


TITLE: BY-LAW NO. 6976 – USE OF VOTE COUNTING MACHINES FOR CITY COUNCIL AND SCHOOL BOARD ELECTIONS		
PRESENTER: H. Ewasiuk	AGENDA NO:	
DEPARTMENT: City Clerk's Office	DATE: February 24, 2010	
CLEARANCES:	ATTACHMENTS: By-law No. 6976 (# of pages = 5)	
APPROVALS:		
<i>Original Signed By:</i> <u>C. Arvaisis</u> Department Head	<u>01/03/10</u> Date	<i>Original Signed By:</i> <u>B. MacRae</u> City Manager
		<u>01/03/10</u> Date

SUMMARY OF HISTORY/BACKGROUND:

The use of vote counting machines for the upcoming elections this fall is being recommended to ensure that:

- voters who take the time and make the effort to come out and vote are provided with a greater degree of assistance when casting their ballots;
- all ballots cast on Election Day have been completed properly and not subsequently questionable during the counting of ballots following the closing of the polls or during a judicial recount if one is requested or required;
- the onerous manual tabulation of the election results for all candidates running for Mayor, Councillor or School Trustee by election staff at the end of a 12 hour Election Day is eliminated; and
- such tabulation is carried out accurately and promptly allowing election results to be released much earlier on Election night;

Section 62 of The Municipal Councils and School Boards Elections Act permits the use of vote counting machines for City Council and School Board elections provided that a by-law is passed authorizing same and including provisions that:

- establish the procedures and forms to be used in conjunction with the vote-counting machines;
- prescribe a testing procedure to be used to ensure the accuracy of each vote-counting machine;
- require that, within a reasonable time before use, each vote-counting machine is tested in accordance with the procedure described above; and
- require that evidence of the testing procedure being followed is available to each candidate who requests it.

An agreement has been entered into with Dominion Voting Systems Corp. to provide vote-counting machines and technical support for the 2010 City Council and School Board Elections.

The attached by-law has been prepared for City Council's consideration and in compliance with the requirements of The Municipal Councils and School Boards Elections Act.

RECOMMENDATION:

That By-law No. 6976 to authorize the use of vote-counting machines for the City Council and School Board elections in the City of Brandon be read a first time.

(Read a first time March 8, 2010)

That By-law No. 6976, to authorize the use of vote-counting machines for the City Council and School Board elections in the City of Brandon, be read a second time.

That the by-law be read a third and final time.

BY-LAW NO. 6976

BEING A BY-LAW OF The City of Brandon to authorize the use of vote-counting machines in the City Council and School Board elections in the City of Brandon.

WHEREAS The Municipal Councils and School Boards Elections Act, SM 2005 c.27 provides for the holding of local elections by municipalities;

AND WHEREAS Section 62 of The Municipal Councils and School Boards Elections Act permits the use of vote-counting machines as provided therein;

NOW THEREFORE the Council of The City of Brandon in regular session assembled, enacts as follows:

Short Title

1. This by-law shall be referred to as the "Vote-Counting Machines By-law".

Definitions

2. In this by-law, all definitions shall be in accordance with The Municipal Councils and School Boards Elections Act, except the following:

"Acceptable Mark" means any mark made by an elector on a ballot in the space provided opposite the name of any candidate, which the vote tabulator unit is able to record.

"Automated Vote Counting System" means a system that counts and records votes and processes and stores election results which is comprised of:

- (a) ballot scan vote tabulator(s) which rest(s) on a two compartment ballot box, one compartment of which is for voted ballots, and the other for the temporary storing of voted ballots during such time as the vote tabulator unit is not functioning; and
- (b) a number of portable ballot boxes into which voted ballots are deposited where a vote tabulator is not being used, for counting after the close of voting on election day.

"Ballot" means a single automated ballot card designed for use in an automated vote counting system, which shows the names of all of the candidates for each of the offices contested.

"Ballot Marking Device" means the pen or other instrument, approved by the Senior Election Official, for the use in marking ballots by the elector.

