

To:	Council in Committee of the Whole	Item:	CM-07-04	Date of Report:	January 31, 2007
From:	Sandra Kranc City Clerk	File:	A-2140	Date of Meeting:	February 5, 2007
Subject:	<i>City-Wide Elections – Clarification of Council Direction</i>			Ward(s):	All Wards
	<i>PUBLIC MEETING</i>				

1.0 PURPOSE

The purpose of this report is threefold. Firstly, to seek Council clarification with respect to its direction of January 15, 2007 as follows:

“That the City of Oshawa implement City-wide elections for City Councillor and Regional Councillor positions based on the results of the referendum.”

Secondly, to provide Council with information related to communication/advertising options for the public meeting to be held on this matter.

Thirdly, to provide Council with information requested by some Councillors related to the method of election and statistics.

2.0 RECOMMENDATION

That City Council provide direction with respect to Report CM-07-04 from the City Clerk concerning clarification of the Council resolution regarding City-wide elections and method of communicating/advertising for the public meeting to be held.

3.0 EXECUTIVE SUMMARY

3.1 Clarification of Direction

Council has directed that City-wide voting for City and Regional Councillor positions be implemented, which will take effect for the municipal elections in 2010. To effect such a change a by-law needs to be adopted. Prior to adoption of the by-law, Council is legislated to hold a public meeting.

In preparation for the public meeting, staff determined, when preparing a draft by-law, that clarification is required to determine if Council wishes to simply alter the method of election only or if it was the intention to dissolve the wards to which these offices relate as well. Council has the authority to alter the method of election, and this decision cannot be appealed to the Ontario Municipal Board (OMB). Dissolving the wards themselves would be subject to an OMB appeal.

In order for staff to prepare the appropriate by-law, clarification of Council's intention is required.

3.2 Communication/Advertising Options

During discussion at the Strategic Initiatives Committee concerning the public meeting to be held prior to adoption of the by-law to implement a City-wide vote, various means of notifying residents of the public meeting were discussed. Attachment One to this report is a table outlining different communication options for Council's consideration. Also noted in the attachment are costs and lead time requirements.

Unless directed otherwise, staff intends to provide notice for this meeting in accordance with the City's standard practice for all public meetings which consists of an ad being placed in Oshawa This Week and notice being placed on the City's website. This standard practice meets legislative requirements.

3.2 Frequently Asked Questions

The City Clerk's Office has received a number of requests from Council members for information related to the method of election and statistics. As a result, Attachment Two to this report consists of the following documents for Council member's use:

1. Copy of By-law 93-82 outlining the questions on the ballot in 1982.
2. Excerpt from the 1982 Election Results Book summarizing the votes on the questions.
3. Chronology of Council actions leading up to 2006 questions on the ballot.
4. Copy of By-law 49-2006 outlining the questions on the ballot in 2006.
5. Excerpt from the 2006 Election Results Book summarizing the votes on the questions.
6. Excerpt from the 2006 Election Results Book summarizing voter turnout statistics from 1945 to 2006.
7. Current ward populations based on the 2006 year end assessment.

4.0 INPUT FROM OTHER SOURCES

- The City Manager has reviewed and provided input to this report.
- Legal Services drafted subsection 5.2 of this report.

5.0 ANALYSIS

5.1 Clarification of Direction

- On December 4, 2006, City Council received for information Report CM-06-83 from the City Clerk advising of the results of the questions placed on the 2006 municipal ballot.

- At its meeting of January 15, 2007, City Council adopted a resolution directing the implementation of City-wide voting for City and Regional Councillor positions based on the results of the referendum.
- During staff's development of the related draft by-law to implement such direction, it was noted that existing and previous by-laws combined the method of election for members of City Council with the establishment of ward boundary matters.
- In order for staff to present the appropriate by-law to Council, clarification is required to determine if it is Council's intention for only the method of election to be altered while leaving the current ward boundaries in place, or if Council's intention was to also eliminate the ward boundaries.
- Based on the historical connection between these two distinct issues and the potential for the Region of Durham's future consideration of Council representation on that body, staff require clarification of Council's direction.

