

TO: CITY MANAGER 1993 JULY 05

FROM: CHIEF ELECTION OFFICER

SUBJECT: BILL 35, LOCAL ELECTIONS REFORM ACT, 1993

PURPOSE: The purpose of this report is to provide Council with information concerning changes to local government election legislation and request Council enact bylaws related to the conduct of the 1993 local government election.

RECOMMENDATIONS:

1. THAT Council authorize the Solicitor to prepare a bylaw to provide additional Advance Voting Opportunities on 1993 November 12, 17 and 18.
2. THAT Council authorize the Solicitor to prepare a bylaw to provide Special Voting Opportunities in the form of Mobile Polls and Voting Outside an Established Voting Division.
3. THAT Council authorize the Solicitor to prepare a bylaw adopting the Provincial Voters List as the basis for the City Voters List.
4. THAT Council authorize the Solicitor to prepare a bylaw providing for the determination of election results following a judicial recount which results in a tie vote to be done by lot.
5. THAT Mr. Chad Turpin be appointed Deputy Chief Election Officer for the 1993 Local Government Election.

REPORT

1.0 INTRODUCTION

The Minister of Municipal Affairs, Recreation and Culture recently introduced legislation which will amend procedures for conducting local government elections. The Legislation establishes statutory responsibilities for local Councils and Regional District Boards as well as discretionary powers which recognize and accommodate local needs and circumstances.

The following report outlines the changes, differentiates between the statutory and discretionary powers and seeks Council's guidance to determine which processes will be appropriate for Burnaby. The report also provides clarification with respect to the new language of elections which is substantially different from the terminology used in previous years.

2.0 TERMINOLOGY

Bill 35 presents a wide range of new election terminology. For Council's information Appendix A attached to this report outlines the terms used in past elections and the new language as contained in Bill 35.

3.0 STATUTORY RESPONSIBILITIES

All actions of Council under the elections legislation must be by bylaw with the exception of the resolution to appoint the Chief Election Officer and Deputy Chief Election Officer. Whereas in previous years the Returning Officer had the ability to appoint the Chief Deputy Returning Officer, that responsibility now rests with Council. As a result, Recommendation #5 above requests Council appoint Mr. Chad Turpin as the Deputy Chief Election Officer.

The Act requires at least two days of advance voting; one on the 10th day before general voting day and the other to be established by Council. Councils of municipalities over 100,000 population must also establish voting divisions and voters must vote in their voting divisions.

In previous years Council have enacted an Advance Poll Bylaw which established advance voting on the Friday of the week prior to the election and the Wednesday, Thursday and Friday prior to the general voting day.

Under Bill 35 we are required to provide an advance voting opportunity on November 10 and it is recommended that additional advance voting opportunities also be provided on Friday, November 12, Wednesday, November 17 and Thursday, November 18. These additional days have traditionally been the most heavily utilized of the advance voting days established in previous years. The advance voting opportunities are required to be open from 8:00 a.m. to 8:00 p.m. and are held in the main foyer of City Hall.

4.0 DISCRETIONARY POWERS

Bill 35 provides Council with the ability to adopt the Provincial Voters List as the basis for the City Voters List; dispense with advance voter registrations and have voting day registration only; establish additional general and special voting opportunities i.e. mobile polls and allowing individuals to vote outside

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their usual voting division; establish a system of mail ballots; authorize the use of voting machines; require the order of candidates' names on the ballot be determined by lot; establish neighborhood constituencies (wards); and provide that a tie vote after a judicial recount be determined by lot. All tie votes are automatically referred to a judicial recount and should Council not adopt a bylaw relative to a decision by lot, a runoff election is required to resolve the tie.

If Council wishes, the new legislation permits some discretionary powers to be conferred upon the Chief Election Officer, such as the authority to amend voting divisions and establish dates of advance voting opportunities.

With respect to the use of voting machines, if Council has an interest in pursuing the use of voting machines for the 1996 election, staff would appreciate receiving some direction to investigate this option. For Council's information, Vancouver, Richmond, Surrey, Delta and Langley City will be using voting machines for the 1993 election.

