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November 24, 2009

Brenda Sam, Chief  
Richard Martin, Deputy-Chief

Ta'an Kwäch'än Council  
117 Industrial Road  
Whitehorse, YT Y1A 2T8

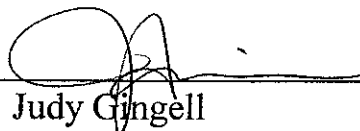
Dear Chief and Deputy-Chief,

Congratulations on your recent election. The Ta'an Kwäch'än Election Committee met following the October 19, 2009 election to review the Ta'an Kwäch'än Council *Elections Act* and is pleased to submit its final report to you.

Based on our experience overseeing the conduct of the election, the final report includes ten recommendations for amendments to the *Elections Act*. Please contact the Chief Returning Officer at (867) 393-1939 if you have any questions about the report and its recommendations.

Thank you for your consideration.

Sincerely,



Judy Gingell  
Chair, Election Committee



Lois Moorcroft  
Chief Returning Officer



Bertha Doris, Member



Sharon Shorty, Member

**CHIEF RETURNING OFFICER'S REPORT ON THE OCTOBER 19 2009  
ELECTION FOR CHIEF AND DEPUTY-CHIEF, TA'AN KWÄCHÄN  
COUNCIL**

**23 NOVEMBER 2009**

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## 1.1 Executive Summary

The Ta'an Kwäch'än Council *Elections Act* sets the date for elections for the office of Chief and Deputy-Chief as every three years on the third Monday in October, (Section 5<sup>1</sup>). The date for the 2009 regular general election was Monday October 19.

On June 23, 2009 the Ta'an Kwäch'än Board of Directors passed a resolution to issue a Writ of Election to come into effect on August 19, 2009, 63 days before election day, (s.6). In July 2009, the Ta'an Kwäch'än Council appointed Judy Gingell, Bertha Doris, and Sharon Shorty to the Ta'an Kwäch'än Election Committee, (s.11). The Election Committee on a recommendation from the Ta'an Kwäch'än Council, appointed Lois Moorcroft as the Chief Returning Officer for the October 19 Chief and Deputy-Chief election, (s.15). The election was administered according to the Ta'an Kwäch'än Council *Elections Act*, 2007, as amended June 2009, (hereafter the *Act*).

A candidate for public office must be a Ta'an Kwäch'än citizen 18 years of age or older, live in the Yukon for six months prior to nomination day, have evidence of no criminal convictions, and if elected reside in Ta'an Kwäch'än traditional territory or surrounding area during a term of office. (s.31). On August 18, the Chief Returning Officer mailed notices to all citizens on the current mailing list about the election calendar, nomination requirements, voting information, and contact information for the Ta'an Kwäch'än Election Office. After nominations closed on September 4, a second notice with the names of candidates, the election calendar, and the dates and locations of all voting options was mailed to all citizens. Election notices were also posted at the Ta'an Kwäch'än principal office in Whitehorse, and published in local newspapers, (s.42).

On October 19, 2009, Brenda Lorraine Sam was elected Chief, and Richard Francis Martin was elected Deputy-Chief.

## 1.2: Election Committee and Chief Returning Officer

The Election Committee and Chief Returning Officer are impartial, and responsible for ensuring elections are conducted in a fair, transparent, accountable and equitable manner. The Election Committee's function is to provide general direction and supervise the overall conduct of the election. (s.14). As provided for in the *Act*, the Election Committee appoints a Chief Returning Officer, to whom it delegates responsibility for administration of the election. The 2009 Committee directed the Chief Returning Officer to administer the October 19 general election for Chief and Deputy-Chief on its behalf and according to the *Act*, (s.15,16,17).

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<sup>1</sup> Section references are to the Ta'an Kwäch'än Council *Elections Act*, 2007, as amended 2009, and will appear in brackets as (s.5).

After the Ta'an Kwäch'än Council appoints an Election Committee, which appoints a Chief Returning Officer who make a declaration to act impartially, (s.15), election administration duties are performed by election officers and not the Council. The Election Committee met regularly during the election period to fulfill its obligation to oversee the administration of an impartial election conducted according to the *Act*. (s.14). The Election Committee worked conscientiously, and provided advice and direction to the Chief Returning Officer as required. The Election Committee was available to respond to the Chief Returning Officer about any concerns raised throughout the election period.

