



Item.....
Meeting.....2020 October 26

Council REPORT

TO: CITY MANAGER **DATE:** 2020 October 21

FROM: ACTING CITY CLERK

SUBJECT: CITY OF BURNABY BY-ELECTION

PURPOSE: To update Council on work done to date in preparing for the City's by-election.

RECOMMENDATION:

1. **THAT** Council receive the report for information.

REPORT

1.0 INTRODUCTION

At the 2020 July 06 Open Council meeting, Council received information on the by-election requirements and the status of COVID-19 by-election guidelines, and approved postponing the appointment of a Chief Election Officer following the discussion with the BC Ministry of Municipal Affairs and Housing (the "Ministry").

The purpose of this report is to update Council on the work done to date in preparing the City's by-election.

2.0 POLICY SECTION

Initiatives outlined in the report are aligned with the City of Burnaby's Corporate Strategic Plan by supporting the following goals and sub-goals of the Plan:

- A Safe Community
 - Emergency preparedness – Enhance plans, procedures and services so that we are better prepared to respond to emergencies and are able to maintain City services
- A Connected Community
 - Partnership – Work collaboratively with businesses, educational institutions, associations, other communities and governments

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- An Inclusive Community
 - Serve a diverse community – Ensure City services fully meet the needs of our dynamic community
- A Thriving Organization
 - Organizational culture – Ensure that our core values are reflected in our policies, programs and service delivery
 - Communication – Practice open and transparent communication among staff, Council and the community

3.0 BACKGROUND

The passing of Councillor Nick Volkow in 2020 June and Councillor Paul McDonnell in 2020 July have resulted in two vacancies on Burnaby City Council, requiring the City to hold a by-election. In 2020 June, staff reached out to the Ministry, and were advised that the Ministry was developing the COVID-19 by-election guidelines and that the City postpone appointment of the Chief Election Officer for the by-election.

During the past few months, the City has continued to liaise with the Ministry, as well as Elections BC, the Office of the Provincial Health Officer, Fraser Health Authority, and municipal counterparts, regarding by-elections during the COVID-19 pandemic.

4.0 COVID-19 ELECTION GUIDELINES

On 2020 July 29, the Provincial Government released its guidelines for conducting by-elections during the COVID-19 pandemic. A revised version of the guidelines was published on the Provincial Government's website on 2020 September 29. The guidelines include information on next steps for local governments, and outline considerations regarding Provincial legislation and election bylaws, by-election vote plans, and preparations of voting places.

In the meetings with staff, the Provincial Government has clarified that:

- elections are exempt from the requirement to record and track information for the purpose of contact tracing due to the limited period of time that voters spend in voting places;
- the gathering and events order (i.e. 50 person cap), and closure of banquet halls do not apply to elections; and
- election officials may administer voting across different care homes, due to limited and defined time spent at the care homes, provided that access to care homes is not restricted by an outbreak.

5.0 MUNICIPAL BY-ELECTIONS

Several BC municipalities, a regional district, and three school districts have recently held, or are scheduled to hold by-elections in the near future, as outlined in the table on the following page.

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Municipality/Regional District/School District	By-election Date
Arrow Lakes School District	2020 September 12
District Municipality of Fort St. James	2020 September 26
City of Greenwood	2020 October 10
City of Dawson Creek	2020 October 17
Town of Smithers	2020 October 17
Town of Lake Cowichan	2020 October 24
Village of Port Clements	2020 November 14
Village of Queen Charlotte	2020 November 21
Village of Sayward	2020 November 21
Cowichan Valley Regional District	2020 November 28
City of Rossland	2020 November 28
City of Grand Forks	2020 December 05
City of Victoria	2020 December 12
Comox Valley School District	2020 December 12
Stikine School District	2021 January 23

Due to the 2020 October 24 Provincial election, it is possible that additional municipalities, and regional and school districts will need to hold by-elections.

The City is currently the largest municipality planning a by-election. Recently held and upcoming by-elections in other municipalities are substantially smaller in scope. For example, in 2018 the City of Victoria had 68,297 registered voters compared to 149,363 registered voters in Burnaby. Greater number of registered voters requires provision of more voting opportunities, recruitment and training of additional election staff, and sourcing greater amount of equipment (i.e. election and safety supplies).

6.0 BURNABY BY-ELECTION TIMELINE

The appointment of the Chief Election Officer determines the by-election date. Per Section 54(5) of the *Local Government Act*, a by-election must be held within 80 days following the Chief Election Officer’s appointment.

In consideration of the COVID-19 pandemic, the absence of Provincial guidelines regarding the timing of a by-election, and the City’s limited information regarding the pandemic trends, the City has sought guidance from the Provincial Government regarding the by-election date. The Province has advised that it is not possible to predict “peaks” and “valleys” of the pandemic, and that the by-election dates are to be determined by each municipality. It is understood that larger municipalities will need more time to organize their by-elections.

