

The following information was provided by Joshua Craig, CGA, Financial Analyst, Local Government Support Ministry of Community, Sport and Cultural Development

It is from the new Improvement District Manual and is suggested to accompany Letters Patent information so that there is not confusion on matters.

Voter Eligibility

Persons entitled to vote at an election must be:

- a Canadian citizen;
- at least eighteen years of age;
- an owner of land in the improvement district; and
- a resident of the province for the previous six months, or legal representative of an owner of land in the improvement district who has died, become insolvent or insane.

A list of all property owners qualified to vote in the improvement district should be prepared for the election. This voters list may be based on the district's assessment roll, the provincial assessment roll, or other sources of information.

In some cases, the Letters Patent for the improvement district may contain contrary provisions about voter eligibility. Some Letters Patent contain provisions restricting eligibility to persons who are 21 years of age or who are British subjects. These references were changed by Cabinet Orders passed in 1985 and 1987 so they no longer apply.

One vote is also allowed for each board or corporation that owns land within the improvement district. The board or corporation must designate one person to act as an authorized agent to vote on its behalf. This should be done in writing so the returning officer can verify their eligibility when voting.

If more than one person is registered on title as a landowner, each one can vote as long as they also meet the other qualifications. However, no person can have two votes unless they meet the qualifications to be an elector and are also an agent authorized to vote on behalf of a board or corporation.

Voting Procedures

One of the underlying principles of a democratic society is the right to choose community representatives in an open, fair and honest process. The only election provisions that are contained in legislation are the eligibility requirements to vote, notice requirements, the timeframe when the election is to be held, the place where the election is to be held (the annual general meeting) and the method for challenging an election. The board of trustees has discretion to decide all other election procedures.

Improvement districts that do not adopt election procedures that can be used for each election increase the risk that the inconsistent procedures will be used from one election to another and the possibility of election improprieties. Therefore, it is strongly recommended that every improvement district adopt basic election procedures that cover the following issues:

Officer Presiding at Elections

The board must appoint a person to act as a returning officer who is not a trustee, a candidate, or a close relative of a candidate. A list of duties and responsibilities for the position should be established as well as the amount of any remuneration that is paid for their services if it they are not an improvement district employee who is already assigned this responsibility in their contract with the improvement district. Where a large voter turnout is expected, provision may also be made for a deputy returning officer and/or poll clerks.

Nominations

Procedures should be established for whether the nomination must be given in writing and when the nomination period closes. There are no requirements that nominations must be supported by an eligible elector. There is also no requirement that the person who is being nominated must be present at the time of the election, but it would be prudent to have evidence that the nominee has accepted their nomination. The returning officer must be provided with information to determine whether a candidate meets the eligibility requirements.

Scrutineers

Scrutineers observe the election process to ensure that proper process is followed. Usually a candidate appoints one person to be their scrutineer. The person appointed must not be a trustee or a candidate. The scrutineer can be present while voting is occurring and at the final ballot count but they cannot participate in or interfere with the election procedures.

Voters List

A list of electors is not required but it may speed the voting process. It also ensures that the number of ballots cast in an election equals the number of electors who were given a ballot. The list may also serve as evidence of who voted if the results of the election were to be challenged. Since it is difficult to produce a completely accurate voters list, landowners should have the opportunity to be added to the list of electors when they appear at the voting place.

The list of electors can be based on the assessment roll, billing records, or another source of information. If there is any question as to whether a person is eligible to be added to the voters list, the returning officer can ask that a person complete a solemn declaration that attests to their eligibility. A sample of a solemn declaration is in the Appendices.

Election procedures should outline whether electors are required to sign the voters list. Since the list contains personal information such as names and addresses, a copy should not be provided to individuals.

In the case of municipalities and regional districts, the legislation provides that one copy of the list of electors can be made available to each candidate. The candidates must sign a statement that they will not inspect the document or use the information in it except for the purposes of the election. If they use it for other reasons, the penalties include fines, imprisonment and a prohibition from voting or holding an elected local government office for up to six years.

There are no similar penalties for improvement district elections. Therefore, if an improvement district adopted a policy in favour of providing candidates with a list of electors, there are no legislated penalties if a candidate uses the list of electors inappropriately. Therefore, it may be advisable for improvement districts to adopt election procedures prohibiting anyone from having a voters list other than the returning officer. However, the list should be available for viewing by the public so that they can advise the returning officer if they are aware of a person who has left the community or who has died.

If an improvement district chooses not to prepare a voters list prior to an election, an alternative is to use a poll book. The returning officer or election staff record the names and addresses of eligible electors in the poll book when they request a ballot provided that they produce evidence of their eligibility.

Voting

Election procedures should require that voting be conducted using a secret ballot. Ballots are the critical evidence of the election results and should be protected from potential mishandling or tampering by placing them in a sealed ballot box. Election procedures adopted by the board should cover such things as the form of the ballot, how it must be marked, how and when they are to be counted and how they are to be kept safe until the statutory period for challenging elections (two weeks) has passed.

It should be noted that only persons attending the election, and meeting the eligibility requirements, are entitled to vote. Persons not attending the election in person cannot vote by proxy or by mail ballot.

Elections for Vacancies with Different Terms of Office

Where a trustee position becomes vacant before the end of the term, an election is required to fill the vacancy in a by-election. If the vacancy occurs less than two months before the regular election, it could create a situation where there will be an election for two trustee positions at the annual general meeting with differing terms. Provision should be made in the election procedures for determining the process that will be followed in this circumstance.

It is recommended that a separate election be held for each trustee position. In other words, an election is first held for the position with the longest term. After the vote is decided another election is held for the position with the shorter term.