"Blank Ballot" means a ballot without votes in any of the specified voting areas as determined by a vote tabulator.

"Election Headquarters" means the Civic Administration Building, 410 – 9th Street, Brandon, Manitoba.

"Election Official" means a person appointed as the Senior Election Official, or an assistant senior election official or any election official or supervising election official appointed by the Senior Election Official.

"Emergency Ballot Compartment" means one of two separate compartments in the ballot box under each vote tabulator unit into which voted ballots are temporarily deposited in the event that the unit ceases to function.

"Memory Pack" means a computer software cartridge which plugs into the vote tabulator and into which is pre-programmed the names of all of the candidates for each of the offices contested and a mechanism to record and retain information on the number of votes for each candidate.

"Overvoted Ballot" means a ballot in which contains votes for more candidates that are to be elected to an office.

"Portable Ballot Box" means a ballot box which is used at a voting place in the election, where a vote tabulator is not being used.

"Register Tape" means the printed record generated from a vote tabulator at the close of voting on election day which shows the number of votes for each candidate for each office contested.

"Returned Ballot" means a ballot which was inserted into the vote tabulator by the elector, but which was not accepted and which was returned to the elector with an explanation of the ballot marking error which caused the ballot not to be accepted.

“Secrecy Sleeve” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.

“Voting Official” means an election official who is responsible for the conduct of voting at a voting station.

“Voting Record” means the register of electors who have cast their vote and contains the voters list and information relating to the ballot.

“Vote Tabulator” means the device into which voted ballots are inserted and which scans each ballot and records the number of votes for each candidate.

Form of Ballot

3. The ballot shall contain the names listed in an order determined by random lot of the duly nominated candidates for Mayor and Councillor and, where the elector is eligible to vote for School Trustee, shall contain the names of the duly nominated candidates for School Trustee. The ballot shall be a reasonable facsimile of the sample attached hereto as Schedule “A”.

Vote Tabulator

4. The vote tabulator shall be programmed to, upon insertion of the ballot:
 - (a) alert the elector to blank ballots, overvoted ballots and a ballot that has been incorrectly printed, cut, or has been marked outside the voting area or inserted into a vote tabulator in such a way that the vote tabulator is unable to identify the markings on the ballot; and
 - (b) print out a message corresponding to the reason for the returned ballot

whereby the elector can decide whether to cast a ballot “as-is”, or return the ballot for further review.

Pre-Vote Procedure

5.
 - (a) No vote tabulator nor any memory pack shall be used in an election unless it is first tested successfully in accordance with this section and is attested to by an election official signing the register tape showing test results that match the pre-audited results.
 - (b) The test of a vote tabulator and memory pack shall be conducted by
 - (i) inserting the memory pack into the tabulator;
 - (ii) using the vote tabulator to count a pre-audited group of ballots including ballots that fall into the categories referred to in subsection 4(a) and ballots on which are marked a predetermined number of votes for each candidate eligible for votes at the poll or polls for which the memory pack has been programmed;
 - (iii) generating a register tape of the results; and
 - (iv) comparing the tabulated results with the pre-audited results to ensure accuracy.
 - (c) Each vote tabulator or memory pack must be tested within 45 days prior to use.
 - (d) Upon request, each candidate is to be provided with evidence of the testing procedure.
 - (e) Prior to 8:00 a.m. on election day, the election official shall cause the vote tabulator to print a copy of all totals in the memory pack and ensure that all totals indicate zero. The election official shall then certify by signature on the printout that the totals so indicate zero and shall ensure that such printout is provided to the Senior Election Official at Election Headquarters.

Voting Procedures

6.
 - (a) Upon ensuring that:
 - (i) the elector is qualified to vote in the election;
 - (ii) the elector is voting in the correct voting station; and
 - (iii) the elector’s name is contained in the voting record and any other related information regarding objections, and affidavits is recorded therein;

the voting official shall provide a ballot, bearing his or her initials to the elector along with a secrecy sleeve.