Staff are considering the feasibility of holding a by-election in late spring of 2021. Safety of staff, voters, and candidates are a primary concern in determining the by-election date. The timeline is dependant on the completion of the safety plan, potential implementation of mail ballot voting, and availability of resources.

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7.0 VOTING PLACES

In the 2018 general local election, Burnaby residents had an opportunity to vote in any of the 34 voting places throughout the City. Voting places included two malls, five civic facilities, and 27 local schools.

Fewer voting places are provided in a by-election than in the general local election. The City of Vancouver provided 50 voting places in its 2017 by-election, compared to 112 voting places in its 2018 general election. In comparison, 11% of eligible voters cast a ballot in the 2017 by-election, versus 39% in the 2018 general election.

In determining the number of voting places for the by-election, staff have focused consideration on election participants' safety, and prompt processing of voters. Staff are planning to provide approximately 17 voting places in the by-election, with more details to be provided in a future report.

8.0 ADVANCE VOTING

According to Section 107(1) of the *Local Government Act*, municipalities are required to hold at least two advance voting opportunities: one on the 10th day before the General Election Day, and the other on another date established by bylaw. A municipality may, by bylaw, also establish or authorize the Chief Election Officer to establish additional advance voting opportunities. In 2018, the City provided three advance voting opportunities at six locations (18 voting opportunities in total).

Staff are planning to provide four advance voting opportunities at six locations in the by-election (24 voting opportunities in total). More information will be provided in a future report.

9.0 SPECIAL VOTING OPPORTUNITIES

The City, in accordance with Section 109(1) of the *Local Government Act*, may hold special voting opportunities (SVOs) but is not obligated to do so (unlike advance voting opportunities). SVOs may be held in any location to provide voters who may not otherwise be able to attend a voting place an opportunity to vote. In 2018, SVOs were provided to residents or patients at 22 facilities (21 care homes and the Burnaby General Hospital).

In its 2017 by-election, due to tight planning timelines, the City of Vancouver relied on mail ballot voting instead of in-person voting for residents of care homes and acute care hospitals. In the 2020 Provincial election, Elections BC has offered to administer on site voting at the care homes, or to deliver mail-in ballots. For care homes that are locked-down as a result of an outbreak, Elections BC has offered to train care home staff to administer voting, or provide assisted telephone voting.

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The Provincial Government's COVID-19 by-election guidelines recommend the following measures be considered in relation to SVOs:

- limiting the number of candidate representatives to one, and outlining precautions they must take for the safety of voters;
- checking with SVO locations regarding any required safety protocols; and
- if available, suggesting mail ballot voting to voters who are usually served in SVOs.

Staff will examine advisability and feasibility of holding SVOs, and provide recommendations to Council in a future report.

10.0 MAIL BALLOT VOTING

Section 110(1) of the *Local Government Act* authorizes the City, by bylaw, to permit mail ballot voting for voters who:

- have a physical disability, illness or injury that affects their ability to vote at another voting opportunity; or
- expect to be absent from the municipality on General Election Day and during all advance voting opportunities.

While mail ballot voting provides additional voting opportunities, there are a few challenges to consider. Challenges include tight legislated timelines for printing of mail-in ballots, short period for ballots to be delivered to applicants and returned to the Election Office, legislated use of multiple envelopes and associated additional costs, and a labour intensive process, which requires dedicated staff resources.

In response to the COVID-19 pandemic, Elections BC has expanded the use of mail ballot voting for the 2020 Provincial election to allow all eligible voters to request a mail-in ballot. Furthermore, the Minister of Municipal Affairs and Housing has issued several Ministerial Orders to allow several municipalities to permit mail ballot voting in their by-elections without the above-referenced restrictions.

Approximately 70% of the Lower Mainland municipalities, including Delta, Richmond, Surrey, and Vancouver, currently permit mail ballot voting. Historically, a small percentage of voters have voted using mail ballots due to the restrictions under Section 110(1) of the *Local Government Act*. In Vancouver's 2017 by-election and 2018 general election, less than 1% of votes were cast through mail ballots. Expansion of mail ballot voting during the pandemic has resulted in greater number of voters using this voting method during the current Provincial election. As of 2020 October 19, Elections BC has issued 724,279 mail ballot packages compared to 6,517 packages issued in the 2017 Provincial election. In Burnaby, more than 32,171 residents (representing 20% of registered voters) have requested mail-in ballots for the current Provincial election.

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The City does not currently permit mail ballot voting. In the 2018 election, staff received approximately 50 requests for this voting method. A preliminary review undertaken with respect to including mail ballot voting in the City's by-election has identified the following requirements:

- co-ordination with the Ministry regarding changes to mail ballot voting as a result of the COVID-19 pandemic;
- development of procedures and timeline for accepting applications, providing and processing mail-in ballots;
- establishment of a bylaw authorizing and implementing mail ballot voting; and
- dedicated technical, financial and human resources.

