

Report to the PCMNO
On
Election 2016

Paul DeVillers
Chief Electoral Officer

John Graham
Deputy Chief Electoral Officer

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Executive Summary

The purpose of this report is to respond to Article 4 of the MNO Electoral Code that requires the Chief Electoral Officer, among other things, to “...prepare an official Election report to the citizens of the MNO”. The report is divided into two principal sections. The first deals with the results of Election 2016; and the second with recommendations for the conduct of future elections

Election Results

Just over 3300 MNO electors successfully cast their ballots in Election 2016 compared to approximately 2280 MNO citizens in Election 2012. Of potential voters at the 10 polling stations approximately 14.1% chose to vote compared to 10.4 % in 2012. In contrast 28.2% of eligible mail-in voters cast their ballot by mail, compared to 27.2% in 2012.

While the voter turnout was higher in 2016 in both absolute and relative terms, nevertheless voter participation was well below that of mainstream elections in Ontario at the federal, provincial and even municipal levels.

For the MNOVC, there were six acclamations and one office for which no nominations were received. In terms of MNOYC, there were three acclamations, five offices without nominations and one contested election. And finally for the PCMNO there were eight acclamations and seven contested elections. Acclamations and winning candidates are listed in the report.

Recommendations for Future MNO Elections

The Chief Electoral Officer and his Deputy make the following recommendations for the effective organization and conduct of future MNO elections:

Recommendation No. 1: improve the accuracy and completeness of the List of Electors well prior to the Election by:

- a) Having Community Councils do phone surveys of all of its members beginning 6 to 8 months before the election in order to update the list to include e-mail addresses
- b) Using the Métis Voyageur well before the election to urge citizens to update their information held in the Registry
- c) Providing at least a four week period in the Electoral Code between publishing the Preliminary List of Electors and the Final List
- d) Developing a list of electors eligible to vote for the youth representative on the PCMNO as well as the members of the MNOYC
- e) Developing a list of voters eligible to vote for candidates for offices on the MNOVC (this list is currently held by the MNOVC, many of the office holders of which were Candidates)
- f) Making efforts to ensure that there is only one list of eligible voters.

Recommendation No. 2: improve the nomination procedures and timelines by:

- a) Appointing the CEO a year or so prior to the election so that he or she can make efforts to publicize the upcoming election with the goal of having fewer acclamations and fewer offices for which there are no candidates
- b) Utilizing the following means, among others, to publicize the upcoming election and invite citizens to consider running for office: the MNO web site; successive issues of the Voyageur; posters in Community Council offices; social media to attract youth; and creative use of e-mail
- c) Ensuring that MNO staff remain neutral throughout the election by prohibiting them from signing nomination papers, being part of campaign teams or serving as electoral officers
- d) Lengthening the nomination period to four weeks

Recommendation No. 3: improve the election campaign for future elections by:

- a) Lengthening the campaign period to five weeks
- b) Encouraging candidates to provide basic information about their experiences and campaign platforms through the MNO website and the Voyageur
- c) Encouraging Community Councils to have all candidate meetings
- d) Developing a Code of Conduct for members of Community Councils and for candidates during the election campaign
- e) Providing investigative powers and sanctions for the CEO to deal with allegations of inappropriate behaviour
- f) Reworking sections of Article 7 for greater clarity

Recommendation No. 4: improve the voting process by

- a) Adopting one voting methodology that best meets the following criteria: encourages a high participation rate among eligible voters, is cost-effective and has a low risk of voter fraud.
- b) Investigating two years before the next MNO election whether the best approach is internet voting or mail-in ballots
- c) Adding procedures to the Electoral Code to guide the administration of either internet voting or mail-in ballots
- d) Adopting procedures, should mail-in ballots be the chosen methodology, to address the following:
 - i) Security of mail-in ballots received by the MNO
 - ii) Monitoring the firm responsible for sending out the mail-in ballots
 - iii) Providing a means to deal with non-delivery of ballots by Canada Post or some other agency
 - iv) The counting of mail-in ballots
- e) Dropping the last two sentences in the Elector's affirmation statement (Article 5.7 in the Code)
- f) Providing for discretion on the part of the Chief Electoral Officer to count a ballot in the case of an individual who has been left off the voters' list because of an administrative error on the part of MNO staff and who makes a declaration to the effect that he or she lives in the area serviced by the poll.

Recommendation No. 5: improve the recount, objections and appeals procedures by

- a) Including in the Code a precise threshold for a recount (e.g. where the margin of victory is less than 1% of total votes cast)
- b) Charging an appropriate fee for a candidate asking for a recount above that threshold, a fee that is only refundable if the recount changes the result of the election
- c) Charging a fee for objections and appeals, a fee that is refundable only if the objection or appeal is upheld or is judged to be neither frivolous nor vexatious by the CEO or the independent investigator
- d) Clearing up several ambiguities in this Article of the Code relating to objections and appeals and in particular giving the CEO the power to call for a by-election, subject to review by the independent investigator.

Recommendation No. 6: Make changes to the Electoral Code Part A that follow from the five recommendations above and that also correct a number of smaller editorial or timing issues

Table of Contents

Executive Summary.....	i
Table of Contents.....	i
I. Introduction.....	1
II. Brief Overview of Election 2016.....	1
A. Appointment, Organization and Conduct of the Election.....	1
B. Election Results.....	3
C. Principal Challenges	5
III. Recommendations for Future MNO Elections	5
A. List of Electors.....	5
B. Nomination Procedures and Timing	6
C. The Election Campaign	7
D. Voting Process	8
E. Recount, Objection and Appeal Procedures.....	9
F. Changes to the Electoral Code	10
ANNEX A: MEMO ON PREFERRED NUMBER OF POLLING STATIONS.....	12
ANNEX B: LIST OF ELECTORAL OFFICERS	17
ANNEX C: LETTER TO CANDIDATES REGARDING POSTAL DATE	19
ANNEX D: MEMORANDUM ON ARTICLE 7	21
ANNEX E: RESULTS	24

ANNEX E: Results

Report to the PCMNO On Election 2012

I. Introduction

The purpose of this report is to respond to Article 4 of the MNO Electoral Code that requires the Chief Electoral Officer, among other things, to "...prepare an official Election report to the citizens of the MNO".

