To:	Corporate and Finance Services Committee
From:	Mary Medeiros, Director, Legislative Services/City Clerk, Office of the C.A.O.
Report Number:	CF-26-12
Date of Report:	March 25, 2026
Date of Meeting:	March 30 2026
Subject:	Review of the Municipal Election Recount Policy and Costs Associated with the 2022 Ward 1 Recount
Ward:	All Wards
File:	03-05

1.0   Purpose

The purpose of this Report is to respond to the following direction of Council from its meeting of December 12, 2022:

"Whereas the October 24, 2022 municipal election resulted in a ballot recount that raised the issue whether an update or amendment to the City's Municipal Election Recount Policy should considered for enhanced fairness and confidence amongst candidates, electors and administrators to ensure that Oshawa municipal election results accurately reflect the votes cast;

Now therefore staff be directed to review and report back to the Corporate and Finance Services Committee and Oshawa Council on the City of Oshawa's Municipal Election Recount policy and procedures:

1.   To ensure compliance with Provincial legislation; and,

2.   Compare Oshawa's election recount policies and practices with those of other Ontario municipalities such as but not limited to the City of Toronto and other Durham Region municipalities; and,

3.   To provide a breakdown of the costs of the 2022 Ward 1 City Councillor election recount; and,

4.   To include any recommendations for potential ways in which the City of Oshawa's election and by-election process and election recount policy, practices and timeline procedures may be further improved to enhance confidence in the City of Oshawa election processes."

Attachment 1 is a copy of the Municipal Recount Policy.

2.0   Recommendation

That the Corporate and Finance Services Committee recommend to City Council:

That Report CF-26-12 dated March 25, 2026, concerning the review of the Municipal Election Recount Policy and costs associated with the 2022 Ward 1 recount, be received for information.

3.0   Input From Other Sources

- Municipal Benchmarking: Ajax, Burlington, Clarington, Kawartha Lakes, Kingston, Markham, Mississauga, Newmarket, Oakville, Pickering, Toronto, Whitby and Windsor.

4.0   Analysis

4.1   Legislative Framework

The Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched. ("the Act") sets out various provisions for the conducting of a recount.

In accordance with the Act, the Clerk is mandated to perform a recount under circumstances of a tied vote. Specifically, a recount must be performed:

- When the votes for two or more candidates receive the same number of votes and cannot both or all be declared elected to the office;

- When the affirmative and negative votes on a by-law are equal; or

- When the vote for two or more answers to a question are equal.

Where a tied vote is not in place, the Act provides for the Council of a municipality to pass a resolution requiring a recount, or a recount may be directed by a judge of the Superior Court of Justice following an application by an elector, candidate or the Clerk.

Section 56(3) of the Act also permits municipalities and school boards to establish policies that require automatic recounts when election results fall within a threshold defined by the policy. Under this provision, any recount conducted in accordance with such a policy must be completed within 15 days following the Clerk's declaration of the official results.

Regardless of what prompts the recount, the Act requires that recounts be conducted using the same method of counting as the original election, unless ordered otherwise by a judge. The Act also prescribes timelines for commencement, notice, and certification of recount results.

4.2   Background

On October 16, 2017, City Council adopted the Municipal Election Recount Policy ("Policy") as outlined in Attachment 1 to this Report.

The rationale for the threshold contained in the Policy was that while tie votes and close votes do not occur frequently in Oshawa, it was believed that an established threshold to conduct a recount will bolster confidence in the City's election results.

The implementation of a recount policy under Section 56 of the Act does not restrict the authority of Council or a school board to order a recount under Section 57 of the Act (by resolution or Minister's order), nor does it affect an elector's right to apply to the Superior Court of Justice for a recount under Section 58.

The current policy provides that a recount will be required when the vote differential between the last candidate elected and the first candidate not elected is equal to or less than one quarter of one percent (0.25%), rounded up to the nearest whole number, of the total number of votes cast for the office. This threshold is intended to account for varying voter participation rates and to identify situations where the results are sufficiently close, where candidates and the public may reasonably question the accuracy of the count.

For example, in an election where 5,200 ballots were cast, a recount would be triggered if the difference between the last candidate elected and the next candidate was 13 votes or fewer. This is calculated by multiplying the total number of ballots cast by .0025. In this example, 5,200 x .0025 = 13.

4.3   Benchmarking

A review of comparator municipalities, as outlined in the chart below, found that they do not establish a defined vote differential or specific numerical threshold to automatically trigger a recount under a Recount Policy. Instead, these municipalities rely solely on the provisions of the Act which sets out the circumstances in which a recount may be conducted. Based on this review, Oshawa is among a small minority of municipalities that apply a fixed percentage threshold for an automatic recount.

The City of Windsor and Town of Oakville each have established recount procedures to address closely contested election results. Under their respective procedures, the Clerk must provide notice to Council by way of a Report of any close vote for an office on Municipal Council so that Council can determine if a recount shall be conducted. Within these procedures, a "close vote" is defined as a margin of one tenth of one percent (0.001) of the total votes cast, or a difference of a single vote between the first and second place candidates.

