

**NANAIMO LADYSMITH PUBLIC SCHOOLS
BUSINESS COMMITTEE MEETING
INFORMATION SHEET**

DATE: October 13, 2021
TO: Business Committee
FROM: Secretary-Treasurer, Mark Walsh
SUBJECT: By-Election

Background

On September 27, 2021, Trustee Barron provided her resignation to the Secretary-Treasurer pursuant to section 51 of the *School Act* (the “Act”). This Information Sheet will highlight the options for the Board to consider in determining its next steps.

Discussion

Is an Election Required?

The simple answer to this question is yes, a by-election is required.

Upon receipt of Trustee Barron’s resignation, the requirements of the *School Act*, and more particularly, section 36 and 37, are engaged. Section 36 (1) provide that an election must be held to fill a vacancy in a number of circumstances including when a trustee resigns pursuant to section 51 – which occurred in the current circumstance. If Trustee Barron had gone on a leave until January 1 the election would not have been required as section 36(2) provides an exception to the requirements to have an election. However, as the resignation was received prior to January 1st of the regular election year, and the resignation is irrevocable therefore the Board cannot rely on Section 36(2).

Can the Board ask the Minister to void the election as recently occurred in the Fraser Valley?

We have sought external advice as to whether there are other exceptions and the response is that we could seek a Ministerial exemption as provided to a Fraser Valley district. In approving the exemption, the Minister relied on the COVID emergency and the authority granted to the Minister in the *Local Government Act* was of the opinion that he had the authority to void the need for an election.

Given this, the Board could make a request for an exemption.

What are the next steps?

Given the geographic diversity of the District (e.g. it has multiple municipal jurisdictions in addition to multiple regional districts, the Board is directly responsible for the election (section 37(3)). Pursuant to section 36(3) the Board is required to appoint a Chief Electoral Officer within 30 days of September 27, 2021. Following the appointment, the Chief Electoral Officer must hold an election with 80 days of the appointment. The election would follow the requirements of Part 3 of the *Local Government Act*.

In the event that the Board moves forward with appointing a Chief Electoral Officer (likely the Secretary-Treasurer), the following steps would be undertaken:

1. The Chief Electoral Officer would notify the BC Chief Electoral Officer of the election (section 36(3.2));
2. A date would be set for the by-election that would occur within 80 days of the appointment, section 36(4);
3. Notice of the Nomination Period would be provided;
4. The Nomination would open;
5. An information meeting would be set for interested candidates to learn about the position and the requirements of the election;
6. The election occurs including two opportunities for pre-voting (unless the Board sought approval for less than two). The election date would likely be January 15.
7. The elected trustee would be sworn in at the January Board meeting.

We note that for these dates to work, the Board must not appoint the Chief Electoral Officer until the final date available to the Board under statute (October 27). Appointing the Chief Electoral Officer anytime prior to that will result in a December election or an early January election where pre-voting occurs during the holiday season.

What is the timing of the election?

If the Board appoints the Chief Electoral Officer on October 27, 2021 it is anticipated that the voting day would be January 15, 2022.

What are the costs?

The last election (largely conducted by our municipal and regional district partners) cost \$125,000. We anticipate a cost of approximately \$100k for the election dependent the numbers of polling stations, advance voting options etc.

Motions for Consideration

If the Board intends to seek an exemption the following motion would be required at a Special Open Board Meeting:

That the Board of Education of School District No. 68 (Nanaimo-Ladysmith) write a letter to the Minister of Education seeking a Ministerial exemption to waive the requirement for an election.

In the event that such a request is denied or the Board does not seek such an exemption then the following recommended motion will be brought by staff to the October 27, 2021 Board meeting:

That the Board of Education of School District No. 68 (Nanaimo-Ladysmith) appoint Secretary-Treasurer Mark Walsh as the Chief Electoral Officer pursuant to Section 36(3)(a) to organize and implement a by-election created by the resignation of Trustee Barron and notify the Minister of Education as required by Section 36(3)(c).

We note that the Secretary-Treasurer is not required to be the Chief Electoral Officer, but staff do not have an alternative recommendation at this time. We note that the Chief Electoral Officer is able to appoint deputies and we also anticipate hiring external assistance to ensure compliance with election rules as well as smooth electoral process.