To meet this requirement, we have divided this report into two principal sections. In the first we provide a brief overview of the Election 2016 including how we organized ourselves to perform our function as the administrators of the Election, our correspondence with the candidates during the Election, the results of the Election and some of the principal challenges we faced. To keep this Section brief, we make liberal use of Annexes. In the second Section, we present our recommendations for how future MNO Elections might be conducted.

II. Brief Overview of Election 2016

A. Appointment, Organization and Conduct of the Election

We were appointed by the PCMNO in late 2015 and had our first team meeting in November 2015. We made most of the decisions jointly with Mr. Graham handling the bulk of the administrative matters. We relied heavily on Jane Brennan, the MNO Registrar throughout the election, given the importance of the MNO Registry to our work. We also relied on Mike Fedyk, the MNO Director of Communications, for his assistance in using the Voyageur and the MNO website to communicate various key aspects of the Election and in liaising with the printing company on ballot preparation and mail-outs.

Our overall objective was to administer the election in a manner that was fair, impartial, transparent and consistent with the MNO Electoral Code: Part A. The Code establishes clear timelines for all the principal aspects of the election, timelines that we were able to meet.

In addition to the Code, some of our work was influenced by past practice including the following:

- The number and location of polling stations
- The initial location of the towns, cities and other locales to receive mail-in ballots (some of these were changed following feedback from Community Councils to the original list we posted)
- The total number of ballots to be printed
- The number of ballots and ballot boxes distributed to each polling station
- Some of the report and other templates that formed part of the administration of the election.

Polling Stations

We examined the results of MNO Election 2012 and found that there was a very low turnout in at least four of the 14 Polling Stations. We also did some analysis of various options including an election reliant completely on mail-in ballots (see Annex A). In the end we decided to go with 10 polling stations and rely on mail-in ballots for the remainder of the electorate.

A key element to the administration of the election was the Returning Officers and Poll Clerks at each of the 10 polls. They administered both the advance poll, which took place on April 23, and the poll on Election Day, May 2. The MNO provided modest honoraria for their work - \$300 for Returning Officers and \$200 for Poll Clerks. A list of the 20 individuals who served in these roles is provided in Annex B. Glen Lipinski, an MNO staff person, was particularly helpful in proposing names of possible individuals to fill these roles.

Closer to the election we sent to the Election Officers a number of e-mails containing instructions on the performance of their roles. We also had several phone conversations with various electoral officers both prior to and during the Advance Poll and the May 2 Election itself.

The only significant issue we experienced with the Polling Stations occurred in North Bay on the day of the Advance Poll. For some reason arrangements to open the North Bay office where the polling station was to be located did not occur as planned. Consequently the poll opened approximately one hour later than scheduled. According to the Returning Officer, only a small handful of individuals were inconvenienced and the impact on the Election was inconsequential.

Given that two community council presidents – one in Thunder Bay and the other in Sudbury - were candidates and had access to the polling stations, we advised the Returning Officer for each of these polling stations to keep the ballot materials in their own homes to avoid any possible appearance of ballot tampering. Both followed our instructions.

Mail-in Ballots

The Code is silent on the procedural aspects of mail-in ballots, thus leaving significant discretion on the part of the Chief Electoral Officer. We made an early policy decision that mail-in ballots should be postmarked no later than May 2, the day of the Election to be counted. We then discovered that the large majority of mail-in ballots were not postmarked when they first entered the Canada Post system. Rather they were postmarked at certain sorting hubs – likely Toronto and Winnipeg – resulting in a three or four-day delay between the time the return ballot entered the system and when it was postmarked. For this reason we announced to candidates that we would accept mail-in ballots postmarked on or prior to May 6. Our correspondence with Candidates on this issue is included Annex C.

This decision meant that 399 ballots were counted that otherwise would have been disqualified. That said, the counting of these ballots had no material affect on any of the PCMNO electoral contests. It did however affect the result of the contest for Youth Representative Region 7 for the MNOYC.

As was the case in Election 2012, we received many complaints from both candidates and electors that electors did not receive their ballots or in some cases received them too late to vote. There are likely many explanations for this – electors not updating their addresses with the Registry; electors inadvertently losing

the ballot or not realizing it was not junk mail; and of course the vagaries of the postal system. We judge that there was no one candidate who suffered inordinately from these various problems. With the one exception of the youth representative contest in Region 7, none of the electoral races was particularly close (see the next section of this report).

Article 7: Use of MNO Resources During Election

Next to the mail-in ballot problems canvassed above, we received the most complaints concerning Article 7 of the Code. Because of these complaints, we analyzed the Article carefully and sent out a detailed memorandum to all candidates on how we were interpreting that Article (see Annex D). Despite this we received three objections following the announcement of the election results from candidates, none of whom made any reference to this detailed memorandum.

In one instance we were informed of a planned event that would have been in contravention of Article 7 and were able to stop the event from happening. In all other instances the complaints centered on events or activities that had already occurred. As we pointed out to candidates on several occasions and in the memorandum, the Code does not provide for investigative powers for the Chief Electoral Officer, let alone any powers to sanction or punish candidates. Moreover it is clear in Article 7 that the MNO’s Chief Operating Officer is the individual to whom complaints about the use of MNO resources should be directed.

One of our recommendations calls for a complete rewriting of this Article of the Code.

B. Election Results

Just over 3300 Electors successfully cast their ballots in Election 2016, a significant increase over Election 2012 where 2286 Electors participated. The Table below provides a breakdown of the votes by Polling Station and mail-in ballots with a comparison to results in 2012.

	Number of Voters		Number of Registered Electors		% of Voters to Registered Electors	
	2016	2012	2016	2012	2016	2012
Polling Stations ¹	1314	900	9302	8653	14.1%	10.4%
Mail-in Ballots	1989	1386	7044	5096	28.2%	27.2%
Total	3303	2286	16,346	13,748	20.2%	16.6%

While the increase in the number of voters from Election 2012 is impressive, nonetheless the overall turnout compared to federal, provincial or even municipal elections in Ontario leaves much to be desired.

