


HALIFAX

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Item No. 9.1.2
Executive Standing Committee
November 2, 2015

TO: Mayor  and Members of Executive Standing Committee
Original Signed

SUBMITTED BY: _____
Richard Butts, Chief Administrative Officer

DATE: October 26, 2015

SUBJECT: Extension of rights to Candidacy in Municipal and School Board Elections to Permanent Residents

ORIGIN

Motion of Halifax Regional Council December 2, 2014

That Halifax Regional Council:

- 1. Endorse including permanent residents as qualified electors to vote in municipal and school board elections; and*
- 2. Direct staff to consult with the Province of Nova Scotia's department of Municipal Affairs to move the recommendation forward.*

Correspondence from Mr. Furey received by the Office of the Municipal Clerk July 27, 2015.

Motion of the Executive Standing Committee August 10, 2015

That the Executive Standing Committee request a staff report outlining the implications of extending the right to nominate candidates or run for office in municipal elections to Permanent Residents.

LEGISLATIVE AUTHORITY

Municipal Elections Act, Section 14, which defines the qualifications of an elector.

Municipal Elections Act, Section 17, which defines the qualifications to be elected as councillor (defined in the Act to mean a mayor, warden or council member)

Municipal Elections Act, Section 43, which sets out the criteria for nominations

Municipal Elections Act, Section 2(2) which outlines how school board elections are conducted.

Education Act, Sections 13 & 42A (3) which includes additional elector qualifications for Conseil scolaire acadien provincial School Board and African Nova Scotian member of the Halifax Regional School Board.

RECOMMENDATION

That the Executive Standing Committee recommends that Halifax Regional Council:

1. Confirm Council's resolution to include permanent residents as qualified electors to vote in municipal and school board elections, which, if enacted and under the current requirements for nomination (Section 43 (1) of the Municipal Elections Act), would enable a permanent resident who registers and who is on the final list of electors to be a nominee for a candidate for office; and
2. Request that the Province of Nova Scotia retain the requirement of citizenship as a qualification as a candidate for office.
3. Request the Province of Nova Scotia's Department of Municipal Affairs move the recommendation forward.

And, it is further recommended that the Mayor be authorized to write to the Minister of Municipal Affairs outlining the position of Council in regard to this matter.

BACKGROUND

In response to the August 2014 motion of the Executive Standing Committee requesting a staff report to examine the benefits and implications of extending the right to vote in municipal elections to permanent residents, a report was submitted to the Committee at the meeting of November 24, 2014.

The Committee recommended that Halifax Regional Council:

1. *Endorse including permanent residents as qualified electors to vote in municipal and school board elections; and*
2. *Direct staff to consult with the Province of Nova Scotia's department of Municipal Affairs to move the recommendation forward.*

The staff report provided two (2) legislative options for consideration of NS Municipal Affairs in advancing Council's recommendation: to make amendments to the *Municipal Elections Act*, which would put the change into effect province-wide, or, as an alternative, to make the proposed changes to the *Halifax Municipal Regional Charter*, which would serve to implement the change only within the municipality.

Regional Council passed the recommendation on December 2, 2014 and the position of Regional Council was forwarded to the Minister of Municipal Affairs for consideration.

The report also outlined logistical implications which would require permanent residents to register to be included on the voter's list for the municipal elections and then be removed for return of the list to Elections Nova Scotia, both of which could be accommodated by the election office.

The report and recommendations can be found at <http://www.halifax.ca/council/agendasc/documents/141202ca1133.pdf> and as Appendix 2 of this report.

In his correspondence of July 27, 2015, Minister Furey stated that he believed that it would be most aligned with democratic principles to extend the rights to permanent residents to vote, run for office and nominate candidates. The minister sought Regional Council's position on the matter prior to advancing any legislative amendments.

DISCUSSION

For the initial report the HRM Election Office conducted research to identify jurisdictions which are considering or have already implemented voting rights to permanent residents. That initial jurisdictional scan is contained in the staff report at Attachment 2 of this report. The research indicates that voting rights by permanent residents is under consideration in a number of municipalities in Canada, the United

States and around the world. Voting rights in local elections have already been extended in a number of jurisdictions including Ireland, Chile, Finland, Denmark and other EU member states, Japan, Malawi and New Zealand.

The correspondence from NS Municipal Affairs asked the municipality to consider two (2) distinct questions in regard to extending voting rights to permanent residents: 1) making permanent residents eligible to run as candidates, and 2) making permanent residents eligible to nominate candidates.

Permanent Residents eligible as Candidates

Generally, for local government elections in Canada, a distinction is drawn between qualifications to vote and qualifications to be a candidate. Many jurisdictions across the country extend local voting rights to citizens who are not residents of the municipality but are property owners/rate payers while retaining the need to reside within the municipality as a requirement of candidacy. Under the current Nova Scotia *Municipal Elections Act* the qualifications to vote (section 14 - qualifications of elector) and qualifications as a candidate (section 17 – eligibility as councillor) are considered as two (2) separate matters with different qualifications.

A jurisdictional scan was conducted on the question of allowing permanent residents (or non-citizens) to run for local office. It is included as Attachment 1 of this report.

The jurisdictional scan shows that matters related voting rights and rights to run for office are very complex within the European Union (EU) due to EU law and reciprocal agreements between countries. As such, EU considerations are not necessarily transferable to local government in Canada.

Ireland, Denmark and Finland have relatively open eligibility for both voting and running as a candidate in local elections but require an extended period of residency for non-resident electors/candidates.

