

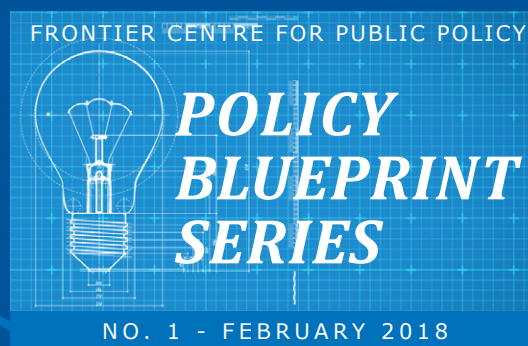
Municipality of -----

VOTERS' LIST

WARD 1.

- | | | |
|--------------------|-----------------------------|--------------------------|
| 1. Anderson, C. | 10. Hobson, Miss M. B. | 19. Scott, Mrs. Janet |
| 2. Baldee, Mrs. C. | 11. Jeffrey, W. H. | 20. Smith, S., (Est. of) |
| 2. Berwicke, E. | 12. Kipling, R. | 21. Twigge, General |
| 4. Carroll, J. T. | 13. Livingstone, J. | 22. Twigge, S. K. |
| 5. Cherry, General | 14. Mahon, E. | 23. Wickenden, C. O. |
| 6. Diethleson, P. | 15. Matthews, H. W. | 24. Williams, A. |
| 7. Erwin, W. | 16. Mowatt, A. J. (Est. of) | 25. Wishart, E. |
| 8. Fisher, J. B. | 17. N. V. E. Light Co. | 26. Wulffsohn, J. |
| 9. Harris, J. E. | 18. Roberts, J. H. | 27. Young, W. A. |

Notice of Motion for Adoption of Municipal Voters' List



By Maxwell J. M. DeGroat, B.A.(Hons), J.D.
Research Associate



ABOUT THE AUTHOR

MAXWELL J.M. DEGROAT

Maxwell J.M. DeGroat is a lawyer based in Calgary, Alberta, with a background in public interest law and securities law and litigation. Since 2016 he has been a special projects consultant with a private Western Canadian business operating and investment group. Prior to his legal career, Max was also a research analyst with a major children's charity. He holds a B.A. from the University of Toronto, a J.D. from the University of Alberta, and is a graduate of the Public International Law Program administered by the Queen's University at the Bader Study Centre.



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The Frontier Centre for Public Policy is an independent, non-profit organization that undertakes research and education in support of economic growth and social outcomes that will enhance the quality of life in our communities. Through a variety of publications and public forums, Frontier explores policy innovations required to make the prairie region a winner in the open economy. It also provides new insights into solving important issues facing our cities, towns and provinces. These include improving the performance of public expenditures in important areas such as local government, education, health and social policy. The author(s) of this study have worked independently and the opinions expressed are therefore their own, and do not necessarily reflect the opinions of the board of the Frontier Centre for Public Policy.

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Elections held in most municipalities in Alberta must be conducted in accordance with the *Local Authorities Election Act*. However, past elections in {name of municipality} have been marred and perhaps even overturned as a result of failures in following this relatively complicated procedure. This Policy Blueprint by the Frontier Centre seeks to resolve this issue with a proposed amendment.

The Problem

Elections held in most municipalities in Alberta must be conducted in accordance with the *Local Authorities Election Act* [the “LAEA”]. Section 53(1) of the LAEA prescribes two (2) acceptable methods for confirming voter eligibility in local elections:

- a) By confirming that a person’s name appears on a list of electors; or
- b) By requiring that the person make a sworn statement to the effect that they are eligible to vote, in the presence of an officer at the voting station, *in the form prescribed by the LAEA*, while also providing proof of identity and current residence.

{name of municipality} has never maintained a list of electors. This leaves method (b) as the only lawful method for confirming voter eligibility in municipal elections.

However, past elections in {name of municipality} have been marred and perhaps even overturned as a result of failures in following this relatively complicated procedure.

In 1987, a municipal election in Rocky View County was overturned when a judge found that:

- i) Election clerks had failed to take and subscribe to the official “Oath of Election Officials” required by section 16 of the LAEA;
- ii) That a number of people (greater than the number who had decided the election) had voted without making sworn statements of eligibility; and
- iii) That several of those who had voted without making sworn statements had in fact been non-residents and ineligible to vote [*Crilly v. Isley*, ABQB, 1987 CanLII 3321].

The judge ordered the county to hold a new election and to pay all the legal costs of both parties, as the fault was found to lie with Rocky View County officials and with the lack of adequate training and instruction provided them by the County.