¹ There were 10 Polling stations in 2016 versus 14 in 2012

For example, in the municipal elections in Ontario in 2014, the average voter turnout was 43% versus the MNO election of 2016 at 20%, less than half of the municipal turnout. The federal election of 2015 witnessed a 68.3% turnout. The Ontario provincial election in 2014 had a 52.1% turnout.

Election 2016 involved three MNO bodies: i) the MNO Veterans Council (MNOVC); ii) the MNO Youth Council (MNOYC); and the Provisional Council of the MNO (PCMNO).

MNOVC

On April 22 the Chief Electoral Officer, following the close of nominations, declared the following acclamations:

- President, Joseph Paquette
- Chair, Guy Mandeville
- Sergeant at Arms, Robert Baskey
- Secretary, Greg Garratt
- Women's Representative, Shelly Claus
- Senator, Dr. Alis Kennedy

The following offices received no nominations:

- Treasurer

MNOYC

On April 22, the Chief Electoral Officer declared the following acclamations:

- Representative Region 1, Kelly Duquette
- Representative Region 2, Paul Robitaille
- Representative Region 3, Brianne Gosselin

On May 11, the Chief Electoral Officer declared that Jordyn Playne had received the most votes for Youth Representative Region 7.

The following offices received no nominations:

- Representative Region 4
- Representative Region 5
- Representative Region 6
- Representative Region 8
- Representative Region 9

PCMNO

On April 22, the Chief Electoral Officer declared the following acclamations:

- Councillor Region 1, Theresa Stenlund
- Councillor Region 4, Ernest Gatien
- Councillor Region 5, Daniel Boulard
- Councillor Region 6, Thomas Thompson
- Councillor Region 7, Pauline Richardson
- Councillor Region 8, Anita Tucker
- Youth Representative, Mitchell Case
- Post Secondary Representative, Katelyn LaCroix

The remaining offices on the PCMNO were contested and on May 11 the Chief Electoral Officer declared that the following candidates had received the largest number of votes:

- President, Margaret Froh
- Chair, France Picotte
- Vice Chair, Sharon McBride
- Secretary Treasurer, Tim Pile
- Councillor Region 2, Cameron Burgess
- Councillor Region 3, Marcel Lafrance
- Councillor Region 9, Peter Rivers

Annex E contains the results of the contested offices of the PCMNO by poll and by mail-in ballot.

C. Principal Challenges

In administering this election we faced the following principal challenges:

- 1) The timelines in the Electoral Code continue to be too tight to provide for proper campaigning and the administration of an effective mail-in ballot process
- 2) We were unable to ascertain the extent to which mail-in ballots were not delivered by Canada Post (as opposed to being treated as junk mail by respondents) and to respond adequately to complaints of non-delivery because of the tight timelines provided for in the Code
- 3) The List of Electors derived from the MNO Registry was not sufficiently current, especially with regards to addresses
- 4) Having two modes of voting – physical polls and mail-in ballots – proved to be challenging for both us as administrators of the Election and for some voters.
- 5) We did not have a budget to organize and run the election; this is important if the Chief Electoral Officer is to be independent from the MNO administration

These challenges and other factors produced letters of objection from three different candidates. These objections then led to three appeals, the focus of a second report to the PCMNO.

III. Recommendations for Future MNO Elections

One of the tasks we agreed to undertake was to develop recommendations on how future elections might be more effectively conducted. This is the focus of this final section of our report. We proceed in the same sequence as the election unfolds – starting with the list of eligible voters and moving through the various stages from nominations, to the campaign itself, to the voting process and finally to the objections and appeal process. We conclude with a short section on changes we propose to the MNO Electoral Code.

We note that many of the recommendations that follow are identical to those we made following Election 2012.

A. List of Electors

A central issue in the administration of any election, whether in Canada or abroad, is the quality of the voters list. The challenges in keeping such a list current are enormous for any jurisdiction, let alone one like

the MNO with very limited resources, a large geographic area and a complex legal context. Such challenges become even more pronounced when mail-in ballots are used extensively. So problems are inevitable. That said, it is fair to conclude that problems with the MNO list of Electors likely had a material impact on only one of the electoral contests – that of Youth Representative Region 7, where the winning candidate had only a three vote margin of victory. Nonetheless improving the quality and comprehensiveness of the MNO List of Electors should be a top priority for the next MNO election.

Another problem with the List of Electors is that there is no way to easily distinguish those eligible to vote for candidates vying for offices of youth and Veterans. This was not an issue for Election 2016 save for the one contested position on the MNOYC. This could change in subsequent elections.

Finally, there were allegations that several lists of eligible voters were in play.

Our specific recommendation is as follows:

Recommendation No. 1: the PCMNO should make efforts to improve the accuracy and completeness of the List of Electors well prior to the Election by:

- a) Having Community Councils do phone surveys of all of its members beginning 6 to 8 months before the election in order to update the list to include e-mail addresses
- b) Using the Métis Voyageur well before the election to urge citizens to update their information held in the Registry
- c) Providing at least a four week period in the Electoral Code between publishing the Preliminary List of Electors and the Final List
- d) Developing a list of electors eligible to vote for the youth representative on the PCMNO as well as the members of the MNOYC
- e) Developing a list of voters eligible to vote for candidates for offices on the MNOVC (this list is currently held by the MNOVC, many of the office holders of which were Candidates)
- f) Making efforts to ensure that there is only one list of eligible voters.

B. Nomination Procedures and Timing

Given the number of acclamations and offices for which no nominations were received and given the relatively low voter turnout, a greater effort in future elections should be directed at publicizing the upcoming election. This might best be done by the Chief Electoral Officer rather than the PCMNO and the CEO should therefore be appointed earlier in the election cycle – perhaps a year before the election date. Initiatives might include, among other things, publicizing the election in successive issues of the Voyageur, using posters in Community Council Offices, posting information on the MNO website months in advance of the election and making better use of social media to increase youth participation.

In reviewing the nomination papers of the candidates for Election 2012, we found a number that had relied on MNO staff to sign their nomination papers. We judge this practice to be contrary to the principle that staff must remain neutral throughout the election. Furthermore, candidates asking staff to sign nomination papers might place some in an awkward position. In addition, should future MNO elections have physical polls and electoral officers, then MNO staff should not be appointed to these positions. The issue here is not so much a breach of neutrality. Rather electoral officers can find themselves in conflict with candidates and such a situation is not conducive to productive working relationships following the

election. We made a recommendation to this effect in 2012 and yet the Code was not amended to prohibit this practice.

