

City of North Bay Report to Council

Report No: CORP-2021-131

Date: November 8, 2021

Originator: Karen McIsaac, City Clerk

Business Unit:

Department:

Corporate Services

Clerks Department

Subject: 2022 Municipal Election – “Questions on the Ballot”

Closed Session: yes ☐ no ☒

Recommendation

That Report to Council CORP 2021-131 re: 2022 Municipal Election - Questions on the Ballot from Karen McIsaac dated November 8, 2021, be received for information purposes only.

Background

The 2022 Municipal Elections will be held on Monday, October 24, 2022.

Section 8 of the *Municipal Elections Act* (MEA), 1996 provides that a municipal Council may pass a By-Law to submit a question to the electors or a by-law requiring elector assent. This By-Law must be passed at least 180 days before voting day. The last day for passing such a By-Law is March 1, 2022.

While this may seem to be a long way off, there are processes that need to be followed; not the least of which is whether or not Council has even considered its option to place a question on the ballot. If it does, there are rules to follow. Reports and financial calculations will need to be prepared and presented on the matter and the more time that the Council has the better.

A question on the ballot must concern a matter within the jurisdiction of the municipality and **may not** concern a matter which has been prescribed by the Minister as a matter of provincial interest. Matters of provincial interest are matters where:

- the municipality requires an action by the provincial government in order to implement the results of the question;
- the municipality does not have the authority to implement all aspects of the results of the question;

- the question involves casinos and charities (as defined in the *Ontario Lottery and Gaming Corporations Act, 1999*); or
- the question involves municipal restructuring.

It is recommended that Council consider the following when deciding on whether or not to have a question placed on the ballot:

- the impact on voter turnout;
- the costs of including a question on the ballot – public notice, public meeting, communication to the public;
- costs if the decision is binding; and
- the method of implementing the decision if it is binding.

Before a municipality decides to place a question on the ballot, it must first determine if the implementation of the question is within the municipality's jurisdiction. If the answer is "no", then the municipality cannot proceed.

The question must be clear, concise and neutral and must be capable of being answered by a "yes" or "no". Before passing the by-law directing the submission of a question to the electors, Council must hold a public meeting to consider the matter for which the Clerk shall provide at least 10 days' notice to the public and to the Minister of Municipal Affairs and Housing (the Minister).

Within 15 days of the passing of the by-law, the Clerk must provide notice of the passage of the by-law - which must include the wording of the question in addition to a clear, concise and neutral description of the consequences of the question if it is approved or rejected. This notice is given to the public and to the Minister. In addition, an estimate of the costs, if any, that the municipality may incur in implementing the results of the question must be included in the notice as well as a description of the legislative right to appeal and the last day for filing notice of appeal.

The Minister, or any other person or entity, may appeal the by-law within 20 days of the notice on the grounds that it is either: (1) not clear, concise and neutral or (2) it is incapable of being answered in the affirmative or negative. These are the only grounds for appeal. Appeals are addressed to the Chief Electoral Officer of the Province of Ontario and filed through the Clerk who is required to forward these notices and any other information or material required within 15 days of the final filing date.

The Chief Electoral Officer is then required to hold a hearing within 60 days of receiving the notices of appeal to determine whether the appeals should be dismissed or allowed in whole or in part. If the Chief Electoral Officer allows the appeal in whole or in part, the Chief Electoral Officer may make an order amending the By-Law or directing the municipality to amend the By-Law.

The process is illustrated on the attached Schedule "A".

Results of the question are binding if at least 50% of the eligible electors vote on the question and of those, more than 50% of the votes are in favour of those results.

If the results are binding and the “affirmative” received the majority of the votes, the municipality is required to do everything in its power to implement the results in a timely manner. This action must be taken between 14 and 180 days after Voting Day.

There are exceptions to implementing a binding question. Conditions under other legislation must be observed prior to implementing a binding question. For example, if there was a binding “yes” vote to build a community centre and a zoning amendment was required, all legislation dealing with the zoning changes would have to be complied with. Implementation can be delayed or cancelled if conditions substantially change. For example, if there was a binding “yes” to build a community centre and the municipality experiences substantial financial difficulties, the municipality has the option not to proceed.

If the results are binding and the “negative” received the majority of the votes, the municipality shall not do anything to implement the matter for a period of 4 years following Voting Day.

Financial/Legal Implications

Financial and/or legal implications would need to be determined if Council decided to ask place a Question on the Ballot.

Corporate Strategic Plan

- | | |
|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

Ensure continuous improvement of governance and administration.

Options Analysis

Option 1: That Council receive Report to Council CORP 2021-131 for information purposes.
This is the recommended option.

Option 2: That Council not receive Report to Council CORP 2021-131 for information purposes.
This is not the recommended option.

Recommended Option

That Report to Council CORP 2021-131 re: 2022 Municipal Election - Questions on the Ballot from Karen McIsaac dated November 8, 2021, be received for information purposes only.

Respectfully submitted,

Name: Karen McIsaac, Dipl. M.A.

Title: City Clerk

I concur with this report and recommendation

Name David Euler, P.Eng., PMP

Title: Chief Administrative Officer

Personnel designated for continuance:

Karen McIsaac, Dipl. M.A.

City Clerk