In Japan, New Zealand and the United States, the three (3) jurisdictions outside of the EU where progress has been made in advancing voting for non-citizens in local elections, the questions of voting and candidacy are seen as distinct matters with the focus being on voting rights. In these jurisdictions the move to extend voting rights to non-citizen flows from recognition that permanent residents have a significant investment in decisions related to the local government and school boards and contribute to the communities in which they live. In the literature or debates there is very little discussion about extending the right to run as a candidate, which is more closely reserved as a right of citizenship.

Based on the jurisdictional review the matter of extending voting rights and eligibility to run as a candidate has been handled in a variety of ways across jurisdictions.

New Zealand, as a Commonwealth country with a democratic tradition based on British parliamentary law and a local government act passed by territorial (provincial) authority, is the jurisdiction closest to our own. In New Zealand, non-citizens can vote in local elections but the legislation requires that candidates be citizens of New Zealand. This approach would be consistent with the current direction provided by Regional Council and is, at this time, the recommendation of elections staff.

Nominating Candidates

Should the province move forward with amendments to either the *Municipal Elections Act* or the *Halifax Regional Municipality Charter* that change the definition of a qualified elector in a municipal or school board election to include permanent residents, permanent residents would by extension also be eligible to nominate a candidate for office in a local or school board election upon registering for the list of electors. This is because under the *Municipal Elections Act* (section 43- Nominations), every candidate must be nominated by not less than five persons whose names appear on the final list of electors **and are qualified to vote** at the election for which they are nominating a candidate (local district for councillor, municipality for mayor, school board district for school board member or qualified elector for African Nova Scotian school board members or CSAP under the Education Act).

FINANCIAL IMPLICATIONS

There are no financial considerations to the recommendations contained in this report.

COMMUNITY ENGAGEMENT

There has been no specific call to include the right to become a candidate along with voting rights for permanent residents.

The motion of Regional Council was specific in regard to consideration of extending voting rights for permanent residents in municipal and school board elections, which is consistent with other Commonwealth countries, such as New Zealand.

The Union of Nova Scotia Municipalities (UNSM) has written to the Minister of Municipal Affairs in support of amending the MEA to allow those with permanent resident status to vote in municipal elections. (Dated September 8, 2014) and, at this time, has not addressed the question of candidacy.

The Halifax Chamber of Commerce has voiced its support for Council's motion for the Province to allow permanent residents to vote in Halifax's municipal and school board elections without having to consider the matter of candidacy, similar to jurisdictions such as New Zealand.

ENVIRONMENTAL IMPLICATIONS

No implications identified.

ALTERNATIVES

Halifax Regional Council can choose to not move forward with recommending to the Province that legislative amendments be undertaken to extend voting rights for municipal and school board elections to permanent residents.

Halifax Regional Council could choose to recommend extending qualifications for candidacy to permanent residents. Should Regional Council choose this alternative, legal advice should be sought as to whether residency requirements above and beyond those currently required for Canadian citizens under section 17 of the *Municipal Elections Act*, could be considered.

ATTACHMENTS

Appendix 1 – Supplementary Jurisdictional Scan - both voting/candidacy

Appendix 2 – Staff report dated November 24, 2014

A copy of this report can be obtained online at <http://www.halifax.ca/boardscom/standing.php> then choose the appropriate Standing Committee and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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Legal Review by: Approved in Report Center
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Permanent Residents voting/candidates

Country	Voter Eligibility	Candidate Eligibility
<p>New Zealand</p>	<p>Local and National voting rights to all permanent residents after one year of residence. http://www.dol.govt.nz/immigration/knowledgebase/item/5121</p>	<p>To be eligible to stand for election, you must be:</p> <ul style="list-style-type: none"> • A New Zealand citizen; and • A parliamentary elector (anywhere in New Zealand) [section 25, Local Electoral Act 2001] <p>http://www.localcouncils.govt.nz/LGIP.nsf/wpg_UR/L/About-Local-Government-Participate-In-Local-Government-Voting-and-Becoming-a-Councillor?OpenDocument</p>
<p>Ireland</p>	<p>You do not have to be an Irish citizen to vote in a local election.</p> <p>To vote you must be;</p> <ul style="list-style-type: none"> • Over 18 years of age and you must live in the local electoral area. • You must be registered on the Register of Electors compiled every year by County and City Councils. <p>To be eligible to be included in the Register of Electors, you must:</p> <ul style="list-style-type: none"> • Be at least 18 years old on the day the Register comes into force (15 February) • Have been ordinarily resident in the State on 1 September in the year preceding the coming into force of the Register <p>Ordinary Resident: Your pattern of residence over a number of years is taken into account to decide your 'ordinary residence'. If you have been a resident for the previous three tax years then you become ordinarily resident from the start of the fourth year. If you leave the country, you will continue to be ordinarily resident until you have been non-resident for three continuous tax years.</p> <p>http://www.citizensinformation.ie/en/government_in_ireland/elections_and_referenda/local_elections/local_elections.html</p> <p>http://www.citizensinformation.ie/en/money_and_tax/tax/moving_country_and_taxation/tax_residence_and_domicile_in_ireland.html</p>	<p>You are eligible to be elected to a local authority if you are ordinarily resident in Ireland and you are at least 18 years old. You do not have to be an Irish citizen.</p> <p>http://www.citizensinformation.ie/en/government_in_ireland/elections_and_referenda/local_elections/nomination_of_candidates_in_local_authority_elections.html</p>