The Code calls for the nomination process to begin on or before March 15 and end on April 1. We found that, to ensure prospective nominees met all of the requirements of the Code, there needed to be a certain amount of back and forth communication with many of them. For this reason extending the nomination period to four weeks would appear to be justified.

These comments lead to the following recommendation:

Recommendation No. 2: improve the nomination procedures and timelines by:

- a) Appointing the CEO a year or so prior to the election so that he or she can make efforts to publicize the upcoming election with the goal of having fewer acclamations and fewer offices for which there are no candidates
- b) Utilizing the following means, among others, to publicize the upcoming election and invite citizens to consider running for office: the MNO web site; successive issues of the Voyageur; posters in Community Council offices; social media to attract youth; and creative use of e-mail
- c) Ensuring that MNO staff remain neutral throughout the election by prohibiting them from signing nomination papers, being part of campaign teams or serving as electoral officers
- d) Lengthening the nomination period to four weeks

C. The Election Campaign

Like the nomination process, the electoral campaign period needs to be lengthened. In Election 2016, the list of candidates was posted on April 11, less than two weeks before the Advance Poll on April 23, followed by the Election on May 2. Mail-in ballots were counted on May 11-12. This timetable left little time for organizing campaign activities like all candidate meetings, mail-outs and phone blitzes. We propose that the campaign period be lengthened to five weeks.

During the campaign we had a number of phone calls from MNO citizens asking for information about the candidates. These callers seemed particularly interested in the backgrounds of candidates and their campaign platform. We were at a loss to direct these callers to any source of information that might help them with their choice. Consequently, the CEO should give each candidate an opportunity on the MNO web site to list their experiences and campaign platforms as well as through an appropriately timed edition of the Voyageur. An alternative is to create a web site especially for this purpose.

Also during the campaign and in several letters of objection to the election results, we received reports of alleged inappropriate behaviour on the part of Community Council members. The Code is silent on this aspect of the campaign. The general principle should be that Community Councils as a collectivity should be neutral during the campaign but individual members may be part of campaign teams so long as they do not use Community Council resources (such as office space, phones, e-mails, staff time or copying equipment). Similarly candidates should not use any MNO resources or systems to aid their campaign. A related problem is that the CEO has no powers to sanction any inappropriate campaign activities in the Code.

Article 7, which guides the use of MNO resources during a campaign including MNO staff, requires some modifications. For example several sections refer to Candidates, a defined term in the Code, and who are officially announced well after the nominations close and the campaign officially begins.

These observations lead to the following recommendation:

Recommendation No. 3: improve the election campaign for future elections by:

- a) Lengthening the campaign period to five weeks
- b) Encouraging candidates to provide basic information about their experiences and campaign platforms through the MNO website and the Voyageur
- c) Encouraging Community Councils to have all candidate meetings
- d) Developing a Code of Conduct for members of Community Councils and for candidates during the election campaign
- e) Providing investigative powers and sanctions for the CEO to deal with allegations of inappropriate behaviour
- f) Reworking sections of Article 7 for greater clarity

D. Voting Process

Having two voting methodologies – one at a physical poll and the second by mail-in ballots – proved confusing to many citizens and difficult to administer. The goal should be to choose one voting methodology that best meets the following criteria: encourages a high participation rate among eligible voters, is cost-effective and has a low risk of voter fraud. The participation rate of mail-in ballots in Election 2012 was almost two times that of the ten polls and would appear to be the best candidate at the moment. That said, voting by internet is being used in some jurisdictions and this approach is likely to grow in popularity as internet methodologies improve and as internet access increases. The MNO should undertake a study two years before the next election to determine whether internet voting or mail-in ballots is the best way to go.

Whatever methodology is chosen the Code needs to develop procedures to ensure a fair and impartial election. The current Code is virtually silent on mail-in ballots. Should mail-in ballots be the chosen, then the Code needs to address a variety of issues including security, monitoring the mail-out contractor, procedures for handling complaints about non-delivery of mail-in ballots to citizens, and the counting of mail-in ballots.

We received a number of complaints about the elector affirmation that eligible voters had to sign before voting, either at the polls or by mail-in ballot. In our view it is not desirable to ask voters to agree to “the aims and objectives of the MNO as stated in the Statement of Prime Purpose”. Canadians, for example, as a condition of voting are not asked to agree with the Canadian Constitution. Similarly pledging allegiance to the MNO may be an appropriate condition for citizenship but not as a fundamental condition for voting.

Should the MNO decide to have polling stations at the next election and have electoral officers, then the Code should be amended to provide for some discretion on the part of the CEO to count a ballot sent to Ottawa because the individual voter is not on the Electoral list for that poll. If the individual is not on the poll list because of an MNO administrative oversight, the CEO should have the discretion to count this ballot. The individual as in other elections in Canada should be able to make a declaration that he or she resides in the area in which the poll is serving.

This leads to the following recommendation:

Recommendation No. 4: improve the voting process by

- a) Adopting one voting methodology that best meets the following criteria: encourages a high participation rate among eligible voters, is cost-effective and has a low risk of voter fraud.
- b) Investigating two years before the next MNO election whether the best approach is internet voting or mail-in ballots
- c) Adding procedures to the Electoral Code to guide the administration of either internet voting or mail-in ballots
- d) Adopting procedures, should mail-in ballots be the chosen methodology, to address the following:
 - i. Security of mail-in ballots received by the MNO
 - ii. Monitoring the firm responsible for sending out the mail-in ballots
 - iii. Providing a means to deal with non-delivery of ballots by Canada Post or some other agency
 - iv. The counting of mail-in ballots
- e) Dropping the last two sentences in the Elector's affirmation statement (Article 5.7 in the Code)
- f) Providing for discretion on the part of the Chief Electoral Officer to count a ballot in the case of an individual who has been left off the voters' list because of an administrative error on the part of MNO staff and who makes a declaration to the effect that he or she lives in the area serviced by the poll.

