

Request for Decision City Council





Type of Decision									
Meeting Date	January 27, 2005				Report Date	January 19, 2005			
Decision Requested	<input checked="" type="checkbox"/>	Yes		No	Priority	<input checked="" type="checkbox"/>	High		Low
	Direction Only				Type of Meeting	<input checked="" type="checkbox"/>	Open		Closed

Report Title
2003 Municipal Election - Recount Application

Policy Implication + Budget Impact
This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.
<p>Policy Implications: The <i>Municipal Elections Act, 1996</i> provides for automatic recounts only where there is a tied vote for an office. If Council orders a recount, it must be held in the same manner as the original vote, that is, by use of the vote tabulators. A copy of By-law 2003-105 outlining this requirement was provided to each Candidate and posted to the Election Web site.</p>
<input type="checkbox"/> Background Attached

Recommendation
<p>THAT a policy be adopted by Council dealing with future requests for recounts following Municipal Elections, to provide</p> <ol style="list-style-type: none"> 1. that all such recounts will be accommodated at the cost of the requester, with such cost to be refunded in the event of a changed election result (that is, the recount results in a change in the declared winner); and 2. that Council would retain its right to request a recount at Council's expense whenever Council deems it appropriate.
<input checked="" type="checkbox"/> Recommendation Continued

Recommended by the Department Head
 Caroline Hallsworth Executive Director Administrative Support Services

Recommended by the C.A.O.
 Mark Mieto Chief Administrative Officer

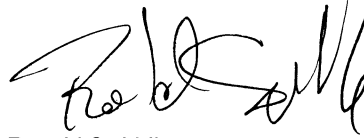
Date: January 19, 2005

Report Prepared By



Ronald Swiddle
Director Legal Services / City Solicitor

Division Review



Ronald Swiddle
Director Legal Services / City Solicitor

Executive Summary:

Following the November 2003 election, an application was made to court seeking a court-ordered manual recount of all six different election races in Ward 3. There was some concern raised that the counting of the ballots might not have been accurate. This report outlines the history of the application, its resolution, and the issues remaining.

It is the conclusion of this report that except in "razor-tight" decisions, recounts are a remedy whose time has passed. Recounts may have been far more important in an earlier day before legislative changes and technological advances altered the situation. Recent recounts rarely change the declared winners.

This report concludes by recommending that Council adopt a policy to deal with recount requests. This policy would allow a recount to proceed upon payment by the requester of the City's expected cost for the recount, which payment would be refunded in the event that the declared winner changes. Council itself would also retain the right to call (and pay) for a recount when appropriate.

This report is in four sections

- A. The 2003 Election and the Recount Application
- B. A Review of Issues Raised about the Correctness of the Ballot Counting
- C. Recounts and Technological and Legislative Change
- D. Recommended Procedure for the Future.

A. The 2003 Election and the Recount Application:

The last municipal election in Ontario occurred on Monday, November 10th, 2003. Greater Sudbury Council voted to use optical scan technology in this election.

Within North America, the most used technology for recording votes is optical scan technology. The machines used were rented from Election Systems & Software Ltd. (ES&S)

ES&S is a multi-national company that provides services in 47 states, many Canadian provinces, and several other countries around the globe, and has handled over 40,000 elections world-wide. In 2003, ES&S handled almost 5,000 elections, including many of the elections throughout Ontario.

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A total of 130 machines were used by the City for both the Advance Vote and on Voting Day, including four machines to act as spares if needed. On-site technical assistance from ES&S was also retained for the Advance Vote with additional technicians brought into the City by ES&S for election day.

In preparation for the election, exhaustive pre-election testing was done in Sudbury with the machines in place.

Final machine testing, known as "logic and accuracy" testing, was conducted at the Lionel E. Lalonde Centre by ES&S technicians under the supervision of KPMG staff. This testing took place over the period of one week and included the use of actual ballots.