5.2 Legal Input

- Section 217 of the *Municipal Act, 2001* provides that City Council has the power to change the manner of election of its members by by-law.
- Section 222 of the *Municipal Act, 2001* provides that City Council has the power to divide or redivide the municipality into wards, or to dissolve wards, by by-law.
- The power to divide the City into wards, and the composition of those ward boundaries, is a subject which may be appealed to the OMB.
- A by-law passed under section 217 of the *Municipal Act, 2001* relating to Council composition, including the manner of election, *cannot* be appealed to the OMB. The Province has provided Council with autonomy regarding its own governance.
- It is not necessary for City Council to make any changes to, or dissolve, the existing ward boundaries to effect a change to general elections. In this case, the ward boundaries would continue to exist and could be used to define communities of interest but would not be used as the basis for elections.
- Alternatively, Council may choose to dissolve the ward boundaries as a result of changing the method of election to general vote. In this case, while the dissolution of the ward boundaries can be challenged, the OMB would not have jurisdiction to set aside Council's decision to conduct elections by general vote.

6.0 FINANCIAL IMPLICATIONS

- If it is Council's intention to alter the method of election only, there are no financial implications.
- If it is Council's intention to also dissolve the existing ward boundaries, the dissolution of the ward boundaries, but not the alteration of the manner of election, may be appealed to the Ontario Municipal Board which could result in external legal costs.

7.0 RESPONSE TO THE COMMUNITY STRATEGIC PLAN

- Increase public input and engagement and ensure accountability to citizens.

Original Signed By:

Sandra Kranc
City Clerk

Attachments

Local Communication Options

Description	Time Requirement	Approximate Cost
Print		
Oshawa This Week	1 week	- circulation: 48,500; paid subscribers: 27,000 - City Page ads and stand alone ads are \$1.47 line rate - \$573 – ¼ page ad (390 lines) with colour
Oshawa Express	1 week	- circulation: 35,000; paid subscribers: 7,000 - \$1.12 line rate (City of Oshawa rate, no colour) - \$437 – ¼ page ad (390 lines) with colour
SNAP Oshawa	1 month	- circulation: 14,000 - \$315 ¼ page ad without colour (5 x 7.25")
Durham Chronicle	2 weeks	- circulation: 3,500 - \$90 - ¼ page ad (4.1" x 10")
Broadcast		
Durham Radio (CKDO/The Rock/KX96)	2 weeks	- 21, 30-second commercials/monthly \$2,813 (all stations: The Rock, CKDO, KX96)
Channel 12 Television	2 weeks	- 92, 30-second commercials/monthly - \$2,800
Rogers Television	2 weeks	- 212, 15-second commercials/monthly - \$2,083
Outdoor		
Durham Bus Shelters	2 months	- \$450 per transit shelter for 4 week period
Other		
Posters displayed in Facilities, Libraries, & Seniors Citizens Centres	2 weeks	- \$600 to print 1,000 posters
Flyers distributed through Canada Post	1 month	- \$5,000 to print 60,000 postcard flyers (4" x 9") - \$4,700 to distribute to all Oshawa residences (55,200)
Flyers distributed through Oshawa This Week	3 weeks	- \$3,000 to print 50,000 8 ½ x 11 flyers - \$1,700 to insert into Oshawa This Week (48,500)
Facility Banners	2 weeks	- \$300/per banner x 10 = \$3,000
Public Utilities Bill Insert	2 weeks	- \$4,800 (includes printing and distribution)
Message Broadcasting to Oshawa residents	2 weeks	- \$8,000 (permission based and only charged for connections)
➤ 30-40 second message		
➤ 41,415 phone numbers (not including unlisted)		
City of Oshawa website	1 business day	- no charge

BY-LAW 93-82

OF

THE CORPORATION OF THE CITY OF OSHAWA

being a by-law to provide for the submission to a vote of the electors a question respecting the method of electing Officials in the City of Oshawa.