The City of Kawartha Lakes has recently adopted a Recount Policy that provides for an automatic recount in the event of a close vote. Under this policy, a recount may be requested if a candidate wins by less than 10 votes or 0.25% of total votes cast for that office, whichever is the lesser amount.

Municipality	Vote Differential (%) or Threshold	Recount Occurrence
Ajax	None	Recount provisions as per the Act
Burlington	None	Recount provisions as per the Act
Clarington	None	Recount provisions as per the Act
Kawartha Lakes	Difference of 10 votes or 0.25%, whichever is less	Recount conducted upon written request from second place candidate
Kingston	None	Recount provisions as per the Act
Markham	None	Recount provisions as per the Act
Mississauga	None	Recount provisions as per the Act
Newmarket	None	Recount provisions as per the Act
Oakville	0.001%	Margin of one tenth of one percent (0.001) of the total votes cast, or a difference of a single vote between the first and second place candidates
Pickering	None	Recount provisions as per the Act
Toronto	None	Recount provisions as per the Act
Whitby	None	Recount provisions as per the Act
Windsor	0.001%	Margin of one tenth of one percent (0.001) of the total votes cast, or a difference of a single vote between the first and second place candidates

4.4   2022 Municipal Election Recount for Ward 1

During the 2022 Municipal Election, a total of 2,402 ballots were cast for the Office of City Councillor Ward 1, with the following results:

- **Rosemary McConkey:** 1,101 votes
- **Theresa Anne Corless:** 1,093 votes
- **Ahmad Rashed Formuly:** 208 votes

Following the Election Day results, Theresa Corless finished in second place behind Rosemary McConkey by a margin of eight (8) votes.

Under the current Policy, an automatic recount is triggered when the margin of the win is equal to or less than 0.25% of the total votes cast, rounded up to the nearest whole number. Based on the total of 2,402 votes cast in Ward 1, a 0.25% differential equates to seven (7) votes. As the margin between the top two candidates was not within this threshold, the conditions for an automatic recount were not met.

Theresa Corless' legal counsel submitted a letter requesting a recount for the Office of City Councillor, Ward 1. Subsequently, on November 15, 2022, City Council passed a resolution under Section 56 of the Act, directing the City Clerk to conduct the recount for the Office of City Councillor, Ward 1.

The recount was conducted on Thursday, November 24, 2022, under the supervision of the City Clerk. The process included the tabulation of all ballots cast during the eleven (11) Advance Voting Days, the Vote by Mail ballots, and the ballots cast at the seven (7) polling stations and at City Hall on Voting Day.

In addition, the recount included the review of ballots that were rejected by vote tabulators on Voting Day. In a regular Voting Place, if a voter is present when a ballot is tabulated but the tabulator cannot read it, the voter is given the opportunity to fix or redo their ballot to ensure their vote is correctly cast. When a voter is not present when the ballot is tabulated, as is the case with ballots cast from Special Voting Places such as long-term care facilities, ballots that are unable to be read by the tabulator are not cast as the voter is not present to correct their ballot.

The City's Recount Procedures provided that any ballots that had been rejected on Voting Day by the tabulator would be attempted to be counted via the tabulator during the Recount. If the ballot was unreadable by the tabulator, it would be adjudicated by the City Clerk by reviewing each rejected ballot. If the voter's intent could be clearly determined, the ballot was shown to the candidates and their legal representatives, then remarked in a way that allowed it to be read by the vote tabulator.

Both Theresa Corless and Rosemary McConkey, along with their legal counsel and scrutineers were present throughout the recount and ballot review process. Following the ballot recount, seven (7) previously rejected ballots were adjudicated and remarked which were accepted and included in the final count, resulting in a revised total of 2,409 votes.

The final certified results determined a total of 2,409 votes were cast, with the results as follows:

- **Rosemary McConkey:** 1,107 votes
- **Theresa Anne Corless:** 1,094 votes
- **Ahmad Rashed Formuly:** 208 votes

The votes for Rosemary McConkey increased by six (6) while the votes for Theresa Anne Corless increased by one (1) vote. The result was that Theresa Anne Corless still finished in second place behind Rosemary McConkey by a margin of 13 votes instead of eight (8).

4.5   Breakdown of Costs of the Recount

The following is a breakdown of the costs associated with the recount for the Office of City Councillor Ward 1:

Recount Costs

Service	Cost
Retrieval & Delivery of Ballots from Off-site Storage	$172
Legal Fees	$24,474
Voting Equipment Supplies	$2,695
Coffee and Lunch for Election Workers	$340
HST	$3,566
Legislative Services staff time	$19,478
Total (Excluding In-kind Services)	$50,725
In-kind Services provided by Clerks and Deputy Clerks from other municipalities day of Recount	$6,000
Total Cost of Recount	**$56,725**

4.6   Reducing Spoiled Ballots with Internet Voting

During the 2022 Municipal Election, a small number of ballots were rejected by the vote tabulators. It was noted that the spoiled or rejected ballots originated from voting locations at long-term care facilities ("Special Voting Places"), where some voters may have experienced challenges marking their ballots correctly due to physical or other medical challenges. These ballots were delivered to City Hall at the close of the Special Voting Places to be put through the vote tabulator. As the voter was not present, any ballots that could not be read were rejected by the vote tabulator and not counted.