Following the election, the Election Committee and the Chief Returning Officer met to review the *Act*, and to approve the Chief Returning Officer's report on the conduct of the election. Based on the experience administering the 2009 election, this report contains recommendations for amendments to the *Act* designed to improve the administration of future elections.

### **RECOMMENDATION 1: Election Review Committee**

That the Ta'an Kwäch'än Council appoint a committee to review the Ta'an Kwäch'än Council *Elections Act*, and to consider the recommendations for amendments contained in the Chief Returning Officer's Report on the October 19 2009 Ta'an Kwäch'än Chief and Deputy-Chief Election. This committee would report its findings in time for any proposed amendments to come into effect by October 2011. The date of the next regular general election for Chief and Deputy-Chief is Monday October 15, 2012.

One of the amendments adopted in June 2009 to the Ta'an Kwäch'än *Elections Act* is to appoint 'three Yukon residents at large as members of the election committee', (s.11). Previously, three Ta'an Kwäch'än citizens were appointed as election committee members. In July 2009, 60 days before the issue of the Writ of Election, (s.11), the Ta'an Kwäch'än Council appointed Judy Gingell, Bertha Doris, and Sharon Shorty to the Ta'an Kwäch'än Election Committee. The 2009 Election Committee members are all Yukon First Nation citizens, although none are Ta'an Kwäch'än citizens.

An earlier appointment of the Election Committee and the Chief Returning Officer would improve the administration of elections.

### **RECOMMENDATION 2: Appointments**

That the Ta'an Kwäch'än Council appoint the Election Committee and Chief Returning Officer at least seven months prior to the date of a general election for Chief and Deputy Chief.

As noted in the introduction, a citizen must live in the Yukon for six months prior to an election, and that a candidate must submit 'evidence, by way of a current Royal Canadian Mounted Police clearance, of no indictable offences...' (Section 31). To be fair and accountable, Ta'an Kwäch'än should notify citizens of the upcoming election

date, and be aware of the requirements to run for office 6 months in advance, so that they are able to meet the requirements if they are interested in public office. If the Election Committee and Chief Returning Officer are appointed at least seven months before the issue of the writ, the Chief Returning Officer, under the direction of the Election Committee, would send out election notices about candidate's requirements and the upcoming election date, and give notice of the date for a general election in the newspapers that have public circulation in the traditional territory of the Ta'an Kwäch'än Council.

**RECOMMENDATION 3: Notice of issue of writ**

That the Ta'an Kwäch'än Council revise section 7 to provide that the Chief Returning Officer, rather than the Board, give notice of the date for a general election for Chief and Deputy-Chief.

Section 10 of the Act says that a Traditional Family may exercise its rights to hold an election for the position of a Family Director by providing written notice to the Ta'an Kwäch'än Council 90 days before voting day. If a Traditional Family decides to select a Family Director by means of an election, an Election Committee and Chief Returning Officer should already be in office to respond to this request, and to have time to properly administer the election process and prepare forms and notices to elect positions other than Chief and Deputy-Chief.

The earlier appointment of the Election Committee and Chief Returning Officer would incur some additional costs for meeting expenses. These costs would be limited to meeting and administration time required for election preparations, notifying citizens about nomination requirements 6 months before the election, and notifying Traditional Families six months, or 180 days, before voting day about their right to elect Family Directors.

The Election Committee is given some responsibility for compiling and revising the official voters list in sections 14.2, 28 and 30 of the *Act*. For the 2009 election, the Election Committee directed the Chief Returning Officer to use the official voters list prepared by Helen Sahagian, the Ta'an Kwäch'än Enrollment Coordinator, and to refer any inquiries about the voters list to her. The Election Committee is impartial and separate from government administration. It does not have, nor desire, any access to personal information used to verify citizenship in the First Nation.

The Chief Returning Officer did not receive any requests to revise the voters list. One citizen did ask why two family members' names were not on the voters list. After consulting with Ms. Sahagian, the Chief Returning Officer replied that the two family members were registered to another First Nation, so were no longer Ta'an Kwäch'än citizens entitled to vote. The Citizenship Code, Section 3, states that a person who becomes a member or citizen of another First Nation ceases to be a citizen. In keeping with the Ta'an Kwäch'än Constitution and Citizenship Code, the responsibility for citizen registry and compiling the voters list more properly resides with the Enrollment Coordinator. The following recommendations relate to this issue.

