

A review of the 2021 election of local union officers of Amalgamated Transit Union Local 1724

Report and Recommendations

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Introduction

I was appointed in June of 2021 to conduct a review of the local union officer elections of Amalgamated Transit Union Local 1724 (“Local 1724” or “the union”) which took place during that same month.

I was asked by the Executive Board of the union to conduct this review as an impartial third-party. I am not a member or employee of the union. Further, I have no personal stake in the outcome of the vote in question and was not aware of the circumstances surrounding the vote in advance of embarking on this review. My connection to Local 1724 is through my current role as President of the Vancouver and District Labour Council, a regional labour central founded in 1889, and chartered by the Canadian Labour Congress. Local 1724 is an affiliate of the Labour Council. I do not consider there to be any conflict of interest regarding my engagement in this review.

In my previous role as a full-time Union Representative for the Canadian Office and Professional Employees Union Local 378 (MoveUP), and my earlier elected roles with that union, I conducted or was involved in conducting numerous ratification votes at both public and private employers of varying sizes and descriptions. I also ran or was otherwise involved in several union elections.

Additionally, I have participated in several election campaigns at the municipal, provincial and federal level and have been involved in scrutineering during vote counts. Further experience in union votes and elections has been gained through current and former roles with the Labour Council and other organizations. This included an investigation of a collective agreement ratification vote held by an affiliate of the Labour Council in late 2019.

In addition to this practical experience, my extensive labour education includes courses in investigations, conflict resolution, and other relevant topics.

I began my investigation of the circumstances surrounding the vote immediately upon being appointed to conduct the review. I have spoken with, and/or received correspondence from, many members of the union. These conversations have been predominately by phone, with additional information having been provided via email. I have also reviewed numerous evidentiary documents and other materials provided both by the union and by members.

Members of the union who submitted challenges to the election were contacted directly in order to discuss their concerns. Some additional members were also contacted in order to clarify certain points or obtain missing information. On June 22, a bulletin was issued by the union notifying the membership of this process.

Throughout this process I have attempted to delve thoroughly into the events leading up to the election, the vote itself, the count, and surrounding issues. My mandate is to review the election and provide findings as to whether, in my view, the vote is successfully challenged under Section 14.8 of the Constitution and General Laws of the Amalgamated Transit Union

(the “CGL”) and, if so, recommendations for moving forward. It is not within my mandate or powers to actually overturn the election or order it re-done, only to make recommendations.

Additionally, it is my strict intent not to take sides with regards to the various candidates or the political or personal perspectives of candidates or other members within the union. These are internal issues to the union and are outside of the scope of my investigation. Resultantly, I will not be offering opinions related to claims that conduct has taken place which would warrant charges being pursued under Section 22 of the CGL. Such matters are also outside of the scope of my investigation and would need to be pursued in accordance with the provisions of the CGL.

Finally, I have been asked by Local 1724 to ensure that the privacy and confidentiality of those who have participated in this process is maintained. The purpose of this is to ensure that all those who wish to share information with me feel unhindered in doing so and can speak freely. I have therefore omitted names and any other identifying information from this report. This also requires me to speak with a level of generality at times throughout the report.

Background

Local officer elections of the union are governed by Section 14 of the CGL, which reads as follows:

SEC. 14 ELECTION OF LOCAL UNION OFFICERS:

14.1 When Held. All LUs shall elect officers for terms of three (3) years which shall run concurrently, beginning with the new term. Their term shall continue until such time as their successors are elected or on the first (1st) of January or the first (1st) of July following the election of officers. Such elections shall be held either in June or December, as the LU so elects, and such elections shall take place on or before the twenty-fifth (25th) of June or the twenty fifth (25th) of December, as the LU may determine, in order that officers will be properly elected before the expiration of the term. Newly elected officers shall assume the duties of their offices on the first (1st) of January or the first (1st) of July following their election, irrespective of their installation date. Installation of officers shall take place at the first meeting following announcement of the election results.

14.2 Eligibility for LU Office. Members to be eligible to run for office in an LU must have complied with the provisions of this Constitution and the bylaws of the LU. Members in the service of the LU or the IU are deemed to be in service and are eligible to office provided they have complied with the provisions of this Constitution and the bylaws of the LU. A member to be eligible to office must have been a member in continuous good standing of his or her LU the two (2) years next preceding the day of the nomination meeting where the LU has been in existence for that period or longer.