Orders to pay the full costs of even unsuccessful challengers under the LAEA are not unusual. Imperfectly conducted elections thus represent a significant monetary risk to the municipality going forward.

A number of {name of municipality} residents have already raised concerns about possible improper voting and failure to follow lawful voting procedures in recent elections. There has been reports of numerous potentially disqualifying irregularities, including reports of:

- iv) clerks being improperly sworn in;
- v) electoral candidates using the voting register for improper purposes;
- vi) failure to properly administer oaths and to take sworn statements from electors;

- vii) failure to take sworn statements in the form prescribed by the LAEA;
- viii) failure, upon taking statements, to also ask for ID and proof of residency;
- ix) scrutineers taking statements, which is specifically prohibited by the LAEA;
- x) improper instructions being given to scrutineers both before and during an initial recount of ballots; and
- xi) ballots not being counted.

These potential problems, and the risk they pose to both the municipalities finances and to public confidence in future elections, could be greatly reduced if {name of municipality} maintained a list of electors (or voters') list. Maintaining a voters' list would allow municipal officers to use the much simpler method (a) prescribed by the LAEA to confirm the eligibility of most voters, saving time and greatly reducing the possibility of error.

The Solution

Obtaining a voters' list for {name of municipality} would be extremely simple and could be done at a minimal cost to the County.

Elections Canada already produces preliminary lists of electors for federal elections, by-elections and referendums, using information from the National Register of Electors [the "NRE"]. The NRE is a database of Canadians who are qualified to vote, containing basic information about each person such as name, gender, date of birth, address, and any unique identifiers. And the NRE can be used to produce lists of electors for provinces, territories, municipalities, and school boards that have entered into data-sharing agreements with Elections Canada, as permitted under section 55 of the *Canada Elections Act*.

Voters' lists for each federal riding are kept up-to-date during the regular "revision periods" that begin thirty-three (33) days before each federal election and end on the sixth day before election day. During each revision period voters have the opportunity to:

- add their names to the voters' list;
- correct their name or address on the voters' list;

- ask that the names of ineligible voters (such as deceased voters) be removed from voters' lists); and,
- until the 14th day before election day, file an objection against the presence of another voter's name on the voters' list, disputing their right to be on the list.

Any list assembled for {name of municipality} by Elections Canada using data contained in the NRE would thus be relatively up-to-date and would greatly simplify the process of confirming voter eligibility at the next local election.

Eligible voters whose names did not appear on the voters' list would still have recourse to the existing method (b) for confirming their eligibility: they could provide a properly sworn statement and proof of ID and residency. But not having to follow this procedure for every voter would greatly save time and reduce the risk of the procedure being performed improperly, enhancing voter confidence in future elections and significantly reducing the County's potential financial liabilities.

Notice of Motion

Regarding Creation of a Voters' List

Presented by COUNCILLOR {councillor name}

WHEREAS democratic principles in local government must be preserved and, where possible, enhanced;

AND WHEREAS democratic principles and rights are predicated on fair elections;

AND WHEREAS the appearance of fairness in elections is an essential element of their actual fairness and essential for preserving democratic principles;

AND WHEREAS there is a belief among some {name of municipality} residents that one or more previous {municipality} elections have not been conducted in a wholly fair, lawful, or appropriate manner;

AND WHEREAS there is a belief among some {name of municipality} residents that certain persons not eligible to vote in {name of municipality} elections may have improperly been allowed to vote in one or more previous {name of municipality} elections;

AND WHEREAS {name of municipality} is empowered by the *Local Authorities Election Act* to create and maintain a list of eligible voters;

AND WHEREAS {name of municipality} has not yet created a list of eligible voters;

AND WHEREAS the creation and maintenance of a list of eligible voters would do much to address problems identified in previous {name of municipality} elections and to enhance the appearance of fairness in future {name of municipality} elections;

AND WHEREAS most of the information needed to compile a list of eligible voters for {name of municipality} is already contained in the National Register of Electors, a database of Canadians qualified to vote that is maintained and regularly updated by Elections Canada;

AND WHEREAS section 55 of the *Canada Elections Act* allows any body responsible under provincial law for establishing a list of electors to enter into an agreement with Elections Canada for establishing a list of electors, governing the giving of information contained in the National Register of Electors;

NOW THEREFORE BE IT RESOLVED that {name of municipality}:

Enter into an agreement with Elections Canada, as provided for in the *Canada Elections Act*, to create and maintain a list of eligible voters for {name of municipality}, for use in the next and all subsequent {name of municipality} elections.



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