



REPORT TO COUNCIL

To: **Mayor and Councillors**

Subject **Mail Ballot Voting and Special Voting
Opportunities for Local Government Election**

File #: 4200.00

Doc #:

From: Kelly Kenney
Corporate Officer

Date: May 6, 2019

RECOMMENDATION:

THAT, prior to the 2022 City of Langley local government and school trustee elections, staff be directed to amend the Election and Assent Voting Procedures Bylaw to change the Special Voting Opportunity at the Langley Seniors Resources Society to an Additional Advance Voting Opportunity and determine the number of hours and day on which to hold the Additional Advance Voting Opportunity.

PURPOSE:

To report back to Council with information on Mail Ballot Voting and Special Voting Opportunity requirements and recommend next steps.

POLICY:

The Local Government Act prescribes the types of voting opportunities that may be made available to electors as follows:

“Voting opportunities for electors

104 An elector who meets the applicable qualifications may vote in an election at one of the following voting opportunities:

(a) on general voting day at a required general voting opportunity or at an additional general voting opportunity, if any;

- (b) at a required advance voting opportunity or at an additional advance voting opportunity, if any;
- (c) at a special voting opportunity, if any;
- (d) by mail ballot, if this is available for the election.”

The Local Government Act prescribes requirements for the provision of mail ballot voting and special voting opportunities as follows:

“Mail ballot voting

110 (1) Subject to this section and any regulations under section 168 [*election regulations*], a local government may, by bylaw, permit voting to be done by mail ballot and, in relation to this, may permit elector registration to be done in conjunction with this voting.

(2) For a municipality, the only electors who may be permitted to vote by mail ballot are

(a) persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity, and

(b) persons who expect to be absent from the municipality on general voting day and at the times of all advance voting opportunities.

(3) For a regional district, the only electors who may be permitted to vote by mail ballot are

(a) persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity,

(b) if, for this purpose, a bylaw under subsection (1) specifies an area on the basis that it is remote from the voting places at which persons who reside in the specified area are entitled to vote, persons who reside in that specified area, and

(c) persons who expect to be absent from the regional district on general voting day and at the times of all advance voting opportunities.

(4) A bylaw under subsection (1) may

(a) establish procedures for voting and registration that differ from those established under other provisions of this Part, and

(b) establish, or authorize the chief election officer to establish, time limits in relation to voting by mail ballot.

(5) The chief election officer must give notice of an opportunity to vote by mail ballot in any manner the chief election officer considers will give reasonable notice to the electors who will be entitled to vote by this means.

(6)The procedures for voting by mail ballot must require the chief election officer to keep sufficient records so that challenges of an elector's right to vote may be made in accordance with the intent of section 126 [*challenge of elector*].

(7)Mail ballot packages must contain the following:

- (a)the ballot or ballots to which an elector is entitled;
- (b)a secrecy envelope that has no identifying marks, in which the ballots are to be returned;
- (c)a certification envelope on which is printed the information referred to in subsection (8) for completion by the person voting, in which the secrecy envelope is to be placed;
- (d)an outer envelope on which is printed the address of the chief election officer at the local government offices and in which the envelopes under paragraphs (b) and (c) and, if applicable, the registration application under paragraph (e) are to be returned;
- (e)if permitted by the bylaw under subsection (1), an application for registration as an elector, to be completed if necessary and returned in the outer envelope;
- (f)instructions as to how to vote by mail ballot.

(8)The certification envelope must be printed

(a)with spaces in which the person voting is to record his or her full name and residential address, and

(b)with a statement to be signed by the person voting declaring that the person

(i)is entitled to be registered as an elector for the election,

(ii)is entitled to vote by mail ballot, and

(iii)has not previously voted in the election and will not afterwards vote again in the election.

(9)In order to be counted for an election, a mail ballot must be received by the chief election officer before the close of voting on general voting day and it is the obligation of the person applying to vote by mail ballot to ensure that the mail ballot is received by the chief election officer within this time limit.”

“Special voting opportunities

109 (1) In order to give electors who may otherwise be unable to vote an opportunity to do so, a local government may, by bylaw, establish one or more special voting opportunities under this section.

