



P.O. Box 1749
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Item No. 15.1.11
Halifax Regional Council
July 30, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed
Chief Stuebing, A/Chief Administrative Officer

DATE: July 8, 2019

SUBJECT: Special Election: District 15, Lower Sackville

ORIGIN

Resignation of Steve Craig, Councillor for District 15, Lower Sackville, due to their election as Member of the Legislative Assembly, accepted by Regional Council on July 10, 2019.

LEGISLATIVE AUTHORITY

Municipal Elections Act, R.S.N.S., 1989, c.300, (MEA) see Attachment A.

By-law A-400, the *Alternative Voting By-law*

RECOMMENDATION

It is recommended that Halifax Regional Council approve the following:

1. Rescind the May 9, 2017 appointment of Lori A. McKinnon, as the Returning Officer for any special election that may be required prior to the 2020 regular municipal and school board election;
2. Appoint Kevin Arjoon, the Municipal Clerk, as the Returning Officer to conduct any special election that may be required prior to the 2020 regular municipal and school board election;
3. Set the dates for the 2019 Special Election in District 15, Lower Sackville, as follows:
 - (a) the date for the Special Election is Saturday October 5, 2019;
 - (b) the date when the Amended List shall be provided to the Returning Officer is August 30, 2019; and
 - (c) alternative voting shall commence at the hour of twelve o'clock noon September 28, 2019 and be kept open until Saturday October 5, 2019 at 7:00 pm.

BACKGROUND

In 2016, in accordance with procurement policy, an assignment of the current standing offer contract from Intelivote to Scytl Canada, the second-place vendor through a competitive RFP process had been executed by the Acting Chief Administrative Officer. The executed agreement permitted Scytl Canada to assume responsibility, and ensure delivery of the contracted services, the provision alternative voting, and to coordinate with any third-party vendors. With the assignment of the contract and issuance of a secondary RFP (also awarded to Scytl Canada), staff proceeded with and ran a successful general municipal election.

On May 9, 2017 Halifax Regional Council, by way of resolution, delegated the following authorities in the event a special election was required.

- to the Returning Officer, the authority to fix a day for the second day of advance polls;
- to the Municipal Clerk, the power to appoint assistant returning Officers as required;
- to the Municipal Clerk, the authority to make, revise and amend the tariff of fees and expenses and provide for the method of rendering and verifying accounts for payment.

On June 13, 2017, Regional Council approved amendments to the *Alternative Voting By-law*, and directed the use of telephone and internet voting as the only means of voting for the next special election (if required) prior to the general election in 2020. HRM has been using alternative voting since 2008, this special election will be the first electoral event in HRM that has used exclusively internet and telephone (alternative) voting. During the 2016 General Election, five Nova Scotian Municipalities had employed alternative voting; Berwick, Digby, Middleton, Truro, and Yarmouth.

On November 24, 2018, By-law C-1100, the Campaign Financing By-law was enacted. Recent amendments were enacted on July 20, 2019. The Special Election in District 15 will be the first electoral event wherein the By-law C1100, as amended, will be used.

On June 18, 2019 Councillor Steve Craig was successful in a recent Provincial by-election for Sackville-Cobequid. In accordance with the *HRM Charter*, Councillor Craig's resignation was accepted by Regional Council on July 10, 2019. Therefore, with respect section 13 of the *Municipal Elections Act* (MEA), the Municipal Clerk's Office is recommending that a special election be held to fill the vacancy in District 15 Lower Sackville on October 5, 2019.

On July 19, 2019 the Audit and Finance Standing Committee authorized the unbudgeted withdrawal of funds from the election reserve, Q511, to conduct the special election. The Committee recommendation is on the July 31, 2019 Council Agenda for Council's approval.

If Council sets Saturday, October 5, 2019 as the date for the Special Election, then Ordinary Polling Day will be October 5. The Returning Officer would set the date for the first advance poll for Saturday September 28, 2019, and, by operation of the MEA, the date of second Advance Poll would be Tuesday October 1, 2019.