This process was open to the public, the press and all candidates. It was advertised in all local newspapers and each candidate was mailed a notice of this testing, and was invited to attend to watch the testing. In addition, the Clerk arranged to have machines available that would display its workings. Unfortunately, no member of the media or the public attended. Of the 103 candidates registered to run in the election, only 3 attended. The candidate who subsequently sought the recount did not attend.

The election occurred on Monday, November 10th. The following day, Tuesday, November 11th was Remembrance Day, a municipal holiday, and Tom Davies Square was closed. The Candidate's Guide (a copy of which was provided to every Candidate), advised Candidates that copies of the complete election results "should be available no later than 12:00 o'clock noon on Wednesday, November 12, 2003."

A Council meeting was scheduled for Thursday, November 13th. Shortly prior to that Council meeting, the City Clerk received a request from Mr. Robert, a candidate in Ward 3, for a recount of the Ward 3 Councillor position. Mr. Robert had advised the Clerk the previous day that should he decide to request a recount, the Clerk would be advised no later than 12:00 o'clock noon on Thursday, November 13th. At that time the provisions of By-law 2003-15 concerning recounts were explained to Mr. Robert who advised the Clerk he had not familiarized himself with its content, even though a copy had been given to him earlier.

Although the Clerk could have delayed this matter to next meeting of Council, in the interest of speeding the matter forward, he went to the additional trouble of producing a report for Council's consideration that night. At that time, Council considered the request from Mr. Robert for this recount, and voted against it.

Following the receipt of the first letter from Mr. Robert, Mr. Robert later faxed additional correspondence to the Clerk received on the following day. In this fax Mr. Robert raised the matter of the number of "non-resident voters" shown in the statistical report that accompanied the Clerk's Declaration of Results.

A copy of the letter received from ES&S, dated November 18, 2004, explaining this printing error, and that the error had not affected candidate vote totals was forwarded to Mr. Robert at that time. (This item of non-resident votes is reviewed later in this report.)

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Four weeks later, on December 11th, 2004, the last possible date for such an action, Mr. Robert launched an application for a court order for a recount.

However, this was not the identical matter that had been presented to City Council. Mr. Robert was now seeking **manual** recounts for all votes cast in Ward 3 for the following **six** offices:

1. a recount of the Mayoral race;
2. a recount of the Ward 3 Councillor position;
3. a recount of the English Language Public School Board Trustee Offices for Area 3 Ward 3;
4. a recount of the English Language Separate School Board Trustee position for Zone 3 Ward 3;
5. a recount of the French Language Separate School Board Trustee position for Zone 6 Ward 3; and
6. a recount of the French Language Public School Board Trustee position for Area 7 Wards 1 - 6.

It has often been reported that Mr. Robert was only seeking a recount of the Councillor position, but he was actually seeking recounts of all offices. As well, he sought "a forensic audit of the election results for the City of Greater Sudbury"; an order to produce "all records relating to the 2003 Municipal Election", an Order from the Court to indemnify him for all of his costs, as well as other sundry matters.

The vote spread on these six matters he challenged can be outlined as follows:

A. Mayoral Race (13 Candidates):

	Candidate	Total Votes Received	Difference
1	Mayor COURTEMANCHE	19,152	
2	Paul MARLEAU	11,360	7,792

On the Mayoral race challenged by Mr. Robert, Mayor Courtemanche won the race with 19,152 votes, his next nearest competitor was Mr. Marleau with 11,360 votes, a difference of **7,792 votes**.

B. Ward 3, Councillor Race (6 Candidates):

	Candidate	Total Votes Received	Difference
1	Councillor DUPUIS	4,355	
2	Councillor RIVEST	3,098	1,257
3	Jean ROBERT	3,065	1,290

Mr. Robert was third, with a vote of 3,065, **33 votes** lower than that of the second successful candidate.

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C. English Language Public (ELP) - School Board Trustee Area 3 Ward 3
(2 Candidates)

	Candidate	Total Votes Received	Difference
1	Gary BASS	1,109	
2	Lori DeVULGT	946	163

On the ELP race challenged by Mr. Robert, Gary Bass won the race by **163 votes**.