#### **RECOMMENDATION 4: Voters List**

That the Ta'an Kwäch'än Council revise the *Elections Act* to clarify that the Ta'an Kwäch'än Enrollment Co-ordinator is responsible for providing the Preliminary and Official Voters List to the Chief Returning Officer, pursuant to the Citizenship Code.

#### **RECOMMENDATION 5: Enrollment Co-ordinator**

That the Ta'an Kwäch'än Council consider appointing the Enrollment Co-ordinator as an *ex officio* member of the Election Committee.

### **1.3 Election Period**

The Chief Returning Officer administered the October 19, 2009 Chief and Deputy-Chief election, according to the *Act* and the direction of the Election Committee.

#### **Nominations:**

Nomination day was set as Friday September 4 at 4:00 pm. On August 20, 2009, a Call for Nominations was posted at the Ta'an Kwäch'än principal office in Whitehorse, and notice published in Yukon newspapers. The Chief Returning Officer posted notice of the candidates' requirement to submit a completed RCMP criminal record check along with their nomination form.

The Chief Returning Officer also mailed a notice on August 22 to all Ta'an Kwäch'än citizens on the current mailing list with information about the nomination process, and the closing date for nominations on Friday September 4 at 4:00 pm. This notice publicized the Election Office location at the Yukon Inn Poplar Room and office hours of Tuesday to Friday, 10:30 am to 1:30 pm, and contained information about voting options.

Two candidates for Chief and two candidates for Deputy-Chief filed nomination papers with all required documents before the close of nominations at 4:00 p.m. on Nomination Day, Friday September 4. The two candidates for Chief made a declaration that they were direct descendants of a Traditional Family, and so were not required to submit a family line consent form.

One citizen appeared at the election office before nominations closed with a request to file a nomination paper but was unable to provide a criminal record check as required by the *Elections Act*, having failed to acquire a pardon for an offence. This citizen requested that the election report ask the Ta'an Kwäch'än Council to consider amending the *Elections Act*, and suggested that the requirement to file a criminal record check be changed, and limited to no indictable offences during the previous five years.

The Chief Returning Officer contacted Royal Canadian Mounted Police (RCMP) officials about their protocols and time lines for completing criminal record checks. The RCMP First Nations liaison officers were very helpful in expediting the criminal record checks for candidates. However, it is not usually possible to complete a criminal background check during a 2-week nomination period. For example, if a candidate for office has not lived in the Yukon all of their life and records must be sought from other jurisdictions, or if a candidate has ever been convicted of a summary or indictable offence, the RCMP criminal record check process may take up to six months. The workload for members at an RCMP detachment is unpredictable, and may also affect the length of time required to complete a record check.

As the RCMP have advised that the time required to obtain a current criminal record check may be lengthy, it would be courteous and ethical practice to advise citizens and potential candidates about the criminal record check requirement at least six months before an election, rather than two weeks before Nomination Day when the election writ is published.

At least one citizen asked that the Ta'an Kwäch'än Council consider amending the *Elections Act* to require a candidate to make a Statement of Disclosure on the reverse of the nomination paper that they do not have a record of any convictions for an indictable offence during the previous ten years. The provisions of the *Municipal Act* (Yukon, 1999, s.77 (1)(f)) require that candidates disclose any criminal convictions for an indictable offence.

#### **RECOMMENDATION 6: Criminal Record Check**

That the Ta'an Kwäch'än Council review Section 31 of the *Act*, and consider revising the criminal record check provisions.

#### **Election Officers and Staff**

The Chief Returning Officer advertised for and hired an Assistant Returning Officer, Deputy Returning Officers and Poll Clerks.

Job notices were posted at the principal office of the Ta'an Kwäch'än Council and advertised in local newspapers. Hiring preference was given to Yukon First Nation citizens, and all but one poll official were citizens of a Yukon First Nation. All poll officials attended a paid training session before administering election procedures at a voting station, and signed the required declarations to act impartially and respect the secrecy of the vote.