DISCUSSION

Elections staff worked with Legal Services to ensure that the proposed schedule fits legislated requirements and with ICT to ensure that all deliverables were feasible. Provisions in legislation require Council to set a date for the special election within four weeks of the vacancy and that the special election must be held within eleven weeks of date of Council's decision setting that date. Accordingly, Ordinary Polling day must be set eleven weeks from July 31, 2019. Staff is recommending that Council set Ordinary Polling for the special election before the federal election (Monday October 21st), and Thanksgiving (Monday October 14). An earlier election will allow a nomination period to align with a general election. Nominations will occur the first week of September. For a review of all legislated dates, a summary is included as Attachment B to this report.

Section 114 of the Municipal Elections Act provides that an advance poll shall be held on: Tuesday, the 4th day before ordinary polling day; and, one other day either Thursday, the 9th day before ordinary polling day or Saturday, the 7th day before ordinary polling day. The first advanced in person poll will be held on Tuesday, October 1, 2019 and it is recommended that the second advanced in person poll be held on Saturday, September 28, 2019.

As this is HRM's first election using alternative voting methods, By-law A-400 affords for at least one in person polling station. Staff will be establishing one physical polling station for the advance period, which will be open on Saturday September 28th and Tuesday October 1. On Ordinary Polling Day, there will be also be one polling station. There will also be one polling location set up, for practical purposes these are both places where electors can cast a ballot, services offered will be the same. As this special election will be using a live Voters' List, there will be non-contiguous division boundaries, and voters may vote at either the polling station or the polling location (in person) in the District. For those who choose to attend an in-person polling location, they will be greeted by staff who can assist with adding them to the voters list, staff to supervise and assist with voting, and computers and telephones available to cast a ballot.

On June 13, 2017, Regional Council approved the use of only alternative voting as the only means of voting for the next special election. This will be the first electoral event in Halifax Regional Municipality that employs only alternative voting. In preparation, staff have reviewed the *Alternative Voting By-law* to ensure that we are operating in accordance with it, as well the procedures and forms. As this is a smaller election, with sufficient lead time towards the general election in 2020, staff are proposing to pilot a few concepts which will be described throughout this report. After the special election, the piloted items will be evaluated and considered for incorporation into the general election planning.

It is customary for the electoral districts in HRM to be divided into three divisions. As this is a special election, staff are working with the vendor and internal GIS to investigate creating smaller divisions, that correspond to geography. It is anticipated that this will provide more detailed relevant data when reporting results. A map outlining the divisions for this election, and a map outlining the amounts of electors for each division, has been attached as Attachment C and will be provided in the GIS open data catalogue. In addition, staff are working on determining if the results can be presented in multiple formats, including an open dataset.

The assigned contract with ScytI Canada also extends to any special election which may occur within the term of Council. In discussion with the company, they had expressed concern implementing Intelivote system, and have put forward an enhanced product entitled InVote. Staff have worked with the vendor to better understand their concerns, and to ensure that the proposed change in software meets the requirements set out in the original Request for Proposal. In addition, Municipal Clerks, ICT and Legal staff have received a demonstration of the software. The newer system will employ the use of a different elector list program, which was used in HRM in 2012. As the elector list system has changed, the candidate portal for viewing struck off electors throughout the voting process will change as well. In working with the vendor all necessary actions and risk mitigation will occur. In addition to the standard third-party review, the system will also be subject to a Privacy Impact Assessment (PIA), which is detailed in the Risk Consideration section to this report.

FINANCIAL IMPLICATIONS

The Financial Implications have been outlined in the report dated July 5, 2019 presented to the Audit & Finance Standing Committee on July 19, 2019. A recommendation from the standing committee has been brought forward for ratification as well on July 30th.

RISK CONSIDERATION

As this is the first HRM election with only alternative voting staff have undertaken several tasks to ensure that any concerns are mitigated and that the integrity of the vote, and the count is upheld.

