



STAFF REPORT

DATE: February 25, 2019

FILE: 0550-04

TO: Chair and Directors,
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: VOTING FRAUD INVESTIGATION – CORTES ISLAND

PURPOSE/PROBLEM

To consider the results of an investigation into voting fraud alleged to have occurred in connection with the October 20, 2018 election for director of Electoral Area B (Cortes Island).

EXECUTIVE SUMMARY

On December 5, 2018 the Regional District was advised by the RCMP that it had received a complaint of possible voter fraud in connection with the October 20, 2018 election for director for Cortes Island. The Regional District was requested by the RCMP to assist with its investigation and to delay the destruction of voting records as long as possible pending the outcome of the investigation.

The nature of the complaint was that 43 persons had voted in the election who did not qualify as residents of Cortes Island at the time voting was being conducted and therefore should not have received a ballot. As may be seen in the table below, of the 43 individuals identified, 9 of them had obtained their ballots on the basis of declarations to election officials regarding their residency since they could not provide documentary evidence that they resided within Electoral Area B. These individuals became the focus of further investigation involving the Regional District, Elections BC and the RCMP.

At the conclusion of the investigation the RCMP was not able to substantiate a finding of election fraud.

RECOMMENDATION

THAT the report from the Chief Administrative Officer be received.

Respectfully:

A handwritten signature in blue ink, appearing to read "Dave Leitch", is written over a horizontal line.

Dave Leitch
Chief Administrative Officer

BACKGROUND

The conduct of local elections in British Columbia is regulated by the *Local Government Act* which identifies various categories of illegal election activity including inducement, intimidation and voting fraud. Within the category of voting fraud are such activities as obtaining a ballot when not entitled to do so, voting more than once, impersonating an elector for voting purposes, selling or transferring a ballot, and other related activities. The penalties associated with election violations include fines, imprisonment or disqualifications from holding office.

Following the October 20 election for director of Electoral Area B (Cortes Island) a complaint was filed with the RCMP and an investigation was initiated into the voting entitlement of 43 individuals. The RCMP requested the assistance of the Regional District in determining whether there was substance to the complaint. It was clear that the focus of the investigation was in relation to fraud rather than inducement or intimidation of voters, although confirmation of fraud may have been grounds to investigate other illegal activity. In particular, the complaint alleged that the named individuals may have committed fraud by not meeting the residency requirements for voting within Electoral Area B. As with all local government elections, individuals must have resided within the voting jurisdiction for at least 30 days prior to applying for a ballot.

POLICY ANALYSIS

To assist the RCMP in its investigation it was first necessary to determine whether any of the individuals were registered as non-resident property electors. Having determined that none were so registered, the Regional District then analyzed the circumstances under which each person had registered as a resident elector and it was determined that the majority were included on the list of electors supplied by Elections BC (see Category A below) prior to the election.

Category of Elector	Number of Instances	Comments
<u>Category A</u> – previously registered with Elections BC	25	The Regional District uses the Elections BC list of registered electors as the starting point for compiling its own list of resident electors prior to each election.
<u>Category B</u> – voting day registration (residency documents provided)	3	Individuals who registered at the time of voting and who were able to provide satisfactory evidence of residency to election officials.
<u>Category C</u> – voting day registration (residency documents not provided)	9	Individuals who registered at the time of voting and who were not able to provide satisfactory evidence of residency to election officials. In such cases a solemn declaration of residency must be provided.
<u>Category D</u> – voting day registration (registration documents not found)	6	Individuals whose voting day registrations could not be located.

The Regional District then looked at those individuals who had registered at the time of voting (Categories B, C and D) and determined that, although most had provided evidence of residency to election officials, 9 of them had not. In such cases, an individual wishing to register to vote in

an election must make a solemn declaration regarding their entitlement to vote before they can obtain a ballot.

The above information was turned over to the RCMP to facilitate its investigation of the 43 named individuals, the results of which are outlined in the attached letter from the Quadra Island Detachment.

LEGAL IMPLICATIONS

The Regional District is obligated to run its elections in compliance with the procedural requirements outlined in the *Local Government Act* and related regulations. This includes the scheduling of the pre-registration period, the types of documents necessary to show residency, and the process to be followed when residency cannot be established to the satisfaction of election officials. The Regional District is not able to deny an application for a ballot if an individual is prepared to make a solemn declaration regarding their entitlement to vote based on residency within the voting jurisdiction.