Special thanks go to Donna Smith for her capable work as the Assistant Returning Officer. She helped with administrative duties at the Ta'an Kwäch'än Election Office located at the Yukon Inn Willow Room, and served as the designated returning officer

for all special ballots. Ms. Smith was very effective in locating citizens who did not have current mailing addresses on file with Ta'an Kwäch'än.

The Chief Returning Officer hired and trained standby poll officials. Due to family emergencies, the standby poll officials were required to work on voting day. It is a good practice to train two additional standby poll officials to be available if needed.

#### Voters List

Ta'an Kwäch'än citizens over the age of 16 on election day are eligible to vote; the Citizenship Code regulates citizenship. The Ta'an Kwäch'än Enrollment Coordinator, Helen Sahagian, is responsible for maintaining the citizenship registry according to the Constitution and Citizenship, and providing an accurate Voters List to the Chief Returning Officer. To ensure all *Elections Act* provisions were followed, Helen Sahagian met with the Election Committee in July and August 2009.

As required in Section 28 of the *Act*, the Enrollment Coordinator provided the Chief Returning Officer with the Preliminary Voters List for posting on September 4, 2009, and the Official Voters List on September 17. The Voters List was posted at the Ta'an Kwäch'än office and at the Ta'an Kwäch'än Election Office.

As discussed above in the Election Committee section of the report, the *Act* states the election committee shall revise the official voters list to add the name of a voter who been omitted from the list, remove the name of a person who is not a citizen, or correct a name. The Enrollment Coordinator function is defined in the Ta'an Kwäch'än Constitution, Citizenship Code, (Schedule 1, s.1) and the *Elections Act* (s. 2,28,152), as the official responsible for maintaining the citizenship registry and producing the Voters List. Because of this, the election committee directed the Chief Returning Officer to refer any inquiries about revisions to the Voters List to Ms. Sahagian. The Election Committee does not believe it should be authorized to amend the Voters List, nor should its members have access to voters' personal records and citizenship status. Recommendation 3 above addresses this concern.

#### Notice of Election

On September 4 after the close of nominations, the Chief Returning Officer drew lots for the order of names to appear on the ballot papers, according to Section 41 of the *Act*.

Two candidates and an Election Committee member witnessed the drawing of lots.

Immediately following the draw at the close of nominations, the Chief Returning Officer posted and published a Notice of Election with the names of eligible candidates for each position, the dates, times and locations for Advance Voting at Lake Laberge and Whitehorse, Regular Voting in Whitehorse at the Yukon Inn, and information about Early Voting, Mobile Voting and Mail-in Voting.

Advance Voting was held at Lake Laberge and Whitehorse on October 5 from 12 noon to 8:00 p.m.

Mail-in Voting was available from 32 days before regular voting day, Early Voting and Mobile Voting were available from 30 days before regular voting day, as provided for in Section 9 of the Act.

The Election Committee authorized a second mail-out to all Ta'an Kwäch'än citizens with the Notice of Election information about candidates and voting options, which the Chief Returning Officer sent out on September 8. CHON FM radio ads also aired throughout the election period.

### Advance Voting and Voting Places

Advance Voting was held at Helen's Fish Camp at Lake Laberge, and at the Yukon Inn in Whitehorse on Monday October 5 from 12 noon to 8:00 p.m.

Four days before the election, a candidate contacted the Chief Returning Officer to ask why there was no election day poll at Lake Laberge, and to request that polling staff be hired to open another poll at Laberge on October 19. The Chief Returning Officer asked the candidate to send this request in writing, and discussed the request with the election committee. The Election Committee and the Chief Returning Officer decided the best course of action was to follow the voting options that had been posted and published throughout the election period.

On the morning of October 19, the Ta'an Kwäch'än Manager of Legislation and Policy Development wrote to the Election Committee by e-mail asking whether or not it was too late to provide for an election day poll at Lake Laberge, which is 'the very heart of Ta'an Kwäch'än traditional territory'. He stated that 'although not required by legislation, it was an unfortunate circumstance and contrary to Ta'an Kwäch'än tradition to not provide for a polling station at Lake Laberge.'

At the 2006 election, 5 voters voted at the Lake Laberge poll on election day, at the 2009 election 4 voters voted at the Lake Laberge poll at advance voting. Holding an advance vote instead of an election day poll at Lake Laberge did not seem to appreciably reduce the participation of voters in the Laberge area.