6. (b) Upon receiving the ballot and secrecy sleeve, the elector shall immediately proceed to a voting compartment to vote.
- (c) The elector may vote only by making an acceptable mark on the ballot beside the name of each candidate of choice, up to the maximum number of candidates to be elected for each of the offices contested.
- (d) Upon having marked the ballot, the elector shall place the ballot into the secrecy sleeve and deliver same to the voting official designated who shall;
- (i) in the presence of the elector, and before removing the ballot from the secrecy sleeve, confirm that the ballot bears the initials of the voting officials; and
- (ii) remove the ballot from the secrecy sleeve , ballot face down, and insert the ballot directly into the vote tabulator.
- (e) If, before delivery of the ballot to the voting official, the elector determines that an error may have been made in marking the ballot or if the ballot is rejected by the vote tabulator, the elector may request a replacement ballot from the voting official.
- (f) Upon a request pursuant to subsection (e) above, the voting official shall issue a replacement ballot to the elector and mark the returned ballot "spoiled" and retain such spoiled ballots separately from all other ballots and same shall not be counted in the election.
- (g) If the elector wishes to decline the ballot, the elector may write "declined" anywhere on the back of the ballot and deliver it to the voting official for insertion into the vote tabulator.
- (h) If the vote tabulator does not allow a ballot to be processed, the elector will be alerted of the overvoted or blank ballots, and the elector can decide to cast the ballot "as-is" or return it for further review.
- (i) During any period that the vote tabulator is not functioning, the voting official supervising the unit shall insert all ballots presented by electors during that period into the emergency ballot compartment, and the ballots in that compartment shall, after the poll closes, be removed by the voting official and inserted into the vote tabulator to be counted.
- (j) Any ballots which were temporarily stored in the emergency ballot compartment, which are overvoted or blank ballots and are not processed by the vote tabulator, will be determined by the voting official to have been cast "as-is".
- (k) Any ballot which does not bear the initials of the voting official or which is damaged to the extent that it cannot be inserted into the vote tabulator and for which no replacement ballot was provided shall be marked "spoiled" and not counted in the election.

Alternative Voting Opportunities

7. (a) Alternative voting opportunities, including advance voting, mobile voting and voting by sealed envelope may be provided in accordance with The Municipal Councils and School Boards Elections Act.
- (b) Vote tabulators must be used to conduct the vote at all alternative voting opportunities as identified by the Senior Election Official and voting procedures shall be in accordance with the provisions of Section 6 herein, but not every voting station must be equipped with a vote tabulator.
- (c) Every ballot marked by a vote must be placed in either a vote tabulator or a temporary ballot box.
- (d) A vote tabulator must be used to count the ballots that are placed in every temporary ballot box.
- (e) At the close of voting each day at an alternative voting station, the voting official in each case shall ensure that:
- (i) no additional ballots are inserted into the vote tabulator or temporary ballot box;
- (ii) the emergency ballot compartment's slot is taped up to prevent insertion of ballots;
- (iii) the register tapes in the vote tabulator are not generated; and
- (iv) the memory pack in the vote tabulator is secured.

SCHEDULE "A"

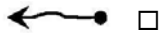
Sample Ballot



EO'S Initials

City of Brandon
October 27, 2010

WARD NAME / NUMBER



To vote, with the pen provided, complete the arrow pointing to the candidate of your choice.

For the Office of MAYOR	For the Office of COUNCILLOR	For the Office of SCHOOL TRUSTEE
Vote for One Person Only	Vote for One Person Only	Vote for Not more than 4 Person
CANDIDATE ONE ← →	CANDIDATE ONE ← →	CANDIDATE ONE ← →
CANDIDATE TWO ← →	CANDIDATE TWO ← →	CANDIDATE TWO ← →
CANDIDATE THREE ← →	CANDIDATE THREE ← →	CANDIDATE THREE ← →
CANDIDATE FOUR ← →		CANDIDATE FOUR ← →
		CANDIDATE FIVE ← →