on the addition of this Question on the 2018 ballot.

On June 20, 2017 Council received [Report 17-192](#) which provided further information with respect to the process to submit a Question to the electors and presented the Public Education / Communications Strategy to ensure that the electorate is aware of the Question, how a ranked ballot election works and how much the election would cost. At that meeting Council was provided with and provided funding for the Public Education / Communications Strategy.

In accordance with the Public Education / Communications Strategy, a series of four Open Houses were held across the City in January, 2018 (one in each of the west, central, east and rural areas of the City). Further discussion of the input received at the Open Houses is summarized below. In addition to the Open Houses, staff has also utilized, and will continue to utilize, the City's website, signage, print media, social media, news releases and a video to explain how a ranked ballot election would work and how the votes would be distributed based on the rankings on each ballot. The public education campaign will continue up to Voting Day on October 22, 2018. In addition, another series of Open Houses will also be scheduled in September, 2018 closer to the election.

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Process for Submitting a Referendum Question to the Electors

As outlined in [Report 17-192](#), Section 8.1 of the *Municipal Elections Act, 1996*, as amended, sets out the process and rules for submitting a Question to the electors on the 2018 municipal election ballot. The by-law to submit a Question to the electors must be passed by March 1, 2018. The by-law cannot be amended after that date but can be revoked at any time on or before Nomination Day (July 27, 2018). Prior to passing the by-law, the Minister and the public must be given at least ten (10) days notice of the City's intention to pass the by-law and at least one public meeting must be held to consider the Question.

Notice was published in the Kingston Whig Standard and posted on the City's website on January 23, 2018, a copy of the Notice was forwarded to the Minister on January 24, 2018, and a copy of the Notice was published in Kingston This Week on January 25, 2018. Report Number 18-062 is being presented at the public meeting which is being held as a special meeting of Council on February 6, 2018.

If the by-law that is the subject of this report is passed, a Notice of Passing must be issued within fifteen (15) days of the date of passing. The by-law may be appealed to the Chief Electoral Officer of the Province of Ontario within twenty (20) days after the date of the Notice of Passing, the only appeal grounds being that the Question is not considered to be clear, concise and neutral or not capable of being answered in the affirmative or negative.

A) Proposed Referendum Question for the 2018 Municipal Election Ballot

Section 8.1 (2) of the *Municipal Elections Act, 1996*, as amended, sets out the following rules with respect to a Question to be submitted to the electors. The Question:

1. shall concern a matter within the City's jurisdiction;
2. shall not concern a matter prescribed by the Minister as a matter of provincial interest;
3. shall be clear, concise and neutral; and
4. shall be capable of being answered in the affirmative or negative, i.e. the only permitted answers to the Question are "Yes" or "No".

The proposed Question with respect to ranked ballot voting is a matter within the City's jurisdiction and is not a matter prescribed by the Minister to be of provincial interest. The following proposed wording for the Question is on the City's website and was presented at the Open Houses:

"Are you in favour of using ranked ballot voting to elect the Mayor and District Councillors in the City of Kingston? Yes. No."

The proposed wording was also included in the Notice of Intention to Pass a By-law and the Notice to the Minister. The final wording for the Question must be approved by Council and will be included in both the by-law and Notice of Passing.

B) Results of the Vote on a Referendum Question on the Ballot

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In accordance with Section 8.2 of the *Municipal Elections Act, 1996*, as amended, in order for the results of the Question to be binding, at least 50% of eligible electors in the municipality must vote on the Question. The number of eligible electors will be determined from the Voters' List as it exists at the close of voting on Voting Day (October 22, 2018).

Implementation of the Question Results

In accordance with Section 8.3 of the *Municipal Elections Act, 1996*, as amended, if at least 50% of eligible electors vote on the Question and the majority of the votes were in the **negative (i.e. "No")**, this would mean that the City could not take any further action with respect to ranked ballot voting for a period of four (4) years after Voting Day (i.e. until after October 22, 2022). That would mean that the earliest that a future Council could implement ranked ballot voting would be for the 2026 municipal election.

If the majority of the votes on the Question were in the **affirmative (i.e. "Yes")**, the Act requires that the results be implemented in a timely fashion. Implementation must be initiated within 180 days from Voting Day and would be subject to the requirements of the *Municipal Elections Act, 1996* and Ontario Regulation 310/16 with respect to ranked ballot elections. The legislation requires that Council pass a Ranked Ballot Election By-law. Even if the majority of the votes on the Question were yes, the following process would still have to be followed.

As outlined in Council Report 16-366, before deciding to pass a Ranked Ballot Election By-law, Ontario Regulation 310/16 identifies the following considerations that must be addressed by Council:

- The costs to the municipality of conducting the election;
- The availability of technology such as voting and vote-counting equipment and software, for conducting the election; and
- The impact the proposed by-law would have on election administration.