WHEREAS a resolution of the Council of The Corporation of the City of Oshawa was adopted on July 26, 1982 directing that a by-law be passed to have a vote of the electors at the municipal election of November 8, 1982 on the question of elections in the City of Oshawa by the ward system;

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Corporation of the City of Oshawa by the Council thereof as follows:

1. There shall be submitted to a vote of the municipal electors for their opinion the following questions:
 - (a) "Are you in favour of electing those Aldermen who represent the City on City Council and on Regional Council by ward vote as opposed to general vote?"
 - (b) "Are you in favour of electing those Aldermen who represent the City only on City Council by ward vote as opposed to general vote?"
2. The said question shall be submitted to the aforesaid municipal electors at the municipal elections to be held on the 8th day of November, 1982 and the hours of voting, the places where the votes are to be taken and the Deputy Returning Officers at such places, shall be the same as those appointed for the municipal elections.

continued....

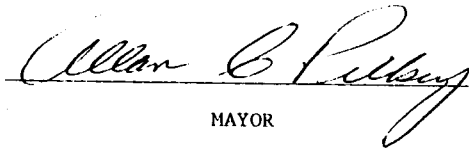
3. The Clerk of The Corporation of the City of Oshawa shall sum up the number of votes in the affirmative and in the negative on the said question and declare and post the results of the vote pursuant to the requirements of Section 79 of The Municipal Elections Act, R.S.O. 1980, Chapter 308.
4. By-law 38-82 of The Corporation of the City of Oshawa be and the same is hereby repealed.

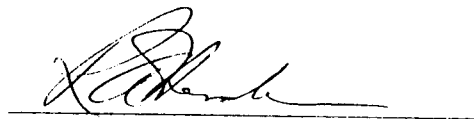
By-law read a first time this 26th day of July, 1982.

By-law read a second time this 26th day of July, 1982.

By-law read a third time and finally passed

this 26th day of July, 1982.


MAYOR


CLERK

EL30A DATE : 82/11/10 1982 OSHAWA MUNICIPAL ELECTION RETURNS (VOTES BY WARD) - SUMMARY

TIME : 16/20 WARD 1 WARD 2 WARD 3 WARD 4 WARD 5 WARD 6 WARD 7 ADV. POLL TOTAL

STATISTICS	WARD 1	WARD 2	WARD 3	WARD 4	WARD 5	WARD 6	WARD 7	ADV. POLL	TOTAL
NUMBER OF VOTERS	3703	2630	4926	5247	2710	5324	1801	436	26777
PLEBISCITES ON WARD SYSTEM (1)									
1. CITY & REGION-YES	1618	1240	2313	2455	1504	2575	1044	227	12976
CITY & REGION-NO	1116	673	1548	1410	639	1725	364	125	7600
2. CITY ONLY - YES	1605	1219	2215	2337	1442	2460	931	217	12426
CITY ONLY - NO	1055	632	1457	1344	601	1625	367	121	7202

Chronology – Ward vs. General Vote Question on the Ballot

February 27, 2006 – City Council meeting

The following Council motion by Councillor Pidwerbecki, seconded by Councillor Kolodzie CARRIED:

“That a public meeting be scheduled for the Council meeting of April 10, 2006 to consider a draft by-law to submit a question to the electors of the City of Oshawa at the 2006 Municipal Elections namely, whether City Council should change the manner of election of Regional Councillors in the City of Oshawa from by ward to general vote and that staff prepare such a by-law in accordance with the requirements of the Municipal Elections Act for consideration at the public meeting and that this motion be referred to the Audit, Budget and Corporate Services Committee.”

March 13, 2006 - Audit, Budget and Corporate Services Committee meeting

The following motion CARRIED:

“That the Audit, Budget and Corporate Services Committee recommend to City Council that Council hold a special public meeting to seek opinion on putting a question on the ballot regarding the election of Councillors by the Ward system or at-large.”

March 20, 2006 – City Council meeting

The following recommendation of the Audit, Budget and Corporate Services Committee was approved:

“That Council hold a special public meeting to seek opinion on putting a question on the ballot regarding the election of Councillors by the Ward system or at-large.”

April 10, 2006 – City Council meeting

The following notice appeared in the Council agenda:

“In accordance with Section 8.1(3) of the Municipal Elections Act, 1996, notice was provided of City Council's intention to pass a by-law under Section 8(1)(b) to submit a question to its electors for the 2006 municipal elections on November 13, 2006 asking whether or not to require Council members elected to Oshawa Council who will also be members of the Council of the Regional Municipality of Durham to be elected by general vote and not by ward.”