E. Recount, Objection and Appeal Procedures

The Code contains a short Article for recounting ballots in close electoral contests but it should be amended to require an automatic recount based on a defined threshold, say where the margin of victory is less than 1% of total votes cast for the office in question. The Code should also specify a fee for any recounts above that threshold, should a candidate request one. The fee should be refundable only if the recount changes the results of the election.

To discourage frivolous or vexatious objections and appeals, there should be an appropriate fee charged for both objections and appeals. The fee should be refundable only if the objection or appeal is upheld or in the judgement of the CEO or independent investigator the objection or appeal was worthy of consideration.

Under the current Code there are a number of ambiguities in the Articles dealing with Objections and Appeals including the following:

- Whether a candidate can make an appeal of a decision by the CEO on an objection raised by his or her opponent
- Whether the PCMNO can refuse to appoint an independent investigator based on the judgement by the CEO that the appeal is frivolous or vexatious
- The nature of the powers of the CEO under this Article. For example, the CEO should have the power to call for a by-election, subject to the review by the independent investigator
- Whether a Candidate, in appealing a decision by the CEO on his or objection, can substantially change the nature of the objection as part of his or her appeal.

This leads to the following recommendation:

Recommendation No. 5: improve the recount, objections and appeals procedures by

- a) Including in the Code a precise threshold for a recount (e.g. where the margin of victory is less than 1% of total votes cast)

- b) Charging an appropriate fee for a candidate asking for a recount above that threshold, a fee that is only refundable if the recount changes the result of the election
- c) Charging a fee for objections and appeals, a fee that is refundable only if the objection or appeal is upheld or is judged to be neither frivolous nor vexatious by the CEO or the independent investigator
- d) Clearing up several ambiguities in this Article of the Code relating to objections and appeals and in particular giving the CEO the power to call for a by-election, subject to review by the independent investigator.

F. Changes to the Electoral Code

The above recommendations 1 to 5 have implications for changes to the Electoral Code. These include the following:

- Lengthening the election timetable on several fronts
- Ensuring that there are separate electoral lists for veterans and for youth
- Having an automatic 'trip wire' for a recount
- Inserting a fee for recounts above the trip wire
- Inserting a fee for objections and appeals (refundable if successful or if judged not to be frivolous or vexatious))
- Removing several ambiguities in the Article 42 on Objections and Appeals
- Having only one mode of voting – whether by mail-in ballot or by internet
- Developing a comprehensive Article for mail-in ballots (or alternatively for voting via the internet)
- Making changes to the affirmation statement
- Developing a code of conduct for Community Councils and for Candidates
- Developing rules for MNO staff participation in the election
- Editing Article 7
- Adding a clause giving discretion of the Chief Electoral Officer to allow a ballot to be counted if it is clear that a mistake has been made by MNO officials in putting together the list of electors

Other suggested changes to the Electoral Code tend to be more editorial in nature and include the following:

- In Article 2.1 (b) the referenced Article should read 11.1 and not 10.1
- In Article 2.1 (z) can a Candidate designate him or herself as a scrutineer? Article 27.1(d) suggests "yes"
- Article 5 should define the Offices for the MNOVC
- Article 5.5 should include the definition of Veteran and not leave it "as defined by the MNOVC"
- Article 5.6 (e) is inconsistent with Article 37.4 concerning the methodology for breaking a tie vote
- There are several typos in Article 5.7
- Article 7.6: change the word "councillors" to "office holders"
- Article 8.3: specify that the preliminary list of electors sent to each Community Council will contain only the electors within the boundary of the Community Council
- Article 10.1 should include a clause for vacancies for the MNOVC whereby the CEO will consult the MNOVC on how to proceed
- Article 14.4: add the rule that MNO staff should not serve as electoral officers
- New Article: add a list of conditions for candidates to receive a list of electors for campaign purposes. Specifically the candidate must sign a letter to the CEO agreeing to the following:

- Keeping the list secure at all times
- Using the list only for the purposes of the election
- Destroying the list once the election is over
- Sharing the list only with campaign workers or contractors and only for election purposes
- Correct typos in the following Articles: 27.1 (d); 34.2 (b); and 42.2
- Rework Article 34.4 for greater clarity

Recommendation No. 6: Make changes to the Electoral Code Part A that follow from the five recommendations above and that also correct a number of smaller editorial or timing issues.

ANNEX A: MEMO ON PREFERRED NUMBER OF POLLING STATIONS

MEMORANDUM

TO: Doug Wilson, Chief Operating Officer
FROM: Paul Devillers and John Graham
RE: Advice on Number of Polls for MNO Election 2016
DATE: December 1, 2015

Background

Section 16.1 of the MNO Election Code gives the Chief Electoral Officer discretion in determining the locations of polls and any use of mail-in ballots. The section reads as follows:

Polling Station locations and any use of mail-in ballots for specific areas or communities shall be determined by the Chief Electoral Officer, taking into consideration convenience for the Electors, cost, proximity, population and participation levels.

In MNO Election 2012, mail-in ballots resulted in a participation rate of 27.2% versus a participation rate among the 14 polls of only 10.3% - an almost 3 fold difference. For more detail on Election 2012 see the attached two pages that are annexed to this memorandum.

You may recall in our report to the PCMNO following the election we recommended that subsequent MNO elections have only one mode of casting a ballot, not only because of participation rates, but also to reduce the administrative burden of running two different voting systems and to reduce voter confusion about where to cast their ballot.

In terms of administration, polling stations have a number of complexities:

- The difficulty of recruiting 2 electoral officers per poll, who are available for both the advance poll and the election date, and who are politically neutral
- The challenge of training these officers over the phone
- The challenge of ensuring that the ballots are secure at each poll throughout the election period
- Ensuring that the election results and election materials are returned in a timely manner.
- Handling problems that inevitably arise in polls that we aren't supervising.

Our Preferred Approach

Because of the participation rate is so much greater for mail-in ballots and because one voting system offers fewer administrative complexities, our strong preference at the moment is to do away completely with polls and conduct the Election 2016 through mail-in ballots. The attached Costing Analysis indicates that this approach (summarized under Scenario #2 below) would result in a projected 4080 voters casting a ballot versus 2483 voters under the system in 2012 (Scenario #1). That said, we estimate the all mail-in

ballot approach would be more costly than the status quo (\$34,127 versus \$25,635). Nonetheless an all mail-in approach would be the most efficient in terms of cost per vote cast (\$8.36 versus \$10.32).