D. English Language Separate (ELS) - School Board Trustee Zone 3 Ward 3
(2 Candidates)

	Candidate	Total Votes Received	Difference
1	Barry MacDONALD	1,274	
2	Craig CUNNINGHAM	998	276

On the ELS race challenged by Mr. Robert, Mr. MacDonald won the race by **276 votes**.

E. French Language Public (FLP) - School Board Trustee Area 7 Wards 1 to 6,
(10 Candidates, 6 to be elected)

	Candidates #6 & 7 only	Total Votes Received	Difference
6	Françoise C. MONETTE	886	
7	Francois BOUDREAU	867	19

On the FLP race challenged by Mr. Robert, Françoise C. Monette won the race by **19 votes**.

F. French Language Separate (FLS) - School Board Trustee Zone 6 Ward 3,
(3 Candidates, 2 to be elected)

	Candidates	Total Votes Received	Difference
1	Georges BOUDREAU	2,556	
2	Marcel LEGAULT	1,677	879
3	Derek DUPUIS	1,471	1,085

On the FLP race challenged by Mr. Robert, the second place candidate, Marcel Legault, won by **206 votes**.

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Mr. Robert's court application far exceeded that of a request for a simple recount of the votes between himself and the next winning candidate. He was now challenging six different counts, affecting approximately 40 different candidates.

The Mayoral race had a vote spread of almost 8,000 votes, and a recount in Ward 3 would not have changed the result.

It is important to note that Mr. Robert's request to Council for a recount of the Ward 3 Councillor position could perhaps have been accommodated for the approximate sum of \$20,000, which would have been paid by the City. His request to Court, however, for recounts of all six positions, as well as for forensic audits and other relief, would have cost considerably more. The forensic audit would be the most expensive item in this list.

It is not possible to estimate these costs in detail, but Mr. Robert's requests, if granted by the Court, could easily be expected to run between \$150-200,000.

It is *this* expenditure that the City was fighting in Court, not the smaller figure.

The City proceeded to defend the application with the position that these recounts were not appropriate. A detailed chronology of the events relating to the recount application from that point on is attached to this report. Some of the key points, however, can be summarized as follows:

The matter was originally set down to be heard in Court on January 9th, 2004. However, problems with Mr. Robert's documentation meant that it could not proceed at that time, and his corrected Affidavit was not in place until February 19th.

At that point, Mr. Robert indicated that further Affidavit material was also to be provided, which did not arrive until March 24th, 2004. The City provided its responding materials within one week thereafter, on April 1st, 2004.

Along the way, the City held a Motion to strike portions of his material relating to some of these recounts. At that point, Mr. Robert dropped the request for many of the recounts, leaving only the request for the recount for Ward Councillor.

The City's cross-examination of Mr. Robert on his Affidavit proceeded two weeks later, on April 13th. Mr. Robert's examination of Mr. Mowry ran two days, on May 7th and 18th, 2004.

The Court had ordered that Mr. Robert's solicitor had until June 4th to file the Factum and Record with the Court. This filing was not done. On June 16th, the City had prepared its documentation, and was in the process of serving it, even though it was not required to do so until after receipt of Mr. Robert's documentation, now two weeks late. On this same day, June 16th, the City received the Notice of Abandonment from Mr. Robert.

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The Cost Motion was scheduled for September 9th but was adjourned as the City was served with Notice that a new solicitor would be acting for Mr. Robert. It was finally heard on October 14th, and the Decision issued December 22nd, 2004.

B. A Review of Issues Raised about the Correctness of the Ballot Counting

Throughout the court application, staff remained convinced that Council adopted the right position in denying the recount request. No issues came forward at any time that would indicate there was reason to question the results. If any had, staff would have immediately brought the item forward to Council. It is important that the public have confidence in their election results.

Although Mr. Robert raised many different issues in justification of his case, there are nine main items, and this report will review each of them.

