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**TO:** GENERAL COMMITTEE

**SUBJECT:** RANKED BALLOTS

**WARD:** ALL

**PREPARED BY AND KEY CONTACT:** W. COOKE, DIRECTOR OF LEGISLATIVE AND COURT SERVICES/CITY CLERK, EXT. 4560

**SUBMITTED BY:** W. COOKE, DIRECTOR OF LEGISLATIVE AND COURT SERVICES/CITY CLERK

**GENERAL MANAGER APPROVAL:** D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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### **RECOMMENDED MOTION**

1. That Staff Report LCS002-20 concerning Ranked Ballots be received for information purposes.

### **PURPOSE & BACKGROUND**

#### Report Overview

2. The purpose of this Staff Report is to provide members of Council with information regarding ranked ballot elections.

#### Background

3. On June 24, 2019, City Council adopted motion 19-G-216 concerning an Investigation of Online Voting for Future Elections/By-elections:

#### “INVESTIGATION - ONLINE VOTING FOR FUTURE ELECTIONS / BY-ELECTIONS

1. That staff in the Legislative and Court Services Department explore the feasibility of providing online voting in conjunction with in-person voting for future elections and by-elections and report back to General Committee in September, 2019.
2. The staff in the Legislative and Court Services Department investigate the feasibility of using a ranked ballot system for the 2022 Election and report back to General Committee.”
4. In the Fall of 2019, staff reported back regarding the implementation of online voting for future elections and the 2020 Ward Three By-election was held utilizing on-line voting. As part of the report, staff indicated that ranked balloting would be addressed in a separate report.
5. In the past, municipalities were required to conduct elections using the plurality or first past the post system, where the candidate who receives the highest number of votes wins. This system does not require a certain percentage of votes to be achieved to win a contest.

6. Municipalities were provided the option to pass a by-law to use ranked ballots to elect members of council starting in 2018. The *Municipal Elections Act* does not provide for the school board elections to be conducted by ranked ballot at this time.
7. Ranked ballots allow a voter to rank candidates in order of preference, instead of just voting for one candidate in the traditional first past the post system.
8. Ranked ballots are used (but called by different names) in approximately 10 municipalities in the United States, in various places in Europe and the United Kingdom and in Canada for political party leadership races. The City of London was the only one of Ontario's 444 municipalities to use ranked ballots for their 2018 Municipal Election. Ranked ballots are not currently used for provincial or federal elections in Canada. They are often utilized for the selection political party leaders.

## **ANALYSIS**

### **Ranked Ballots By-law Authority and Consultation Requirements**

9. If a by-law is passed by a Council to implement a ranked ballot election, ranked ballots would be required to be used to elect all of the members of Council. The by-law may specify the maximum number of rankings that an elector may make and may provide a different number of maximum rankings for each office. If the by-law does not specify the maximum number of rankings, the default maximum is three. If ranked ballots are authorized for a regular election, ranked ballots must also be used in any by-elections that are held to fill council vacancies during the council term. School board candidates would still be elected using first past the post, requiring the municipality to communicate the two separate methods to the electors.
10. Before passing a by-law, a single tier municipal Council will be required to give consideration to the following matters:
  - The costs to the municipality of conducting the elections;
  - The availability of technology, such as voting equipment and vote counting equipment and software, for conducting the elections; and
  - The impact the proposed by-law would have on election administration.
11. In addition, before passing a by-law, a single tier municipality such as Barrie, would be required to hold at least one open house to provide the public with an opportunity to review to the following information and provide the opportunity to ask questions about:
  - How elections would be conducted, including a description of how votes would be distributed to candidates based on the rankings marked on ballots;
  - The estimated costs of conducting the election;
  - A description of the voting equipment and vote-counting equipment, if any, that is being considered; and
  - A description of any alternative voting method being considered for use in the election.
12. A municipality must also hold a public meeting to allow the public to speak to Council about the proposed by-law. The public meeting must be held at least 15 days after the open house is held. Notice of both the open house and public meeting must be issued 30 days prior to each event.

13. The by-law must be passed no later than May 1 in the year before the year of the election (e.g. May 1, 2021 for the 2022 election).

