

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2566

A Bylaw to Provide for the Voting and Conduct of a Referendum for the Purpose of Authorizing the Adoption of a Bylaw to Authorize the construction of improvements to the sanitary sewer system and the Borrowing of Funds for this Purpose

WHEREAS pursuant to the *Local Government Act*, the Township of Esquimalt may by bylaw, determine various procedures and requirements to be applied in the conduct of local government elections and other voting;

NOW, THEREFORE, the Municipal Council Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

CITATION

1. This Bylaw may be cited as "*Referendum Procedures and Voting Bylaw (Sanitary Sewer System) 2003, No. 2566*".
2. This bylaw provides for the use of automated voting machines, voting recorders or other devices for voting in an election in accordance with Section 102 of the *Local Government Act* and/or voting under the provisions of Section 119 of the *Local Government Act*.

DEFINITIONS

3. In this bylaw all definitions shall be in accordance with the *Local Government Act* except for the following:
 - (1) **"Acceptable Mark"** means the filling in of the oval by an elector in the space provided on the ballot opposite either "yes" or "no" on any voting question.
 - (2) **"Automated Vote Counting System"** means a system that counts and records votes and processes and stores election results which comprises
 - (a) one or more more ballot scan vote counting units, each of which rests on a ballot box; and/or
 - (b) a portable ballot box into which voted Advance Vote ballots are deposited, to be counted after the close of voting on General Voting Day.
 - (3) **"Ballot"** - means a single ballot card designed for use in an automated voting system, or portable ballot box, which shows all of the choices on all of the questions on which the opinion or assent of the electors is sought.

- 4) **"Ballot Return Over-ride Procedure"** - means the use, by an election official, of a device on a vote counting unit, which causes the unit to accept a returned ballot.
- (5) **"Election Headquarters"** - means the Council Chambers, Municipal Hall, 1229 Esquimalt Road, Esquimalt.
- (6) **"Emergency Ballot Box"** - means a designated ballot box into which voted ballots are temporarily deposited in the event that the unit ceases to function.
- (7) **"Memory Pack"** - means a computer software cartridge or disk which is inserted into the vote counting unit and into which is preprogrammed the alternatives of "yes" or "no" for each question and a mechanism to record and retain information on the number of acceptable marks made for each.
- (8) **"Portable Ballot Box"** - means a ballot box for use in Advance Polls, a referendum or other voting opportunity where a vote counting unit is not being used at the time of voting.
- (9) **"Results Tape"** - means the printed record generated from a vote counting unit at the close of voting on general voting day, which shows the number of votes for and against each question.
- (10) **"Returned Ballot"** - means a voted ballot which was inserted into the vote counting unit but which was not accepted, and which was returned with an explanation of the ballot marking error which caused the ballot not to be accepted.
- (11) **"Secrecy Sleeve"** - means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.
- (12) **"Vote Counting Unit"** - means the device into which voted ballots are inserted and which scans each ballot and counts and records the number of votes for each candidate and for and against each question.

AUTHORIZATION

- 4. Authorization is hereby given for the conduct of a Referendum or Other Voting through use of an automated vote counting system.

ADVANCE VOTING OPPORTUNITIES

5. (1) Advance voting opportunities will be provided to eligible electors under the following circumstances:
- (a) the elector expects to be absent from the municipality for which the election is to be held on General Voting Day;
 - (b) the elector will be unable to vote on the Other Voting (Referendum) Day for reasons of conscience;
 - (c) the elector will not be able to attend at the voting place on Other Voting (Referendum) Day for reasons beyond the elector's control;
 - (d) the elector has a physical disability or is a person whose mobility is impaired; or
 - (e) the elector is an election official.
- (2) Advance voting opportunities will be held at the Esquimalt Municipal Hall on:
- (a) Wednesday September 24, 2003 between the hours of 8:00 a.m. and 8:00 p.m. and
 - (b) Wednesday, October 1, 2003 between the hours of 8:00 a.m. and 8:00 p.m.

ADVANCE VOTING OPPORTUNITY PROCEDURES

6. (1) A portable ballot box may be used at all advanced voting opportunities and voting procedures shall follow as closely as possible, those described in Section 119 of the *Local Government Act*.
- (2) At the close of voting at each advance voting opportunity, the presiding election official shall in each case ensure that no additional ballots are or can be inserted into the portable ballot box by securing and sealing the ballot deposit slot.
- (3) The presiding election official shall, at the close of voting at the Other Voting (Referendum) Day, open the sealed portable ballot boxes and ensure:
- (a) that the ballots as contained within the portable ballot box/es are inserted into the vote counting unit; and
 - (b) follow the procedures, as closely as possible, described in Section 8.