(2) A bylaw under subsection (1) may do one or more of the following for each special voting opportunity:

- (a) for the purpose referred to in subsection (1), establish restrictions on persons who may vote at the special voting opportunity;
- (b) establish procedures for voting and for conducting the voting proceedings that differ from those established under other provisions of this Part;
- (c) limit, or authorize the chief election officer to limit, the number of candidate representatives who may be present at the special voting opportunity;
- (d) establish, or authorize the chief election officer to establish, the date and voting hours when and the place where the special voting opportunity is to be conducted.”

“Requirements before elector may be given a ballot

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- (2) As applicable, the following additional requirements must be met in order for a person to obtain a ballot:
 - (a) at a special voting opportunity, the person must also sign a written declaration that he or she is entitled to vote at that time and stating the circumstances that entitle the person to vote;”

COMMENTS/ANALYSIS:

At its October 29, 2018 Regular Council meeting, Council passed the following resolution:

“THAT staff report back to Council with respect to amending the Election Procedure Bylaw to allow for mail ballot voting and modification of special voting opportunity requirements.”

As Council contemplates changes to the Election and Assent Voting Procedure Bylaw (the “Election Bylaw”), it may be useful to outline the purpose of the various types of voting opportunities:

Special Voting

Special voting opportunities may be held in any location – inside or outside a local government’s boundary – to provide eligible electors who may not otherwise be able to attend a voting place an opportunity to cast their ballots during a local election.

Special voting opportunities are generally held in hospitals, long-term care facilities or other locations where electors' mobility may be impaired. Only designated electors are eligible to vote at special voting opportunities and therefore must sign a written declaration before voting that he or she is entitled to vote at that time and stating the circumstances that entitle the person to vote (Attachment 1).

Local governments may set out the specific dates, times and locations where special voting will take place during an election in their election bylaws. The City of Langley Election Bylaw requires that special voting opportunities for the City of Langley be restricted to City residents of the Langley Lions Senior Citizens Housing Facility and Langley City residents who are members of the Langley Senior Resources Society.

Advance Voting

An advance voting opportunity must be held 10 days prior to general voting day. This required advance voting day allows eligible electors who may not otherwise be able to vote on general voting day to cast their ballots. Local governments with populations greater than 5,000 are required to hold at least two advance voting opportunities.

Local governments may set out in their election bylaws whether additional advance voting opportunities will be offered. The City of Langley Election Bylaw requires that in addition to the two required advance voting opportunities, two additional advance voting opportunities be offered. The bylaw does not stipulate where the advance voting opportunities must be held.

Mail Ballot Voting

Mail ballot voting provides those electors unable to attend a special, advance or general voting opportunity the ability to vote in a local election. Generally, mail ballot voting is intended to allow non-resident property electors, seasonal residents, electors in geographically remote locations, and electors whose mobility or health is compromised, an opportunity to cast their ballot in the election.

Local governments may provide for mail ballot voting in their election bylaws. The City of Langley has not, to date, provided mail ballot voting.

Curbside Voting

The Local Government Act requires local governments to provide what is commonly referred to as "curbside voting" in the event an elector cannot enter the voting place because of physical disability or impaired mobility:

"Persons unable to enter a voting place

132 (1) This section applies to electors who come to a voting place to vote but who are unable to enter the voting place because of physical disability or impaired mobility.

(2) An elector referred to in subsection (1) may request to vote at the nearest location to the voting place to which the elector has access.

(3) If a request is made, the presiding election official or another election official designated by the presiding election official must attend the elector at the nearest location to the voting place for the purpose of allowing the elector to meet the requirements under section 125 *[requirements before elector may be given a ballot]* to obtain a ballot.

(4) The election official must ensure that the elector's marked ballot is placed in the appropriate ballot box, taking whatever steps the official considers necessary to maintain the secrecy of the ballot."

Mail Ballot Voting Logistics

Council may find it useful to understand the time frame in which mail ballot voting can take place during an election. Using October 20, 2018 as the general voting day date and working backward, following are the key timeframes that affect mail ballot voting:

September 21, 4:00 pm – deadline for withdrawal of candidates

- Accordingly, ballots cannot be printed until after this date

September 24 – 28 – timeframe in which final list of candidate names is provided to the printer, ballots are printed in draft for proofing by the CEO, final proof provided for sign-off by the CEO, printing of ballots and delivery of ballots to the municipality takes place

October 1 – the earliest date by which mail ballots could be picked up or mailed to electors who requested them

- Where the elector wants the ballot mailed will determine how long it may take to get to the elector. Municipalities usually only pay for regular mail service; if an elector wants it sent any other way, they would have to make the arrangements and pay for it.

