

Type of Decision									
Meeting Date	Friday, September 11, 2015				Report Date	Wednesday, June-24-15			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed

Municipal Legislation Review – Council Response - Report #11/09/15/1206

Subject:

Municipal comments on the Ministry of Municipal Affairs and Housing’s municipal legislative review.

RECOMMENDATION:

These are the comments to be submitted on behalf of HCM to MMAH during the public consultation portion of the legislation review of the *Municipal Act, the City of Toronto Act, the Municipal Conflict of Interest Act and the Municipal Election’s Act.*

WHEREAS the Council of the United Townships of Head, Clara & Maria appreciates the opportunity to comment on the provincial government’s legislative review of the *Municipal Elections Act, the Municipal Act, the City of Toronto Act and the Municipal Conflict of Interest Act;*

AND WHEREAS staff have reviewed the discussion papers, consultation notes, portions of the legislation and the discussion questions and has drafted a list of responses for Council consideration;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby approve and endorse the attached list of points of consideration as edited during our Council meeting of Friday, September 11, 2015;

AND FURTHER directs staff to submit to the Ministry of Municipal Affairs and Housing, this list of points for consideration by the provincial government while completing their review.

The following are the questions posed for discussion by MMAH and points of consideration for council’s endorsement to be discussed and amended as required at the meeting of Friday, September 11, 2015.

- 1. Do you know whether your municipality or school board has a code of conduct? If so, does it seem to be working effectively?**

We do have a code of conduct for Council as well as a separate one for staff. To some extent it seems to be working in that it provides a framework for those who choose to adhere to it although,

when someone wishes to they simply ignore it. There are few mechanisms to effectively enforce a Council Code of Conduct when it is truly required. We live in a small community and activities at the Council table sometimes carry over into personal lives so sometimes the difficult decisions simply do not get made. There needs to be some independent recourse for when Council feels pressure not to act but knows it should.

One solution might be to include a progressive discipline type of system where independent Councils have the authority to impose specific sanctions, similar to a discipline and dismissal policy created for employees.

Without recall legislation, some municipalities, as we have seen in the recent past, are left with representatives who are not necessarily concerned with the best interests of their communities but instead with personal gain. Individual councils should have the authority to curtail their negative actions where appropriate.

2. Do you think there should be a greater range of penalties for violating a code of conduct?

Yes, there should be a greater range of penalties for violating a code of conduct. A code should be mandatory with clear consequences for non-compliance. Decisions should not need to be debated and penalties selected by Council based on the individual. Consequences should be listed and enforced across the board.

Councils should have an ability to impose sanctions in addition to those listed in the Act. For some individuals monetary penalties are simply non-effective. Removing them from their seat or preventing them from running in the next election would be more effective.

3. Are there gaps in the current municipal accountability and transparency system?

Yes there are gaps in the current municipal accountability and transparency system. Rules are open to interpretation and are often interpreted in different ways for similar situations depending on the individuals involved.

Codes of Conduct and their enforcement should be mandatory not optional.

Recall legislation should be considered so that members of Council who refuse to abide by the laws concerning accountability, transparency, Codes of Conduct or conflict of interest might be recalled by their constituents should they act in a manner contradictory to the best interests of the community and regularly at odds with the remaining members of Council negatively affecting the ability to perform the duties of council.

Meetings should be opened unless there is a solid legal or privacy issue which needs to be protected. Simply because the discussion and/or topic might be difficult or distasteful, or reveal the position of individuals does not mean it should be held in closed session. Valid reasons would include protection of property, client/lawyer privilege where divulging information might change a court or settlement decision, purchase or sale of property, security of municipal assets or information about an individual which fits the rules outlined in MFIPPA. Hiding behind closed doors to make difficult decisions should be stopped.

There should be provincially appointed Ombudsmen and Integrity Commissioners to provide services for all municipalities so that rules are better understood (same interpretation everywhere) and enforced consistently. The same standards should apply to everyone.

4. What kinds of tools would support greater accountability and transparency in local government?

There needs to be consistent independent enforcement. The legislation requires “teeth”. With repeated scandals, in both large and small communities, the public has lost faith in the system, in politicians and administration. There needs to be a standard across the board where similar consequences are levied for similar behaviour. Loopholes need to be closed. The need for the elector to bring an application to the court needs to be removed.