Privacy Impact Assessment

The Election Office is working with Access and Privacy to conduct a Privacy Impact Assessment, (PIA) which is a due diligence exercise and a risk management tool which identifies and addresses privacy obligations, risks and requirements. A PIA is an established industry standard, and a best practice approach to evaluate any activity that collects, uses and/or discloses personal information. Within HRM they are used as a process to evaluate data collection for larger ICT projects. This PIA will be reviewing how the elector data is handled, as it is transmitted throughout the election from various systems and vendors, and the safe guards in the systems and in the processes.

Specified Procedures Audit

In accordance with the Alternative Vote By-law A-400 and Section 146A of the MEA, the Municipality selects an auditor, to serve as a Systems Election Officer (SEO) for Alternative Voting (through an RFP process). In accordance with the By-law, a Systems Election Officer is defined as a person who maintains, monitors or audits the system, and who has access to the system beyond the access necessary to vote by alternative voting. The Systems Election Officer is customarily employed by an accounting firm, for this term, the audit is performed by Ernst and Young, who works with the Municipality and the Alternative Voting vendor to ensure that the system conforms to a system audit. The SEO is granted special audit identification numbers (audit pins), to access the voting system, and is tasked with performing various checks at various stages of the election.

The specified procedures process occurs at various times during the election period. The Systems Election Officer accesses the system using their audit credentials and provides checks on the system to ensure transparency. A detailed account of their role can be found in Information Report to Regional Council dated February 14, 2018 and presented to Regional Council on May 8, 2018. Post-Election, the firm produces a specified procedures report, which outlines the system tests that were completed, the report is posted publicly on the HRM website, to further promote transparency within the process.

Third Party Threat Risk Assessment

The Municipal Clerk's Office works with ICT, the alternative voting vendor, and a third-party technical security firm, to run an assessment on the system to ensure that vulnerabilities are identified and that the necessary mitigation occurs. Since the last election, the municipality has hired a Manager of Cyber Security this in-house resource will also be used during this process. The engagement provides the Election Team with an understanding of some of the nuance involved in security and privacy exposures regarding access to and/or processing of confidential information. The assessment occurs in advance of launching the vote system and involves a series of tests upon the system. The tests employ a combination of commercial and non-commercial tools, as well as human analytics to gather data on the system's vulnerabilities and performance.

After the results are provided, the third-party technical security firm works with the vendor and the Municipality to help mitigate risks identified in their report. When their suggested mitigation, or solutions have been put in effect, a test on those aspects are completed to evaluate and a supplementary report is filed with the Municipality. An assessment is made by municipal staff, (Municipal Clerk's Office and ICT) and, if satisfactory, the system is approved to be launched.

Redundancy Planning

In the general election, should there be an issue or service disruption with alternative voting, electors would be directed to physical polls to cast a paper ballot. Due to the prescriptive nature of the MEA in how paper balloting is to be conducted this is not a redundancy or backup option. Therefore, the Elections Office is working on provisions that can be employed to help mitigate a service disruption with electronic means. In

addition, staff are working with Corporate Communications to ensure that a service disruption communications plan is in place to help minimize any potential situation.

COMMUNITY ENGAGEMENT

During the 2016 regular municipal election, HRM made communication and voter engagement a priority for the Election Office. Resources were dedicated to these activities and included a multi-phased communications plan.

In preparation for the 2019 Special Election in District 15, the Election Office is preparing to build upon the communications and engagement efforts from the 2016 election. Election staff have been working with Corporate Communications to develop a comprehensive communications plan with the goal of engaging electors and encouraging new voters to participate in the election, by way of informing and public education on elections, which includes information on the online voting process.

Using the legislated timeline, the communications plan integrates standard advertising with community pop-ups, a candidate information session and enhanced resources, a social media campaign, and time spent in the former Councillor's constituency Office in the district as a temporary space for drop ins and meetings with community members. The communications plan and engagement activities follow a "go where the people are" approach and will see election staff finding new ways to connect with the community.