The by-law question was worded as follows:

“Should the Council of the City of Oshawa pass a by-law to require that the members elected to the Council of the City of Oshawa who will also be members of the Council of the Regional Municipality of Durham be elected by general vote and not by ward?”

Gord Vickers and Dave Thompson, CAW Local 222, Retired Workers Chapter requested to speak concerning the matter but were not in attendance. No other members of the public addressed Council.

The following motion by Councillor B. Nicholson, seconded by Councillor Cullen was REFERRED BY THE SECOND MOTION APPEARING BELOW:

“That Council use the identical wording in the referendum as was used in 1982, save and except for the replacement of the word ‘Aldermen’ with the word ‘Councillors’ in both questions”

Moved by Councillor Kolodzie, seconded by Councillor B. Nicholson,
“That the revised ballot wording be referred to staff to undertake the appropriate advertising.”

By-law 49-2006 which appeared in the agenda for adoption was referred so that staff could amend the wording.

April 13, 2006

Percy Luther, Acting Deputy City Clerk forwarded to all members of Council a memorandum which reiterated Council’s direction of April 10th and advised that changing the wording as directed would result in the following questions:

“Are you in favour of electing those councillors who represent the City on City Council and on Regional Council by ward vote as opposed to general vote?”

“Are you in favour of electing those councillors who represent the City only on City Council by ward vote as opposed to general vote?”

It was outlined to Council members that Section 8.3(1) of the Municipal Elections Act, 1996 contemplates that questions placed on the election ballot will result in some action by Council if an affirmative answer is received by a majority of the votes cast. As the question relates to the current manner of election, a “YES” answer would not permit an action to be taken. Therefore, the questions must be modified as follows:

“Are you in favour of electing those councillors who represent the City on City Council and on Regional Council by general vote as opposed to ward vote?”

“Are you in favour of electing those councillors who represent the City only on City Council by general vote as opposed to ward vote?”

Staff recommended Council reconsider its decision of April 10th and the modified questions be approved for notice of a public meeting.

April 18, 2006 – Special City Council meeting

The following motion by Councillor B. Nicholson, seconded by Councillor M. Nicholson was CARRIED BY A 2/3 VOTE OF MEMBERS PRESENT:

“That City Council reconsider their motion of April 10, 2006 concerning adding a question to the ballot asking whether or not to require Council members elected to Oshawa Council who will also be members of the Council of the Regional Municipality of Durham to be elected by ward vote as opposed to general vote.”

A motion by Councillor B. Nicholson, seconded by Councillor M. Nicholson to approve the wording as set out in the memo from Percy Luther CARRIED ON THE FOLLOWING VOTE:

Affirmative: Councillors Clarke, Cullen, Kolodzie, B. Nicholson, M. Nicholson

Negative: Councillors Marimpietri and Pidwerbecki

Absent: Councillors Lutczyk, Neal, Parkes and Mayor Gray

May 1, 2006 – City Council meeting

The following notice appeared in the Council agenda:

“In accordance with Section 8.1(3) of the Municipal Elections Act, 1996, notice was provided of City Council’s intention to pass a by-law under Section 8(1)(b) to submit a question to its electors for the 2006 municipal elections on November 13, 2006 asking:

- if those councillors who represent the City on City Council and on Regional Council should be elected by general vote as opposed to ward vote; and,
- if those councillors who represent the City only on City Council should be elected by general vote as opposed to ward vote.”
-

(Please note this is a summary of the questions, not the actual wording. The actual wording which appeared in the notice placed in the newspaper is the same wording as was in Percy’s memo)

Pauline Beal and Gord Vickers addressed Council on the matter.

By-law 49-2006 was approved on the following vote:

Affirmative: Councillors Clarke, Cullen, Kolodzie, Neal, B. Nicholson, M. Nicholson and Pidwerbecki

Negative: Councillor Lutczyk, Marimpietri, Parkes and Mayor Gray

(No one was absent)



By-Law 49-2006
of The Corporation of the City of Oshawa

being a by-law to submit to the electors of the City of Oshawa two questions pursuant to the Municipal Elections Act, 1996.

Recitals

1. Subsection 8(1)(b) of the Municipal Elections Act, 1996 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 Oshawa.
2. The City Council wishes to question the electors regarding the manner of election of members of both the Council of the City of Oshawa and the Council of the Regional Municipality of Durham.