At the Whitehorse Advance Voting, 14 voters voted, compared to 23 in 2006.

The *Elections Act* states that the Chief Returning Officer is responsible to 'establish voting places' (S.17 (g)). General electoral practice is that the Chief Returning Officer arranges for voting places that are convenient for voters. Locations for voting, for example in Whitehorse or in a rural community, are generally specified in an *Elections Act*. The *Elections Act* does not specify a requirement for locating either advance or regular voting at Lake Laberge. We recommend below that this matter be addressed.

On Advance Voting day, all intersections from the North Klondike Highway to Helen's Fish Camp was well sign-posted, to make sure voters could find the polling station. The roads were icy, due to an unseasonably early snowstorm. The cabin used at Helen's Fish Camp did not have adequate light and heat, and the Chief Returning Officer took additional lamps and heaters out to the poll officials. This Laberge location has intermittent cell phone service and no regular telephone lines, which could create difficulties communicating the results of the vote on election day. A polling place should have adequate facilities.

The Chief Returning Officer kept the Lake Laberge and Whitehorse advance voting ballot boxes in secure storage until election night. Advance voting ballots for both Whitehorse and Lake Laberge were counted at the Yukon Inn Willow Room after the regular poll closed on election night, and immediately reported to the Chief Returning Officer. This eliminated the need to phone in election results from a poll outside of Whitehorse.

#### **RECOMMENDATION 7: Voting Places**

That the Ta'an Kwäch'än Council, before the next election, provide direction in the *Act* regarding the location of voting places.

#### **Candidates' Scrutineers**

Each candidate may appoint one or more scrutineers to represent the candidate at a voting station. The Chief Returning Officer prepared a scrutineer appointment form. All scrutineers signed the declaration required to observe rules of behaviour and respect the principles associated with a secret ballot. (Sections 49 - 56).

The Chief Returning Officer advised all candidates on the procedures for appointing scrutineers, voting and ballot count procedures to be followed, and the location of the ballot count for all polls. All poll official teams reported to the Yukon Inn Willow Room to count their ballots after the poll closed on election night, October 19. Each candidate appointed at least one scrutineer to observe the count.

#### **Voting by Special Ballot**

The Chief Returning Officer designated the Assistant Returning Officer to administer all special ballots, including mail-in, mobile and early voting.

Early and Mobile Voting was available from September 18 to October 16 during election office hours. Mail-in Voting kits were sent out on September 17, thirty-two days before voting day, and could be returned up to the close of voting on October 19.

Seventy-nine voters voted by special ballot. The Assistant Returning Officer recorded the names of all voters who were issued a special ballot. No voter who had been issued a special ballot was issued a second ballot, and no voter voted twice.

The special ballot process could be simplified and improved. Specific recommendations appear under the Mail-in Voting, Early and Mobile Voting, and Voting Procedures sections below.

### Mail-in Voting

Section 63 of the *Act* requires that every voter who does not live in the City of Whitehorse shall be sent a mail-in voting package 32 days before election day.

Section 64 provides that a voter who receives a mail-in ballot may still choose to vote in person by way of the early vote, the advance vote, or the regular vote. While it is appropriate to offer a variety of methods for voting, it is not in keeping with recognized electoral practice to issue a voter more than one ballot. A voter should be responsible for selecting the method of voting that is most convenient.

Per Sections 63 - 70 of the *Act*, mail-in voting packages were sent to 154 Ta'an Kwäch'än citizens who do not live in the Whitehorse area. Ninety-nine of the 154 mail-in ballots sent to citizens, or 64%, were not used. Fifty-five voters returned their mail-in ballots before the election, 82 ballots were not returned and another 17 mail-in voting packages were returned to the Election Office because the addressee was 'moved' or 'address unknown'.

The administration of mail-in ballots could be improved. It is wasteful to send ballots to voters who do not intend to vote. Ballot papers should not be sent out to invalid addresses. Although a citizen is required to sign a voter declaration envelope, and have a witness sign it, it would be possible for someone who was not the voter to return a fraudulent ballot that had been sent to the wrong address.