One of the main problems with accountability is that when Integrity Commissioners or Ombudsmen are being paid by the municipality, they are in a position of conflict. Yes they are hired to be independent, but if they wish to hold their position for an additional term, will they be as honest as they might be if they were truly impartial?

Alternatively, Council should have more power to enforce compliance to codes of conduct including specific sanctions; perhaps through a 2/3s vote.

There needs to be more concise definitions to coincide with the terms used in the legislation. Current terms and phrases are open to interpretation and are often too widely defined allowing actions which are obviously not accountable and not transparent to continue, again in municipalities large and small.

Perhaps the province through the MMAH should play a larger part in providing advice, directing staff through a process which is often new and difficult. The non-compliance is with provincial legislation, the province should provide means of resolving the issues created by it. Obtaining legal advice to enforce provincial legislation is a cost municipalities could do without.

5. How might conflict of interest rules be made clearer for municipal officials and the public?

There needs to be a clean, concise definition of advertence and error of judgement. There needs to be more penalties and greater authority given to judiciary to enforce the rules. At a minimum, post examples, past court decisions and rational in plain English on websites to use for educational purposes.

6. Do you think the current rules prevent municipal councillors from participating in municipal decision making too often?

Not in our experience.

a. Do you feel that your own councillor/board member (e.g. school trustee) has been able to represent your interests at meetings given these conflict of interest rules?

There are few times that our council members have had to excuse themselves from debate; certainly not enough to warrant a change to the legislation in this respect.

7. Do you think municipal councillors need more support to comply with conflict of interest rules? For example, having a municipality make expert or legal advice available to them.

No, the rules are pretty clear. So long as some type of training has been provided, resources available and there is a will to learn, the system is adequate. The challenge is with those who feel that the rules do not apply to them, and look for ways to skirt or simply ignore the legislation and succeed as well as clearer definitions and/or examples.

8. How could public access to the decision-making process about conflicts of interest be improved?

Again, the information is out there. Our municipality, like many others, provides information on our website, or to anyone who asks. The process/legislation is presented to new Council members during orientation. Association training is available. The challenge is with people being apathetic.

9. What do you think are the appropriate penalties for violating conflict of interest rules?

Appropriate penalties would vary depending on the situation. A council member who inadvertently participated in a decision which affected an association he was a member of should be judged differently than someone who attempted to hide the fact that his private company would financially benefit significantly from a decision he was a part of.

There is some value in one size fits all, if you made the infraction you should suffer the consequences but over the past few years we have seen situations where it appeared that the decision was truly made in error and those where it appears that individuals were attempting to hide their involvement for significant personal gain and/or were simply stating, the rules don't apply to me. Those individuals need to be held accountable.

Penalties should include monetary reparation, some type of restitution to those harmed by the decision as well as being forced to vacate the seat the council member holds for a specific length of time, including permanently if the infraction was severe and perhaps not being able to run again. Judges should have more latitude than what is currently available.

Electors should not have to apply to court using their own funds to begin an action.

10. Who should enforce municipal conflict of interest rules?

Municipal conflict of interest rules should be decided by a centrally appointed independent individual or association. Perhaps an integrity commissioner appointed by the province to oversee all municipalities such as the Ombudsman's role. Although there have been great strides to see municipalities as independent capable entities, the fact remains that there are individuals who simply feel that the rules do not apply to them. These people create significant negative impacts for other council members and administration in their communities and their councils have limited resources to correct the problem behaviour.

These people need to be held to some degree of accountability for their actions. Local councils should not be put in a position to sanction their counterparts. Hiring experts is costly. An independent entity should be appointed by the province to perform this task; even if on a pay per use basis by member municipalities. One service provider (commissioner/ombudsman) for all users instead of 444 separate positions is simply cost effective in required support staff, education, process development etc.

Legislation could create a new position which would employ a standardized system of evaluating situations, conducting investigations and awarding consequences across all municipalities – perhaps a system similar to set fines used for *Highway Traffic Act* infractions. Where large municipalities might wish to have their own investigators, these services are difficult and costly to provide for smaller municipalities.

This new position should be given the authority to enforce penalties for non-compliance similar to a progressive dismissal system for employees.

11. Do you think there should be more options for municipal councils to use technology in holding meetings? (e.g., internet video conferences?) Please provide examples.