Prior to passing the by-law, information must also be made available to the public with respect to:

- How ranked ballot voting works;
- The estimated cost of the election;
- The voting equipment to be used; and
- Any alternative voting methods being considered.

At least one Open House must be held to present the required public information and at least one public meeting must be held to consider the Ranked Ballot Election By-law. After the public meeting has been held, Council has the discretion not to implement the results of the Question even if the majority of the votes were yes. If the by-law is passed, Council cannot reverse or substantially change the action for four (4) years. The Ranked Ballot Election By-law would have to be passed by May 1, 2021 for the City to use ranked ballot voting for the 2022 municipal election.

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If the results of the Question are not binding (i.e. 50% of eligible electors do not vote on the question) Council could use the results in an “advisory” capacity when considering any future actions with respect to ranked ballot voting.

C) What Would a Ranked Ballot Election Cost?

The cost of a ranked ballot election was a topic of discussion at all of the Open Houses. As outlined in previous Council reports, staff presented high level estimates of an additional \$250,000 to \$300,000 to hold a ranked ballot election and noted that a more detailed cost

estimate would be required prior to Council passing a Ranked Ballot Election By-law. A number of attendees at the Open Houses asked if additional information could be provided based on London’s anticipated costs.

The January 24, 2017 report to London’s Corporate Services Committee estimated the total additional costs for a ranked ballot election to be \$322,500. The additional costs were comprised of the following components:

- Consultation \$150,000;
- Paper Ballots \$ 42,500 (48% increase);
- Vendor Cost \$ 10,000;
- Election Staff Resources \$ 70,000 (35% increase); and
- Additional Poll Workers \$ 50,000 (1 additional worker at each poll).

The London report noted that the above costs were based on the number of candidates in the 2014 election, ranking a maximum of three candidates and a legal sized ballot printed double-sided. If the number of candidates or rankings increases, the number of ballots would increase and so would the cost (may have to go to a two page ballot). Also, the report acknowledged that there are unknowns with the reporting algorithm software for Ontario municipal elections and vendors are unaware of what it will look like and that it could be different for each municipality. The foregoing costs did not include algorithm development and testing.

Staff reviewed the previous high level estimate of \$250,000 to \$300,000 for the additional costs associated with holding a ranked ballot election in Kingston. Based on the foregoing costs from London and an estimated 20% increase from the City’s current supplier of election equipment, the following revised estimates are presented:

- Contracted Services \$45,000
(includes vote tabulators, ballots, software license, internet voting, accessible voting equipment)
- Election Staffing \$60,000
(includes one additional “senior” election official and one additional worker at each voting place on Advance Voting Day and Voting Day)
- Election Staff Training \$25,000
(approximately 225 election staff would need training on ranked ballot voting)
- Public Education / Consultation \$75,000
(more in-depth and detailed than current consultation on the Question on the ballot)

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- Election Administration \$15,000
(preparation of prescribed information for Council/public, open houses, public meeting, Council reports, etc.)
- **TOTAL \$220,000**

Similar to London, these costs should be considered preliminary and would be contingent on vendor selection, number of choices, final ballot design and the reporting algorithm development and testing. In addition, the foregoing costs do not include any required upgrades to the IT infrastructure. Staff will follow up with the City of London prior to the September 2018 Open Houses to determine if these estimates can be refined any further.

D) Results of Public Engagement (Open Houses)

In accordance with the Council-approved Public Education / Communications Strategy, an initial series of Public Open Houses were held across the City (e.g. west, central, east and rural areas) on January 10th and 11th, 2018. At the Open Houses City staff and representatives from the Ministry of Municipal Affairs explained how a ranked ballot election works, how much it could potentially cost, the impacts on overall election administration and the process to be followed to submit a Question to the electors and how the Question results are to be implemented. Approximately 65 persons in total attended the four Open Houses.

The following is a brief summary of the nature of the questions/comments heard at the Open Houses and the Ministry/staff responses provided at the Open Houses. It is noted that some of the questions/comments were raised at more than one of the Open Houses:

1. How many cities are using ranked ballot voting (RBV) in 2018? – Response: only the City of London.
2. How will RBV affect the role of Scrutineers? – Response: no change for the municipal election. The role of a Scrutineer at a municipal election is different than that at provincial or federal elections.
3. How extensive was the review of RBV in other jurisdictions? – Response: other jurisdictions in the US and around the world were reviewed by the Ministry in developing the RBV legislation.
4. What are the pros and cons of RBV versus First Past the Post? Did London do any comparison of the pros and cons? – Response: Ministry staff advised that their role was simply to provide information on RBV and it would be up to the electors to determine the relative pros and cons of each system based on the information provided. London's report (January 24, 2017) did not include any discussion of pros and cons.
5. Would it be feasible to count the ballots by hand to save costs? – Response: counting the ballots by hand is not recommended as it would take longer to post the election results. Savings on the vote counting equipment would be offset to a large degree by the additional staffing costs. For example, the City of Minneapolis counted ballots by hand and it took almost two weeks to post the final results.
6. Will RBV increase voter turnout? – Response: Ministry staff advised that increased voter turnout is usually the result of the candidates running or the election issues. There is no

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evidence that RBV increases voter turnout. The London report noted that there was no relation between RBV and increased voter turnout in other jurisdictions outside of Canada that used RBV.