If a voter is not able to vote at advance, regular, early or mobile voting, he or she should be responsible for requesting a mail-in ballot. This would improve administration of the *Act*, and reduce the possibility of fraud. It would eliminate significant expenditures of labour and materials incurred at this election by mailing ballots to voters who do not vote.

Part Eleven of the *Act* states that the designated deputy returning officer shall review mobile vote and mail-in vote special ballot envelopes after the close of the regular vote. The Chief Returning Officer directed the designated deputy returning officer to maintain an accurate record of all mail-in, mobile and early voting special ballots issued and returned during the election period. No voter who voted by mail-in, mobile or early voting requested, or was issued, a second ballot paper.

The Election Committee authorized the Chief Returning Officer to establish a Special Ballot poll at the Yukon Inn opening at 6:00 pm on election day to process all mail-in, early and mobile voting ballots.

On voting day, the Chief Returning Officer provided the Deputy Returning Officer for regular voting, the designated Deputy Returning Officer administering the special ballots poll, and each candidate, with an updated Official Voters List. The names of all voters who had already voted by mail-in, mobile, advance or early voting were crossed off the Official Voter List. No voter voted twice.

On October 19, after 5:00 p.m., the Chief Returning Officer made a final check at the post office for any more returned mail-in ballots. If a mail-in ballot had been returned that day, the Chief Returning Officer would have confirmed with the Whitehorse Regular Voting poll officials that the voter had not voted at their poll, before delivering it to the designated deputy returning officer administering the special ballots poll.

#### **RECOMMENDATION 8: Mail-in Voting**

That the Ta'an Kwäch'än Council review the voting and ballot count procedures related to Mail-in Voting, in particular sections 63, 64, and 100, and simplify and improve procedures.

#### **RECOMMENDATION 9: Mail-in Voting Applications**

That Section 63 of the *Act* be amended to add the phrase 'upon request to the Chief Returning Officer in the prescribed form' in reference to mail-in voting packages.

#### **Early and Mobile Voting**

The Assistant Returning Officer administered 24 special ballots during the election period. Voters in an institution cast three of these, and 21 voters came in to the election office to vote. As with the mail-in ballots, the designated Returning Officer opened a special ballot poll to process mobile and early votes at 6 pm on election night. If special ballots were not processed until after 8 pm, the ballot count would have been delayed while the special ballots were counted.

The Ta'an Kwäch'än Election Office was open four days a week for three hours a day. The Election Committee authorized this many hours based on the conduct of the 2006 election. The Assistant Returning Officer reported that an average of only one voter per day came to vote by early voting. This voting option is convenient for voters who are not able to vote at advance or regular polls. Office hours could be reduced at the next election, as low numbers of voters exercise the option to vote at the office. Part-time hours for two days a week would probably be adequate for early voting, as well as a shorter period of time than 30 days. The Chief Returning Officer and Election Committee have the discretion to determine the number of office hours, and this should be maintained in the *Act*.

### **RECOMMENDATION 10: Early and Mobile Voting**

That the Ta'an Kwäch'än Council review the voting and ballot count procedures related to Early and Mobile Voting, in particular section 99, and consider making changes to simplify them, as recommended in this report.

### **Advance and Regular Voting Procedures**

The requirements of the *Act* to use both a Voters List and an official voters poll book, as well as voter sheets when providing the ballot to the voter, (s.84), is awkward and unduly complicated. There were discrepancies between the Voters List and official master poll book due to a voter's name change that was made on one document and not on the other. Poll officials at Lake Laberge spotted the error. The fact that the two documents assigned different voter numbers because the change of name was made on one document only did not affect the vote. However, poll officials found it frustrating to be required to use two separate documents that contain the same information.

Voting procedures require that voters sign their name. It is not known why this requirement is found in the *Elections Act*, or why it would be considered necessary. We recommend below that the Election Review Committee consider simplifying voting procedures, and removing this requirement for a voter to sign his or her name when they vote.

The Chief Returning Officer could use either a Master Poll Book or a copy of the Official Voters List to record the voters who have voted by all voting options.

### **RECOMMENDATION 11: Voting Procedures**

That the Ta'an Kwäch'än Council review voting procedures, and consider making changes to simplify them, as suggested in this report.

### **Election Day**

Voting day was on Monday, October 19. The regular poll in Whitehorse at the Yukon Inn was open from 8:00 a.m. to 8:00 p.m., as specified in the *Act*, (s.78). Ninety-two voters voted at the Whitehorse regular poll.