For our purposes, the current legislation is adequate. There is something to be said for the convenience of video conferencing and using other technologies but a) they come at a price and b)

they remove the personal interaction which is required to effectively work as a council or committee. Perhaps being allowed on an emergency basis might be appropriate however; for day to day meetings, something will be lost without the personal interaction.

12. Do you think that the public has appropriate access to council meetings?

Yes. Council meetings are well advertised and open to the public; many are broadcast on local television and/or the internet. There needs to be a will to attend.

a. How could municipal council meetings be more transparent?

As at our council meetings, the rule should be all meetings are open with closed meetings being the rare exception. Councils, especially those who have long sitting members, should be made to attend trainings to explain what is and what is not considered allowable under the legislation. It appears that still, council members wish to go to a closed session when the topic is sensitive, and might involve impulsive or negative reactions from some members. Much information today, agenda, reports, minutes, financials etc. are posted on-line offering significant transparency. So long as the existing rules are followed, it seems that municipal councils can be extremely transparent if they choose to be.

13. Under what circumstances do you think it is appropriate for council to discuss matters in private? (e.g. personal information, security of the municipality)

There should be limited circumstances for private meetings with closed meetings being the exception not the rule. Some might include: personal information about an employee or council member as defined in MFIPPA, (does not include errors in judgment and subsequent actions they have made whether member of staff, member of the public in a municipal context or a member of council), security of the municipality, purchase/sale details, legal advice if it might affect an as yet undecided court decision, litigation and employee negotiations. Much of this information may be divulged after the decision has been made. Some people currently feel that if a topic is discussed in closed session it is never to be shared, offering a sense of power or freedom to do or say what they might not do in public.

14. Overall, what do you see as the province's role in supporting municipal and local board accountability and transparency? What do you see as your municipality's role?

The province should play a larger role in providing advice for routine situations, those where they have seen prior outcomes or decisions instead of having municipalities bear the costs of legal advice at every turn. There is precedent for many situations, or knowledge of others going through a similar experience, at least share it. It is costly for small municipalities with limited tax base to need to have to pay a solicitor for a decision which has previously been made for another municipality. If the province had a data base or resources to share, this would provide some benefit to staff while preparing advice for Council. Often the situation is new to one council, but old news to another; having the province provide some type of referral, example or advice would be extremely beneficial.

The municipality's role is to provide direction, education and support to members of council and the public, to follow the rules as set down and "defined" by the province. Education is key. Change the mindset of "behind closed doors" to we "operate in a fishbowl" in both administration and council alike.

To assist with challenges we were having within our municipality our council purchased a video series by George Cuff on Governance Training. Why could something like this not be created or funded by the province and made available to all municipalities as advice and required education upon being elected?

15. How effective are the accountability and transparency requirements in the Municipal Act, City of Toronto Act and Municipal Conflict of Interest Act?

Not very. Although they are set out and adhered to by many, as stated before, for those who do not wish to follow, or feel that the rules don't apply to them or their council, there are no "teeth" to enforce the rules. Any type of enforcement requires either an individual or a municipality applying to the court. Often there is little will for that action and the person/group/situation goes unresolved. There should be a more simple mechanism for applying the rules to those who do not wish to follow them.

16. How might accountability and transparency rules be made clearer for municipal officials, board members and the public?

The rules should be more clearly defined. Examples, samples, decisions from the past should be made available. Terms used in the legislation should be defined in that same piece of legislation or at least include a reference to other legislation where the term is defined. A compilation of past decisions of courts, tribunals, integrity commissioners etc. should be made available so that information is more readily shared.

Penalties should be listed and applied. With the current system, there is infrequent enforcement so the rules are not followed by some as they know there will be no consequence. The decision making process, administration, fellow council members and citizens suffer the consequences.

17. Do you feel your municipality is able to effectively plan for and prioritize its investments in infrastructure (e.g. roads, bridges, water systems, public transit) and its spending on services (e.g. fire, police, water, garbage, public health, recreation programs)?

Yes for infrastructure but no for services. Our municipality has been diligent in asset management planning and funding reserves long before it became a requirement so we are able to meet **most** infrastructure needs as they arise. We do however have a challenge with meeting service demands due to the unknowns announced by the province. For 2015 (and the next 3 years) we have had to significantly increase our policing costs and fit in, after our budget new training for emergency management staff and committee members. With the province not being willing to make changes to the arbitration process or the liability insurance system, we are faced with costs outside of our control. These are difficult to plan for.

