

**REQUEST FOR A MANUAL RECOUNT
WARD 2 LOCAL COUNCILLOR
NOVEMBER 10, 2003 MUNICIPAL ELECTION**

Recommendation

The City Clerk and Returning Officer recommends that the letter dated November 27, 2003 from Mr. Nick Pinto be received and that a manual recount of the Ward 2 ballots for the November 10, 2003 Municipal Election not be ordered.

Purpose

To obtain Council direction on a request for a manual recount of the Ward 2 ballots.

Background - Analysis and Options

Mr. Nick Pinto, a Ward 2 candidate for Local Councillor in the November 10, 2003 Municipal Election, has submitted a letter requesting that Council order a manual recount of the Ward 2 ballots (Attachment #1). Mr. Pinto alleges that 18 percent of the information is missing and 2233 ballots are not accounted for. This is not the case. In Ward 2 there were a total of 12,682 ballots cast of which 2233 ballots were either under voted or over voted (spoiled). Further, Mr. Pinto believes there should be an audit to identify blank or spoiled ballots. Where machines are used to tabulate ballots, the Municipal Elections Act (the Act), does not require such an audit. However, the Optech IV C tabulating equipment utilized in the election to tabulate the votes does provide this information. In Ward 2 for the office of Local Councillor there were 87 ballots over voted and 2146 ballots under voted.

Mr. Pinto is requesting that Council order a manual recount. Council does not have the authority to order a manual recount. Only a Superior Court Judge has authority to order a manual recount. A person who has reasonable grounds for believing the election results are in doubt may apply to a Judge for a recount. If a judge orders a recount, the Act requires that the recount be in the same manner as the original count, which in Vaughan's case would be a machine count. Only after a machine recount has been conducted does a Judge have authority to order a manual recount if he or she believes at that point that the manner in which the original count was conducted caused or contributed to a doubtful result. The result of the Ward 2 Local Councillor race is not in doubt.

The period during which a recount can be ordered expires on December 12, 2003.

Conclusion

As Council does not have the authority to order a manual recount, Mr. Pinto's request for same should be denied.

Attachments

1. Copy of Letter

Report prepared by:

John D. Leach, City Clerk

Respectfully submitted,
John D. Leach
City Clerk

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NICK PINTO

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Nov. 27/2003

Mayor & Members of Council:

This letter is to serve as a formal request to order a manual recount of ballots cast for Local Councillor Ward 2, in the November 10/2003 municipal election.

This recount is being requested in order to provide a proper audit of said election. Under the current process the election could not have been deemed audited with 18 percent of the information missing. Although The Election Act does not specify the need to identify any and all blank or spoiled ballots, I feel that not doing so jeopardizes putting the democratic process itself into disrepute and irrelevance. In the particular case of Local Councillor Ward 2, where 2233 ballots are not accounted for, the results should therefore not be based on mere assumption of choice, but by the clear choice of citizens. The people's choice can only be determined by a proper examination and tabulation of the ballots they cast.

Council should do their due diligence to ensure the transparency of the process, and should also make provisions that this situation not be repeated in subsequent future elections. Furthermore, the entire process must be reviewed in order to eliminate the potential for abuse and misuse at the polling stations, as was the case during the past election.

I trust Council will make the right decision and order a manual recount in order to identify and qualify the 2233 unaccounted ballots.

Regards



Nick Pinto

cc
City Clerk
City Solicitor
The Hon. Gregory Sorbara M.P.P.
Frank Klees M.P.P.
Mario G. Racco M.P.P.

Via fax - original 