Given the current definition of 'residence' used in local government elections ('the area where a person lives and to which, whenever absent, the person intends to return') it is extremely challenging to prove election fraud on the basis of residential status unless it can be shown that the person has voted as a resident in more than one voting jurisdiction. Since the *Local Government Act* requires that the destruction of most voting records must commence within 2 months of the election results being declared, the determination of fraudulent voting can be challenging if it requires the cooperation of multiple voting jurisdictions.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS

The transparency of the local election process is a cornerstone of the democratic system, and the public has the right to question the accuracy of elector information used in local elections. Since the Regional District does not maintain its own voter lists but has chosen to rely on the lists of registered electors provided by Elections BC, its ability to verify the accuracy of information used for registration purposes is somewhat limited. When questions do arise regarding elector entitlements it is usually necessary to work with Elections BC to determine whether there are anomalies that need to be sorted out.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

The management and conducting of local election and voting processes is a responsibility of the Chief Election Officer and Deputy Chief Election Officer appointed by the Regional Board.

Prepared by: T. Yates, Corporate Services Manager

Attachment: February 18, 2019 correspondence from the RCMP



Royal Gendarmerie
Canadian royale
Mounted du
Police Canada

Security Classification/Designation
Classification/désignation sécuritaire

NCO i/c RCMP
Quadra Island Detachment
738 West Road
P.O. Box 399
Quathiaski Cove, BC V0P 1N0

Your File Votre référence

Chief Electoral Officer
Strathcona Regional District
301-990 Cedar Street
Campbell River, BC
V9W 7Z8

Our File Notre référence
2018-785

2019-02-18

Possible Voter Fraud - Electoral District "B"

Mr. Yates,

As requested, I have drafted this letter summarizing our investigation into suspected voting fraud in Electoral District B (Cortes Island), to share with the Board of Directors.

The Quadra Island R.C.M.P received a complaint from a concerned citizen in November of 2018, regarding the eligibility of certain individuals who had cast ballots in the most recent election. In total, there were 43 people on the list provided to my Detachment, whose claim to residency was called into question. There was a statutory requirement that your office destroy the voting records by December 19th, 2018, which would be crucial evidence should we find sufficient grounds to prosecute.

My members familiarized themselves with the Local Government Act and reached out to our in house Legal Advisors, Elections BC, and Housing and Municipal Affairs BC. We came to the conclusion that no legal mechanism existed for investigators to preserve those voting records, except by way of search warrant. The threshold for a search warrant is reasonable and probable grounds, not merely suspicion. We lacked the grounds to obtain a search warrant for the voting records without further investigation, however we had a firm time line to contend with.

A review of the list, which did not contain specific reasons why individuals had been included, found several instances where we (the members of Quadra Island Detachment) could confirm individuals residency status based on contact and interaction during the course of our duties on Cortes Island. I requested your office provide assistance by screening the list of 43 people, and determining if any of these individuals warranted further scrutiny. We both agreed that the list could be reduced by cross referencing it against the list of registered voters, who had presumably satisfied Elections BC regarding their eligibility.

We were very pleased with the efforts and attention you and your staff gave to this matter. Your office promptly supplied us with a spreadsheet containing 4 tables, labelled A through D. This allowed us to focus our investigation under the strict time lines we faced, specifically on individuals who had made statutory declarations on voting day, but did not have documentation to support their claim to residency on Cortes Island.

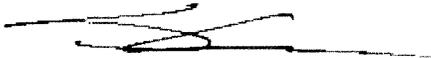
Canada

My members then proceeded to systematically work through the list, speaking to these individuals, or witnesses that could verify the status of their residency on Cortes Island. Had we located an individual who could not prove they met the requirements laid out in the Local Government Act, we would have applied for a search warrant to seize the voting records prior to the destruction.

We concluded through our investigation, that these individuals did in fact meet the basic requirements of the Local Government Act regarding their status as resident voters. After consultations with the Director of Investigations for Elections BC, it was determined that they could find no information within their records that would contradict the results of our investigation.

The right of individuals to question results, and have those matters properly addressed is important to the integrity of the democratic process. I hope the thoroughness of our investigation and the findings, will give the people of Electoral District B confidence in their local election.

Regards,



Corporal Sean Bulford

NCO i/c RCMP
Quadra Island Detachment