A major key message for this special election is the format for voting. With an entirely electronic election, administrators need to ensure electors are aware of how and when they can vote. While there will be physical locations to support equitable access to voting, online voting at the elector's convenience will be heavily promoted.

In the community

During the weeks leading up to the election, staff will have a presence in the community to share information on running as a candidate and on voting. Pop-up location in public places such as the Sackville Library and Sackville Sports stadium, and popular community hubs such as the local independent coffee shop, are being coordinated. These locations will provide information on the special election in a candid and approachable manner. There will also be drop-in times at a local temporary Office. These efforts will allow election staff to share information directly with members of the public and increase accessibility to the material and the opportunity to be added to the voters' list.

The Elections Office has begun conversations with various HRM Customer Service providers such as the local library and Sackville Sports Stadium to consider having senior staff at those locations be able to revise the voters' list. This may increase accessibility for voters to ensure their information is accurately captured on our list and would contribute to raising awareness of the election. These staff members would take an oath and be trained on the appropriate software. Signage indicating that voters can speak to staff about the list would be posted in these locations. We would also include these locations when promoting the revision period.

The Election Office will use an internal mapping application called Community Builder which combines mapping GIS technology, and information on community groups to connect with local organizations in the District. With this data, staff will connect with these organizations at various times during an election office to disseminate information through a networked approach.

One candidate information session will be held in the community for all who are interested in running. There will be targeted efforts to engage underrepresented communities and encourage people to attend the information session. All information shared at the session will be made available online.

Civic Education

In the spring of 2019 election staff worked with the Halifax Regional Centre for Education to deliver a presentation to grade 9 social studies classes. Civic education was added to the grade 9 curriculum, making this a natural opportunity to speak to students who are already learning about different levels of government. There will be a concentrated effort to present to classes in District 15 in September to share information on HRM with a focus on the election. A call to action will be presented to students – encourage your parents/guardians to vote!

Materials

Branding from the 2016 election will be kept for the 2019 by-election. Colourful text, clear messages, and diverse images will be used to capture the attention of the public. Quick messaging calling electors to action will be the focus of the materials.

The recent passing of the *Campaign Finance By-law* provides an opportunity to create new materials for candidates. It is important that all candidates and their agents have the correct information and forms for participating in an election. A specific brochure will be developed for the new *Campaign Finance By-law* and made available in print and digital formats. This information will be new for all candidates, including those who may have participated in the past.

The Clerk's Office is in the process of having a video produced to complement the recently redesigned engagement guide, "Be informed, Get engaged, Serve – a how-to guide to getting involved with your local government." While this video will include information on various roles and responsibilities of municipal government, elections are covered. This video will provide HRM with another tool to engage members of the public.

Postcards will be produced for a mail drop in District 15 advising electors about the upcoming election. This communication piece serves as a "Save the Date" and encourages electors to check the voters' list, and to watch out for their voter information letters which will be distributed closer to the start of the voting period.

Social Media

Election staff will work with Corporate Communications to share messages on multiple social media platforms. In addition to the HFXGov accounts, Elections Halifax has a Twitter account managed by elections staff. Elections staff will work with Corporate Communications to explore the use of Instagram and encourage people to use photos and personal stories to share why they will be participating in the election. In 2016 the hashtag #HalifaxVotesBecause was used to create a narrative about the relationships between electors, the voting process and the municipality. A recent meeting with the Youth Advisory Committee confirmed the importance of using social media to tell stories and encourage people to participate in their local government. Highlighting the ease and accessibility of online voting will be particularly important as these mediums capture the attention of a population of electors who are already online. This supports concerted efforts to engage a demographic (19-35) who do not traditionally vote.

Accessibility

Election staff have been working with members of the Diversity and Inclusion Office, including the recently hired a new Accessibility Advisor, to review and fine tune the election accessibility plan created in 2016.

It is a main priority for the election Office to enhance communication efforts to reach underrepresented and historically underserved populations. Engaging with community is an important component of the outreach efforts for the Election Office.

