



provision of any other bylaw, Council may, for the City of Victoria by-election, permit the elector, as directed by the election official responsible, to make an oral declaration that the elector is entitled to vote in the by-election when obtaining a ballot for voting, in which case the election official responsible must make a record that the elector made an oral declaration.

- 4) As an exception to section 109 (1) of the Act, and despite paragraph 9 (1) of the “City of Victoria Election Procedure Bylaw No. 02-013” as amended, or an applicable provision of any other bylaw, Council may, for the City of Victoria by-election, permit the City of Victoria’s Chief Election Officer to establish special voting opportunities or to determine that no special voting opportunities will be held at their sole discretion.

That the motion be forwarded to the daytime Council meeting of November 5<sup>th</sup> for ratification.

## **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council’s consent, as required by the Ministry of Municipal Affairs and Housing for the Ministerial Order authorizing changes to the local election process to conduct the by-election during the pandemic.

On October 1, 2020 Council appointed a Chief and Deputy Election Officers, which started the election process in motion. (The Chief Election Officer (CEO) established general voting day as December 12, 2020). Council also gave consent to the CEO to seek a Ministerial Order for mail ballot voting for any interested elector as well as other pandemic related process modifications that may be required.

A formal request for the Ministerial Order was made October 9, 2020 and the Order was approved by the Deputy Minister on October 29, 2020. It is attached as Appendix A. The Order gives authority, subject to Council approval for:

- Mail Ballot voting for any elector
- Use of a secrecy sleeve instead of an envelope for mail ballots
- CEO to establish time limits for voting by mail (to provide more time) for ballots to be issued and received)
- Provide opportunities for processing mail ballots before the close of general voting
- Not using a secrecy sleeve in the voting place
- Oral voter declarations
- Sole discretion to the CEO for special voting opportunities, (avoiding sending teams to care homes)

These requests made for the Order are designed to reduce touch points, speed line-ups, and expedite the process more quickly in anticipation of significant mail ballot uptake as was experienced in the provincial election.

A requirement for all such Orders, because they alter local government bylaws or legislation, is that the Council express their approval/consent for the Chief Election Officer to implement them.

## **PURPOSE**

The purpose of this report is to seek Council’s authorization to implement the authorities established by Ministerial Order from the Minister of Municipal Affairs and Housing for the City’s December 12, 2020 By-election.

## BACKGROUND

On October 1, 2020, Council passed the following motion:

### That Council:

1. **Appoint Chris Coates as Chief Election Officer.**
2. **Appoint Sonia Santarossa, Christine Havelka and Monika Fedyczkowska as Deputy Chief Election Officers.**
3. **Authorize the Chief Election Officer to send a formal request to the Ministry of Municipal Affairs for a Ministerial Order to facilitate a by-election during the pandemic including legislative changes to respond to enhanced mail ballot voting, reduced touch points and other pandemic related matters that may be required.**
4. **Approve a budget addition of up to \$350,000 from the Financial Stability Reserve for the by-election.**
5. **Forward the by-election motions to the October 1, daytime Council meeting for ratification.**

On October 9, 2020, the Chief Election Officer made a formal request for the Ministerial Order which was approved October 29, 2020 and is attached as Appendix A.

## ISSUES & ANALYSIS

The specific provisions of the Ministerial Order are detailed below, and below each provision is a description of the process that would be followed under this authority:

- 1) *As an exception to section 110 of the Act, and despite paragraphs 14, 15, 16 and 17 of the “City of Victoria Election Procedure Bylaw No. 02-013” as amended, or an applicable provision of any other bylaw, Council may, for mail ballot voting in the City of Victoria by-election:*
  - a. *permit voting by all eligible electors under the Act to be done by mail ballot and, in relation to this, may permit elector registration to be done in conjunction with this voting;*

There was a significant uptake in the Provincial election for mail ballots. Currently the legislation establishes that mail ballots are only an option for persons who have a physical disability, illness or injury that does not permit them to vote at a voting opportunity or who will be absent for all voting opportunities (both advance voting days and general voting day). Mail ballot voting is a good alternative for people who are not comfortable attending a voting place during the pandemic. Staff estimate several thousand mail ballot votes will result.

- b. *permit a secrecy sleeve to be used instead of a secrecy envelope in accordance with this Order and if a secrecy sleeve is permitted any requirement under the Act and the “City of Victoria Election Procedure Bylaw No. 02-13” as amended pertaining to a secrecy envelope must be read as pertaining to a secrecy sleeve for the purposes of this Order;*

When an elector receives a mail ballot the Election Procedures and Local Government Act Bylaw require it to be sealed in three envelopes. First in a secrecy envelope, then in a certification

envelope and lastly in an outer envelope to preserve the ballot and the secrecy of the voter during the counting process. The Order allows for the first envelope which the ballot is typically sealed in to be replaced with a secrecy sleeve to be placed into a ballot box before being fed into the electronic voting tabulator. This will still preserve the secrecy of the ballot but will save time and cost to the City in anticipation of the significant uptake in mail ballots. Secrecy of the ballot will not be compromised with this alteration.