## **1.4. Election Results**

In total, 189 voters voted at the election. There were no rejected ballots for Chief, and five rejected ballots for Deputy-Chief. Four voters voted at the Lake Laberge advance poll, fourteen voters voted at the Whitehorse advance poll, nine-two voters voted at the Whitehorse regular poll, and seventy-nine voters voted at the Whitehorse Special Ballots poll, which includes all ballots cast by mail-in, mobile and early voting.

Brenda Sam was elected as Chief. Richard Martin was elected as Deputy-Chief. A copy of the Certificate of Validation of election results, naming the number of votes received by each candidate at each poll, appears as Appendix 1 of this report.

There are 353 eligible voters on the Voters List for the 2009 election. Fifty-three percent, 189 voters of the total number of eligible voters voted.

On October 26, seven days after voting day, the Chief Returning Officer issued the required Certificate of Validation of the election results, (s.110). No applications for an appeal were filed before the Judicial Council.

## **1.5. Election Records**

This report includes a copy of the Certificate of Validation of the election results, and other election records. In accordance with Section 110(1) of the *Act*, the Chief Returning Officer destroyed the ballots and voting materials in the presence of the Election Committee on November 23, 2009, after the time limit for an application to appeal was passed.

## **2. Recommendations**

### **RECOMMENDATION 1: Election Review Committee**

That the Ta'an Kwäch'än Council appoint a committee to review the *Elections Act* (Ta'an Kwäch'än Council) and to consider the recommendations for amendments contained in the Chief Returning Officer's Report on the October 19 2009 Ta'an Kwäch'än Chief and Deputy-Chief Election. This committee would report its findings in time for any proposed amendments to come into effect by October 2011. The date of the next regular general election for Chief and Deputy-Chief is Monday October 15, 2012.

### **RECOMMENDATION 2: Appointments**

That the Ta'an Kwäch'än Council appoint the Election Committee and Chief Returning Officer at least seven months prior to the date of a general election for Chief and Deputy Chief.

### **RECOMMENDATION 3: Notice of issue of writ**

That the Ta'an Kwäch'än Council revise section 7 to provide that the Chief Returning Officer, rather than the Board, give notice of the date for a general election for Chief and Deputy-Chief.

### **RECOMMENDATION 4: Voters List**

That the Ta'an Kwäch'än Council revise the *Elections Act* to clarify that the Ta'an Kwäch'än Enrollment Co-ordinator is responsible for providing the

Preliminary and Official Voters List to the Chief Returning Officer, pursuant to the Citizenship Code.

**RECOMMENDATION 5: Enrollment Co-ordinator**

That the Ta'an Kwäch'än Council consider appointing the Enrollment Co-ordinator as an *ex officio* member of the Election Committee.

**RECOMMENDATION 6: Criminal Record Check**

That the Ta'an Kwäch'än Council review Section 31 of the *Act*, and consider revising the criminal record check provisions.

**RECOMMENDATION 7: Voting Places**

That the Ta'an Kwäch'än Council, before the next election, provide direction in the *Act* regarding the location of voting places.

**RECOMMENDATION 8: Mail-in Voting**

That the Ta'an Kwäch'än Council review the voting and ballot count procedures related to Mail-in Voting, to simplify and improve procedures.

**RECOMMENDATION 9: Mail-in Voting Applications**

That Section 63 of the *Act* be amended to add the phrase 'upon request to the Chief Returning Officer in the prescribed form' in reference to mail-in voting packages.

**RECOMMENDATION 10: Early and Mobile Voting**

That the Ta'an Kwäch'än Council review the voting and ballot count procedures related to Early and Mobile Voting, in particular section 99, and consider making changes to simplify them, as recommended in this report.

**RECOMMENDATION 11: Voting Procedures**

That the Ta'an Kwäch'än Council review voting procedures, and consider making changes to simplify them, as suggested in this report.

