

**Village Legislation
Discussion Paper
September 22, 2007
Amended and Submitted by
THE ASSOCIATION OF NOVA SCOTIA VILLAGES
October 2010**

The Association of Nova Scotia Villages at the September 22nd 2007 Annual Meeting adopted by resolution the following recommendations to the Village Legislation Discussion Paper and then was submitted to the Minister for Service Nova Scotia & Municipal Relations.

INTRODUCTION (Service Nova Scotia and Municipal Relations, April 2007)

Municipal governments in Nova Scotia, including villages, find their authority in the Municipal Government Act (MGA) which took effect on April 1, 1999. Previously, villages were covered under the Village Service Act which was repealed on enactment of the MGA.

Over the past several years Service Nova Scotia and Municipal Relations staff met with village representatives and received suggestions on areas of the Municipal Government Act which might be amended to better serve the needs of villages in the Province. Several of the topics brought to the attention of the Department at these meetings with village representatives, and through subsequent correspondence, generated new MGA Bulletins to address issues of concern, however there have been no amendments to the Act to reflect these Bulletins.

THE FOLLOWING ARE THE ORIGINAL (2007) PROPOSED AMENDMENTS TO THE MUNICIPAL GOVERNMENT ACT:

(THESE PROPOSED AMENDMENTS TO THE MUNICIPAL GOVERNMENT ACT HAVE BEEN REVIEWED AND AMENDED IN OCTOBER 2010 TO REFLECT CHANGES SINCE THE DISCUSSIONS WITH SNSMR IN 2007)

(1) Residency Requirements – Electors (S.403)

Discussion:

There has been concern expressed that there is a difference between the Municipal Government Act and the Municipal Elections Act (MEA), leading to some confusion as to which legislation should prevail. The Municipal Government Act (S. 403) defines an elector as a person resident within the village entitled to vote at a municipal election, and who will have resided in the village for at least six months immediately prior to the village election. The Municipal Elections Act residency requirement for electors was changed from six months to three months in 1994 following a review of that Act. Village elections however, are not run under the MEA, but under the MGA so this amendment does not apply to villages.

Question:

Should the residency requirement for village electors in the Municipal Government Act (S.403) be changed from 6 months to 3 months, to correspond to the Municipal Elections Act?

Recommendation:

That the residency requirements be changed to 3 months to correspond to the Municipal Elections Act.

(2) Residency Requirements - Candidates (MGA S. 407(1))

Discussion:

At present, village electors must be resident in the village for six months. In order to be a candidate for election as a village commissioner, a person must be an "elector" and so must be resident in the village for six months. The residency requirement for candidates in municipal elections was maintained at six months in the MEA while the residency for electors was changed to three months.

Question:

If the residency requirement for village electors is changed to three months, should the residency qualification to serve as a commissioner also be three months or should it be kept at six months?

Recommendation:

That the residency requirements for candidates be kept at 6 months to correspond with the requirements of the Municipal Elections Act.

(3) By-laws and Policies (Possible New Section after S. 425)

Discussion:

There is no statutory process for adopting village by-laws. Each village chooses its own process and may or may not have a procedure by-law on the topic. The process tends to be considerably shorter, simpler, less expensive and not as concerned with notifying the public as the municipal process. (The municipal process requires two readings and two advertisements.) This lack of statutory guidance allows villages to be less formal than municipalities in their by-law adoption process.

The Municipal Government Act requires that the village commission obtain Ministerial approval for all by-laws made by the commission. Ministerial approval enables SNSMR to assist villages by the Departmental solicitor reviewing, and providing an opportunity to discuss with the village, any legal issues which may arise as a result of the review.

There is no authority for villages to adopt policies (which are resolutions that must be kept in a policy book because they affect members of the public). Policies are used by municipalities, for example, for setting fees, interest charges and delegating certain functions to staff. These are matters that otherwise would have to be done by by-law. The ability to adopt policies would be useful to villages if they are required to use more formal procedures for adopting by-laws. As with municipalities, villages could use the policy authority for more routine or minor matters.

Questions:

- a) Should the village process for adopting by-laws be the same as for municipalities or should Ministerial approval of village by-laws be maintained?

- b) Should villages have clearer authority to adopt policies under the MGA?