#### Referendums

14. While a referendum is not required for a municipality to move from the first past the post system to ranked ballots, it could form part of the municipal public consultation process.
15. Some individuals feel that a referendum would be an important provision as it is a change to how the electors will vote. Others argue that municipalities have the authority to change the vote casting/counting method without a requirement for a referendum and that elected officials in Canada are elected to make decisions, rather than ask the electorate what decision is to be made.
16.
  - a) In order to put a question on the ballot in 2022:
    - i. A by-law must be passed by March 1, 2022, that includes the question to be on the ballot;
    - ii. The Clerk is required to give 10 days' notice of the intention to pass the by-law;
    - iii. After Council passes the by-law, the Clerk is required to provide public notice of the by-law, including:
      - The wording of the question;
      - A clear, concise and neutral description of the consequences of the question if it is approved and the consequences if it is rejected and an estimate of the costs, if any, that that municipality may incur in implementing the results of the question; and
      - The appeal process.
  - b) The results of the referendum are binding on a municipality if:
    - i. At least 50 percent of the eligible electors in the municipality vote on the question; and
    - ii. More than 50 percent of the votes on the question are in the affirmative/negative of those results.

The number of eligible electors is determined from the voters' list as they exist at the close of voting on the final voting day.
  - c) If a municipality achieves a 50 percent voter turnout and the answer is affirmative, the results are binding on the municipality and the municipality would do everything in its power to implement the results of the question.
  - d) If a municipality achieves a 50 percent voter turnout and the answer is negative, the results are binding and the municipality shall not do anything to implement the matter that was the subject of the question for four years.

- e) If a municipality does not achieve 50 percent voter turnout, the affirmative or negative results are not binding to the municipality and the Council could still choose to undertake the process to implement ranked ballots for 2026, as per the provisions in the *Municipal Elections Act*
17. The last Provincial referendum related to electoral reform resulted in the majority of voters choosing to maintain a first past the post system. However, the referendum alternative was not specifically a ranked ballot system.
18. The Cities of Kingston and Cambridge both conducted referendums concerning utilizing a ranked choice ballot using a question on their 2018 election ballot. Neither municipality achieved 50 percent voter turnout, so the results of their referendums were not binding. However, the City of Kingston's Council has directed their staff to undertake the process to implement ranked choice ballot election for 2022. At the time of this report, the City of Cambridge's Council has not.

#### Ranked Ballots Vote Counting and Reporting Requirements

19. The general rules regarding what can appear on a ballot as set out in the *Municipal Elections Act* would continue to apply to ranked ballots. In addition, ballots used in a ranked ballot election would also be required to contain the following information:
- The number of candidates to be elected for each office;
  - Instructions to the voter on how to mark the ballot to rank their preferences; and
  - The maximum number of preferences that may be ranked on the ballot for each office
20. In a single member ranked ballot election, each voter ranks the candidates on the ballot from most preferred to least preferred. The Clerk then calculates the threshold to be elected (50% plus one). If a candidate receives more than the threshold, the candidate is elected and voting ends.
21. Ranking a second and third choice does not affect the chances of the first choice being elected. In a single-member election, an elector's second choice would only be considered if their first choice has been eliminated. Ranking the same candidate as the first, second, third choice has the same effect as marking the candidate as a first choice and not indicating any other rankings.
22. If none of the candidates receive enough votes to meet or exceed the threshold, the candidate with the lowest number of votes is eliminated and the ballots of each voter who voted for the candidate with fewest first place votes are distributed to the voters' second choices. The Clerk then determines whether any candidate now meets or exceeds the threshold. If none of the candidates has received enough votes, the process of eliminating the candidate with the lowest number of votes and redistributing their votes is repeated until a candidate has enough votes to meet or exceed the threshold and is elected. As an example, in Barrie's 2018 Municipal Election, six out of the eleven candidates for Council, wouldn't have met threshold on the first round.