Mr. Robert had concerns about the following issues:

- 1) the 33 vote difference between Councillor Rivest and himself;
- 2) the difficulties he had in obtaining the election results;
- 3) voting machine malfunctions and the voting process;
- 4) the "discrepancy" with respect to the non-resident vote in Ward 3;
- 5) the KPMG LLP report;
- 6) the treatment of "spoiled ballots";
- 7) voting in Wards 7, 8 and 9;
- 8) proxy votes; and,
- 9) scrutineers' rights.

The City was required to respond fully to each of these concerns, and Mr. Robert received a full and complete answer to each in the City's responding materials. The following is a very brief description of the City's response to the above concerns.

1) The 33 vote difference between Mr. André Rivest and himself:

Ontario legislation no longer provides for automatic recounts in the event of a close race. An automatic recount is conducted only in the event of a tie between candidates.

2) The difficulties he had in obtaining the election results:

The Candidate's Guide provided to each of the candidates specifically provided that results would be posted on the election website as they were available and that paper copies of the results would be available by noon on November 12, 2003. On election night, the website showed 18 of 19 polls as having reported in Ward 3. Although the results for the 19th poll were received that night, the IT staff had already been sent home and the website was updated with the final poll on November 11, 2003 at 1:20 p.m. (Remembrance Day).

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When Mr. Robert was cross-examined on his affidavit he confirmed that he never checked the City's website, and that he did receive a paper copy of the results prior to noon on November 12th, 2003.

3) Voting machine malfunctions and the voting process:

The City's response on this aspect included a detailed description of the extensive procedures and measures taken by the Clerk and other City staff to ensure that the entire election process exceeded any requirements found in the applicable legislation. These included detailed procedures and manuals, comprehensive training for election officials, knowledgeable technical support staff from the voting machine supplier and the City on-site to deal with any problems, voting machine testing before and after the election, and voting machines with built-in safeguards, monitoring by KPMG, among others.

No voting machines malfunctioned in Ward 3 on voting day. After the close of polls, one machine in Ward 3 had difficulty transmitting its results to the computer system at Election Central. The machine was immediately taken to the Lionel Lalonde Centre where the results were transmitted successfully that evening. There was found to be no problem with the machine. Despite the fact that all telephone lines had been pre-tested and labelled by Bell technicians, the problem had been with the phonenumber.

4) "Discrepancy" for non-resident vote in Ward 3:

The voting machines used by the City allowed it to collect statistical information about voting in the City of Greater Sudbury which could be used for future elections and analysis. These statistics related to the total number of ballots cast and this number was further broken down into number of ballots cast in a number of other areas (for example: total number of English Language Separate ballots or total number of ballots cast in Ward 3). For safety purposes, these statistics were counted separately from the actual candidate votes.

Initially it appeared that these statistics contained an unusually high number of non-resident ballots in Ward 3. City staff immediately contacted the voting machine supplier to get to the root of this matter. It was immediately explained to the City that due to a missing computer code in the print-out of Ward 3, a column shift had occurred, which led to the discrepancy for the statistic of non-resident ballot count.

The error proved very simple to correct and verifications established that the discrepancy had absolutely no effect on the candidate vote totals. Mr. Robert was advised of this prior to commencing his court application.

Again, this statistical error had no effect on the election outcome.

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5) The KPMG LLP report:

KPMG LLP was retained by the City to monitor testing of voting machines and to perform its own testing of certain random voting machines. KPMG further reviewed the City's procedures and manuals in the months leading up to the election.

On election night after the close of polls, in addition to performing testing using test ballots to confirm that the voting machines were operating correctly, KPMG performed random testing with the actual ballots cast in one voting machine for each of the 6 Wards. In Ward 3, the randomly selected voting machine contained 1036 ballots of the 8234 total ballots cast in Ward 3. In other words, more than 12% of the ballots were recounted. A recount of these ballots by KPMG revealed that the vote count for the Ward 3 Councillor race was exactly the same as had been initially reported by the voting machine.

Again, it should be noted that this action was not a statutory requirement, but was a security measure put in place by the Clerk. This extra measure, interestingly enough, gave Mr. Robert part of the recount he was seeking, and confirmed the exact numbers originally given.