Recommendation:

- a) Ministerial approval of village by-laws should be maintained.**
- b) Villages should have full authority under the MGA to adopt policies.**

(4) Commission Meeting Times (S.408(5))

Discussion:

Village meeting times must be specified by by-law. Municipalities can set regular meeting times by policy and have greater authority in statute to call special meetings or emergency meetings. (Municipal meetings can be called on three days notice, or if required by the Mayor/Warden or a majority of the Council, on two days notice; or without set notice, if Mayor/Warden thinks it's an emergency.)

Questions:

- a) Should villages be able to set regular meeting times by policy?
- b) Should special and emergency village meetings be able to be called the same as a municipality?

Recommendation:

- a) Villages should be able to set regular meetings times by policy.**
- b) Villages should be able to call special and emergency meetings the same as a municipality.**

(5) Term of Office (S. 409)

Discussion:

Section 409 provides for a term of three years for commissioners. As well, commissioners serve staggered terms so that some members are elected each year while others continue to serve. One village has requested that the term be extended to 4 years and no longer be staggered.

Questions:

- a) Should the term of office for village commissioners be four years?
- b) Should village commissioners' terms of office continue to be staggered?

Recommendation:

- a) That the term of office for Village Commissioners should remain at three years.**

- b) That Village Commissioners' terms of office continue to be staggered.**

(6) Election of Village Commissioners - Timing (S. 411)

Discussion:

The Municipal Government Act (Section 411) requires that when a vacancy occurs the Village Commission shall call a special election to fill that vacancy as per the MGA.

Some questions have been raised concerning the timing of a special election under this section, specifically, whether the election date must be chosen within 30 days or the election must be held within 30 days.

Questions:

- a) Should thirty days be given to the village commission to hold a meeting to schedule a special election or would fourteen days be sufficient?
- b) Should another thirty days be given to prepare for and hold the election, or is more time needed?

Recommendation:

This particular question has been addressed in MGA Bulletin # 45 and is very clear that the process to hold the by-election should be completed within 30 days.

(7) Vacancies and Quorums

Discussion:

The issue of vacancies and quorums has been identified as another area where there is lack of clarity. The Municipal Conflict of Interest Act deals with quorums in conflict situations (S.8), but there is no legislation concerning how a commission should operate where the number of Commissioners is reduced, due to vacancies in the Commission numbers, below the number required for the quorum. Section 20 of the MGA addresses this for councils and could be adapted.

Question:

Should there be rules for quorums for village commissions that have vacancies that affect their quorum?

Recommendation:

A majority of the maximum number of persons that may be elected to the Commission is a quorum for every meeting of the Commission.

Where there is a vacancy in a Commission's numbers, the Commission may make a decision if a quorum is present at a meeting.

Where the number of Commission members is reduced due to vacancies in a Commission's numbers below the number required for a quorum, the remaining Commission Members may make a decision at a meeting of the commission if

(a) there are at least three remaining Commission Members; and

(b) a majority of the remaining Commission Members are present at the meeting,

however, the Commission may not pass a by-law or policy, borrow money, set a tax rate, acquire or sell property or make any other decision that has effect after, or for a term extending beyond, the date for the election to fill the vacancies in commission membership.

Where the number of Commission Members is reduced below three, for a Commission consisting of five members or two, for a Commission consisting of three members due to vacancies in the Commission's numbers, the Commission may not make a decision except to take such steps as may be required to fill the vacancies.

(8) Effective Date of Resignation (S. 412)

Discussion:

When a village commissioner resigns, what is the effective date of the resignation? Is it the date the resignation is received, by the Clerk/Treasurer or is it the date of the next meeting of the commission when the resignation is acknowledged? Also, can a resignation be withdrawn after it has been submitted? Another issue that has been raised is can the Commissioner that resigns from the Commission become a candidate when the by-election is held to fill his/her vacancy.

Questions:

- (a) Should Section 412 be re-written to provide the effective date of a commissioner's resignation?
- (b) Should it prevent withdrawal of a resignation once delivered?
- (c) After resigning from the Commission, can he/she become a candidate when the by-election is held to fill his/her vacancy?

Recommendation:

MGA Section 412 should be re-written to provide specific details regarding the effective date of the resignation of a Commissioner.

The effective date should be the date the written resignation is received by the Clerk/Treasurer. Once the resignation is received by the Clerk/Treasurer it cannot be withdrawn.