AUTOMATED VOTING PROCEDURES

7. (1) The presiding election official for the voting place and at each voting opportunity, shall offer, and, if requested, ensure that a demonstration of how to vote using an automated vote counting system is provided to an elector, as soon as such elector enters the voting place and before a ballot is issued.
- (2) Upon completion of any voting demonstration, the elector shall proceed as instructed to the election official for issuing ballots, who:
- (a) shall ensure that the elector:

- (i) is qualified to vote in the election;
 - (ii) is voting at the correct voting place;
 - (iii) completes the registration in the voting book as required by the *Local Government Act*; and
 - (b) upon fulfilment of the requirements of sub-section (a) shall then provide a ballot to the elector, along with a secrecy sleeve and, if applicable, the ballot marking pen, and any further instructions the elector requests.
- (3) Upon being given a ballot, the elector shall immediately proceed to a voting compartment to vote.
- (4) The elector may vote only by making an acceptable mark on the ballot:
- (a) beside either "yes" or "no" in the case of the question(s).
- (5) Once the elector has finished marking the ballot, the elector must either:
- (a) place the ballot into the secrecy sleeve in the case of a two-sided ballot;
or
 - (b) turn the ballot upside down in the case of a single-sided ballot, and
- proceed to
- (c) the vote counting unit and under the supervision of the election official in attendance, insert the ballot directly into the vote counting unit without the acceptable marks on the ballot being exposed; or, if applicable,
 - (d) the portable ballot box and under the supervision of the election official in attendance, insert the ballot directly in the portable ballot box without the acceptable marks on the ballot being exposed.
- (6) If:
- (a) before inserting the ballot into the vote counting unit or portable ballot box an elector determines that a mistake has been made when marking the ballot, or
 - (b) the ballot is inserted into the vote counting unit and returned,
- the elector may request a replacement ballot by advising the election official in attendance.
- (7) Upon being advised of the replacement ballot request the presiding election official shall issue a replacement ballot to the elector and mark the returned ballot "spoiled" and shall retain all such spoiled ballots separately from all other ballots and they shall not be counted in the election.

- (8) If the elector declines the opportunity to obtain a replacement ballot and has not damaged the ballot to the extent that it cannot be reinserted into the vote counting unit, the election official shall, using the ballot return over-ride procedure, reinsert the returned ballot into the vote counting unit to count any acceptable marks.
- (9) Any ballot accepted by the vote counting unit is valid and any acceptable marks contained on such ballots will be counted in the election, subject to any determination made under a judicial recount.
- (10) Once the ballot has been inserted into the vote counting unit and the unit indicates that the ballot has been accepted, the elector must immediately leave the voting place.
- (11) Once the ballot has been inserted into a portable ballot box the elector must immediately leave the voting place.
- (12) During any period that a vote counting unit is not functioning, the election official supervising the unit shall direct electors to insert their ballots into the emergency ballot box, on the understanding that if the vote counting unit:
 - (a) becomes operational; or
 - (b) is replaced with another vote counting unit,the ballots in the emergency ballot box shall, as soon as reasonably possible, be removed by an election official, and, under the supervision of the presiding election official shall be inserted into the vote counting unit to be counted.
- (13) Any ballots which were temporarily stored in the emergency ballot box during a period when the vote counting unit was not functioning, which are returned by the vote counting unit when being counted, shall, through the use of a ballot return over-ride procedure, and under the supervision of the presiding election official, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.
- (14) A sample ballot similar to that which may be used in a referendum conducted under an automated vote counting system is attached as Schedule "A" to this bylaw.

8. PROCEDURES AFTER THE CLOSE OF VOTING ON OTHER VOTING (REFERENDUM) DAY

After the close of voting on Other Voting (Referendum) Day, the Chief Election Officer, shall undertake all of the following, generally in the order stipulated:

- (1) proceed with opening all portable ballot box/es from advance voting opportunities and following the procedures in accordance with this section, so far as applicable;

- (2) ensure that any remaining ballots in the emergency ballot box are inserted into the vote counting unit;
- (3) secure the vote counting unit or portable ballot box so that no more ballots can be inserted;
- (4) generate two (2) copies of the results tape from the vote counting unit;
- (5) remove the memory from the vote counting unit;
- (6) account for the unused, spoiled and voted ballots, and place them, packaged and sealed separately into the election materials box;
- (7) complete the ballot account and place the duplicate copy in the election materials box;
- (8) seal the elections material box;
- (9) place the voting registration book, the original copy of the ballot account, one (1) copy of the results tape and all completed administrative forms into the Chief Election Officer portfolio.

9. RECOUNT PROCEDURE

- (1) If a recount is required, it shall be conducted under the direction of the Chief Election Officer in accordance with Section 139 of the *Local Government Act* in the case of portable ballot boxes; and, if using the automated vote counting system, generally in accordance with the following procedure:
 - (a) the memory packs of all vote counting units will be cleared;
 - (b) vote counting units will be designated for the recount voting place;
 - (c) all voted ballots will be removed from the sealed election materials boxes, except spoiled ballots, and reinserted in the appropriate vote counting units under the supervision of the Chief Election Officer;
 - (d) any ballots returned by the vote counting unit during the recount process shall, through the use of the ballot return over-ride procedure, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.
- (2) In the event of a tie vote after a judicial recount, the tie vote will be resolved by conducting a Lot in accordance with the *Local Government Act*.

10. GENERAL PROVISIONS

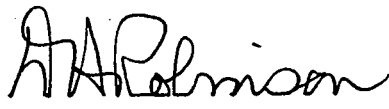
- (1) Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.
- (2) If any part, section, sentence, clause, phrase or word of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw had been adopted without the valid portion.

READ a first time by the Municipal Council on the 16th day of June, 2003.

READ a second time by the Municipal Council on the 16th day of June, 2003.

READ a third time by the Municipal Council on the 16th day of June, 2003.

ADOPTED by the Municipal Council on the 7th day of July, 2003.



D. A. ROBINSON
MAYOR



J. P. G. McLUCKIE
CORPORATE ADMINISTRATOR