For a small rural municipality, it is difficult to take funds from taxation to finance recreation programs as many residents feel that they don't participate, so they shouldn't have to pay for those services. Funding to maintain and/or improve park and boat launch facilities are the same. There are few users, where do we get the funds from? User fees in our rural community would not be accepted, and would not amount to enough to warrant the administrative burden.

18. Municipalities have a number of options when deciding how to pay for services and projects (e.g. property tax, user fees). Do you feel your municipality is using the right mix of revenue sources to pay for local services and invest in infrastructure?

Yes, being a small rural municipality we are making use of all of the tools available; which would be accepted by our residents. Although other tools exist, due to our size and structure they are not effective here. PPPs are not realistic in small rural municipalities. Our tax base is low (aside from the pipeline) with many residents on fixed incomes due to our demographics, not sure that new tools would help unless they are extensions/sharing of provincial/federal sales tax, gas tax etc.

One challenge is with the need to forward school board and county remittances even when tax payments might not have been received causing municipalities to use their reserves to fund these

transfers until taxes are received reducing the opportunity for longer term investments of these funds.

19. Are there changes to current tools that could contribute to municipal financial sustainability (i.e. ability to meet current and future financial needs)?

Yes, certainty that provincial and federal funding would be continued under specific programs such as the Federal Gas Tax from year to year would help immensely. This is now money that we can plan around. Without knowing what opportunities will be presented, and which services, programs, infrastructure will qualify under conditional granting opportunities it is quite difficult to make long term plans.

Grant funding is appreciated. If the money is going around, we would like to be able to benefit however; it is quite difficult to complete detailed applications with little lead time for projects we did not know might be eligible. This process is difficult to plan for. The requirement for extensive proposals and follow up reporting is also onerous. Is the paper work generated really all necessary or even evaluated?

A review of provincial PILs including heads and beds tax need to be completed with payments perhaps indexed to inflation.

Compensation for vacant crown land in rural municipalities needs to be considered.

Lottery rules might be amended so that small municipalities might more simply increase revenues for specific purposes such as recreation.

Farms and managed forest rebate programs should be funded by the provincial government not the affected municipality.

Formulas used to calculate proportional share of costs such as policing need to realistically take into consideration the level of service in individual municipalities. When coming up with the new values, commercial properties were counted. In small rural municipalities, MPAC classifies otherwise vacant land which houses perhaps one cell tower as commercial. This is being used in calculating the policing costs in a similar manner as a down town night club in a large centre. There is definitely a difference in the amount of policing required by one of these uses as opposed to the other.

The provincial gas tax should be shared further than with those municipalities which have transportation systems and for other purposes including recreational infrastructure like boat launches and parks.

20. Do regional variations (e.g. economy, geography, demographics) present barriers to municipalities achieving long-term financial sustainability?

Yes, with the Provincial Policy Statement limiting severance and growth in rural municipalities and our dependence on a fixed number of properties it is difficult to plan for future cost increases. Without growth, we have limited opportunities for increased taxation. There is no compensation from the province for the vast acreage of crown land in our municipality and if it were not for the pipeline revenues, we would be bankrupt even though our council has been prudent and fiscally responsible.

Cities can tax businesses, encourage infilling and growth in that manner however; the PPS is limiting our future, we have few businesses and increases fall on the residential ratepayer.

a. If so, how can these challenges be addressed in the Municipal Act?

Not certain. MMAH might consider amendments to the Planning Act and the PPS as well as the Municipal Act.

21. We want to hear if powers are working well in your communities, including the division and transfer of powers. What steps is your council taking to improve the quality of municipal services or to save money in the way municipal services are provided to the community?

Our council is authorizing staff to work with other municipalities in program and service delivery. As a first step, we are a part of a shared service centre group of 6 municipalities working to more effectively manage Blue Box and other recycling programs and waste management in general. We make use of the county services available to us including the Planning department. Our Council has prudent procurement policies and contracts out service provision when it is more cost effective. We recently implemented user fees for waste.

22. Are you aware of any challenges and/or barriers that may prevent your council from providing municipal services, such as economic development, roads or parks, in a more effective and/or innovative manner?