For the 2026 Municipal and School Board Elections, staff will facilitate voting at long-term care facilities through Internet Voting using tablets. This initiative will offer residents a more accessible and user-friendly voting option, minimize the risk of ballot errors, and support greater inclusivity and participation among voters with physical or other medical challenges, resulting in a reduction in the likelihood of spoiled or rejected ballots.

Internet voting systems provide built-in validation and error prevention features that guide voters through the process and ensure ballots are completed correctly before submission. Voters cannot overvote or submit a blank ballot without confirmation, and the platform prompts them to review their selections prior to finalizing their vote. This automated guidance effectively eliminates common marking errors that lead to spoiled ballots in paper-based elections.

Overall, by preventing voter error at the point of submission and ensuring every eligible ballot is properly recorded, Internet Voting enhances ballot accuracy, reduces administrative review requirements, and helps ensure that every valid vote is counted as intended.

4.7   Municipal Election Recount Policy Assessment

Section 56(3) of the Act provides municipalities with the discretionary authority to adopt a policy that outlines the specific circumstances in which the Clerk must conduct a recount. This means that while municipalities are permitted to establish their own recount policies, they are not required to do so under the Act. Research indicates that based on the municipalities that were used for benchmarking, none of them chose to implement a separate recount policy, instead relying solely on the provisions set out in the Act.

Under Sections 56, 57, or 58 of the Act, the Clerk is required to hold a recount in specific circumstances prescribed by the Act. These include situations where:

- Two or more candidates receive the same number of votes and cannot both or all be declared elected to the office (tied vote);

- With regard to a by-law on the ballot, if the votes for the affirmative and negative are equal;

- With regard to questions on the ballot, votes for the affirmative and the negative are equal;

- Oshawa City Council or the relevant board has adopted a resolution within thirty (30) days of the declaration of the results requiring a recount;

- The Minister has made an order within thirty (30) days of the declaration of the results requiring a recount pertaining to a question on the ballot submitted by the Minister; or

- A judge of the Superior Court of Justice has made an order requiring a recount.

Research found that recounts based on a threshold of a fixed percentage under a Recount Policy are not commonly used as vote differentials and do not adequately account for variations in voter turnout across different races. In turn, this causes inconsistency in the number of votes necessary to trigger a recount. This inconsistency can also impact the perception of electoral fairness. Without a percentage-based threshold, recounts would occur only under the provisions of the Act. This approach ensures that all candidates and races are treated equally.

Automatic recounts based on a fixed percentage increase the likelihood of a recount, which can have administrative and financial considerations for the municipality. Recounts are a detailed process that requires staff time, equipment, and legal oversight. Experience from the 2022 Municipal and School Board Election for the recount of the Office of the City Councillor Ward 1 demonstrated that even a single recount involves considerable coordination and operational resources.

5.0   Financial Implications

The total cost of the recount in 2022 was approximately $56,725 including in-kind services.

While there are no immediate financial implications associated with the recommendation contained in this Report, future financial implications will be dependent on election results and potential recounts that are required under the Act, the Policy or as may be directed.

6.0   Relationship to the Oshawa Strategic Plan

This report responds to the Oshawa Strategic Plan Priority Area, "Lead: Governance and Service Excellence" with the goal to provide transparent, efficient, and responsible fiscal stewardship.

Laura Davis, Manager, Legislative Services/Deputy City Clerk,
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Oshawa®

Title:	**Municipal Election Recount Policy**
Number:	GOV-17-01
Approved By:	City Council
Administered By:	Legislative Services
Effective Date:	October 16, 2017

1.   Policy Statement

The City of Oshawa recognizes that elections that are conducted freely, fairly and with integrity are fundamental to Canada's democratic society. The results of an election must instill confidence amongst candidates, electors and administrators that they accurately reflect the votes cast. Where questions exist to the accuracy of the results, a recount is one way in which all interested parties can be provided certainty that the results are an accurate reflection of the votes cast by Oshawa voters.

2.   Purpose

The purpose of this policy is to establish criteria that will require the completion of an automatic recount in accordance with Section 56(1.1) of the Municipal Elections Act.

3.   Source

Municipal Elections Act, 1996, S.O. 1996, c. 32

4.   Application

This policy only applies to an election conducted for the following:

- The Office of Mayor;
- The Office of Regional and City Councillor; and,
- The Office of City Councillor.

5.   Threshold

An automatic recount shall be conducted where the vote differential between the last available candidate(s) elected and the first candidate(s) not elected is equal to or less than one quarter of one percent (0. 25%) of the total number of votes cast for the office, rounded up to the closest whole number.

6.   Recount Procedures

The City Clerk shall prescribe in a procedure the process and timeframes to hold a recount required by this policy and shall ensure the procedures comply with all requirements set out in legislation.