The Clerk/Treasurer shall deliver the letter of resignation to the Commission at the next duly called meeting of the Commission.

Once a Commissioner has resigned from a Commission, there should be a waiting period before that person can become a candidate in a Village election again. The suggested waiting period should be one (1) year from their resignation date.

(9) Fire Department Funding (S. 423)

Discussion:

While clauses 423 (1) (f), (g) and (h) authorize expenditures for fire fighting and prevention purposes, they do not give villages the leeway to support fire departments by way of:

- 1) capital grants,
- 2) borrowing on behalf of fire departments,
- 3) loans of funds or assets,
- 4) loan guarantees, like that provided by municipalities

Question:

Do villages want the same authority as municipalities to assist fire departments through grants, loans, etc.?

Recommendation:

Villages be given the same authority as Municipalities to provide financial support to Fire Departments through grants, loans, etc.

(10) Grants/Donations (S.423)

Discussion:

Villages have no express authority to give grants or donations to charitable or non-profit organizations or persons in the village.

Question:

Do villages need authority to give grants or donations to charitable or non-profit organizations or persons in the Village?

Recommendation:

That Villages use tax levy funds to provide municipal services/programs and not to provide grants to charitable or non-profit organizations or persons.

(11) Electors Approval of Borrowing (S.438)

Discussion:

The MGA requires approval by a meeting of the electors before a village can borrow funds.

Question:

Do you agree with electors' approval for Village borrowing of funds?

Recommendation:

Electors' approval should not be required for Village borrowing of funds.

(12) Sale or Lease of Village Property (S.446)

Discussion:

The Municipal Government Act requires that villages obtain the consent of the Minister in order to sell or lease any property belonging to a village that exceeds twenty-five thousand dollars in value. This is to ensure that fair market value is being obtained. Municipalities no longer require the consent of the Minister and may sell or lease property at less than market value subject to special majority and special hearing requirements.

Question:

Should the MGA be amended to remove the Ministerial approval for the sale or lease of property?

Recommendation:

The MGA should not be amended to remove the Ministerial approval for the sale or lease of property.

(13) Private or In-Camera Meetings of the Commission (S. 408)

Discussion:

At present, if a village commission needs to hold a private meeting, it must be held as a "strategic planning meeting" or "discussion" as all commission meetings must be public. The MGA allows municipal councils to hold private or in-camera meetings on a limited list of topics.

Question:

Should villages have the same type of rules as municipalities for private or in-camera meetings?

Recommendation:

Villages should have the same type of rules as municipalities for private meetings.

The Commission, or any committee appointed by the Commission, may meet in closed session to discuss matters relating to items such as:

- **acquisition, sale, lease and security of village property;**
- **setting a minimum price to be accepted by the village at a tax sale;**
- **personnel matters;**
- **labour relations;**
- **contract negotiations;**
- **litigation or potential litigation;**

- **legal advice eligible for solicitor-client privilege; or**
- **public security.**

No decision shall be made at a private Commission meeting except a decision concerning procedural matters or to give direction to staff of, or solicitors for, the village.

(14) Other Qualifications for Village Commissioners (Candidates)

Discussion:

The *Municipal Government Act* is quite brief in describing the requirements for village commissioner; simply that no person is qualified to serve as a village commissioner unless the person is an elector, and entitled to vote in a municipal election. The MEA lists a number of disqualifications for potential councillors, in Sections 17 and 18. S. 17 requires a tax certificate; S. 18 lists a number of individuals who cannot run, including municipal employees who are not on a leave of absence. As a result of discussions with village representatives it was decided that requiring a tax certificate was not practical.

The issue concerning members of the village commission who are also in the employ of the village was discussed without a consensus. The question was asked if it is unacceptable for a member of municipal council to also be an employee of the municipality, why is this not true for villages? Replies included that at least in some cases the authority for villages is not as strict as for municipalities; a village would have the authority to develop an employment policy that would preclude any employee from being a village commissioner while still an employee; and the *Municipal Conflict of Interest Act* would still apply in any situation where a village commissioner was also an employee.

Note that S. 18 of the MGA also precludes municipal councillors from becoming municipal employees for six months after their term ends.