Earlier in the year Council agreed to use the Provincial Voters List in place of conducting a full enumeration. Adoption of the Provincial List means that any further enumeration/registration opportunities are no longer required, however we would continue to recommend use of our registration booths as they eliminate time consuming registrations on voting day and provide a convenient service to voters. It would now be appropriate to formally adopt the Provincial List by bylaw as required under Bill 35.

In addition, staff are recommending Council also authorize the preparation of bylaws to establish special voting opportunities in the form of mobile polls and allow us to continue with the practice of allowing individuals to vote in an alternate voting division. This allows seniors and others who in the past have always voted at a particular location, to continue to vote at the same place even though voting division boundaries may have changed over the years.

All election bylaws under Bill 35 must receive final adoption by September 15.

5.0 GENERAL AMENDMENTS

Differences between the former election legislation and Bill 35 encompass virtually all aspects of the election process. For Council's information the following are some general changes which impact on the election process, nominations and ballots:

1. Beginning with the local government election in 1996, Council will have the ability to enter into an agreement with School District No. 41 to share the costs of conducting an election on behalf of the School Board.

2. Voters are now classified as Resident Electors or Property Electors; corporations and tenants-in-occupation are no longer permitted to vote. Resident Electors must be 18 years of age or older, Canadian Citizens, residents of B. C. for six months and Burnaby for 30 days. Property Electors are not residents of Burnaby and receive only one vote, no matter how many pieces of property they own. In addition, where more than one individual owns a piece of property, they must nominate one person to vote on behalf of all the owners. Property Electors must also meet the same age, citizenship and B. C. residency requirements as Resident Electors.
3. The List of Electors now closes on September 28 instead of August 31. The Court of Revision has been eliminated. Voters may still register on Voting Day.
4. The nomination period now runs from October 05 to 15. Nominations may be mailed, hand delivered or faxed, but if faxed, originals must be delivered by October 22 (the 29th day before general voting). The last day to withdraw a nomination is October 22. Nominations may now include a statement regarding the candidate's endorsement by an elector organization and this affiliation may also be placed on the ballot.
5. Candidates must now appoint a financial agent, or act on their own behalf as a financial agent for the purpose of receiving campaign funds. The Act sets out the parameters for receiving financial contributions and establishes the procedures for reporting contributions.
6. Provision has been made to allow "curbside" voting to accommodate persons with physical disabilities.
7. Ballots may no longer contain an indication that a candidate holds or has held an elected office, a candidate's occupation or any indication of title, honour, degree or decoration received by the candidate.
8. Unless otherwise directed by Council, ballots will be prepared in alphabetical order. Common names or nicknames may also be used on the ballot. If Council wishes, a bylaw may be passed to draw the order of names on the ballot by lot.
9. Tie votes automatically go to a judicial recount. Following a judicial recount if a tie still exists, a runoff election may be held or Council may adopt a bylaw to determine the election result by lot. Although the chances of having a tie vote after a judicial recount may be slim, adopting a bylaw as outlined in Recommendation #4 of this report would be more economical and far less time consuming than holding a runoff election.

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10. Signs, flags, buttons or any election material which may be used to solicit votes is not permitted within 100 meters of a voting place. Candidates are now only permitted to be in a voting place to cast their ballots.

Bill 35 also sets out conflict of interest guidelines and now states in part ..."that a council member must not participate in the discussion of or vote on a question in respect of a matter in which the member has a direct or indirect pecuniary interest."

The foregoing is presented for Council's information.

Respectfully submitted,



D. R. Comis,
Chief Election Officer

cc. Director Administrative
and Community Services
City Solicitor
City Clerk

APPENDIX 'A'

Election Terminology

Prior to 1993

Advance Poll

Assistant Deputy Returning Officer

Scrutineer/Official Agent

Returning Officer

Chief Deputy Returning Officer

Poll Clerk

Election Day

Deputy Returning Officer

Mobile Poll

Poll Booth

Polling Divisions

Polling Station

Bill 35

Advance Voting Opportunity or
Required Advance Voting Opportunity
(November 10)

Alternate Presiding Election
Official

Candidate Representative

Chief Election Officer

Deputy Chief Election Officer

Election Official

General Voting Day

Presiding Election Official

Special Voting Opportunity

Voting Compartment

Voting Divisions

Voting Place