ENVIRONMENTAL IMPLICATIONS

Not Applicable.

ALTERNATIVES

There are no alternatives, this is a legislated requirement to conduct a special election to fill this vacancy on Regional Council.

ATTACHMENTS

Attachment A - Applicable Provisions of the *Municipal Elections Act*
Attachment B - Key Dates - Special Election District 15 – Lower Sackville
Attachment C – District 15 – Lower Sackville Maps Showing Divisions

If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Kevin Arjoon, Municipal Clerk, 902.490.6456

APPLICABLE PROVISIONS OF THE *MUNICIPAL ELECTIONS ACT*

4 (1) The council shall appoint a returning officer, who may be the clerk, another municipal employee or another person who is not a municipal employee, to conduct all regular and special elections required under this Act.

(1A) The council may appoint one or more assistant returning officers who shall assist the returning officer in carrying out the returning officer's duties and who shall act in the place and in the stead of the returning officer when the returning officer is absent or at the request of the returning officer.

(1C) The council may delegate its powers of appointment pursuant to this Section to the clerk or chief administrative officer.

(2) The returning officer and the assistant returning officer shall, before entering upon the duties of office, take the oath in prescribed form.

13 (1) Subject to subsection (8), within four weeks after a vacancy occurs on a council because

- (a) an insufficient number of candidates are nominated to fill the vacancies at a regular or special election; or
- (b) a councillor dies, resigns, becomes disqualified or forfeits office,

the council or, where there is no council, the Minister shall name a day for a special election to fill the vacancy and, if no regular meeting of the council is to be held within that time, the clerk shall call a special meeting for the purpose.

(2) The day fixed for the special election shall be a Saturday not more than eleven weeks after the meeting of the council at which the day was named.

38 (1) On or before the date chosen by the council on the advice of the returning officer, the revising officers shall furnish the returning officer or registrar of voters with a list of electors consisting of the preliminary lists of electors together with the amendments that they have made to the lists as a result of their sittings.

114 (1) The returning officer shall establish an advance poll or polls at a convenient place or places within the municipality in premises which permit convenient access thereto by an elector with a physical disability.

(4) An advance poll shall be held on

- (a) Tuesday, the fourth day before ordinary polling day; and
- (b) one other day fixed by council, by resolution, which shall be either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day.