Questions:

- A) Should the same disqualifications as apply to municipal candidates apply to village commission candidates? (See S. 18 MEA as adapted below.)
- B) Should village commissioners be restricted from being employed by the commission during their term?
- C) Should village commissioners be restricted from being employed for six months after their term? (See S. 18 of the MGA as adapted below.)

Recommendation:

No person is qualified to be nominated or to serve as commissioner who:

- **is a member of the House of Commons or Senate of Canada;**
- **is a member of the Legislative Assembly;**
- **is a member of the council of a municipality or is a judge of the Nova Scotia Court of Appeal, the Supreme Court of Nova Scotia or the Provincial Court;**
- **accepts or holds office or employment in the service of the village, or any utility, board, commission, committee or official thereof, to which any salary, fee, wages, allowance, emolument, profit or other remuneration of any kind is attached, for so long as he holds or is engaged in the office or employment unless the person is on a leave of absence granted pursuant to subsection 17C(2), but this disqualification does not apply in respect of an office or employment**
 - **as a volunteer firefighter with a municipal or village fire fighting organization,**
 - **with a school board, or**
 - **with a joint body of a municipality and a village or two or more villages to which the village appoints at least one representative and to which the village provides funding,**
- **repealed 1994, c. 26, s. 9.**
- **has been convicted of any corrupt practice or bribery contrary to this Act within five years preceding nomination day.**

No commission member may be employed by the village while a commission member, or for a period of six months after ceasing to be a commission member.

(15) Authority to Hold Plebiscites (S. 423)

Discussion:

While S. 423 authorizes villages to pay for plebiscites, there is no authority for a village commission to direct its Clerk/Treasurer to hold a plebiscite.

Question:

Should the MGA be amended to authorize a village commission to direct its Clerk/Treasurer to hold a plebiscite?

Recommendation:

Section 423 should be amended to authorize villages to direct the Clerk/Treasurer to hold a plebiscite.

(16) "Hearing from the Village" at hearings of the Utility and Review Board concerning village boundaries.

Discussion:

Section 447 authorizes a village commission or an owner of real property in a village to apply for a village boundary change. Obviously, if the village commission makes the application, it will be heard at the hearing, but S. 447(6) is not clear about the village being heard when an owner of real property makes the application. No doubt the Board should imply that it would hear the village commission, but this could be clarified

Question:

Should section 447 be amended to authorize presentation by Villages at hearings held by UARB when an owner of real property makes the application for Village boundary changes?

Recommendation:

Section 447(6) should be amended to authorize presentation by villages at hearings held by the UARB concerning village boundaries regardless of who makes the application.

(17) Planning Advisory Committee

Discussion:

MGA Section 201(1) through (4) give authority for "...municipalities to establish, by policy, area planning advisory committees to advise the planning advisory committee or joint planning advisory committee on planning matters..."

Over the past few years, there has been more and more discussion and concern regarding the input of Villages in the planning process and land use issues within their boundaries. Through their municipality, which have control over planning matters, some Villages do have limited input into these issues, while others have no input at all. Some Villages have set up their own Area Planning Advisory Committees to deal with this issue, however, their recommendations are not always given the consideration they deserve from the Municipality's PAC.

Question:

- (a) Should the MGA be amended to include a member from the Area Advisory Committee or Village Commission be appointed to the Municipality's Planning Advisory Committee (PAC) in order to give input and continuity to the planning process in Villages?

Recommendation:

Amend Section 201 by amending 201(3), which could read:

- (3) "An area planning advisory committee, with jurisdiction over an area that includes all or part of a village, shall include at least one member appointed by the Village Commission. That member, or an alternate appointed by the village's area planning advisory committee, shall also sit as a voting member on the municipality's council planning advisory Committee."**

(18) Village Clerk and Treasurer (Section 420)

Discussion:

The duties of the Village Clerk/Treasurer, under MG Section 420, is extremely limited and does not reflect the responsibilities of the position. As the sizes of the Villages vary, so does the responsibilities of the Clerk/Treasurer, however, the overall administration of the activities and affairs of the Village, in accordance with legislation, bylaws and adopted policies, is still the responsibility of the Clerk/Treasurer. In September 2008, the Association of Nova Scotia Villages, at their annual general meeting, adopted the following Clerk/Treasurer job description to be used as "best practices" for the duties of Village Clerk/Treasurer:

VILLAGE CLERK/TREASURER Job Description (GUIDELINES / BEST PRACTICES)

The Clerk /Treasurer is the Chief Administrative Officer for the Village, and is responsible to the Village Commission for the proper administration of the activities/affairs of the Village in accordance with legislation, by-laws and adopted policies.