October 19 – deadline for City to receive mail ballots by mail

- Although the actual deadline for receipt of mail ballots is 8:00 pm on General Voting Day October 20th, because October 20 is a Saturday there is no postal delivery; therefore, the only way to deliver a mail ballot on October 20th would be for someone to hand deliver the mail ballot to the place where the CEO is on General Voting Day which is at the voting place or deliver their mail ballot to the reception desk of Timms Community Centre. Reception staff would be required to contact election staff at the voting place to advise that there was a mail ballot to be picked up. An election official would then go pick up the ballot and bring it to the polling place to be counted at the close of voting with other mail-in ballots.

So while people can register well in advance to receive a mail ballot, the earliest they can realistically expect to receive the mail ballot would be the first or second week of October (delivery date dependent on where the elector wants the ballot mailed and speed of Canada Post). It is then the elector's responsibility to fill in the ballot and process it in accordance with the required steps and get it back to the Chief Election Officer before the deadline of 8:00 pm October 20.

This limited time period has been recognized by municipalities as an issue and a resolution was endorsed by the UBCM in 2016 to request the province extend the election period to better facilitate administration of the mail ballot process. The resolution and the province's response are attached to this report as Attachment 2.

Further considerations

Under the Local Government Act, anyone who is not on the voters list must register to vote by filling in an application and providing two pieces of identification to prove both identity and residency. However, the Local Government Act permits municipalities to establish procedures for mail ballot voting that differ from the established procedures for regular voting. Accordingly, most municipalities have not required mail ballot voters who are not on the voters list to provide proof of identity or residency in order to vote. Electors voting by mail ballot have only been required to fill out a new elector registration form that is included in the mail ballot package and have their declaration statement, indicating they meet all the requirements to be registered as an elector, witnessed by another person. The reasons for this are:

1. It would be onerous for someone who is on vacation somewhere or residing in a care facility to get copies made of the required identification;
2. It is not advisable to put copies of personal identification in the mail due to the risk of identity theft.

In order to prevent voter fraud, many of the municipalities who currently provide mail ballot voting are changing their procedures and requiring in-person registration to apply to receive a mail ballot. As well, a list of those who have requested a mail ballot must be kept and those names must be crossed out on the voter books that are used at other voting opportunities to prevent the potential for double voting. It should also be noted that once an elector has been sent a mail ballot, they cannot change their mind and vote at a regular voting place. They must vote using their mail ballot which could be dropped off at a voting place if required.

Attached for reference as Attachment 3 are the findings of a poll conducted of surrounding municipalities as to whether they provide mail ballot voting and if so, information from their 2018 local government election as to number of mail ballots issued, number of mail ballots received by the deadline and number of mail ballots received after the deadline. Mail ballots received after the deadline cannot be counted.

In the City's 2018 election there were eight individuals who advised staff that they could not attend any of the advance voting opportunities (Oct 9, 10, 11 and 17) as they were going to be away during all of the dates.

In preparing this report, staff contacted the School District to seek their feedback on whether they supported implementing mail ballot voting for the next School Trustee Election which the City conducts for the School District. The School District indicated support in general for the implementation of mail ballot voting as long as processes are established to verify voter identity and make it clear who can and can't vote by mail ballot. It was also noted that if the City proceeds with implementing mail ballot voting, the School District's Election Bylaw may need to be updated.

History of Special Voting Opportunities in the City of Langley

The Election Procedure Bylaw No. 1942 adopted in 1993 first established Special Voting Opportunities at Langley Lodge and Evergreen Hall. In 2014, Election and Assent Voting Procedure Bylaw No 2942 replaced Bylaw 1942. Bylaw No. 2942 (Attachment 4) established Special Voting Opportunities for residents of the Langley Lions Senior Citizens Housing Facility and Langley City residents that are members of the Langley Senior Resources Society (LSRS).

There is no record as to why Langley Lodge and Evergreen Hall were originally chosen as locations for Special Voting; however, it can be surmised that it was determined that residents of these facilities may not be mobile enough to attend other voting opportunities.