<p>Denmark</p>	<p>Any person who has attained the age of 18 and is a resident in the local authority area is eligible to vote in the election to local and regional councils. However, people who are not nationals of Denmark, another EU Member State, Iceland, or Norway may only vote if they have resided in the Kingdom for a period of three years prior to the election.</p> <p>http://elections.sim.dk/local-elections.aspx</p> <p style="text-align: center;">Translation <i>Consolidated Act No. 363 of 2 April 2014</i> Local and Regional Government Elections Act</p> <p>Part 1 <i>Franchise and Eligibility</i></p> <p>1. (1)- Franchise for the local council and the regional council is held by every person who, on election day, is above 18 years of age, permanently resident in the municipality or region, respectively, and who also-</p> <ul style="list-style-type: none"> (i) is a Danish citizen; (ii) is a national of another member state of the European Union; (iii) is a national of Iceland or Norway; or (iv) has uninterruptedly been permanently resident in the realm for the past three years prior to election day. <p>(2) Franchise for the local council and the regional council is furthermore held by every person who, on election day, is above 18 years of age, is a citizen of another member state in the European Union and is registered with the Protocol Department of the Ministry of Foreign Affairs.</p> <p>(3) Any person who has been deprived of his or her legal capacity under a guardianship order, cf. section 6 of the Danish Guardianship Act shall not be entitled to vote.</p> <p>(4) Persons who according to the rules of the national civil registration system (CRS) fulfil the conditions for registration as residents in the municipality shall be considered to be permanently resident in the municipality or the regional council, respectively, in which the municipality is situated.</p> <p>3.-(1) Eligibility for the local council and the regional council is accorded to anyone holding the right to vote in local and regional elections, and who not later than Friday 25 days prior to election day or, if this is not the case, not later than noon Monday 22 days prior to election day fulfils the conditions for eligibility, except for the condition as to age and the condition as to the preceding period of being permanently resident in the realm, cf. however section (4).</p> <p>3a.-(1) Subject to reciprocity the Minister for Economic Affairs and the Interior may enter into an agreement with another country to the effect that persons who are nationals of that other country without simultaneously being a Danish citizen shall be accorded eligibility after uninterruptedly being permanently resident in the realm for a period of less than four years.</p> <p>(2) After entering into an agreement under subsection (1), the Minister for Economic Affairs and the Interior shall determine not later than 10 weeks prior to election day the period of time</p>	<p>If you are eligible to vote in the election to local and regional councils, you are normally also eligible to stand for election to such councils unless you have been convicted of an action which in the public opinion makes you unworthy of being a member of local and regional councils.</p> <p>http://elections.sim.dk/local-elections.aspx</p>
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	<p>Ministry for Economic Affairs and the Interior © 2014 http://elections.sim.dk/media/712613/consolidated-act-local-elections-2014.pdf</p>	
Finland	<p>Entitled to vote in municipal elections are</p> <ol style="list-style-type: none"> 1) citizens of Finland or another Member State of the European Union as well as of Iceland and Norway who have reached the age of 18 not later than on the day of the election, and whose municipality of residence, as defined by law, is the municipality in question on the 51st day before election day, and 2) other foreigners who have reached the age of 18 not later than on the day of the election, and whose municipality of residence, as defined by law, is the municipality in question on the 51st day before election day, and who at that time have had a municipality of residence in Finland for an uninterrupted period of two years. <p>http://www.vaalit.fi/en/index/onelections/municipalelections/righttovoteandcompilationofthevotingregister.html</p>	<p>Eligible as candidates are persons</p> <ol style="list-style-type: none"> 1) whose municipality of residence is the municipality in question, 2) who are entitled to vote in municipal elections in some municipality, and 3) who are not legally incompetent. <p>http://www.vaalit.fi/en/index/onelections/municipalelections/eligibilityandnominationofcandidates.html</p>
Japan	<p>Japan's national government has prohibited foreign residents from voting in national elections, but has made no definitive ruling on local participation. It was suggested that constitutional constraints prevented non-citizens from voting in local elections. However, in 1995 the Supreme Court of Japan decided that decisions on foreign resident suffrage should be left to the national government. The national government has attempted to take up the issue of foreign residents voting locally in recent years but has been effectively taken off of the national agenda for the time being due to political opposition, natural disasters and other circumstances.</p> <p>http://www.japanesestudies.org.uk/eicjs/vol13/iss1/green.html (section titled - Local foreign suffrage)</p> <p>The City of Kawasaki passed a municipal ordinance in 2009 giving residents over the age of 18, including non-Japanese who have living in the city for more than three years, voting rights.</p> <ul style="list-style-type: none"> • As of 2005, there were approximately 200 municipalities that authorize foreign residents to vote <p>http://www.japantimes.co.jp/news/2014/08/20/national/politics-diplomacy/debate-foreigner-voting-rights-reignites-ahead-2020-olympics/#.U_XY4GMw--Y – News Article</p> <p>*Not able to find legislation or government documents that confirm this that were translated to English.</p>	<p>**Not able to find information on candidate eligibility.</p>

UK

You can vote in a UK local government election if you're registered to vote and:

- aged 18 or over on polling day (16 or over in Scotland)
- a UK, Irish or a Commonwealth or European Union citizen living in the UK
- not legally excluded from voting, eg because you're in prison

<https://www.gov.uk/voting-in-the-uk/local-elections>

To be able to stand as a candidate at a local government election in England and Wales you must:

- Be at least 18 years old on the day of your nomination
- Be a British Citizen, an eligible Commonwealth citizen* or a citizen of at least one of the following qualifications:
 - I. You are, and will continue to be, registered as a local government elector for the local authority area in which you wish to stand from the day of your nomination onwards.
 - II. You have occupied as owner or tenant any land or other premises in the local authority area during the whole of the 12 months before the day of your nomination and the day of election.
 - III. Your main or only place of work during the 12 months prior to the day of your nomination and the day of election has been in the local authority area.
 - IV. You have lived in the local authority area during the whole of the 12 months before the day of your nomination and the day of election.