23. The City of London utilized the following image to illustrate the process:



24. A brief video produced for Minneapolis ranked ballot elections, illustrating the use of ranked ballots to select a preferred colour, is generally in keeping with the regulations in Ontario and is available at the following link: <https://www.youtube.com/watch?v=oHRPMJmzBBw>

25. As identified the information above, there may be multiple rounds of elimination and re-distribution prior to a candidate being declared elected. As a result, the elected candidate in a race may not be determined on election night. Depending on the votes cast, it may take several days for results to be determined in any particular race. The release of election results could be staggered depending on the technology being used.

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26. In addition to declaring the candidates who have been elected, the Clerk will be required to also report the following information to the public:
- the number of ballots cast;
  - the number of ballots that were declined or rejected;
  - the threshold for each office;
  - the number of votes each candidate received in the first round of vote counting; and
  - the results of each round of vote counting, including the number of votes received by each remaining candidate and the number of exhausted ballots.

City of London's Experience – 2018 Municipal Election

27. The following are highlights of the experience in London, Ontario in 2018, as provided by municipal staff and reported in the media (CBC, London Free Press and Maclean's magazine):
- In terms of the results of the public consultation and public meetings, the electorate was split on whether or not they wanted a ranked ballot election;
  - Of the electors who voted, two-thirds chose to rank their ballots, with 47% of those electors ranking three candidates;
  - It was quite labour intensive as they had to work with a vendor to customize their ballot, as there was no election software that had been certified with algorithms based on the Ontario Regulation;
  - London's 2018 election cost \$515,000 (31%) more than the 2014 election (more than \$1.7 Million in the 2018 municipal election versus \$1.3 Million in 2014). This included increased staffing, public consultation, election system modifications and the engagement of an auditor as there was no system or software that had been certified for use in Canada for a ranked ballot election;
  - Eight wards had winners that night, but the remaining seven were set aside until 10 a.m. the next morning. All of the results were published 19 hours after polls closed, with the Mayoral race requiring 14 rounds of elimination and re-distribution of votes to achieve a candidate with greater than 50%);
  - They had difficulties finding vendors that could conduct a ranked ballot election. Their initial RFP received no submissions;
  - An external auditor with expertise in ranked ballot elections was hired to monitor and review their processes and procedures, as the voting and vote counting equipment procured had never be used or tested in a municipal election with Ontario's ranked ballot provisions;
  - Using a ranked ballot system did not increase overall voter turnout in London, voter turnout was actually 4% less than in 2014, and one of the causes cited in the media was the ranked ballot format;
  - London's ranked ballot system did not play a role in deciding election outcomes (all of the candidates who led in the first round, ended up being the elected candidate in the final round).

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- Making sure everyone – voters, candidates and election staff – knew how the ranked ballot system operated was among the biggest challenges the City of London had to overcome when it used the system in its 2018 municipal election;
  - A media source reported that a more diverse Council was elected in 2018; and
  - It was reported that the negative campaigning between candidates was worse than in 2014.
28. Additional staff were required to administer the 2018 Municipal Election in London, including in the City Clerk's Office, at voting locations as well as to conduct the public consultation. London also assigned a communications staff member for a year leading up to the election to work solely on educating the public about how the ranked ballot system worked. The extensive communications campaign was implemented in part, in recognition of reports that the ranked ballot methodology can be a deterrent to less educated electors due to the different voting process and perceptions of complexity.
29. As in London, additional staff resources would be required to conduct a ranked ballot election in Barrie. This would include two dedicated resources in the Legislative Services Branch, a dedicated communications support, and additional IT support. Based on the information from London, even with the additional staff resources a significant amount of overtime was required for the testing of the ballots and election processes. London did not conduct their election using internet/telephone but by paper ballot using a tabulator, so the amount of additional testing and set-up required for an internet based ranked ballot election is unknown at this time. As internet voting is anticipated to be used in 2022, staff were expecting to reduce the number of external resources to support advance and final voting day activities. However, with a ranked ballot election and the additional supports that may be required, this would likely not be possible. The estimated cost for additional staff resources would be approximately \$100,000.
30. As noted above, for a municipality to conduct a ranked ballot election a by-law must be passed by May 1, 2021. Prior to the by-law being passed, a public consultation period and a public meeting is required. In order to meet the May 1, 2021 deadline, this process would need to commence sometime in the Fall of 2020. This would provide for sufficient time to engage the electorate and to have a by-law passed by the deadline. Given the gathering/physical distancing measures that will likely be in place in the Fall, the public consultation would likely take longer and possibly cost more. The public may be concerned if any significant changes are made to the current the method of voting as the City continues recover from the impacts of the COVID-19 pandemic. The approximate cost for public consultation would be \$20,000. This cost includes ad mails, prescribed public notices in the paper, radio advertisements and signage around the City.
31. At the time of writing this report, most election system providers do not provide services for a ranked ballot election, as London was the only municipality that used this method in 2018 and ranked ballots are otherwise only used in party leadership races across Canada. Any voting system that is procured would need to be modified to meet provincial and an individual municipality's requirements. These requirements would include configuration for a ranked ballot election for the council positions and a first past the post-election configuration for school boards. As, mentioned previously, ranked ballot elections do not apply to school boards, so two types of elections would need to be administered. Due to the complexity of working with two different ballot types, this will require a significant amount of vendor support which could be quite costly. In London, additional vendor support and ballot configuration, etc. was a \$90,000 addition to their 2018 election budget over 2014. It is estimated that an additional \$40,000 would be required in Barrie. This cost is not proportional based on the size of the municipality but based upon the amount of time for the service provision, which is why the cost is not estimated to be even lower for Barrie.