# Ta'an Kwäch'an Election 2009

**Certificate of Validation:**

In accordance with Section 110(2) of the *Elections Act, 2007*, Ta'an Kwäch'an Council, I certify the results of the count of the votes cast on October 19, 2009 for the election of Chief:

<b>ELECTION OF CHIEF</b>					
<b>POLL RESULTS</b>					
<b>CANDIDATE</b>	<b>WHSE ADVANCE</b>	<b>LAKE LABERGE ADVANCE</b>	<b>WHSE REGULAR</b>	<b>WHSE SPECIAL BALLOTS</b>	<b>TOTAL</b>
<b><i>ELECTED:</i></b> Brenda SAM	10	4	58	40	112
Ruth MASSIE	4	0	34	39	77
Rejected ballots	0	0	0	0	0
<b>TOTALS</b>	14	4	92	79	189

**RESULTS:** Brenda Lorraine Sam is declared elected as Chief.

Validated this 26th day of October, 2009  
in Whitehorse, Yukon

Lois Moorcroft  
Chief Returning Officer

# Ta'an Kwäch'än Election 2009

## Certificate of Validation:

In accordance with Section 110(2) of the *Elections Act, 2007*, Ta'an Kwäch'än Council, I certify the results of the count of the votes cast on October 19, 2009 for the election of Deputy-Chief:

**RESULTS: Richard Martin is declared elected as Deputy-Chief.**

ELECTION OF DEPUTY-CHIEF					
POLL RESULTS					
CANDIDATE	WHSE ADVANCE	LAKE LABERGE ADVANCE	WHSE REGULAR	WHSE SPECIAL BALLOTS	TOTAL
Julia BROEREN	7	4	36	26	73
<i>ELECTED:</i> Richard MARTIN	7	0	54	50	111
Rejected ballots	0	0	2	3	5
TOTALS	14	4	92	79	189

Validated this 26th day of October, 2009 in Whitehorse, Yukon

**Lois Moorcroft**

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Chief Returning Officer

## **APPENDIX 2: Attachments**

- 2.1: Amendments to the *Elections Act* (Ta'an Kwäch'än Council), 2009
- 2.2: *Elections Act, 2007* (Ta'an Kwäch'än Council), as amended 2009
- 2.3: Ta'an Kwäch'än Council Citizenship Code
- 2.4: Writ of Election: Ta'an Kwäch'än Council Resolution, 2009-06-23
- 2.5: Chief Returning Officer Appointment and Declaration
- 2.6: Call for Nominations
- 2.7: Notice to candidates re RCMP check
- 2.8: Nomination paper - Chief
- 2.9: Nomination paper - Deputy-Chief
- 2.10: Notice to citizens, August 2009
- 2.11: Sample of newspaper notice: Writ of Election
- 2.12: Sample of newspaper notice: Call for Nominations
- 2.13: Result of the Drawing of Lots for the Name Order on the Ballot Papers
- 2.14: Notice of Election
- 2.15: Job Posting for Assistant Returning Officer
- 2.16: Preliminary Voters List
- 2.17: Candidate declaration re confidentiality of mailing labels
- 2.18: Election Notice to citizens: September 2009
- 2.19: Sample of newspaper notice: Notice of Election
- 2.20: Sample of newspaper notice: Recruitment Deputy Returning Officers and Poll Clerks
- 2.21: Job Posting for Deputy Returning Officers and Poll Clerks
- 2.22: Official Voters List
- 2.23: Mail-in Voting directions
- 2.24: Sample of Mail-in Voting envelopes
- 2.25: Sample of Ballot for Chief
- 2.26: Sample of Ballot for Deputy-Chief
- 2.27: Directions for Deputy Returning Officer for Early Voting
- 2.28: Directions for Marking and Folding a Ballot for Early Voting
- 2.29: Scrutineer Appointment and Declaration
- 2.30: Directions for Deputy Returning Officer for Advance Voting
- 2.31: Directions for Deputy Returning Officer for Regular Voting
- 2.32: Directions for Taking the Vote: Voting Procedures

- 2.33: Directions for Deputy Returning Officer for Special Ballots (Mail-In, Mobile and Early Voting)
- 2.34: Directions for Counting the Ballots on Election Night
- 2.35: Tally sheet for Chief
- 2.36: Tally sheet for Deputy-Chief
- 2.37: Statement of the Vote for Chief
- 2.38: Statement of the Vote for Deputy-Chief
- 2.39: Election Budget 2009
- 2.40: Ta'an Kwäch'än Election Office sign posted at Yukon Inn and TKC office