*An eligible Commonwealth citizen is a Commonwealth citizen who either; does not need leave to enter or remain in the UK, or has indefinite leave to remain in the UK.

http://www.electoralcommission.org.uk/data/assets/pdf_file/0007/141784/Part-1-Can-you-stand-for-election-LGEW.pdf

United States of America		
<p>Chicago</p>	<p>To vote in a Chicago Local School Election, voters must present two valid and acceptable forms of identification. There is not a requirement that voters be US citizens, and a permanent resident card is an acceptable form of identification.</p> <p>See page 14 - http://www.cps.edu/About_CPS/Departments/Documents/LSC/2014LSCELECTIONGUIDE.pdf</p>	<p>All parents, community members and teachers who want to strengthen their local schools and have a positive impact on student achievement are encouraged to run for local school council elections. It seems that permanent residents are able to be candidates for election to school council. The candidate eligibility description does not explicitly say that non-citizens are eligible to be candidates. See page 2 http://cps.edu/About_CPS/Departments/Documents/LSC/2014LSCELECTIONGUIDE.pdf</p> <p>Further, on the LSC candidate nomination form, two pieces of identification are required, and a permanent residence card is an acceptable form of identification. http://cps.edu/About_CPS/Departments/Documents/LSC/2014LSCELECTIONCANDIDATENOMINATIONFORM.pdf</p>
<p>New York</p>	<p>New York City legislation, Intro 410 (Also known as the Voting Rights Restoration Act) would allow about one million noncitizen residents 18 years or older to vote in New York City elections if they have been lawfully present for six months.</p> <p>The legislation defines municipal voter as: §1057-b Definitions. 1. A "municipal voter" shall mean a person who is not a United States citizen, but is lawfully present in the United States on the date of the election in which he or she is voting, and has been a resident of New York City, as defined herein, for six months or longer by the date of such election, and who meets all qualifications for registering to vote under the New York state election law, except for possessing United States citizenship, and has registered to vote with the New York city board of elections under this chapter.</p> <p>It is unclear when this legislation will be enacted. The Committee on Government Operations released a report in 2013 recommending allowing noncitizens to vote, and it was reported in</p>	<p>Only citizens of the United States are eligible to run for office in City Council.</p> <p>PUBLIC OFFICERS LAW §3. Qualifications for holding office. No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions or recreation commissions only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before appointment to such youth board, youth commission or recreation commission, be a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state</p>

	<p>the Spring that legislation was being drafted. A copy of the committee report, and the legislation can be found on the page in the link below, although it is unclear when this legislation would be approved and come into effect.</p> <p>http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=803591&GUID=3652CB45-9436-4D4F-ADE3-E17CE8A8AF28&Options=ID%7cText%7c&Search=245 (Copy of proposed legislation)</p> <p>http://www.theguardian.com/us-news/2015/apr/02/new-york-city-non-citizens-local-elections (News article)</p>	<p>for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.</p> <p>http://www.nycourts.gov/courts/6jd/forms/NewEmp/PersPayroll/LawBooklet.pdf</p>
<p>Maryland-Takoma Park</p>	<p>The City of Tacoma has allowed non-citizens to vote in city elections for 20 years now.</p> <ul style="list-style-type: none"> • City residents eligible to vote in Takoma Park elections but not eligible to register with the State of Maryland may use the Takoma Park Voter Registration Application. Typically, this includes residents who are not United States citizens or who are under supervision or on parole due to a felony conviction. Residents who are not yet 16 but will be 16 by the next City Election may also use the Takoma Park Voter Registration Application. • Voters must have resided within the City of Takoma Park for at least 21 days before the election in order to be eligible to vote. <p>http://elections.takomaparkmd.gov/p/register-to-vote.html</p> <p>http://citycouncil-takomapark.s3.amazonaws.com/election/Takoma%20Park%20Voter%20Registration%20Application%20%28FINAL%29.pdf</p> <p>Takoma Park amended its municipal charter to give all residents, regardless of citizenship the right to vote in municipal elections. Authority for this can be found in section 603(b) of the Takoma Park Municipal Code.</p> <p>http://www.codepublishing.com/MD/TakomaPark/</p>	<p>The Municipal Charter of Takoma Park describes that:</p> <p>Section 304 Qualifications and Salary of Councilmembers</p> <p>(a) Councilmembers must have resided in the City (and the ward from which they are elected) for at least six (6) months immediately preceding their election, must be at least 18 years of age by the date of their election, and must be qualified voters of the City. Council members must maintain their principal residence in the City and in their ward during their term of office.</p> <p>A 'qualified voter' means someone who is registered to vote. Presumably, a non-citizen that uses the Takoma Park Voter Registration Application to register would then be eligible to be a candidate in a Takoma Park municipal election.</p> <p>http://www.codepublishing.com/MD/TakomaPark/</p>