7. What was the voter turn-out in 2014? – Response: approximately 40%.
8. A comment was made that RBV will take more time and may create the need for more Voting Places.
9. If the 2014 election had used RBV, what four Districts would have needed multiple ballot counts? What about past elections? Response: Some of the following information was provided in general terms at the Open Houses on January 11th. The details are being provided in the table below.

Election Year	Multiple Ballot Counts Required (See Note Below)		
	Mayor	Councillors	Districts
2017 By-Election	N/A	Yes	Countryside
2014 Election	Yes	Yes (4)	Countryside, Lakeside, Trillium and Pittsburgh
2010 Election	No	Yes (3)	Cataraqui, Lakeside and Pittsburgh
2006 Election	Yes	Yes (3)	Loyalist-Cataraqui, Sydenham and Williamsville
2003 Election	No	Yes (3)	Loyalist-Cataraqui, Collins-Bayridge and Cataraqui

NOTE: Assumes that the votes cast in each election would have been the “first choice” votes if a Ranked Ballot Election had been held.

10. A comment was made that the City should consider reducing the number of Districts and having two Councillors per District similar to the cities of Guelph, St. Catharines and Peterborough. – Response: staff advised that there was no direction provided by Council to review the number of Districts or the number of Councillors per District.
11. Could RBV lead to more candidates running? If so, could be an asset. – Response: An increased number of candidates would likely result where there are no incumbents running in one or more Districts or where there are key election issues. RBV would not necessarily increase the number of candidates.
12. Comment was made that being represented by the 2nd choice is not the solution but the problem. Need system based on proportional representation.

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13. Which Council would decide whether to proceed with RBV if the Referendum Question was not binding? – Response: It would be the newly elected Council in 2018 or a subsequent Council.
14. Concerns were expressed regarding the threshold of three choices and that it could cause more exhausted ballots. It should be left to the electors to decide on the number of choices. – Response: number of choices has to be specified in the by-law authorizing the ranked ballot election. Three is the default number if the by-law is silent on the matter. The number of choices is a matter that would be addressed prior to Council passing a Ranked Ballot Election By-law.
15. How much will a ranked ballot election cost? Is it possible to provide more information based on the City of London's costs for their ranked ballot election? – Response: See detailed discussion in preceding section of this report. In addition, it was recognized that some of the additional costs may be "one-time" costs related to conducting the first ranked ballot election. However, it is anticipated that there would continue to be a need for some public education on RBV for subsequent elections and the required software and vote counting equipment would continue to cost more than a First Past the Post (FPTP) election.
16. Comment was made that RBV provides for increased voter choice, allows voters to aggregate choices and gives voters the ability to cluster choices to candidates with common themes. Suggested that there should be more emphasis on the differences between First Past the Post (FPTP) and RBV, i.e. one vote only with FPTP and more choices with RBV as the ballot is counted more than once.
17. Comment was made that there will need to be checks and balances built into the system for ballots with no selections, too many selections or not enough selections. – Response: Staff noted that the existing vote tabulators already provide alerts and error messages if there is a blank ballot, an overvote ballot or if the marks on the ballot could not be read. The tabulators for a ranked ballot election could likely be programmed to provide similar alerts and warning messages.
18. How is the threshold for the winning number of votes determined? – Response: The number of votes needed to win is based on a formula in the Ranked Ballot Election Regulation. The threshold is established prior to the first ballot count and is determined by taking the total votes cast, subtracting the number of rejected ballots, and then dividing by two and adding 1 (i.e. a simple majority). The threshold remains the same for each round of ballot counting. Ministry staff pointed out that this does not always mean that the winning candidate will have at least 50% of the vote plus one. Where there are a large number of exhausted ballots, the winning candidate may not achieve 50% plus one but would still have the majority of the votes.
19. What is an exhausted ballot? – Response: An elector's ballot becomes exhausted if:
- The elector did not rank any of the continuing candidates in the next round;
 - The elector's highest ranking for a continuing candidate cannot be determined; or

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- The elector ranked more candidates than the maximum permitted and the elector's highest ranked continuing candidate in the next round holds a lower ranking than the lowest permitted ranking.
20. Is the current electoral system not working? – Response: The current electoral system can continue to be used. RBV is another option that has been provided to municipalities to elect the Mayor and Councillors.
21. Can RBV be used to elect School Board Trustees? – Response: Not at this time. School Board Districts often cross municipal boundaries so all municipalities comprising the School Board District would have to be using RBV. Given that only one municipality opted to use RBV in 2018 this scenario is unlikely.
22. For the Referendum Question, is the 50% threshold based on eligible voters or actual voters? – Response: It is based on the total number of eligible voters as determined from the Voters' List at the close of voting on Voting Day (October 22, 2018) 50% of the total number of eligible voters in the municipality must vote on the Question.