Reporting to: The Village Commission

Direct Reports: All Department Heads
(in absence of these positions, all staff employed by the Village Commission)

Administration

As the Head Administrator for the Village, the Clerk /Treasurer will ensure the day to day business affairs of the village are operating in accordance with the stated goals, policies and procedures approved by the Village Commission. The Clerk/Treasurer ensures that the Commission's directives are communicated to the rest of the organization and that Commission's policies are implemented in an efficient and effective manner. Responsible for directing and supervising the operations/activities of the Village staff, the Clerk /Treasurer will develop a productive operation to ensure efficient delivery of public services approved by the Village Commission.

Leadership

Providing effective leadership to the Commission, the Clerk /Treasurer will monitor and anticipate changing circumstances affecting all aspects of operating and will ensure that appropriate plans are in place. The Clerk/Treasurer will bring focus to the Commission by providing a sound voice of reason in deliberation. On an on-going basis the Clerk /Treasurer will provide recommendation to the Commission on any changes that would improve the effectiveness or the efficiency of the structure.

Financial

The Clerk/Treasurer oversees asset management, financial expenditures and budgets for the Village. These duties include preparation of the annual budget, and supervising all receivables and payables of the Village. The Clerk/Treasurer (when required/or if applicable) will act on the bargaining committee for the Village with respect to contracts with the bargaining unit. The Clerk/Treasurer will supervise the performance of any and all contracts or agreements entered into by the Village.

Specific Responsibilities (where applicable or required)

Financial

1. Direct the expenditures and collection of public funds by establishing and maintaining a computerized financial and management information system.
2. Develop financial policies and procedures in accordance with the Municipal Government Act and accepted municipal accounting principles.
3. Implement accounting controls for assurance of the reliability of financial information.
4. Perform budgeting duties, including budget preparation, expenditure review and budget administration.
5. Analyze year tax roll documents, develop a projection of tax revenues, prepare revenue reports for the consideration of the Village Commissioners and submit tax billing information to the appropriate officials.
6. Administer contracts, supervise the tender process, prepare reports to the Village Commission on tenders and supervise contract awards.

7. Supervise accounts payable activities to ensure timely and accurate payment of financial obligations. Supervise purchasing activities to ensure that purchases are made in accordance with purchasing policies and procedures.
8. Manage general accounting activities to ensure proper posting of transactions and timely closing of the books in accordance with generally accepted accounting practices.
9. Manage payroll activities to ensure timely and accurate payment to authorized employees and elected representatives.
10. Prepare for and assist the municipal auditors in the yearly auditing function.
11. Supervise the investment of surplus funds.
12. Directly supervise all financial support staff.
13. Specific financial duties: sign contracts as per Village Commission policy, issue receipts, complete bank reconciliations, perform general ledger functions, and prepare financial statements.

Insurance and Liabilities

1. Administrator of Village insurance policies; advises Village Commission on insurance needs.
2. Process claims against the Village, maintaining files and log of claims, and coordinate claim response and handling with Village Solicitor and Insurance Agents.
3. Ensure a high quality level of maintenance of village systems, property, vehicles and equipment; monitor and improve risk management.

Project Management

1. Develop and maintain lists of municipal infrastructure projects (sanitary sewer, water, sidewalk, structures, fire fighting, public works and park projects).
2. Develop and administer pre engineering design projects to identify financial and engineering requirements for the capital projects.
3. Identify federal, provincial, municipal or other funding sources to assist with the financing of capital projects. Responsible for submitting applications/documentation/claims to pursue the funding.
4. Supervise the engagement of professional engineering firms to provide design, inspection and contraction administration services for the construction of municipal infrastructure projects. Obtain and maintain all permits as required.

Village Clerk

1. Communicate with village residents, explaining Village policies, procedures and programs. Provide advice on other government programs when necessary.