<p>Maryland-Somerset</p>	<p>To be a qualified voter in Somerset, a resident must be:</p> <ul style="list-style-type: none"> • At least 18 years of age • A resident within the corporate limits of the Town of Somerset for 14 days preceding the election. • A citizen of the United States of America or an alien legally authorized to reside in the United States. • Registered in accordance with the provision of the Town Charter. Every qualified voter of the town shall be entitled to vote at any or all Town elections. <p>Article V Section 83-21 Somerset Municipal Charter</p> <p>http://townofsomerset.com/2153/Town-Charter</p>	<p>Requirements for elected officials:</p> <ul style="list-style-type: none"> • You must be a United States Citizen. • Resident of Somerset for at least 18 months preceding the election date. • Qualified voter in the town and the State of Maryland <p>http://townofsomerset.com/Faq.aspx?QID=149</p> <p>Article II Section 83-4 Somerset Municipal Charter</p> <p>http://townofsomerset.com/2153/Town-Charter</p>
<p>Malawi</p>	<p>Local Elections Act</p> <p>PART III REGISTRATION OF VOTERS</p> <p>6. Any person residing in Malawi and who, on or before the polling day, shall have attained the age of eighteen years shall be eligible to register as a voter in an election.</p>	<p>Only Malawi citizens may run for elections in local council.</p> <p>Local Government Elections Act</p> <p>30- (1) Every candidate or his election representative shall at the time of his nomination deliver to the returning officer-</p> <p>(a) a nomination paper completed and executed in the prescribed form;</p> <p>(b) evidence, or a statutory declaration by the candidate made before a magistrate or a commissioner for oaths, that the candidate-</p> <p>(i) is a citizen of Malawi and has attained the minimum age of twenty-one years; and</p> <p>(ii) is able to speak and to read the English language well enough to take an active part in the proceedings of the council;</p> <p>(c) evidence that the is registered as a voter.</p> <p>http://www.mec.orq.mw/files/electoral%20laws%20final.pdf</p>

Belgium	<p>In 2004 the Belgian Parliament granted non-EU citizens the right to vote in national and local elections under certain conditions.</p> <ul style="list-style-type: none"> The resident must be in Belgium for at least five years and sign an oath of allegiance to the Belgian Constitution, and sign up to the European Convention on Human Rights. <p>http://brussels.angloinfo.com/information/moving/voting/</p>	<p>** Not able to find information on candidate eligibility.</p>
Chile	<p>Article 14. of the Chilean Constitution- Foreigners residing in Chile for more than five years and who comply with the requirements prescribed in the first paragraph of Article 13, may exercise the right to vote in the cases and in the manner determined by law.</p>	<p>Permanent residents do not have the right to run in elections in Chile. Under Article 14 of the Chilean Constitution, those nationalized in conformity to No. 3 of Article 10, shall be eligible to public responsibilities of popular election only after five years of being in possession of their papers of naturalization (obtain citizenship).</p> <p>Article 13 of the Chilean Constitution – The status of citizen entails the rights to vote, the eligibility to hold positions subject to popular voting, as well as all other rights granted by the Constitution or the law.</p> <p>Article 14 Foreigners residing in Chile for more than five years and who comply with the requirements specified in the first paragraph of Article 13, can exercise the right of suffrage in the cases and forms that the law determines. Those nationalized in conformity to No. 3 of Article 10, shall be eligible to public responsibilities of popular election only after five years of being in possession of their papers of naturalization.</p>

<p>European Union</p>	<p>EU citizenship gives every EU citizen the right to vote for and stand as a candidate in municipal and European Parliament elections in whichever EU country the citizen resides, under the same conditions as nationals</p> <p style="text-align: center;">Article 22 of the EU Treaty</p> <p>1. Every citizen of the Union residing in a Member State of which he is not a national, shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same condition as a national of the State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.</p> <p>European Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals</p> <p>http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31994L0080&from=EN</p> <p>http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12012E/TXT</p> <p>-An EU Directive means that each member state must achieve a specific result, without dictating how the member states achieve that. The result the directive is trying to achieve is binding on Member States, but each Member State has the flexibility to decide how it will achieve domestically, what the Directive is trying to achieve.</p> <p>In the case of Directive 94/80/EC, each Member State must at least produce or already have in place domestic legislation that achieves the result of the Directive, that being that citizens of the EU can exercise their right to vote and stand as candidates in municipal elections, no matter what Member State they are residing in. This means that each Member State will have their own domestic legislation allowing EU citizens to vote and stand in municipal elections in whatever Member State they reside in.</p>	<p>Current EU Member States:</p> <p><u>Austria</u> (1995) <u>Belgium</u> (1958) <u>Bulgaria</u> (2007) <u>Cyprus</u> (2004) <u>Croatia</u> (2013) <u>Czech Republic</u> (2004) <u>Denmark</u> (1973) <u>Estonia</u> (2004) <u>Finland</u> (1995) <u>France</u> (1958) <u>Germany</u> (1958) <u>Greece</u> (1981) <u>Hungary</u> (2004) <u>Ireland</u> (1973) <u>Italy</u> (1958) <u>Latvia</u> (2004) <u>Lithuania</u> (2004) <u>Luxembourg</u> (1958) <u>Malta</u> (2004) <u>Netherlands</u> (1958) <u>Poland</u> (2004) <u>Portugal</u> (1986) <u>Romania</u> (2007) <u>Slovakia</u> (2004) <u>Slovenia</u> (2004) <u>Spain</u> (1986) <u>Sweden</u> (1995) <u>United Kingdom</u> (1973)</p>
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Item No. 11.3.3
Halifax Regional Council
December 2, 2014

TO: Members of Halifax Regional Council

Original signed

SUBMITTED BY: Mayor Savage, Chair of Executive Standing Committee

DATE: November 24, 2014

SUBJECT: Municipal Voting Rights for Permanent Residents

ORIGIN

Executive Standing Committee November 24, 2014 meeting.

Motion of Regional Council August 5, 2014

Motion approved that Halifax Regional Council request a staff report for submission to the Executive Standing Committee examining the benefits and implications of extending the rights to vote in municipal elections to Permanent Residents. The report should include a review of practice in other jurisdictions and address administrative, intergovernmental, legislative, procedural, and social implications.