- c. permit the City of Victoria's Chief Election Officer to establish time limits in relation to voting by mail ballot at their sole discretion; and

The City's Election Procedures Bylaw establishes the time that mail ballot distribution can commence. In response to the anticipated uptake, expanding the distribution window is helpful to ensure that the ballots can reach more people sooner. The current provisions only permit mail ballot applications to be received beginning 14 days before the first day of advance voting and ending two days before general voting day. Mail ballots are currently only permitted to be distributed on the first day of advanced voting and two days before general voting day. This would mean that mail ballots would only be made available beginning December 1 to December 10. The authority granted in the Order would result in electors being able to request the ballots much sooner to get that process started and subsequently request them right up until general voting day, such that they could be delivered by hand until the close of general voting on December 12th. With these expanded provisions, mail ballots could be made available by November 23 at the earliest.

- d. permit the City of Victoria's Chief Election Officer to establish procedures for voting, processing and securing mail ballots at their sole discretion including, but not limited to, establishing times for opening certification envelopes, placing mail ballots in vote tabulating machine, and securing the memory card of the vote tabulating machine.

The current Bylaw provisions establish that mail ballots can only be opened and processed after the close of voting on general voting day. The procedures staff will develop involve establishing days and times where mail ballots can be opened and processed with candidate representatives present. This will help manage the length of time to conclude the count and create a less distracted opportunity for the mail ballot counting process to occur. In 2018 it occurred after the close of voting and the 197 mail ballots processed slowed the final count down as there was one machine and one set of candidate representatives present during that time. With the pandemic this becomes even more significant and easier to manage multiple candidate representatives to ensure that the count proceeds transparently.

- 2) Despite paragraphs 11 (1), (3)(a)(ii) and (b), (4) (c) of the "City of Victoria Election Procedure Bylaw No. 02-013" as amended, or an applicable provision of any other bylaw, Council may, for the City of Victoria by-election, permit advance voting opportunities under sections 106 and 107 of the Act and general voting under sections 105 and 106 to be conducted without a secrecy sleeve.

Secrecy sleeves at voting places are used to conceal the votes cast on the ballot before and while it is being placed in the voting machine. They are also touch points. In past elections the City used two sided ballots to accommodate the multiple races and candidates. For this by-election, it is anticipated that the ballots will only be one-sided given that there is only one race.

- 3) As an exception to section 125 (1) (b) and (c) of the Act, and despite paragraph 11 (3) (ii) of the "City of Victoria Election Procedure Bylaw No. 02-013" as amended, or an applicable provision of any other bylaw, Council may, for the City of Victoria by-election, permit the elector, as directed by the election official responsible, to make an oral declaration that the

elector is entitled to vote in the by-election when obtaining a ballot for voting, in which case the election official responsible must make a record that the elector made an oral declaration.

The *Local Government Act* requires each voter to sign a declaration attesting to their eligibility as an elector of the municipality before casting a ballot. The Order permits a verbal declaration in order to reduce touch points during voting. This practice was utilized in the October 24<sup>th</sup> provincial election.

- 4) As an exception to section 109 (1) of the Act, and despite paragraph 9 (1) of the “City of Victoria Election Procedure Bylaw No. 02-013” as amended, or an applicable provision of any other bylaw, Council may, for the City of Victoria by-election, permit the City of Victoria’s Chief Election Officer to establish special voting opportunities or to determine that no special voting opportunities will be held at their sole discretion.

The City’s Election Procedures Bylaw establishes that care homes with more than 50 residents shall be provided a special voting opportunity by way of on-site voting. Given the high risks associated with this during the pandemic, Mail Ballots will be coordinated with each care facility to enable the residents the opportunity to vote.

#### *Accessibility Impact Statement*

Election processes are not yet barrier free. However, Council’s direction to employ an accessible voting machine, mail ballot voting, and curbside voting add to the statutory requirement to permit assistance in ballot marking to occur, and provide a way to accommodate different accessibility considerations to enable interested electors to vote in this by-election.

Council gave direction at the September 17, 2019 Council meeting to

1. Make an accessible voting machine available for the next municipal election or by-election on polling day and that it be located at City Hall or another equally central polling location.
2. Widely publicize these accessibility options well in advance of polling day. This will be undertaken.

In addition, expanded mail ballot voting will provide a new and accessible opportunity for anyone.

#### *Impacts to Financial Plan*

Council has already approved up to an additional \$350,000 from the Financial Stability Reserve to conduct the by-election. There are no additional costs expected resulting from the Ministerial Order as the costs associated with the provisions of the order were factored into the most recent budget.

## **CONCLUSIONS**

The Ministry has incorporated all the requests from the City into the Ministerial Order to make pandemic related changes to the election process for the December 12, 2020 By-election. Because these changes involve provincial legislation as well as policies enacted by bylaw, the Ministry requires that Council authorize these changes by way of a Council resolution. Staff consider the changes are appropriate to the circumstances and do not compromise process integrity, timing or ballot secrecy. Staff suggest that the changes provide more and better opportunities for voters. The by-election process is moving forward swiftly and productively. Early consideration of these matters is critical to continuing with the process.

Respectfully submitted,



Chris Coates  
City Clerk/CEO



Susanne Thompson  
Deputy City Manager/CFO



**Report accepted and recommended by the City Manager:**

**Date:** October 29, 2020

**List of Attachments:**

- Attachment A – Ministerial Order**
- Attachment B – Election Procedures Bylaw**