Next Steps:

The following are the next steps / key dates with respect to the Referendum Question:

- February 6, 2018 – Statutory Public Meeting to consider the Referendum Question to be included on the ballot – By-law proposed for all three readings - Notice of Passing to be provided in accordance with the *Municipal Elections Act, 1996*;
- March 1, 2018 – Date by which Council must pass the by-law Re: Question on the ballot;
- September, 2018 – Further Public Open Houses across the City to explain ranked ballot voting and the Question;
- Saturday, October 13, 2018 – Advance Voting Day and Internet Voting Begins;
- Monday, October 22, 2018 – Voting Day.

Existing Policy/By-Law:

The *Municipal Elections Act, 1996*, as amended (Sections 8 through 8.3)

Notice Provisions:

In accordance with the provisions of the *Municipal Elections Act, 1996*, as amended, **prior to passing a by-law** with respect to submitting a Question to the electors, the Clerk shall:

- Give at least ten (10) days notice of Council's intention to pass the by-law to the public and the Minister; and
- Hold at least one (1) Public Meeting to consider the matter.

After Council passes a By-law with respect to submitting a Question to the electors, the Clerk shall:

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- Within fifteen (15) days, issue the Notice of Passing of the By-law to the public and the Minister;
- The Notice shall include:
 - the wording of the Question to be included on the ballot;
 - a clear, concise and neutral description of the consequences of the Question if it is approved or rejected and an estimate of the costs, if any, that the municipality may incur in implementing the results of the Question; and
 - a description of the right to appeal to the Chief Electoral Officer, including the last day for the filing of a Notice of Appeal.

Any **Notices of Appeal** must be submitted to the Clerk within twenty (20) days from the date of the Notice of Passing and the Notices of Appeal must be submitted by the Clerk to the Chief Electoral Officer within fifteen (15) days after the last day for the filing of appeals. Within sixty (60) days after receiving an Appeal, the Chief Electoral Officer or designate shall hold a hearing and either dismiss the Appeal or allow the appeal in whole or in part.

Accessibility Considerations:

This report is AODA compliant and may be available in alternate formats upon request.

Financial Considerations:

There are no financial considerations with this report. However, it is noted that if at least 50% of the eligible electors cast a ballot and at least 50% of those electors vote yes, future municipal elections will be more costly for the taxpayers of the City if Council decides to implement ranked ballot voting. The additional costs are estimated to be \$220,000 or more. A more refined cost estimate would be provided to Council and made available to the public prior to Council passing a Ranked Ballot Election By-law.

Contacts:

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Janet Jaynes, Deputy City Clerk, 613-546-4291, Extension 1262

Other City of Kingston Staff Consulted:

George Wallace, Senior Special Projects Manager

Exhibits Attached:

- Exhibit A – Draft By-law to Submit to the Electors of the City of Kingston a Question Pursuant to the *Municipal Elections Act, 1996*, as amended (Ranked Ballot Voting to Elect the Mayor and District Councillors)

Exhibit A To Council Report 18-062

Draft By-Law Number 2018-XXX

A By-Law To Submit To The Electors Of The City Of Kingston A Question Pursuant To The *Municipal Elections Act, 1996* (Ranked Ballot Voting To Elect The Mayor And District Councillors).

PASSED: _____, 2018

Whereas Section 8 (1) (b) of the *Municipal Elections Act, 1996* (“the Act”) authorizes the Council to pass a By-law to submit a Question not otherwise authorized by law but within the Council’s jurisdiction to the electors of the City of Kingston; and

Whereas in accordance with Section 8.1 (3) of the Act, a notice of Council’s intention to pass a By-law was provided to the Minister by letter dated January 23, 2018 and to the public by publication in the Kingston Whig Standard and posting on the City of Kingston website on January 22, 2018 and posting in Kingston This Week on January 25, 2018, and a Public Meeting to consider the matter was held on February 6, 2018;

Now Therefore the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. That the City Clerk is hereby authorized and directed to place the following Question on the ballot for the 2018 Municipal Election in the City of Kingston pursuant to the requirements of the *Municipal Elections Act, 1996*:

“Are you in favour of using Ranked Ballot Voting to elect the Mayor and District Councillors in the City of Kingston? Yes. No.”
2. This By-law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed on _____, 2018

Bryan Paterson, Mayor

John Bolognone, City Clerk