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Corporation of the City of Oshawa, by its Council, as follows:

1. The City Clerk is hereby authorized and directed to place the following questions on the ballot for the 2006 Municipal Election in the City of Oshawa pursuant to the requirements of the Municipal Election Act, 1996:
 - (a) "Are you in favour of electing those councillors who represent the City on City Council and on Regional Council by general vote as opposed to ward vote?
YES NO"
 - (b) "Are you in favour of electing those councillors who represent the City only on City Council by general vote as opposed to ward vote?
YES NO"
2. This by-law shall come into force upon its approval.

By-law approved this first day of May, 2006.

Mayor

City Clerk

Final Results (continued)

Conseil Scolaire de district catholique Center-Sud *
(French-Language District Catholic School Board)

Elected		Defeated	
Olga Lambert	212	André Barrett	187
		Nick Boileau	158
		Darquise Nicol	133

Question

Should the Council of the City of Oshawa approve the following resolution? :

"That the Government of Ontario make a regulation requiring that the Chair of the Regional Municipality of Durham be elected by general vote."

Yes	21,799
No	3,457

Question

Are you in favour of electing those councillors who represent the City on City Council and Regional Council by general vote as opposed to ward vote?

Yes	16,109
No	8,892

Question

Are you in favour of electing those councillors who represent the City only on City Council by general vote as opposed to ward vote?

Yes	15,248
No	9,625

* **Note:** The final results for the office of Trustee, Conseil scolaire de district catholique Centre-Sud are the accumulated total votes for each candidate as reported by all municipalities within the school board area, being the City of Oshawa, City of Pickering, Town of Ajax, Town of Whitby, Township of Scugog, Township of Brock and Township of Uxbridge.

Voter Turnout Statistics

City (1945 to 2006)

Year	Population	Eligible Voters	Voted	Voted (%)
1945	26,661	13,462	6,273	46.6
1946	27,247	13,909	6,988	50.2
1948	28,037	14,940	6,889	46.1
1949	28,552	15,423	6,223	40.4
1950	37,897	20,164	7,578	37.6
1951	40,727	20,942	9,278	44.0
1952	41,597	23,548	11,144	51.6
1953	44,101	24,534	7,268	32.5
1954	46,071	25,005	8,871	35.5
1955	47,351	27,735	11,353	44.1
1956	49,295	26,828	10,030	37.4
1957	52,157	27,755	11,601	41.8
1958	54,912	29,414	8,048	27.4
1960	60,146	32,002	16,549	51.7
1962	63,243	34,314	16,095	46.9
1964	70,038	37,580	12,920	34.4
1966	77,556	41,801	19,924	47.7
1968	80,475	44,723	17,502	39.1
1970	88,005	47,454	18,354	38.7
1972	91,113	59,018	19,459	33.0
1973	95,341	63,460	21,111	33.3
1976	105,663	70,846	21,323	30.1
1978	113,753	77,147	28,722	37.2
1980	115,486	79,931	29,825	37.3
1982	118,845	84,232	26,777	31.8
1985	121,669	88,584	24,858	28.1
1988	120,904	90,612	27,990	30.9
1991	123,697	92,529	26,019	28.1
1994	127,813	93,814	31,457	33.5
1997	134,852	97,240	27,394	28.2
2000	142,000	105,487	29,138	27.6
2003	143,835	109,963	30,393	27.6
2006	149,510	109,159	27,424	25.1

By Ward (1997 to 2006)

Ward	1997 (%)	2000 (%)	2003 (%)	2006 (%)*
One	17.0	24.5	22.1	19.7
Two	17.9	18.0	21.6	20.5
Three	29.9	26.8	28.8	29.3
Four	31.7	28.2	34.0	29.9
Five	31.8	31.0	32.3	29.8
Six	22.8	25.2	25.2	24.0
Seven	26.0	28.7	28.6	22.0
Advance	2.1	1.5	2.4	2.5

*Percentages represented by Ward include advance voter data.

WARD	TOTAL POPULATION
1	18,087
2	22,027
3	17,427
4	20,426
5	20,017
6	20,483
7	19,248

**** SOURCE: Year End Assessment 2006**