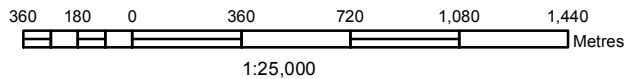
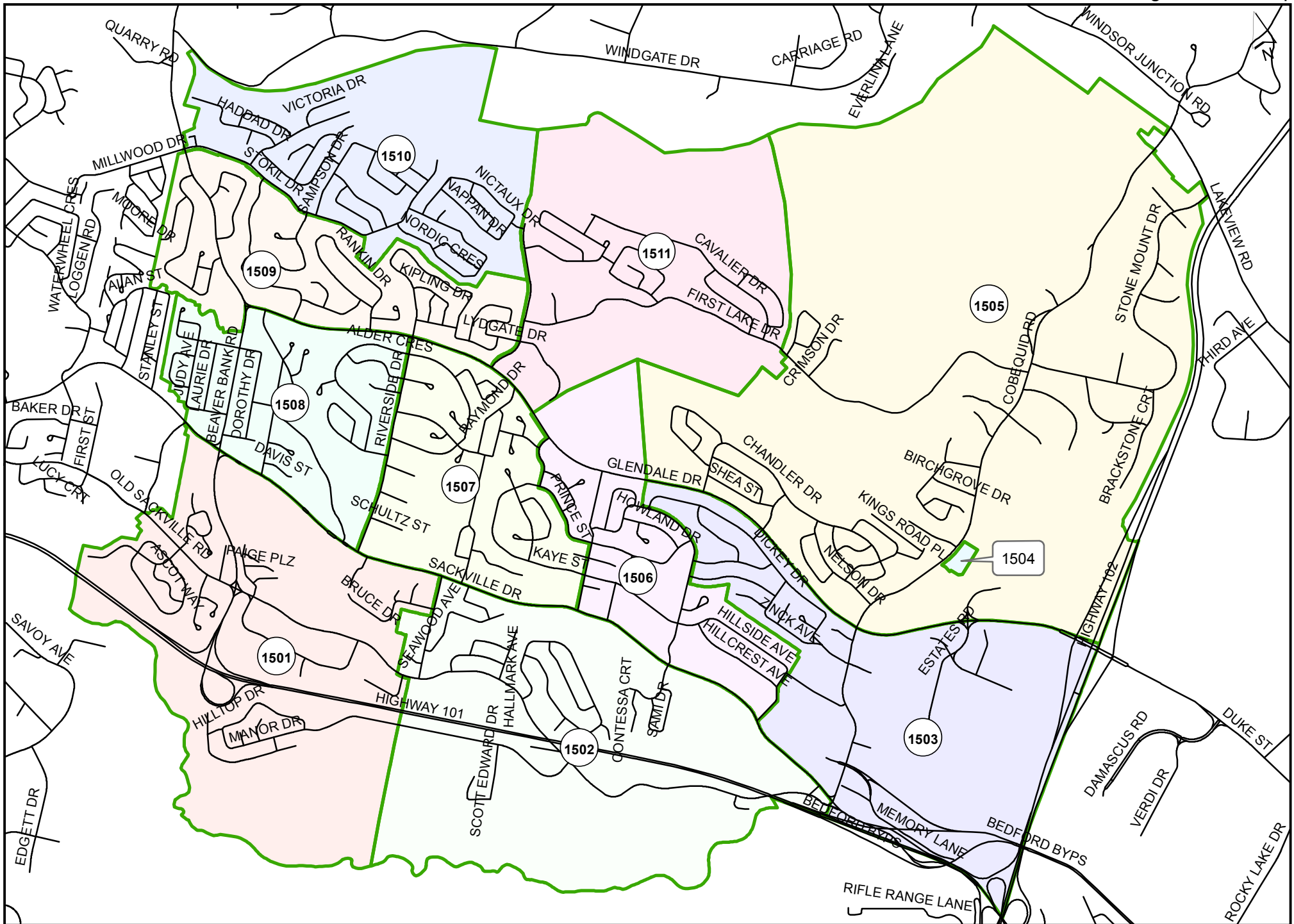
(4A) Council may delegate its authority to fix a day pursuant to clause (4)(b) to the returning officer.

146A (1) A council may by by-law authorize voters to vote by mail, electronically or by another voting method.

(6) Notwithstanding subsection (5), where a by-law provides for voting via the Internet through the unsupervised use of a personal computing device, the by-law must also permit voting by some other means on each advance polling day and on ordinary polling day.

