



CENTRAL COAST REGIONAL DISTRICT

DATE: 04 December 2014

TO: Board of Directors

FROM: Darla Blake, Chief Administrative Officer

SUBJECT: **Board Appointment of Director to Electoral Area B**

In the recent local government election, Electoral Areas A, C, D and E were filled. Electoral Area B failed to receive any nominations.

The Board now at this 11 December 2014 Board meeting must appoint a qualified person to the vacancy in Electoral Area B, which is in accordance with the *Local Government Act* s78. For the information of the Board, the definition of "qualified" is covered in s66 *Local Government Act*.

For the Board's convenience the relevant sections of the *Local Government Act* have been provided:

"Appointment if an insufficient number of candidates are elected

78 (1) *If there are fewer candidates declared elected by acclamation under section 76 than there are to be elected, the local government must appoint a person to each vacant office,*

(a) in the case of a general local election, within 30 days after the first meeting of the local government at which the persons elected in the election are holding office, and

(b) in other cases, within 30 days after the first meeting of the local government after the declaration of the election results.

(2) If a local government fails to make an appointment required by subsection (1), or if there is no quorum of the local government able to make the appointment, the minister must appoint a person to each vacant office.

(3) A person appointed under this section



(a) must be qualified under section 66 to hold the office,
and

(b) must reside in the municipality, electoral area or
neighbourhood constituency, as applicable, at the time of
appointment.

(4) A person appointed as a member of a local government under this
section or any other provision of this Act has the same rights, duties
and powers as a person elected as a member.

(5) An enactment that applies to an elected member of a local
government applies to a person appointed under this section in the
same manner as if the person had been elected at the election in
relation to which the appointment is made.

Who may hold office on a local government

66 (1) A person is **qualified** to be nominated for office, and to be elected
to and hold office, on a local government if at the relevant time the
person meets all the following requirements:

(a) the person must be an individual who is, or who will be
on general voting day for the election, 18 years of age or
older;

(b) the person must be a Canadian citizen;

(c) the person must have been a resident of British
Columbia, as determined in accordance with section 52, for
at least 6 months immediately before the relevant time;

(d) the person must not be disqualified under this Act or
any other enactment from being nominated for, being
elected to or holding the office, or be otherwise disqualified
by law."

Heiltsuk Tribal Council recommendation

Administration received a proposed "appointment" from the Heiltsuk Tribal Council, appointing Reg Moody and their council representative (Electoral Area B) and for Travis Hall to be appointed as the alternate.

In previous elections where there was a vacancy for Electoral Area B, the Heiltsuk Tribal Council (HTC) has generally put forward an HTC appointment as "their council representative to the CCRD".

Administration believes there is some misunderstanding about the legal requirements under the *Local Government Act* s 795.2, 795.21 and s795.22 on how a director is elected or appointed to the Board and seeks to clarify. These requirements are clearly for Treaty First Nations, according to the *Local Government Act*, herein is where it is believed the confusion arises - .

"Treaty first nation directors

795.2 (1) *If a treaty first nation is a member of a regional district, the board of the regional district consists of municipal directors, treaty first nation directors and electoral area directors.*

(2) *For certainty, section 783 [composition and voting rights] applies for the purpose of determining the number of directors and votes to which a treaty first nation is entitled.*

(3) A treaty first nation must appoint a director to a board from among the elected members of its governing body.....

Term of office of treaty first nation director

795.21 (1) *Section 784 (2) [appointment and term of office of municipal directors] does not apply in relation to a treaty first nation director.*

(2) The term of office of a treaty first nation director

(a) *begins when the person takes office in accordance with section 210 (3) [oath of office], and*

(b) *continues until the earliest of the following occurs:*

(i) *another director takes office in the original director's place;*

(ii) *the director ceases to be an elected member of the governing body of the treaty first nation before the end of the director's term of office as a member of that body;*

(iii) *the director ceases to be qualified to hold office under section 66 [who may hold office];*

(iv) *the director's term of office as a member of the governing body of the treaty first nation ends.*

Alternate treaty first nation director

795.22 (1) *Section 786 (1) [alternate municipal directors] does not apply in relation to a treaty first nation.*

(2) *A treaty first nation may appoint as an alternate director an elected member of its governing body who is qualified to hold office as a member of a local government in accordance with section 66.*

(3) *Section 67 (2) (a) and (3) (b) [disqualification of local government employees] does not apply in relation to the elected member appointed under subsection (2).*

Heiltsuk are not treaty First Nations, and therefore there is no opportunity for the Heiltsuk Tribal Council to put forward an appointed representative. Hence, legally, it is not the decision of the HTC to appoint a director to the Board of the CCRD from the elected members of the Heiltsuk Tribal Council – just as CCRD would not “appoint” any person to the HTC.

Legally, where there has been no nomination or election, under s78 *Local Government Act* it is the responsibility of the CCRD Board to appoint a director to the Electoral Area B and under that appointment, like that of an elected official, that person will be expected to fulfil the obligations of a director for the area for the full term of four (4) years – not for the term of appointment by any other organization.

Previously, with the HTC when the term for the tribal council representative expired, the Electoral Area Director resigned. CCRD needs to be clear about legal requirements. Should a director resign prior to the end of their term for four (4) years, the consequence is that CCRD is then obliged under the *Local Government Act* to hold a by-election at the expense of tax payers.

The CAO also had an email and subsequent telephone conversation from Reg Moody (former CCRD Chair) and he advised that he would welcome the opportunity to serve the Central Coast Regional District as the Electoral Area B Director, should it be the desire of the new CCRD Board. It is also my understanding that Travis Hall has indicated his willingness to stand in as Alternate for Electoral Area B.

It is recommended, that following the Board's appointment of an individual to the CCRD Board of Directors for the vacancy of Electoral Area B, that the CAO be requested to write to the Heiltsuk Tribal Council thanking them for their "recommendation for appointment" to the Electoral Area B vacancy and to outline requirements of the *Local Government Act* for appointments and term of office in accordance with the *Act*, for their future reference.

Respectfully Submitted

Darla Blake
Chief Administrative Officer