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32. For the Ward Three By-Election, auditors were retained to conduct security audits and to observe the opening and closing of the election and this is the intention for the 2022 Municipal Election as well. With an added scope of ranked ballots, the cost of this service will increase. The auditor that London used had expertise in ranked ballot elections, however London did not use an internet/telephone voting method. If an auditor does not have expertise in elections and technology, two separate auditors may need to be retained. Again, this cost is not a proportional based on population, it's based on the service that would be provided. It is estimated this would increase the cost of the auditor by approximately \$10,000.
33. Based on the City of London's experience, it is estimated that introducing ranked ballot voting would increase the cost of the 2022 municipal election by approximately \$220,000. Based on London's experience, the complexity of the ranked ballot process, the increased costs, additional communications required and challenges, staff are not recommending the use of ranked ballots in future elections.

#### **ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS**

34. There are no environmental and/or climate change impact matters directly related to the recommendation.

#### **ALTERNATIVES**

35. The following alternatives are available for consideration by General Committee:

##### **Alternative #1**

General Committee could recommend that the City Clerk commence the consultation process required to implement a ranked ballot election for the 2022 Municipal Election.

Although this option is available, it is not recommended. Consultation in a COVID-19 environment, will be challenging to address and as a result, the validity may be questioned. There will be significant costs increases to the taxpayer to conduct a ranked ballot election, with the strong potential as in London's case, for no difference in the results. Two different election formats one for the school board election and one for council would be required, as the Municipal Elections Act does not provide for ranked ballot for school board elections.

##### **Alternative #2**

General Committee could recommend that staff prepare a by-law to include a question on the ballot for the 2022 election to gauge interest in a ranked ballot election for 2026 Municipal Election.

This option is available as an alternative method of undertaking public consultation required for a ranked ballot election. As noted above there is a public process in passing a by-law to put a question on the ballot. A by-law would need to be passed by March 1, 2022 to include the question. This alternative is not recommended as there typically isn't sufficient turnout to achieve a binding recommendation. A survey could be undertaken instead leading up to the 2026 municipal election as part of the public consultation process.



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**FINANCIAL**

36. The cost to administer the 2018 Municipal Election was approximately \$500,000. Given the additional scope of conducting a ranked ballot election, the chart below details estimated additional costs that would be incurred to conduct a ranked ballot election in 2022. These costs are in line with those anticipated by the City of Kingston as noted on their website.

Legislated Public Consultation	\$20,000
Voting System/Additional Support from vendor	\$40,000
Auditor	\$10,000
Communications	\$50,000
Additional Staffing	\$100,000
<b>Total anticipated cost increase</b>	<b>\$220,000</b>

**LINKAGE TO 2018–2022 STRATEGIC PLAN**

37. The recommendations included in this Staff Report are not specifically related to the goals identified in the 2018-2022 Strategic Plan.