Lack of financial resources and legislative red tape (Ocean's and Fisheries and MNR) prevent our council from improving our park and boat launch infrastructure.

Economic development is limited by staff knowledge, time and financial resources. Any work we do we attempt to work with our neighbours, local tourism associations and county departments.

Again, due to the demands on staff in meeting provincially mandated requirements, we have little time and resources to focus on parks, recreation and economic development. Any significant work in these areas is on a special project basis and due to grant funding through a provincial or federal program.

23. Has your local council integrated climate change considerations in its policies, programs and decision making processes?

Due to our rural composition with 4 hamlets stretched along 70 km of a provincial highway, and our dependence on most services from neighbouring municipalities we are unable to do much in the way of reducing our carbon footprint through reduced transportation. We are investigating methods of providing transportation to appointments for our seniors and those who do not drive but do not have the resources to implement any type of full time transportation system.

The one size fits all approach requires our municipality, with extremely limited infrastructure, to complete energy audits and reports annually. The time required to complete these reports far exceeds any savings we might ever realize for changes we might make to our two buildings.

Internally council policy encourages carpooling for training, meetings etc. Council has modified all possible physical plant and buildings by increasing R values in building materials, insulation and windows, purchasing more energy efficient lighting and changing from oil to propane heating. We have limited infrastructure to have much effect on climate change but are affected by the same legislation as every other municipality.

24. What tools do municipalities need to address climate change mitigation and adaptation?

As we are a small rural municipality, we are not really in a position to respond to this question on our own behalf.

25. Are you aware of any challenges and/or barriers that your council is facing in implementing initiatives related to climate change?

Our administration does not have the time to complete energy audits and/or annual reports for the only two municipal building that we own. We have limited infrastructure besides roads and limited energy consumption. We recognize that the *Green Energy Act* was enacted to assist with reducing emissions but once again onerous reporting was downloaded with no subsequent cost sharing. There is no return for the time we would require to learn the systems and input the data let alone create reports and audits.

26. Does the Municipal Act process for changing regional municipal council representation allow regions to respond to changing demographics and/or rapid population growth? If not, do you have suggestions for how these issues can be addressed?

No comment.

27. How can local bodies, such as community councils, best be used to increase community input in municipalities?

No comment.

Municipal Elections Act

Although the deadline to submit comments specifically for the Municipal Elections Act has passed (July 27, 2015), the Clerk did submit comments on behalf of HCM. Mayor Gibson has requested that comments be submitted by Council as well. Council may agree to submit this resolution and accompanying list of suggestions with the above document referring to the Municipal Act and the Municipal Conflict of Interest Act.

WHEREAS the Council of the United Townships of Head, Clara & Maria feels that the period for submission of Council supported comments for the *Municipal Elections Act* review was brief considering summer meeting schedules and still wishes to submit comments for consideration;

THEREFORE BE IT RESOLVED THAT this Council does hereby submit the attached comments drafted by our Clerk and amended at its meeting of Friday, September 11, 2015 to the Ministry of Municipal Affairs and Housing for consideration during their legislative review;

AND FURTHER THAT Council supports the recommendations submitted by AMCTO dated July 2015 and AMO dated July 27, 2015.

In response to MMAH specific questions about ranked ballots these are the comments submitted by the Clerk prior to the deadline.

1. What are your thoughts on using ranked ballots for Ontario municipal elections?

The opportunity to use ranked ballots might provide increased interest in running for Council and/or Head of Council in small rural municipality. Often we find it difficult to attract enough people to fill the ballot (frequent acclamations). When we have to split those people into two groups (Council and Head of Council) we further reduce

the number of qualified interested people who will ultimately be elected. (Only one Head can be chosen no matter how many candidates for that position.)

Ranked ballots could allow for the "Single Transferrable Vote" resulting in the most popular/voted for candidate becoming the Head. Alternately, a Head could be elected from amongst all elected later. More importantly those candidates who would have been eliminated in a Head of Council race would still be considered in this process. We often do not have enough people to fill our ballot, losing some to a single contest for Head of Council often loses significant experience and potential in smaller areas with few people interested in running.

2. Should municipalities be able to use ranked ballots for certain offices and not others? For example, only for mayor?

Municipalities should be able to use ranked ballots for all offices - the Single Transferrable Vote would be preferential in small rural municipalities such as ours in order to ensure that all candidates interested in running for office are given the opportunity and not simply eliminated in a race for Head of Council for whatever reason that occurs such as popularity, qualifications etc.