6) The treatment of "spoiled ballots":

In his Application, Mr. Robert asked that he be provided with the "spoiled ballots".

The old practice of reviewing spoiled ballots no longer applies to this method of voting as ballots are fed into the voting machine in the presence of the voter. If, for some reason, the ballot is rejected, the voter is given the opportunity to correct his ballot. If the voter wishes to correct his ballot he is given a new ballot and that new ballot is fed into the voting machine. The old ballot is retained apart from the ballots cast and never forms part of the vote totals. These ballots are of no consequence to any recount procedure.

7) Voting in Wards 7, 8 and 9:

Mr. Robert had concerns with voting in Wards 7, 8 and 9.

The City of Greater Sudbury is comprised of 6 Wards. Wards 7, 8 and 9 are nominal Wards only, created to allow residents in outlying areas (beyond the City's borders) to vote for the school board contests. Voters in Wards 7, 8 and 9 were not voting for the Mayoral or any of the Ward Councillor contests. The City confirmed to Mr. Robert that the voting conducted in those Wards had no effect whatsoever on the Ward 3 Councillor race.

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8) Proxy votes:

Mr. Robert had concerns with proxy votes and requested that these votes be made available for viewing. Mr. Robert relied upon the affidavit of an individual who stated that he wished to vote by proxy for his father who resides in a Senior's Residence. Mr. Robert did not provide any evidence establishing that the individual had executed the proper forms to vote by proxy for his father.

City staff reviewed its records and could not locate any evidence that the individual had executed any proxy forms. The individual further stated that, when he attended the Senior's Residence he was informed that his father had already voted and that an election official had provided assistance to his father and to those other residents who expressed an interest in voting.

It is fully in accordance with procedures for election officials to provide assistance when voters request it. The individual's father had the opportunity to vote, and did vote.

This issue has no bearing on the counting of votes.

9) Scrutineers' rights

Mr. Robert was concerned that some of his scrutineers were not permitted access to voting results election night.

With the advent of the voting machines, the rights of scrutineers have changed considerably when compared to manual voting methods. Specifically, the rights of scrutineers are listed on the back of the Appointment of Scrutineer form which was provided to candidates. The City confirmed to Mr. Robert that the rights of his scrutineers had not been infringed upon.

Once again, this issue had no effect on the counting of the votes.

Conclusions:

Recounts are not simply available for the asking. Applicants must prove there are sufficient grounds for a recount, based on concrete evidence, and not just mere concerns. The nine concerns raised by Mr. Robert do not raise any grounds for a recount. After having reviewed these items extremely thoroughly as part of the court proceedings, staff remains confident that the election results are fully accurate.

The citizens of Ward 3 can remain confident that their choices for Councillor have been respected, and that the rights of the voters remain protected, and are at the forefront of the electoral process.

The use of optical scan voting equipment met its goal of ensuring that those who chose to vote were assured that their votes counted. Unlike paper ballots, voters were not disenfranchised by over votes, incorrectly marked and spoiled ballots, or by third party interpretation of their intent. Staff remains convinced that Council correctly decided to use optical scan equipment, and that nothing has been raised to challenge that decision.

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The response received from nearly 10,000 voters to the election survey also support this decision.

On election day, 93.2% of all voters replied "yes" when asked "Did you find the ballot easy to use?". When asked "Did you trust the Vote Tabulators to record your ballot", 84.6% said "yes". This survey of election day voters is available in the City Clerk's Office, and covered many aspects of the voting process, and includes cross-tabulation by ward and by age groups.

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C. Recounts and Technological and Legislative Change:

In the past, there were many more municipal recounts than there are now. Moreover, these recounts often changed the results of who was elected. Again this happens less often with every passing year. There are two main reasons why recounts have fallen into disuse in Ontario, and why they are rarely successful.

Technological Change

The first reason is technological change. Voting machines of all types have become far more accurate. The technology involved and the computerization of many of the functions and checking mechanisms have enabled a level of accuracy never before obtained. Optical scan readers, in particular, offer far increased accuracy.

