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REPORT TO CAPITAL REGIONAL DISTRICT BOARD MEETING OF WEDNESDAY, OCTOBER 27, 2021

SUBJECT Temporary Modifications to Election Procedures for Assent Voting (COVID-19) – Pender Islands Health Care Centre Referendum

ISSUE SUMMARY

A Board resolution is required to temporarily modify election procedures for the Pender Islands Health Care Centre Referendum under the *Local Government Act* and *CRD Election and Voting Procedures Bylaw*.

BACKGROUND

The opportunity for local governments to amend election procedures and assent voting under Parts 3 and 4 of the *Local Government Act* (the “LGA”) is in force until March 31, 2022 through the *Elections in Special Circumstances (COVID-19) Regulation* (the “Regulation”). The Regulation enables local governments with by-elections or assent voting to consider modifying specific election procedures in support of safer election processes. A Board resolution is required to make any temporary provisions to the local government’s election procedures.

On July 14, 2021 the CRD Board approved proceeding to a referendum on North and South Pender Islands to obtain elector approval for Bylaw No. 4441, “*Pender Islands Health Care Centre Contribution Service Establishment Bylaw No. 1, 2021*”. The purpose of the bylaw is to establish a contribution service to fund the Pender Islands Health Care Centre. The general voting day will be November 20, 2021 with an advance voting opportunity on November 17, as well as the opportunity to vote by mail ballot.

ALTERNATIVES

Alternative 1

That the election procedures for the Pender Islands Health Care Centre Referendum be modified as follows:

1. That sections 15.2 and 16.2(a)(i) of Bylaw 3543, “*Capital Regional District Election and Voting Procedures Bylaw, 2008*” be waived in order to permit mail ballot voting to all eligible electors;
2. That section 125(1)(b) of the *Local Government Act* be read as though it provided that the person must, as directed by an election official, comply with section 125(1)(b) as written, or make an oral declaration of the facts set out in that section, in which case the election official must make a record that the person made an oral declaration; and
3. That section 125(1)(c) of the *Local Government Act* be read as though it provided that the person must, as directed by an election official, comply with section 125(1)(c) as written, or make an oral declaration of the facts set out in that section, in which case the election official must make a record that the person made an oral declaration and of the facts declared.

Alternative 2

That assent voting be conducted in accordance with the current election procedures for Bylaw 4411, “*Pender Islands Health Care Centre Contribution Service Establishment Bylaw No. 1, 2021*”.

IMPLICATIONS

Modifying the election procedures around mail ballot voting and written declarations has been identified by staff as two opportunities to support a safer election process for the Pender Islands Health Care Centre Referendum.

Mail Ballot Voting

In accordance with Section 110(1) of the LGA, the *CRD Election and Voting Procedures Bylaw* permits voting by mail ballot, however, currently mail ballot voting is limited to persons that are absent from the regional district and those with physical disabilities, illnesses or injuries that affects their ability to attend in-person voting. Under the Regulation section 6(2)(a), a local government may, by resolution, disapply a bylaw under section 110 (1) that limits elector eligibility for voting by mail ballot.

The result would permit any eligible elector to vote by mail ballot during the Pender Islands Health Care Centre Referendum. This modification is recommended to be more inclusive of electors that are uncomfortable attending public spaces during the COVID-19 pandemic.

Declaration Requirements

LGA section 125(1) sub-sections (b) and (c) require that electors sign a written declaration before they are given a ballot. The Regulation section 7(2) sub-sections (a)(ii) and b(ii), states that a local government may, by resolution, provide that the LGA s.125(1) sub-sections (b) and (c) be read to allow electors to make an oral declaration of their eligibility to vote, and if applicable be registered to vote, and that such oral declarations be recorded by an election official.

The result would be a reduction in the number of touch points and the need for electors and election officials to disinfect their hands, table surface, and pens between voters. This modification is recommended to support safer election processes and reduce the overall time required to register electors and distribute ballots.

CONCLUSION

The *Elections in Special Circumstances (COVID-19) Regulation* provides local governments with an opportunity to temporarily modify election procedures in support of safer election processes. The Capital Regional District Board may, by resolution, temporarily modify election procedures under the *Local Government Act* and *CRD Election and Voting Procedures Bylaw*. Two opportunities to support a safer election process for the Pender Islands Health Care Centre Referendum include: 1) expanding eligibility for mail ballot voting; and 2) replacing written declarations to receive a ballot with oral declarations. Once the Board resolution is passed, mail ballots will be available to all eligible electors on Pender Islands within two days and the voting books for registered electors will be designed for the taking of oral declarations.

RECOMMENDATION

That the election procedures for the Pender Islands Health Care Centre Referendum be modified as follows:

1. That sections 15.2 and 16.2(a)(i) of Bylaw 3543, "*Capital Regional District Election and Voting Procedures Bylaw, 2008*" be waived in order to permit mail ballot voting to all eligible electors;
2. That section 125(1)(b) of the *Local Government Act* be read as though it provided that the person must, as directed by an election official, comply with section 125(1)(b) as written, or make an oral declaration of the facts set out in that section, in which case the election official must make a record that the person made an oral declaration; and
3. That section 125(1)(c) of the *Local Government Act* be read as though it provided that the person must, as directed by an election official, comply with section 125(1)(c) as written, or make an oral declaration of the facts set out in that section, in which case the election official must make a record that the person made an oral declaration and of the facts declared.

Submitted by:	Marlene Lagoa, Manager, Legislative Services and Deputy Corporate Officer
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services and Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENT(S)

Appendix A: Bylaw 3543 – Consolidated

Appendix B: Excerpts from Local Government Act

Appendix C: Elections in Special Circumstances (COVID-19) Regulation