This would ensure that all candidates who are interested in running for office would be eligible to have a seat at the table once elections are over based on total vote. Where there is a contest of 3 or more persons for Head of Council (often with those being experienced council members) only one wins, the municipality then loses the experience and potential of the other 2 or more persons. Ranked ballots would allow their votes to be redistributed being more representative of the public's opinion; not simply a result of vote splitting etc.

3. Should public consultation by a municipality be required before implementing ranked ballots or before changing from ranked ballots back to the current system?

No not required but recommended. In small rural municipalities such as ours, most often, people don't care enough to come out. A public education process should be implemented but not compulsory. People don't like change; often do not learn enough to make an educated decision (swayed by rhetoric and the loudest voice) and if asked if they would like change automatically say no. This is exactly the same reason why the race for Mayor should be changed to allow for voters to rank their choices, not have someone eliminated due to popularity issues etc.

4. What form should that consultation take?

If any consultation is required it should include: public "town hall" style meetings, written explanation, webpage info. Q&A.

5. How much information would you want about election results? For example, where there have been multiple rounds of counting would you want to see the results of each round of counting or just the final results?

As a clerk/cao and a ratepayer I would like to see the results of each round of counting ultimately published. There is too much questioning and distrust of any government process as it is; not making this as open and transparent as possible would just increase the opportunity for people to question the validity of the process. "If it's not out there, you must be hiding something?" Openness and Transparency in government is paramount. This would hopefully go towards affirming that principle.

6. Are there other ideas you wish to share on ranked ballots that you would like us to consider?

Again, I think one of the most important benefits in going to this type of system would be to ensure that any votes for a Head of Council would/could be redistributed to the other offices in small rural areas where there is little interest in filling seats at the table and a contest for head results in the loss of candidates, experience and potential.

7. Do you feel that municipal election rules are effectively enforced? Why? Why Not?

No. There is no provincial agency to interpret or enforce the laws. Municipal staff are left to interpret or to purchase legal services to do so. Much enforcement is only through an individual citizen taking an issue to court. Does anyone really think that the average Ontario citizen cares enough to go through this process? Those who do take on the challenge are normally losers in the election and have their own agenda. There should be a provincial entity whose role it is to enforce this act.

Our municipality lived through a personal vendetta where two council members ultimately went to court and had the section of the act overruled. A costly effort with no ultimate change in results. Again, the issue was personal, there was no intent to breach the act, that was proved and the two council members retained their seats. The entire process might have been avoided with different wording or a provincial entity with the authority to enforce the rules other than the courts.

8. Should there be rules for third party advertising? If so, what should these rules require?

Free speech must prevail.

9. If you were a voter, candidate or supporter of a candidate, what was your experience with financing an election campaign? What areas might be improved, and how?

The audit committee process and costs are an issue. The fact that an individual must bring this before the committee and perhaps court is an issue. Many people simply do not have the interest, time or money. The fact that if the person is wrong

and may have to pay costs of hearing is also an issue s 81 (15) likely preventing warranted cases from coming forward.

From a municipal perspective however; I also have challenge with costs of the committee and/or court being downloaded on the municipality. The exercise of small rural municipalities having to create, staff and train a committee is also an issue. I am certain this does not pose a problem in larger municipalities but finding appropriate candidates in small rural municipalities is quite difficult. Could there not be a provincial board/audit compliance committee that could be used by any municipality in the infrequent event that it is needed?

10. From your experience, what parts of municipal elections in Ontario currently work well?

Municipal elections run well generally. The separation of Council and Clerk in running elections is essential and I believe pretty well established in the MEA.

11. From your perspective, what parts of municipal elections in Ontario should be changed?

Those parts which should be changed include: ranked ballots – should be allowed for all offices – one vote with Head selected from within or deemed head due to total number of votes; financial reporting/accounting – define responsibility for enforcement – clerk? Individuals? Should not be on the taxpayer to bring these things before a judge; requirement for separate bank accounts for small rural areas – cost prohibitive – often there are no expenses in some small areas where there are acclamations; elimination of Registered Letters for notice – electronic delivery, signed affidavit would be more effective and cheaper; enforcement of rules is non-existent should not be at the hands of citizens; automatic consequences of certain activities such as failure to file at a certain date and forfeiture of seat is ridiculous and not upheld at court; the campaign period should be shortened – January 1 start for an October election is a bit much and effects all Council decisions all year long.