2. Draft agendas for Commission Meetings, prepare packets of related information.
3. Record all by-laws, resolutions, decisions and other proceedings of the Village Commission and if requested by any village commissioner, record the vote of every village commissioner voting on any matter.
4. Record the minutes of (or supervise the taking there of) all Commission meetings, or meetings of the electors and circulate them to appropriate officials. Plan and direct the safekeeping of original and certified copies of all bylaws, policies and of all minutes of proceedings of the village commission.
5. Responsible Officer: Freedom of Information and Protection of Privacy Act (FOIPOP)
Municipal Government Act. (MGA)
6. Draft and supervise the placement of legal notices on behalf of the Village Commission.
7. Draft correspondence and reports for the Village Commission.
8. Research federal, provincial and municipal legislation, policies and programs and assess the impact on the Village.
9. Plan and direct the maintenance, filing, safekeeping and computerization of village documents.
10. Respond to requests for information or service from the public, other municipalities, and federal or provincial officials.
11. Clerk/Treasurer attends meetings as requested by the Commission and attends seminars/conferences as approved in the annual budget.
12. Field public inquiries and direct them to the appropriate agency or if the concerns relate to Village activities direct them to the appropriate elected representative.

Communications

1. Draft press releases and other forms of communication to the media.
2. Supervise and develop the Village web site and/or information technology..
3. Draft speeches for the Village Commission.
4. Supervise the editor of the Village newsletter.
5. Communicate an accurate and positive image of the Village.
6. Act as public relations officer in cooperation with the Village Commission.

Village Elections

1. Acts as returning officer in the administration of village elections.

2. Supervise the counting of the ballots, prepare statement of the poll, and declare the successful candidate(s).
3. When there is a tie at an election the Clerk/Treasurer shall determine the successful candidate by lot. (as per the Municipal Elections Act - MEA)
4. Supervise the official recount of the ballots.
5. Develop and conduct orientation programs for newly elected representatives.

Human Resources

1. Prepares and maintains policies dealing with current human resource management. Monitor the performance, work load and the need for resources to ensure that staff can achieve the objectives of their job descriptions.
2. Maintains confidential files concerned with personnel and/or policy matters.
3. Oversee the training schedules for staff, including the Clerk/Treasurer, to ensure that relevant and accurate information be available through training and professional development programs.
4. Responsible for the yearly staff evaluations.
5. Manage the recruitment process for the Village.
6. The Clerk /Treasurer is responsible for the hiring of staff as per Village policy.

Question:

Should the MGA Section 420 be amended to reflect the responsibilities of the position of Village Clerk/Treasurer?

Recommendation:

The MGA Section 420 should be amended to reflect the responsibilities of the Village Clerk/Treasurer as has per the "best practices job description" included. This can be done by either an amendment to the MGA, by an MGA Information Bulletin or a combination of both.

(19) Roles & Responsibilities of Commissioners

Discussion:

Over the course of a number of years, the roles and responsibilities of the Commission and the Commissioners has been an area for discussion. Under MGA Part 18 "Villages" the roles & responsibilities of the Commission and Commissioners is very vague, however, some of these responsibilities have been addressed in MGA Bulletin # 47.

Question:

Should the MGA Part 18 "Villages" be amended to better reflect the roles and responsibilities of the Commission and Commissioners?

Recommendation:

With input from the ANSV and Village Commissioners, the MGA Part 18 "Villages" should be amended to better reflect the roles and responsibilities of the Commission and Commissioners.

(20) By-law Enforcement

Discussion:

MGA Section 432 allows Villages to adopt a bylaw for the collection of penalties, however, there is no authority in the section which allows a Village to appoint a By-law Enforcement Officer if it is required or requested. Good examples of by-laws that would require enforcement and the payment of penalties is a wastewater(sewer) by-law or a snow removal bylaw.

Question:

Should the MGA be amended to give Villages the authority to appoint a By-law Enforcement Office if they so choose?

Recommendation:

Yes, the MGA should be amended to give Villages the authority to appoint a By-law Enforcement Officer if they so choose.

(21) Commission Elections Voting Procedures

Discussion:

Under MGA Section 417 there is no clear authority for Villages to declare a candidate for Village Commission elected by acclamation.

Question:

Should the MGA Section 417 be amended to give Villages the authority to declare a candidate for Village Commission elected by acclamation?

Recommendation:

That MGA Section 417 be amended to reflect the following:

(5) "Notwithstanding, should there be only one candidate nominated for a vacancy on the Commission, the Clerk/Treasurer will declare that candidate as elected by acclamation.