LEGISLATIVE AUTHORITY

The mandate of the Executive Standing Committee, as adopted by Regional Council is to fulfill the self-governance role of Regional Council including:

3.6 General Council Governance

3.6.1 The Executive Standing Committee shall act as a review committee for matters related to the general self-governance and administration of Council as directed by Council.

Nova Scotia Municipal Elections Act, Section 14 which defines the qualifications of an elector.

Nova Scotia Municipal Elections Act, Section 2(2) which outlines how school board elections are conducted.

Nova Scotia Education Act, Sections 13 & 42A(3) which includes additional elector qualifications for Conseil scolaire acadien provincial School Board and African Nova Scotian member of the Halifax Regional School Board.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Endorse including permanent residents as qualified electors to vote in municipal and school board elections; and
2. Direct staff to consult with the Province of Nova Scotia's department of Municipal Affairs to move the recommendation forward.

BACKGROUND

The Executive Standing Committee received a staff report dated November 13, 2014 at their November 24, 2014.

Additional information can be reviewed in the November 13, 2014 staff report attached hereto.

DISCUSSION

The Executive Standing Committee reviewed the November 13, 2014 staff report with staff providing clarification on the definition of a permanent resident pursuant to the Federal *Immigration and Refugee Protection Act* and, as outlined in the background section of the report.

During the discussion, support was expressed in regard to voting rights being extended to all permanent residents in Nova Scotia through amendments to the Municipal Elections Act, with recognition that the motion allowed for pursuing all options with the Province.

FINANCIAL IMPLICATIONS

No additional costs identified.

COMMUNITY ENGAGEMENT

As outlined in the attached November 13, 2014 staff report.

ENVIRONMENTAL IMPLICATIONS

No implications identified.

ALTERNATIVES

No alternatives were provided by the Executive Standing Committee.

ATTACHMENTS

Staff report dated November 13, 2014

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Krista Vining, Legislative Assistant, Office of the Municipal Clerk, 902-490-6519

HALIFAX

P.O. Box 1749
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Item No.
Executive Standing Committee
November 24, 2014

TO: Mayor Savage and Members of Executive Standing Committee
Original Signed

SUBMITTED BY: Richard Butts, Chief Administrative Officer

DATE: November 13, 2014

SUBJECT: Municipal Voting Rights for Permanent Residents

ORIGIN

Regional Council motion from August 5th, 2014.

Motion approved that Halifax Regional Council request a staff report for submission to the Executive Standing Committee examining the benefits and implications of extending the right to vote in municipal elections to Permanent Residents. The report should include a review of practice in other jurisdictions and address administrative, intergovernmental, legislative, procedural, and social implications.

LEGISLATIVE AUTHORITY

Nova Scotia Municipal Elections Act, Section 14 which defines the qualifications of an elector.

Nova Scotia Municipal Elections Act, Section 2(2) which outlines how school board elections are conducted.

Nova Scotia Education Act, Sections 13 & 42A(3) which includes additional elector qualifications for Conseil scolaire acadien provincial School Board and African Nova Scotian member of the Halifax Regional School Board.

RECOMMENDATION

That the Executive Standing Committee recommend that Halifax Regional Council:

1. endorse including permanent residents as qualified electors to vote in municipal and school board elections; and
2. direct staff to consult with the Province of Nova Scotia's department of Municipal Affairs to move the recommendation forward.

BACKGROUND

Halifax Regional Council requested staff submit a report to the Executive Standing Committee examining the benefits and implications of extending the right to vote in municipal elections to permanent residents.

A permanent resident means a person who has acquired and not lost permanent resident status pursuant to the *Immigration and Refugee Protection Act*¹. Permanent residents have gone through an application process and met a residency requirement. They are citizens of other countries.

Permanent residents are issued legal documentation from the federal government such as a Permanent Resident card ("PR Card"), Record of Landing, or a Confirmation of Permanent Residence ("COPR") document to be used in circumstances which require proof of permanent residence.

Individuals who are refugee claimants or in Canada temporarily, such as a student or foreign worker, are not considered permanent residents and would not be eligible electors should the legislation be changed to include permanent resident as voters in municipal elections.

DISCUSSION

Permanent residents live in all communities in Nova Scotia. Of the estimated 20,138 of permanent residents in Nova Scotia 14,162 (70.3%) reside in Halifax².

The HRM Election Office conducted research to identify jurisdictions which are considering or have already implemented voting rights to permanent residents. Research³ indicates that voting rights by permanent residents is under consideration in a number of municipalities in Canada, the United States and around the world. Voting rights in local elections have been extended in number of jurisdictions including New Zealand and Japan. The impetus in these cases appears to be similar to that expressed in the motion by Halifax Regional Council, the recognition that permanent residents have a significant investment in decisions related to local government and contribute to the communities in which they reside.

Consideration has been given within some jurisdictions to an extended residency requirement (generally one or two years) before providing voting rights to permanent residents. In the view of the HRM Election Office this would not be consistent with the status of permanent residency provided for under immigration regulations, it would be difficult to verify except by oath or affidavit of the voter and the Nova Scotia Municipal Elections Act (MEA) has a residency requirement for all voters in the definition of "qualified voters" and to alter that for a certain category of voters could be considered confusing and/or inequitable.

Legislative Options

Legislative considerations differ from province to province in regard to how municipal elections are conducted. In Nova Scotia the MEA (provincial legislation) governs all matters related to municipal elections. The qualifications for voting in municipal elections are provided for in Section 14 of the MEA and include:

- (a) is of the full age of eighteen years on ordinary polling day;
- (b) is a Canadian citizen on ordinary polling day; and

¹ <http://laws-lois.justice.gc.ca/eng/acts/I-2.5/>

² Statistics are attached as Appendix B – Permanent Resident Statistics for Halifax and Nova Scotia

³ Summary is attached as Appendix A – Jurisdictional Scan

- (c) has been ordinarily resident in the municipality or in an area annexed to the municipality for a period of three months immediately preceding ordinary polling day and continues to so reside, is entitled to be registered on the list of electors and to vote.