Similarly, there is no record of the rationale used in determining not to continue providing a Special Voting Opportunity at the Langley Lodge. However, of note is

the fact that the new Election bylaw was adopted in 2014 and electors voting at Special Voting Opportunities had dropped significantly in the previous two elections.

Statistics on the number of electors who voted at Special Voting Opportunities are available commencing in 1993 as follows:

1993 – 171

1996 – 236

1999 – 98

2002 – 110

2005 – 105

2008 – 47

2011 – 37

2014 – 40

2018 – 46 (28 at Evergreen Hall, 16 at Langley Senior Resources Society)

As indicated previously, Special Voting Opportunities are not open to the general public. Currently the Special Voting Opportunities total 6 hours in length (3 hours at each location on the same day).

Should Council wish to change the Special Voting Opportunities, a bylaw amendment to the City's Election Bylaw would be required.

BUDGET IMPLICATIONS:

Mail Ballot Voting

Implementing Mail Ballot voting would increase election costs by approximately \$500 for supplies plus additional postage costs to mail out ballots and include return postage paid envelopes for mail ballots mailed within Canada. A considerable amount of staff time would be incurred to coordinate mail ballot voting.

Special Voting Opportunities

Eliminating Special Voting Opportunities would decrease election costs by approximately \$1300.

Replacing the two Special Voting Opportunities at Langley Lions Housing Society (Evergreen Hall) and Langley Senior Resources Centre with one additional Advance Voting Opportunity to be held at the Langley Senior Resources Centre only would decrease election costs by approximately \$900 (one less voting machine required) IF voting hours remained at 6 hours. If the Advance Voting Opportunity was to be longer than 6 hours in length, additional staffing costs would be incurred.

The two required advance voting opportunities are each 12 hours in length. The two additional advance voting opportunities are 7 and 8 hours in length.

Maintaining a Special Voting Opportunity at the Langley Lions Housing Society (Evergreen Hall) and having an additional Advance Voting Opportunity at the Langley Senior Resources Centre instead of a Special Voting Opportunity would increase election costs; with the amount being dependent on whether the opportunities were held on the same day and time and length of each voting opportunity. The Executive Director of the LSRS indicated that if the voting opportunity at the LSRS was to be longer than 3 hours, the City may need to pay a small facility rental fee as they would likely need to cancel some paid activities and have staff on for the extra time the voting opportunity is held.

ALTERNATIVES:

Option 1

THAT the report of the Corporate Officer dated May 6, 2019 be received for information only.

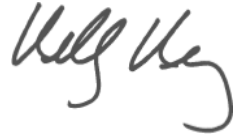
Option 2

THAT, prior to the 2022 City of Langley local government and school trustee elections, staff be directed to amend the Election and Assent Voting Procedures Bylaw to:

1. change the Special Voting Opportunity at the Langley Seniors Resources Society to an Additional Advance Voting Opportunity and determine the number of hours and day on which to hold the Additional Advance Voting Opportunity; and
2. provide for mail ballot voting in the 2022 City of Langley local government and school trustee elections.

AND THAT following the 2022 City of Langley local government and school trustee elections, staff evaluate the success of these new initiatives and provide a report to Council with the results of the evaluation and recommendation on whether to continue with these initiatives.

Respectfully Submitted,



Kelly Kenney
Corporate Officer

Attachments:

1. Declaration to Vote at a Special Voting Opportunity
2. UBCM Resolution re Time Available for Mail Ballot Process
3. Mail-in Ballot Survey
4. Current Election and Assent Voting Procedure Bylaw No. 2942

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

There are obviously benefits and challenges with respect to mail ballot voting as referenced earlier in this report. Based on this information, it appears the challenges outweigh the benefits (i.e. limited time period for mailing in the ballot, the requirement for in-person registration to apply to receive a mail ballot, the limited number of individuals who could not attend any of the advance voting opportunities in the City's 2018 election, and the considerable amount of staff time that would be incurred to coordinate mail ballot voting) with the provision of mail ballot voting. Therefore, it is not recommended that the City provide for mail ballot voting in the 2022 City of Langley local government and school trustee elections at this time.



Francis Cheung, P. Eng.
Chief Administrative Officer