Mail ballot procedures and materials in other Lower Mainland municipalities typically contain:

- an application form (paper or online), which includes space to collect voter's personal information, confirm that a voter meets the eligibility criteria, and identify mail ballot delivery method (i.e. in person pick-up or mail delivery);
- instructions for election officials regarding:
 - the application process and forms for registered, non-registered, and non-resident property electors;
 - timelines for mail ballot package applications and their return;
 - tracking of applications, and mailed and returned packages;
 - preparing mail ballot packages (include a ballot, and secrecy, certification, return and original mailing envelopes);
 - issuing replacement ballots;
 - receiving and processing returned packages (i.e. verification process, legislated timelines for opening different envelopes, and storage of received packages); and
 - closing procedures (i.e. processing of ballots through a vote tabulator in a pre-determined location that allows for scrutineers, completing required forms, storing processed ballots, and reporting results); and
- step by step instructions for voters (i.e. how to fill out a ballot and assemble the return package, deadlines, and election office contact information).

Subject to Council's concurrence, staff can undertake additional investigation to determine the effort and resources required to implement mail ballot voting for the upcoming by-election, and report back in a future report.

11.0 BY-ELECTION SAFETY PLAN

The City has recruited an occupational health and safety consultant to develop the City's by-election safety plan. The plan is informed by directives and guidelines provided by the Office of the Provincial Health Officer, WorkSafeBC, the Ministry, Elections BC, and the City's COVID-19 General Safety Plan. It outlines risk assessments and controls for the City's election office and voting places. In order to fulfill the plan's proposed guidelines, additional election officials will be recruited to oversee implementation of health and safety measures at all voting places.

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A final copy of the plan will be shared with the Fraser Health Authority, presented to Council in a future report, and posted in each voting place.

12.0 ELECTION BYLAWS

The City has several bylaws for administering elections:

- Advance Voting Opportunities Bylaw 2018;
- Special Voting Opportunities Bylaw 2018;
- Automated Vote Counting System Bylaw;
- Access to Election Filing Documents Bylaw 2013; and
- Provincial Voters List Adoption Bylaw 1993.

The Advance Voting Opportunities and Special Voting Opportunities bylaws are prepared specifically for each election, whereas the other bylaws contain provisions generally applying to all local elections. Per the *Local Government Act*, bylaws and bylaw amendments pertaining to election matters must be adopted at least 88 days prior to a by-election. Since a by-election date must be established within 80 days of the appointment of the Chief Election Officer, the bylaws and amendments relevant to the City's upcoming by-election will need to be in place prior the appointment being made.

Staff will provide a report on proposed bylaws and/or bylaw amendments at a future Council meeting.

13.0 MINISTERIAL ORDERS

The Minister of Municipal Affairs and Housing has issued several Ministerial Orders for other municipalities to allow special provisions for by-elections. Provisions include the previously noted expansion of mail ballot voting, and allowing voters to make oral declarations that they meet the voting eligibility criteria. In the latter case, election officials are responsible to record that the voter has made an oral declaration. Further details on potential Ministerial Order requests for the City's by-election will be presented in a future Council report.

14.0 COMMUNICATION PLAN

For the 2018 election, staff developed a comprehensive five-phase communication plan which provided timely information to Council, staff, voters and candidates before, during, and after General Election Day. The plan included:

- City's communication assets (i.e. website, InfoBurnaby and eNews);
- print materials (i.e. bookmarks, voter guides, frequently asked questions pamphlets in multiple languages, and stickers);
- legislated advertisements (i.e. advance registration, voters list, voting opportunities, and nomination period);
- banners, window decals, digital advertising and electronic signs at voting locations across the City;
- social media campaign (i.e. Facebook, Twitter, Instagram, and YouTube);

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- community outreach (i.e. Willingdon Linear Park Opening and the Blues and Roots Festival); and
- Youth at the Booth initiative and CIVIX Program.

Staff are creating a robust communication plan to raise awareness about the by-election, including measures being taken to ensure the safety of staff, voters and candidates.

15.0 NEXT STEPS

Following the approval of this report, the next steps are:

1. A report will be submitted at a Council meeting in 2020 November to provide an update on the proposed election bylaw changes for adoption by Council.
2. A report to Council to advise on the advisability and feasibility of mail ballot voting will be brought forward in 2021 January.
3. A report to Council recommending the appointment of Chief Election Officer, Deputy Chief Election Officer, and establishing the by-election date will be brought forward in 2021 February.

16.0 CONCLUSION

Staff continue to collaborate with provincial and municipal counterparts regarding by-election planning. Additional information regarding the City's by-election planning will be presented to Council at future meetings. It is recommended that Council receive this report for information. Subject to Council's direction, staff can undertake additional investigation on the mail ballot voting and report back to Council.


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ACTING CITY CLERK

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Copied to: Director Corporate Services
Director Finance
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