Under the Nova Scotia Education Act qualifications to vote in school board elections references Section 14 of the MEA for consistency as elections are usually conducted at the same time. Voter qualifications for the African Nova Scotia Member of the Halifax Regional School Board and Conseil scolaire acadien provincial School Board are provided for in the Education Act. The Education Act provides for additional qualifications in regard to voting but does not replace or alter the voter qualifications provided for in the MEA.

Options

Alternative 1: Amend Section 14 (Qualifications of Elector) of the MEA of Nova Scotia to ensure common rights and election consistency throughout the province for municipal and school board elections. These amendments would require "permanent resident" to be added to the eligibility for voters under section 14 of the Act and a corresponding definition of "permanent resident" would need to be added. Draft wording is as follows:

2 (va) "permanent resident" means a person who has acquired and not lost permanent resident status pursuant to the Immigration and Refugee Protection Act⁴;

14 Subject to the other provisions of this Act, every person who

(a) is of the full age of eighteen years on ordinary polling day;

(b) is a Canadian citizen or permanent resident on ordinary polling day; and

(c) has been ordinarily resident in the municipality or in an area annexed to the municipality for a period of three months immediately preceding ordinary polling day and continues to so reside,

is entitled to be registered on the list of electors and to vote.

The Provincial Government of Nova Scotia has stated publically that they are willing to conduct a public consultation with regard to extending the vote to permanent residents on a local (municipal and school board) level.

Alternative 2: Amend the Halifax Regional Municipality Charter to extend the vote to permanent residents for municipal and school board elections within the Municipality. This would require a definition of "permanent resident" and an opting out section be added to the HRM Charter, as follows:

3(ava) "permanent resident" means a person who has acquired and not lost permanent resident status pursuant to the Immigration and Refugee Protection Act;

9 (3) Notwithstanding clause 14 (b) of the Municipal Election Act, every person who is a Canadian citizen or permanent resident on ordinary polling day and otherwise complies with section 14 of that Act is entitled to be registered on the list of electors and vote.

⁴ <http://laws-lois.justice.gc.ca/eng/acts/I-2.5/>

It is the position of the HRM Election Office that the most desirable approach to extend voting rights to permanent residents, should Regional Council and the Province move forward, is to amend the MEA to 1) provide voting rights to all permanent residents in Nova Scotia; and 2) ensure legislative clarity and procedural consistency of voting rights for all eligible voters in Nova Scotia.

Practical Application in an Election

If voting was extended to permanent residents in municipal and school board elections it would require permanent residents to present appropriate legal documentation to an authorized election official in order to be added to the voters list.

All qualified electors would be required to meet the ordinarily resident requirements in Halifax of 3 months prior to polling day.

Voters List Implications

If permanent residents are added to the electors list during a municipal election their information is removed from the electors' list prior to the return to Elections Nova Scotia as per the data sharing agreement.

Social Implications

Consultations with ethnocultural community groups including Immigrant Services Association of Nova Scotia and Multicultural Association of Nova Scotia confirmed that local voting rights for permanent residents would be considered by many permanent residents as a positive conduit to fully engage in their chosen community.

Several pieces of correspondence have been received by the Election Office which expresses the view that voting in local elections be retained as a right of Canadian citizenship.

Based on a cross-jurisdictional scan among Canada and other countries, trends seem to indicate that there is a desire of local governments to provide permanent residents the opportunity to vote in local elections in their chosen communities.

FINANCIAL IMPLICATIONS

No additional costs identified.

COMMUNITY ENGAGEMENT

The motion of Regional Council in regard to consideration of a report in regard to voting rights for permanent residents in municipal elections was a public motion. The Executive Committee is made up of duly elected members of Regional Council and meetings are open to the public.

The Union of Nova Scotia Municipalities (UNSM) has written to the Minister of Municipal Affairs in support of amending the MEA to allow those with permanent resident status to vote in municipal elections. (Dated September 8, 2014).

The Halifax Chamber of Commerce, in their Municipal Note publication, has voiced their support of Mayor Savage's proposal to allow permanent residents to vote in Halifax's municipal elections.

ENVIRONMENTAL IMPLICATIONS

No Implications Identified.

ALTERNATIVES

Halifax Regional Council can choose to not move forward with recommending to the Province that legislative amendments be undertaken to extend voting rights for municipal and school board elections to permanent residents.

ATTACHMENTS

Appendix A – Jurisdictional Scan

Appendix B – Permanent Resident Statistics for Halifax and Nova Scotia

A copy of this report can be obtained online at <http://www.halifax.ca/boardscom/standing.php> then choose the appropriate Standing Committee and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Lori McKinnory, Election Coordinator, Office of the Municipal Clerk, 902-490-6810

Legal Approval by: (Original Signed _____
Josh Judah, Acting Director, Legal Services, 902-490-4124

Report Approved by: - Original signed _____
Cathy Mellett, Municipal Clerk, 902-490-6456