A complete review of alternative voting was provided to Council. Based on this report, Council determined that OSR technology would provide both increased accuracy in the vote count and meet voter needs.

Legislative Change

The second major reason for the decline in recounts is a legislative one. In the past, Ontario legislation was drafted in such a way as to give a certain leeway or discretion to those counting the ballots. This meant that different people, both behaving reasonably, could count the ballots and come to different results, because of the interpretation of certain of the ballots.

This is no longer the case. The legislation has changed to remove all such discretion.

Under the old legislation, a ballot would be counted "if the intention of the voter" could be ascertained. Thus, it did not matter if the voter put an "X" in a box beside a candidate's name, or did something else entirely. Voters have been known to underline names, circle them, add arrows and stars and other comments on their ballots.

Under the old legislation, a ballot marked in such a matter, if the intention of the voter was clear, would count as a valid ballot.

This meant, however, that there was considerable leeway in ascertaining the intention of the voter. If there were marks on more than one name, for example, or Xs and checkmarks to all the names, it wouldn't be clear what the intention of the voter was. Under such circumstances, a person counting ballots might interpret such ballots differently than someone else. Thus, on a recount, these sorts of ballots would be up for dispute, and could change the result dramatically.

Accordingly, there were a series of judicial decisions on these points, as to what ballots clearly show the intention of the voters and which do not. In the final result, the interpretation of this issue would be left up to a Judge on a recount, who would look at every individual ballot in dispute, and rule on each one.

All such leeway or interpretation is now gone.

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In Ontario, pursuant to regulations under the *Municipal Elections Act 1996*, a ballot shall be rejected if the vote is not marked in the space provided for marking the ballot.

This means that circling a candidate's name, adding arrows or stars or other indications no longer works. A mark must now be in the space provided, and if it is not, the ballot must be rejected.

There is no longer any provision for "interpretation" of voter's intentions. There is either a mark in the correct spot or there is not.

Since this change was made to the *Municipal Elections Act, 1996* the number of recounts has dropped tremendously. And where recounts have occurred, the results have been very similar to that originally provided.

Although there may have been a time when results might have changed on a recount, that time has largely passed.

A graphic demonstration of this can be seen by examining the recounts following the 2003 Municipal Elections in Ontario. There were 438 elections in 2003. Following these elections, there were only 15 recounts. Three of those 15 were for school board recounts.

In **all** 15 recounts, the recounts confirmed the election of the person originally named as victorious. In many of these recounts, the vote spread was very close. In Oakville only 12 votes separated the Mayor and her closest competitor, and this was confirmed in the recount.

Although not in Ontario, a recount recently occurred in the City of Whistler, B.C., where there was a single vote difference, using the same ES&S vote tabulators as Greater Sudbury). The outcome of the recount revealed no change in the winner initially reported by the vote tabulator.

Legislative changes and technological advances mean that recounts will be far less likely to change the results of an future elections.

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D. Recommended Procedure for the Future:

It remains the right of electors to ask the municipality to order a recount, where reasonable grounds exist. If Council feels that there are unusual circumstances or valid reasons for having a recount, the Council should make such an order accordingly, and pay the cost of the recount.

A new policy is recommended for Council's consideration, where no reasonable grounds exist, but an elector still wishes a recount.

If Council rejects the request, the person seeking a recount can proceed to Court and attempt to obtain a Court Order ordering the recount. This is expensive for all parties concerned, and can take several months of uncertainty for all parties. Indeed, in several of the recounts, the matters did not proceed until summer.

These delays and legal costs can be avoided if the person requesting the recount is willing to pay for it. In this case, an applicant could, with Council's approval, agree to pay the cost of the recount and Council would then order a recount. The recount would proceed immediately, without further legal action or delay.

If the recount confirms the original election, the applicant would pay the full cost of the recount to the City. If the results vary, however, and the election results declare a new winner, then the applicant would be refunded the cost of the recount by the City.