If we were to proceed with a mixed system, then our strong preference would be to have 10 rather than 14 polls, dropping polls in Hamilton, Owen Sound, Welland and Windsor, all of which have fewer than 300 eligible voters. (See Scenario #4.) Projected costs for this option are very similar to the status quo option but would produce roughly 175 more voters casting ballots and is consequently more efficient than Scenario #1, the status quo option.

For completeness we have also included in our cost analysis Scenario #3, which has only 3 polls – Ft. Frances, Sudbury and Midland – all of which had more than 100 voters casting ballots in Election 2012. This scenario turns out to be less efficient in terms of cost per vote cast compared to the all mail-in option (\$8.36 versus \$8.79 per vote cast) and costs less than the all mail-in approach. However it results in fewer projected votes cast (3429 versus 4080). Further it might be difficult to justify having only three polls.

Here is a summary table comparing the four scenarios:

Scenario	Total Projected Votes Cast	Estimated Cost	Efficiency Cost/vote
#1: Status Quo	2483	\$25,635	\$10.32
#2: All Mail	4080	\$34,127	\$8.36
#3: 3 Polls	3429	\$30,125	\$8.79
#4: 10 Polls	2656	\$25,643	\$9.65

Conclusion

We would appreciate meeting with you to discuss this matter as cost is an important consideration as well as what would be deemed acceptable to the MNO electorate.

COSTING ANALYSIS

MNO ELECTION 2016

ASSUMPTIONS:

- 15,000 eligible voters; roughly 14,000 in election 2012
- mail postage costs:
 - \$.79 - mail out; \$.84 return
 - \$100 to \$200 for returned, unopened
- Printing cost \$6000 to \$8000 – printing costs will be higher for mail-in ballot options

- Mail preparation (\$.71 per mail out)
- Purolator - \$100 per poll
- Poll monitoring travel costs (Paul and John) - \$800
- Returning Officers - \$500 per poll
- 10.3% of eligible voters assigned to polls will vote: 27.2% of those sent a mail-in ballot will vote, following Election 2012 results

SCENARIO #1: STATUS QUO – 14 POLLS: Eligible voters 5,550 mail (37%); 9450 polls (62%)

Poll Costs - expected number of voters to cast ballot - 973²

• returning officers	\$7,000
• Purolator	\$1,400
• Poll Monitoring	\$ 800
• Printing costs (.33 x \$6000)	\$2,000
• Preparing poll packages for shipping	\$ 500

Subtotal	\$11,700

Cost per vote cast: \$12.02

Mailing Costs – expected number of voters to cast ballot - 1510

• Mail prep. (\$.71 x 5550)	\$3940
• Postage out (\$.79 x 5550)	\$4385
• Postage returns (\$.84 x 1510)	\$1510
• Returns unopened	\$ 100
• Printing costs (.66 x \$6000)	\$4,000

Subtotal	\$13,935

Cost per vote cast: \$9.28

Total Voters casting ballots for Scenario #1 (973 +1510) 2483

Total Cost for Scenario #1 \$25,635

Total Cost per vote cast \$10.32

SCENARIO #2: NO POLLS, ALL VOTING BY MAIL

Mailing Costs

• Mail prep. (\$.71 x 15000)	\$10650
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² Voter estimates are based on Election 2012 results adjusted to take account of the increase in eligible voters

• Postage out (\$.79 x15000)	\$11850
• Postage returns (\$.84 x 4080)	\$3427
• Returns unopened	\$ 200
• Printing costs	\$8000

Total voters casting ballots - 4080

Total Cost for Scenario #2 \$34,127

Cost per vote cast: \$8.36

SCENARIO #3 3 POLLS (SUDBURY, FT. FRANCES, MIDLAND) ³

Total eligible voters in 3 polls	3,848
Mailed ballots	11,152

Poll Costs - expected number of voters to cast ballot 396

• returning officers	\$1,500
• Purolator	\$ 300
• Poll Monitoring	\$ 800
• Printing costs	\$ 800
• Preparing poll packages for shipping	\$ 100

Subtotal	\$3,500

Cost per vote cast: \$8.84

Mailing Costs – expected number of voters to cast ballot - 3033

• Mail prep. (\$.71 x 11,152)	\$7,918
• Postage out (\$.79 x11,152)	\$8,810
• Postage returns (\$.84 x 3033)	\$2,547
• Returns unopened	\$ 150
• Printing Costs	\$6,200

Subtotal	\$26,625

Cost per vote cast: \$8.45

³ These three polls were the only polls in 2012 to have over 100 voters casting ballots

Total Voters casting ballots for Scenario #3 (396 + 3033) 3429

Total Cost for Scenario #3 \$30,125

Cost per vote cast \$8.79

SCENARIO #4 – 10 POLLS (DROPPING HAMILTON, OWEN SOUND, WELLAND, WINDSOR) – each of these polls had fewer than 300 eligible voters. In total only 80 voters cast ballots in these 4 polls in 2012

Total eligible voters in 10 polls 8,426

Mailed ballots 6,574

Poll Costs - expected number of voters to cast ballot - 868

• returning officers	\$5,000
• Purolator	\$1,000
• Poll Monitoring	\$ 800
• Printing costs (.33 x \$7,000)	\$2,310
• Preparing poll packages for shipping	\$ 400

Subtotal	\$9,510

Cost per vote cast: \$10.96

Mailing Costs – expected number of voters to cast ballot - 1788

• Mail prep. (\$.71 x 6574)	\$4,668
• Postage out (\$.79 x 6574)	\$5,193
• Postage returns (\$.84 x 1788)	\$1,502
• Returns unopened	\$ 150
• Printing Costs (.66 x 7,000)	\$4,620