Appendix A – Jurisdictional Scan

Other Jurisdictions in Canada Exploring Permanent Resident¹ Voting Rights

Province	Municipality/City or Community	Content
ON	Toronto	<ul style="list-style-type: none"> • Council Decision, June 11, 2013 – http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM22.15 2. City Council request the Minister of Municipal Affairs and Housing to commence discussion with the Federal Government of Canada with the view to defining permanent residency for the purposes of considering and permitting permanent residents the right to vote in municipal elections in Toronto. 3. City Council request the Minister of Municipal Affairs and Housing to amend the necessary legislation to allow Permanent Residents the right to vote in municipal elections. 4. In the event the Province of Ontario changes Municipal Elections Act to allow permanent residents to vote, City Council requests the Province to ensure that the legislation includes an appropriate time period for permanent residency. <p>Ontario Provincial government appears open to the change in legislation as of May 2013.</p> <p>Was not in place in time for 2014 municipal elections.</p>
ON	Kitchener	<p>2007, City of Kitchener commissioned examination on the issue of low voter turnout via Compass Kitchener:</p> <ul style="list-style-type: none"> • Compass Kitchener established a sub-committee to further explore the issue in 2011. Report presented in March 2014 which resulted in the following motions being passed: <ul style="list-style-type: none"> ○ 3. Staff be directed to further investigate the City of Toronto initiative, including public consultation; requesting the Province to enact further amendments to the MEA, 1996 to allow all permanent residents to vote in municipal elections. • Report to the Finance and Corporate Services Committee on May 12, 2014 indicated that after each municipal election the Ministry of Municipal Affairs and Housing reviews the MEA, 1996. The next municipal election is October 2014. City Staff and Compass Kitchener can solicit public input with regard to this initiative as part of their 2015 work plans.

¹Also named in some reference documentation as Immigrant voting.

Province	Municipality/City or Community	Content
NB	Saint John	<p>January 6th, 2014 Common Council voted in favour of the following motion:</p> <ul style="list-style-type: none"> • "Refer to the Common Clerk for scheduling a presentation by the Saint John Human Development Council on the topic of extending the right to vote in municipal elections to Permanent Residents."

Internationally

Note: The following list is a cross-section of how countries have granted permanent resident voting rights.

Country	Content
Finland	<p>Citizens of EU countries can vote municipally if reside in Finland for more than 2 years prior to election day. http://www.vrk.fi/default.aspx?id=55</p>
United States of America	<p>Non-citizens vote in seven jurisdictions in the United states:</p> <ul style="list-style-type: none"> • Chicago (<u>in local school council election</u>) • Maryland towns including <u>Takoma Park</u>, Barnesville, Martin's Additions, Somerset, and Garrett Park, Chevy Chase vote in city elections <p>Additional jurisdictions considering/reviewing immigrant voting rights:</p> <ul style="list-style-type: none"> • New York City legislation, <u>Intro 410</u> (also known as the Voting Rights Restoration Act) would allow about one million noncitizen residents 18 years of age or older to vote in New York City elections if they have been lawfully present for six months. <i>*Has not been implemented to date. Last reference in Council was Dec 2013. Filed Sine Die (without further Date)</i> • Four towns (Amherst, along with Cambridge, Newton and Brookline) in Massachusetts have passed local laws but await state enabling legislation to implement. <i>*No further information. Has not been implemented.</i> <p>(from http://ronhayduk.com/immigrant-voting/)</p>
New Zealand	<p>Local and National voting rights to all permanent residents after one year of residence. http://www.dol.govt.nz/immigration/knowledgebase/item/5121</p>
Luxembourg	<p>In 2003: local voting rights were granted with no nationality restrictions.</p>
Chile	<p>Permanent Residents after five years http://confinder.richmond.edu/admin/docs/Chile.pdf - Article 14 of the Chilean Constitution</p>
EU (generally)	<p>Reciprocal local and European Parliament voting rights for all citizens of member nations.</p>
Austria	<p>Citizens of EU countries can vote only in Vienna at borough level.</p>

Country	Content
Ireland	<p>Residents of the state who are Irish citizens or British citizens may participate in elections to the national parliament. Residents who are citizens of any EU state may vote in European Parliament elections, while any resident, regardless of citizenship, may participate in local elections.</p> <p>http://en.wikipedia.org/wiki/Elections_in_the_Republic_of_Ireland and http://www.independent.ie/irish-news/elections/system-seems-complicated-but-your-vote-really-does-matter-30297680.html</p>
Japan	<p>http://www.japanesestudies.org.uk/ejicis/vol13/iss1/green.html (section titled - Local foreign suffrage)</p> <p>http://www.japantimes.co.jp/news/2014/08/20/national/politics-diplomacy/debate-foreigner-voting-rights-reignites-ahead-2020-olympics/#.U_XY4GMw--Y – News Article</p> <ul style="list-style-type: none"> • On April 1, 2009, Kawasaki implemented its new system allowing foreign residents to vote on referenda and in local elections. • As of 2005, there were approximately 200 municipalities that authorize foreign residents to vote • The national government has attempted to take up the issue of foreign residents voting locally in recent years but has been effectively taken off of the national agenda for the time being due to political opposition, natural disasters and other circumstances.

Appendix B – Permanent Resident Statistics for Halifax and Nova Scotia

Permanent Resident Calculations

	Number of incoming Permanent Residents (annually) to Halifax ¹	Total Number of Non-Citizens in Halifax	Rest of Nova Scotia
2011		10435 ²	4810
2012	1756		585
2013	1971		581
Totals		14162	5976

Elector Statistics

Statistics Canada captured the number of permanent residents age 15 or older as of 2012³: 205,752

Percentage estimates of permanent residents 18 years or older as of 2016:

- Canada - $205752/257887 = 79.8\%$ (rounded to 0.X percentage point)
- Halifax (2013) – $14162 \times 79.8\% = 11,301$

¹ Canada – Permanent residents by province or territory and urban area, 2009-2013

² Citizenship and Immigration Statistics - Halifax Regional Municipality (2011)

³ Canada – Permanent residents 15 years of age or older