It is recommended that Council consider this as a policy issue for all future recount requests for future elections.

Adopting such a policy would not guarantee that an applicant does not take the City to Court to request a recount, or, as in this case, several different recounts. It would, however, give an applicant an opportunity to resolve the matter on a timely basis without dispute.

Council can, as an option, continue to deal with such requests for recount on a case-by-case basis. This means, however, that it will often be the case that one or more members of the Council making the decision could have a direct interest in the results of the recount. If the recommended policy is adopted, at a time when there are no pending recounts facing the City, it will be easier than dealing with a controversial recount at a controversial time.

If Council agrees with the proposed policy, a By-law to establish the policy in detail will be prepared and brought back to Council at its next meeting. As outlined above, however, it is to be expected that recounts will become rarer in the future.

Attachment

Chronological History of Recount Application

<u>DATE</u>	<u>SEQUENCE/FILE HISTORY</u>
November 10 th , 2004	City of Greater Sudbury Municipal Elections
November 11 th , 2004	Results certified by Returning Officer
November 12 th , 2004	Mr. Robert visits City Clerk and advises that if he is seeking a recount he will advise the Clerk no later than 12:00 p.m. on November 13 th , 2004
November 13 th , 2004	City Clerk receives letter from Mr. Robert after 3:00 p.m. on November 13 th , 2004. City Clerk prepares addendum to Council. Mr. Robert faxes second letter to City clerk in the late afternoon of November 13 th , 2004 which letter was sent too late to be brought to the attention of the Clerk before going to Council that evening. City Council considers Mr. Robert's request for a recount and denies the request.
November 14 th , 2004	Matters raised by Mr. Robert in his second letter reviewed by staff. Canadian Supplier of Election machines and technician contacted to further investigate this matter. Concerns of Mr. Robert addressed and error corrected. Confirmation to City that results of election not affected.
November 18 th , 2004	City advises Mr. Robert that Council denied his request for a recount and discrepancy raised by Mr. Robert is explained with attached letter from Election voting machine supplier
December 11, 2003	Application for Court ordered recount commenced by Mr. Robert.
December 17, 2003	City files its Notice of Appearance
January 5 th , 2004	City advises Mr. Robert of problems with his materials re: improper evidence
January 9 th , 2004	Application adjourned 2 weeks to file responding materials
January 13 th , 2004	Mr. Robert served with Motion to Strike improper evidence from his Affidavit
January 15 th , 2004	Mr. Robert serves Affidavit in response to City's Motion to Strike

January 23 rd , 2004	Mr. Robert Application adjourned to February 27 th , 2004 to be spoken to. City's Motion to Strike portions of Mr. Robert's Affidavit adjourned at his request to February 6, 2004. Preliminary issues concerning the motion raised and dealt with by the Court.
February 6 th , 2004	City agrees to Mr. Robert's further request for 2 week adjournment of City's Motion to Strike
February 19 th , 2004	Mr. Robert provides City with acceptable revised Affidavit material. Issue of costs of the Motion remains to be dealt with. Mr. Robert advises he wishes to file further additional Affidavits in support of his application. City's Motion to Strike results in Mr. Robert having deleted approximately 25% of his Affidavit.
February 25 th , 2004	Mr. Robert requests City's consent to amendment of the relief sought in his Application
February 27 th , 2004	Costs for City's Motion argued and Court awards costs to the City in the cause in the amount of \$1500 plus GST and disbursements of \$110. Main Application adjourned to April 2 nd , 2004 to be spoken to.
March 24 th , 2004	Mr. Robert serves 3 additional Affidavits on the City in support of his Application
March 31 st , 2004	City refuses to consent to Mr. Robert's proposed amendments to the relief sought by him in his Application as he is seeking broader relief than provided for in the <i>Municipal Elections Act</i>
April 1 st , 2004	Mr. Robert provided with the City's Responding Affidavits and materials
April 2 nd , 2004	Court sets dates for cross-examination on Affidavits. Hearing dates set for June 21 st and 22 nd , 2004. Court sets dates for filing Factums and Records
April 13 th , 2004	Cross-Examination of Mr. Robert and Mrs. Dalcourt
April 16 th , 2004	Notice provided to Media that copies of the City's responding materials are available. Some local media attend and review matters with City.
April 22 nd , 2004	City orders Transcripts of cross-examinations of Mr. Robert and Mrs. Dalcourt
May 7 th , 2004	Cross examination of Mr. Mowry commenced