Subtotal	\$16,133

Cost per vote cast: \$9.02

Total Voters casting ballots for Scenario #3 (868 + 1788) 2656

Total Cost for Scenario #3 \$25,643

Cost per vote cast \$9.65

ANNEX B: LIST OF ELECTORAL OFFICERS

Name	Phone	E-mail
Region 1: Kenora R.O. Judy Lunam P.C. Cindy Kraynyk	807 548 6999 807 548-5875	grammagoose@kmts.ca cinnester@symptico.ca
Region 1: Dryden R.O. Margaret Lambert P.C. Allen Mireault	807 220-5827 © 807 755-1580 (h) 807 755-2153	Lambertmargaret9@gmail.com No email
Region 1: Fort Frances R.O. Brady Hupet P.C. John George	807 274-1399 (h) 807 276-6541 © 807 274 9695	Bhupet99@gmail.com dylindaandjohn@bell.net
Region 2: Thunder Bay R.O. John Connor P.C. Patricia Obie	807 577-0006 807 708-7551	jsconn@tbaytel.net Patricia.obie@gmail.com
Region 3: Timmins R.O. Jennifer Frappier P.C. Lee-Ann Larkin	705 360-3073 705 221-0250	Jennifer.frappier@metiscitizen.org Leeann.larkin@metiscitizen.org
Region 4: Sault Ste. Marie R.O. Shirley Loubert P.C. Dianne Beaudry	705 254-6059 705 941-0519	floubert@hotmail.com diannebeaudry@hotmail.com
Region 5: North Bay R.O. Tracy Burns P.C. Gerald Lavallee	705 840-0964 249 358-2156	Tracy66.tb30@gmail.com` Jerry_lavallee@hotmail.com
Region 5: Sudbury R.O. Denis Lefebvre P.C. Billey Lefebvre	705 866-5089 705 662-9754	denis@unitedmaching.ca denis1515@live.ca a1term@vianet.ca

Region 6: Ottawa R.O. Kate Stewart P.C. Iain Best	647 280-5256 613 299-8782	Kate.stewart@rogers.com lainbest44@gmail.com
Region 7: Midland R.O. Danielle Callander P.C. Jo-Anne Secord	705 309-9616 705 245-1191 (h) 705 543-1549 ©	secorddanielle@gmail.com joanne54@hotmail.com

ANNEX C: LETTER TO CANDIDATES REGARDING POSTAL DATE

May 13, 2016

To All Non-Acclaimed Candidates:

As promised to the candidates and scrutineers present at the counting of the mail-in ballots on May 11 the following is the rationale for my decision to count ballots received without “postal mark” on or before May 2, 2016, contrary to our previously announced policy.

Article 16.1 of the MNO Electoral Code states “Polling Station locations and any use of mail-in ballots for specific areas or communities shall be determined by the Chief Electoral Officer, taking into consideration convenience for the Electors, cost, proximity, population and participation levels”. The Code makes no reference to a cut off date for the mail-in ballots. I interpreted my discretion under “any use of mail-in ballots” broad enough to set and communicate a policy that only mail-in ballots “post marked” on or before May 2, 2016 would be counted. This policy was made to encourage electors to get their ballots posted on time to arrive and be counted on May 10 and 11. I also wanted to ensure that citizens with mail-in ballots would not be affected by the results of the voting at polling stations.

In response to the many concerns expressed by Citizens and candidates that the mail-in ballots were not arriving in the hands of the voters in a timely fashion I canvassed you to seek input on the possibility of waiving the cut off date of May 2. Not one candidate expressed a willingness to waive the cut off. I therefore made the decision to stick with the May 2 “postal mark” cut off date.

I then discovered as the ballots began to arrive after May 2 that the very large majority of them had not been marked by Canada Post at the point of original mailing and only indicated the date that they were processed at central sorting hubs, likely Winnipeg or Toronto. This date in many cases (approximately 400 ballots) was after May 2, 2016. In the bundles of ballots received on May 3, 4, 5 and 6 some ballots had local “post marks” which were all prior to or on the May 2 cut off. In reviewing this sample with local postmarks we found that it was not unusual for there to be a four to five day delay between the local postmark and the date that the mail-in ballot was processed at the central sorting hubs. There were even examples of ballots with local postmarks from Metro Toronto locations taking four days to reach the central processing facility. The minimum delay was two days.

Thus, I consider this to be clear evidence that these ballots with no local “post mark” had to have been in the mail system on or prior to May 2.

I was therefore left with the option of enforcing the discretionary cut off or accepting the ballots which I believed had been posted on or prior to May 2 but had no “post mark” to prove it thus denying approximately 400 citizens their right to vote. I had no difficulty in deciding to accept the ballots that had arrived up to May 6, 2016 because of my firm belief that the right to vote is the cornerstone of any democracy and should not be denied. Citizens and candidates frequently pointed this out to me when the mail-in ballots were not arriving or were arriving late. In my view this decision to accept these ballots was in keeping with the spirit of the original policy because of the compelling evidence that they had to have been in the postal system on or prior to May 2. I was not prepared to reject valid votes on the absence of proof of a “post mark”.

In conclusion my decision on this matter was in the best interests of the MNO and its commitment to being an exemplary democratic institution. Further it was consistent with the Electoral Code, the MNO Bylaws

and the Statement of Prime Purpose. Finally my decision demonstrates faith in the MNO electorate in judging that the very large majority followed instructions about mailing in their ballots.

Paul DeVillers

Chief Electoral Officer

MNO

ANNEX D: MEMORANDUM ON ARTICLE 7

March 24, 2016

TO THOSE SEEKING OFFICE IN MNO ELECTION 2016

We have received several complaints from a number of individuals concerning activities alleged to be contrary to the MNO Electoral Code. Specifically these complaints focus on Article 7 of the Code, which deals with the use of MNO resources during elections.

In this memorandum our intent is to provide comments on how we interpret each section of Article 7. Prior to doing this, however, it is necessary to centre on the word “Candidate”, a term which appears frequently in Article 7 and which is a defined term in the Code as follows:

“Candidate” means a person whose name is posted on the list of Candidates for office in the PCMNO, MNOYC or the MNOVC, pursuant to Article 10.1 of this Code. For greater certainty a person is not a Candidate until he or she has met all the requirements set out in Article 6 of this Code

In referring to Article 10.1 in this definition, the Code is in error. Article 10.1 refers to vacancies to be filled at Annual General Assembly. Rather the definition should have cited Article 11.1, which reads as follows:

Article 11.1 The Chief Electoral Officer shall, three weeks before the day of the Election post in each community council office and on the MNO website, a notice indicating the names of the Candidates and the location, date and time when the Polling Station will be open for voting.