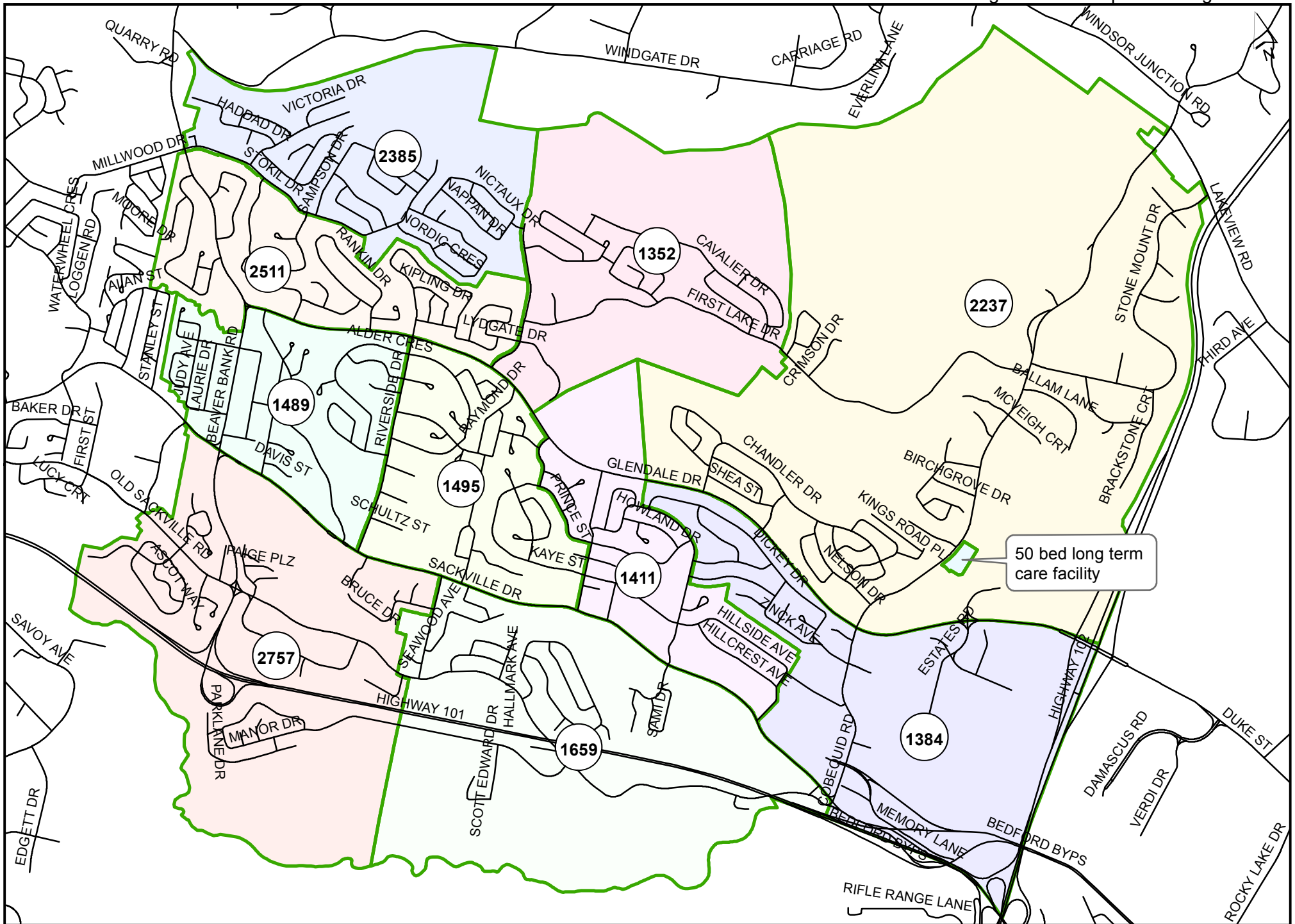
2019 Special Election – Lower Sackville – Key Dates

Contribution Period Begins Form 17s accepted by Elections Office	July 31, 2019
Revision Period Begins	August 8, 2019
Revision Period Ends	August 29, 2019
Five Days of Nomination Appointments	September 3,4,5, 6, and 9, 2019
Nomination Day	September 10, 2019
Change of Particulars Withdrawal of Candidate	September 11, 2019
Advance In-Person Voting Opportunities	September 28, 2019 October 1, 2019
Alternative Voting (E-voting) Polls Open	September 28 through to October 5, 2019
Ordinary Polling Day	October 5, 2019
Official Addition Official Results	October 8, 2019
Affidavit of Removal of Signs, and Destruction of Voters' List (Form 12)	October 12, 2019
Last Day for Application for Recount	October 15, 2019
Councillor – Elect Sworn in at Regional Council by Mayor	October 22, 2019
Last Day for Campaign Contributions	November 4, 2019
Campaign Finance Disclosure Forms Due	December 4, 2019

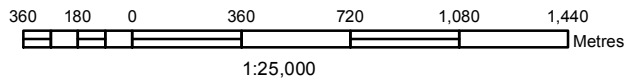


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50 bed long term care facility



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