12. Is there anything else you want to tell us about your experience with municipal elections?

The way that this legislation is currently, it relies heavily on individuals to enforce or bring issues up for enforcement. In my experience, the only people interested enough are those who may not have won (they or their supporters) and do not have the public good at heart. Any type of enforcement issues are simply personal vindictiveness from losing parties.

Other points that Council might consider to submit to the province include:

1. Financial reporting and Form 4 process, rules and consequences requires amending to make it simpler and fairer.
2. Hold municipal candidates to the same standards as their provincial counterparts.
3. Amend/increase the nomination fee and make it non-refundable to eliminate the large number of fringe candidates in larger municipalities. If a ranked ballot system

is used, reducing the number of such candidates (without disenfranchising sincere candidates) would be important.

4. Require that candidates are to follow the same rules as outlined in council member codes of conduct during the election period.

And finally that Council supports the recommendations of the Association of Municipal Clerks and Treasurers of Ontario (AMCTO).

BACKGROUND/EXECUTIVE SUMMARY:

Recommendations from AMCTO

Modernize central provisions

Recommendation 1: Amend the Municipal Elections Act to allow candidates to file financial forms electronically (Without passing a by-law)

Recommendation 2: Remove the requirement for original signatures for everything except for filing a nomination (Form 1) and/or appointing a proxy (Form 3)

Recommendation 3: Remove the requirement for documents to be delivered by registered mail

Clarifying campaign finance

Recommendation 4: Remove the “voting place” wording in s.48 (1), so that the provision also applies to voting that takes place outside an established polling location

Recommendation 5: Clarify the role and minimum age of scrutineers where unsupervised or remote voting is in place

Enhancing accessibility planning and reporting

Recommendation 6: Create a new requirement within the Act for municipalities to develop an election accessibility plan

Recommendation 7: Remove the requirement for election-related accessibility reporting to go to Council after the election, and instead allow it to be proactively posted to an accessible web page

Streamline the campaign period

Recommendation 8: Shorten municipal elections, and do not allow candidates to file their nomination form until June 1st of the election year

Recommendation 9: Work with the Ministry of Education to mandate Election Day as a province-wide professional development day for municipal and school-board elections

Modernize and update campaign finance

Recommendation 10: Provide candidates the authority to determine what payment methods will be accepted for contributions to their campaign

Recommendation 11: Clarify the rules and establish clearer procedures for municipalities to deal with third party advertising

Recommendation 12: Give municipalities the option to limit or prohibit corporate and union donations

Recommendation 13: Consider a nominal increase to the candidate nomination fee, and make it nonrefundable

Clarify central provisions of the Act

Recommendation 14: Include the principles of the Act, as outlined in DiBiase v. Vaughan (City), 2007, in the MEA

Clarify the role of the Clerk

Recommendation 15: Clarify the conflicting authority of Council versus staff with respect to election administration

Recommendation 16: Provide the Clerk authority to determine the vote casting and counting method in their municipality

Recommendation 17: Clarify Council's role in creating compliance audit committees, so that it is responsible for establishing the committee but not appointing its members

Recommendation 18: Give the clerk discretion to extend voting hours and provide special voting occasions on Election Day or for advance voting

Recommendation 19: Extend the Clerk's discretion throughout the election period under s.22 so that hearings are no longer required to remove a name from the voters' list

Clarify campaign finance

Recommendation 20: Create a new section dedicated to Question/ By-law Registrants, clearly defining the rules, who must register, and a process for noncompliance

Recommendation 21: Establish rules for finalizing financial statements and auditors' reports (Form 4), and clarify if a candidate is allowed to make changes before the filing deadline

Enhance enforcement

Recommendation 22: Review the penalties and oversight contained in the Act, and consider a range of potential penalties, so that the severity of each punishment matches the nature of each offence

Recommendation 23: Clarify the role of the Clerk when it comes to enforcement

AMO response attached.

Options/Discussion:

Financial Considerations/Budget Impact:

Policy Impact:

As per policy.

Others Consulted:

MMAH, AMO, AMCTO reviews and submissions.

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

Melinda Reith