May 13 th , 2004	Mr. Robert has not yet contacted City to set date for continuation of cross-examination of Mr. Mowry. City sends correspondence with available dates.
May 13 th , 2004	Mr. Robert has not yet served Notices to examine other deponents of affidavits on behalf of the City
May 17 th , 2004	Counsel for Mr. Robert advises that she is uncertain whether she wishes to cross-examine any other deponents of Affidavits for the City
May 18 th , 2004	Continuation of cross-examination of Mr. Mowry. Counsel for Mr. Robert advises that she wishes to cross-examine other deponents by telephone
May 25 th , 2004	City responds to undertakings given at cross-examination of Mr. Mowry
June 1 st 2004	City refuses to allow other deponents to be cross-examined by telephone, as this is not a permitted method of cross-examination pursuant to the Rules of Court, and American lawyer for Election voting machine supplier refuses to allow cross-examination of his employees contrary to the Rules of Court.
June 1 st , 2004	City responds to remaining undertakings given at cross-examination of Mr. Mowry
June 4 th , 2004	Mr. Robert fails to file Factum & Record with the Court as ordered by the Court in April
June 7 th , 2004	City sends correspondence to Mr. Robert requesting his Factum and Record
June 16 th , 2004	City serves Factum and has prepared Respondent's and Applicant's Record, as Counsel for Mr. Robert has not prepared her Applicant's Records. Counsel for Mr. Robert advised that matters would not proceed. Notice of Abandonment served at 3:55 on June 16 th , 2004
July 8 th , 2004	Mr. Robert's Counsel advises that file being transferred to another lawyer
July 13 th , 2004	Costs Motion scheduled for September 9 th , 2004
September 3 rd , 2004	City served with Notice of change of Solicitors. Costs Motion rescheduled to September 17 th , 2004 at request of new lawyer for Mr. Robert.
September 15 th , 2004	City receives submissions on costs of Mr. Robert

September 21 st , 2004	Costs Motion adjourned to October 14 th , 2004
October 14 th , 2004	Motion on costs held
December 22 nd , 2004	Decision on Costs Motion issues

Request for Decision City Council




Type of Decision									
Meeting Date	January 27, 2005				Report Date	January 18, 2005			
Decision Requested		Yes	<input checked="" type="checkbox"/>	No	Priority		High		Low
	Direction Only				Type of Meeting	<input checked="" type="checkbox"/>	Open		Closed

Report Title
Tourism Section Update to Council

Policy Implication + Budget Impact	
<input type="checkbox"/>	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.
None.	
<input type="checkbox"/>	Background Attached

Recommendation	
No recommendation.	
<input type="checkbox"/>	Recommendation Continued

Recommended by the Department Head
 Doug Nadorozni, General Manager, Growth & Development

Recommended by the C.A.O.
 Mark Mieto, Chief Administrative Officer

Report Prepared By



Ian Wood, Coordinator of Convention & Visitor Services

Division Review

Rob Skelly, Manager of Tourism & Cultural Industries

The Tourism Section, Economic Growth and Development Department, will provide an update on the section's activities, the status of tourism as an economic indicator, and the progress on the Tourism Development Plan.

The presentation will focus on three themes:

1. The success and expansion of the Sudbury Tourism Partnership since the inception of the City of Greater Sudbury.
2. The economic impacts of tourism in Sudbury including the latest statistical trends as tracked by the Ontario Ministry of Tourism
3. The variety of initiatives now underway and planned to take Sudbury to the next level in tourism.

Copies of the presentation and information will be distributed at the meeting.