How did this error occur? The Code was amended in a number of important ways in 2014, including the addition of a new Article, Article 7. This required a renumbering of subsequent Articles, a renumbering that the drafters of the amendments missed in the definition of the term Candidate. We examined the Electoral Code used in the 2012 MNO Election and it is clear that the definition of “Candidate” referred to Article 10.1, which has now become Article 11.1 in the amended Code.

In summary the important point here is that, in interpreting Article 7 in the context of MNO Election 2014, individuals who meet the nomination requirements for office as set out in Article 6 of the Code only become Candidates when their names are posted on April 11, three weeks before the Election on May 2. That said, we judge that individuals who are seeking office begin campaigning long before they are declared official Candidates. This is an important nuance in interpreting Article 7.

With these comments in mind we examine each of the 10 sections making up Article 7. Our comments are in italic under each section.

ARTICLE 7. USE OF MNO RESOURCES DURING ELECTION

7.1 The purpose of this section is to provide direction to MNO employees on how of MNO resources, including facilities, events, information, infrastructure and funds, can and cannot be used during an Election. A consistent approach to the use of MNO resources during an Election helps to support confidence in the Election process. This section recognizes the need to balance freedom of expression and assembly of Candidates and employees with responsibilities to not provide an unfair advantage, promotion or contributions to any one Candidate.

- *This is a general statement of the intent of the Article. The important point to note is that the Article is directed at MNO employees and their conduct during the Election.*

7.2 Except as set out in this Code, the MNO logo and MNO infrastructure cannot be used for any Election purposes.

- *This section does not prohibit, for example, the use of photos drawn from the MNO website. The use of the MNO logo however is prohibited.*
- *Note that this section does not refer to Candidates and thus is in force during the nomination period, which began with the publication of the nomination process and materials in February.*

7.3 MNO resources may not be used to support, endorse or otherwise provide an unfair advantage to any Candidate during an Election.

- *Because of the reference to “Candidate”, this section comes into force on April 11*

7.4 MNO communications materials, including its website, media releases, media advisories, invitations for special events, flyers, posters, banners, brochures and newsletters, will not make reference to and/or identify any individual as a Candidate in any Election or advocate for or against a particular Candidate during an Election. The MNO website will not include any campaign materials or make reference to and/or identify any individual as a Candidate during an Election and will not profile any slogan or symbol associated with a Candidate during an Election.

- *Note the wording “identify any individual as a Candidate”. The MNO is a going concern even during an Election. Those who hold office continue to do so until the Election results are announced. Similarly MNO employees who are nominated and become Candidates continue their employment with the MNO. So it is a misinterpretation of this section to argue that the names of Candidates running for office – whether employees or incumbents - should be deleted from the Website. Rather, these individuals should not be identified as Candidates.*
- *The parts of this section referring specifically to Candidates come into force on April 11.*

7.5 Information for generic Election-related purposes such as teaching MNO citizens about the Election or how to become a Candidate can be issued for MNO facilities as long as no one particular Candidate is promoted or endorsed.

- *The MNO has developed for this Election several guides for those seeking to be nominated and run as Candidates. This section provides for such activities.*

7.6 Because incumbent Candidates continue to hold office or may continue to be employees of MNO during Elections, after April 1st in the year of the Election, advertising and other communications materials paid for with MNO funds and distributed by MNO will not reference the name of elected MNO councillors.

- *We interpret this section as applying to such communication materials as the Voyageur, the next edition of which will be published in mid April, several weeks before the Election. It does not refer to the website, which is dealt with in 7.4 above.*
- *MNO officials have given us their assurance this section will be respected.*
- *We will recommend that the next amended version of the Code should not refer solely to “MNO councillors” but rather should cover all elected office holders*

7.7 MNO employees will not, during working hours, perform any service, offer any advice or provide any information solely for the use of one Candidate during an Election. Information provided by MNO to one Candidate will be made accessible to all other Candidates either through posting of the information on the MNO website or through other mechanisms so that all Candidates have equal access to the information.

- *Given the reference to “Candidate”, this section comes into force on April 11.*
- *Whether it should come into force earlier – say to cover individuals seeking nomination – is a matter to be taken up during the next round of amendments to the Code.*

7.8 Notwithstanding 7.2, Candidates are permitted to distribute campaign materials in MNO facilities subject to limitations set out in this Code and all-Candidate meetings can be held at MNO facilities provided that all Candidates are invited to attend and participate in such meetings.

- *This section allows for Candidates to place pamphlets in MNO facilities and for Community Councils to hold all Candidate meetings, provided every Candidate is treated fairly.*

7.9 MNO employees may work on a campaign or support a Candidate outside of their work hours. MNO employees may not campaign or actively work in support of a Candidate during an Election during working hours unless they are on a leave of absence without pay.

- *Campaigns begin from the moment the nomination period begins. Consequently this section comes into force once the nomination process has been announced – in the case of Election 2016 in mid February.*

7.10 In the event that there is any question as to the use of MNO resources in a manner that is inconsistent with this section of the Code, the Chief Operating Officer may, at his or her discretion, take appropriate steps to remedy the situation.

- *The Code makes no provision for the Chief Electoral Officer to investigate allegations of misconduct under this Article or to take any other action. Rather this section places the onus on the Chief Operating Officer to deal with such matters.*
- *That said, we have an interest in learning about any complaints or allegations pursuant to this Article, given that we have a responsibility at the end of this Election to make a report to the PCMNO and among other things recommend any necessary changes to the Code.*

We would be happy to answer any questions you might have on how we have interpreted Article 7 or receive suggestions on how Article 7 might be amended for future elections.

Yours truly,



Paul DeVillers

Chief Electoral Officer

Métis Nation of Ontario

John Graham

Deputy Chief Electoral Officer

Métis Nation of Ontario

ANNEX E: RESULTS

Election 2016 results are presented in two charts below. The first provides a detailed breakdown of the results by polling stations. The second focuses on the Mail-in results.