Members of LUs whose LU elections for officers are not covered by the Labor-Management Reporting and Disclosure Act of 1959 shall have attended at least six (6) regular meetings each year during the twenty-four (24) months prior to and including the nomination meeting;

provided, however, that such LU may, through its bylaws and with approval of the IP, affirmatively declare that no such meeting attendance requirement shall be applied as a condition of eligibility for any office of the LU.

Any meeting attendance requirement applied pursuant to this section shall not operate to render a member ineligible due to a confinement on account of sickness or injury or due to service in the uniformed military services of the United States or Canada, the duration of which would have prevented him or her from attending the required number of meetings, and/or where the member's attendance was prevented by absence because such member's regular work schedule prevents attendance on the required amount of meeting days. Documentation supporting any such request(s) for credit for a missed meeting must be provided by the member to the Local Union not more than ten (10) days following the meeting for which he or she seeks an attendance credit or, in the case of one or more absence(s) resulting from the member's service in the uniformed military services, not more than ten (10) days after the member returns to work. It is the intent of the foregoing language that where a meeting attendance requirement is applied pursuant to this section, a member who has attended only five (5) or fewer regular meetings in a given year shall thereby not be eligible to run for office unless, pursuant to the forgoing language and/or Section 13.3 of this Constitution, or under the bylaws of the LU he or she has been excused from, or granted credit for, attendance at each and all of the remaining regular meetings in that year.

14.3 Members Disqualified from Holding Office. Members who have voluntarily left the service in which the membership of the LU is engaged, or who have retired on pension or who have been discharged for cause found by the LU to be proper, are not eligible to run for any office in the Local. No member who is disqualified from holding office under the provisions of Section 504 of the Labor-Management Reporting and Disclosure Act of 1959 shall be eligible for holding office in this Union. Pensioners shall not be eligible to be candidates for or hold office in the LU except that members who retire on pension during their term of office may complete the term. Any member who has actually quit the service of an employing company to engage in any other business except for this IU shall not be eligible to be elected to office in an LU and one who is holding office in his or her LU at the time the member so quits the service of an employing company may no longer hold office and must resign. Where a member's discharge case has been sustained under either the procedure set out in the labor contract for the adjudication of such grievances or in any other adjudicatory forum, the member may no longer hold office and must resign.

14.4 Nominations; Ballots. LU nominations and elections shall be held as follows: The LU shall specify a date for nominations and election at a regular meeting of the LU or, under instruction of the LU, the executive board shall hold a meeting at which nominations for officers shall be received. In the case of LUs whose members are employed on an over-the-road property, provisions shall be made in the LU's bylaws for the making of nominations and for elections by mail, and in the case of other LUs, nominations may be made and elections may be conducted by mail at the discretion of the LU if the LU's bylaws so provide. In the case of an LU whose bylaws provide for the making of nominations and for elections by mail, such nominations as have been received by mail shall be opened at the nomination meeting and read into the minutes at that meeting, and thereafter nominations shall be closed.

All LUs shall conduct nominations in a timely fashion such that the election process (whether under the primary or plurality system) is completed no later than the twenty-fifth (25th) of June or the twenty-fifth (25th) of December, as determined by the LU pursuant to Section 14.1. In no event shall the nomination meeting be held less than one (1) week before the date of election, and at least five (5) days' notice of nominations of office shall be given to the members previous to the holding of the nomination meeting. At the nomination meeting any member in good standing in the LU may appear and place in nomination for any office any member of the LU who is qualified under this Constitution and LU bylaws governing nominations and elections. In the event no quorum is in attendance at the nomination meeting, the executive board of the LU shall hold a meeting within the following week for the purpose of receiving such nominations, provided that at least five (5) days' notice of nominations for office must have been given to the members previous to the holding of the nomination meeting by the LU executive board.

Immediately following the nomination meeting, the FS or the RS shall prepare a ballot. Candidates' names for the respective offices shall be placed on the ballot in alphabetical order.

14.5 Types of Elections. (a) Officers may be elected under either the primary system or the plurality ballot system.

(b) Under the primary system where there are but two (2) candidates for office, the voter shall vote for only one (1). If there are three (3) or more candidates for the same office, a run-off election will be necessary unless one (1) candidate receives a majority of all valid votes cast. Should no one (1) receive a majority of all valid votes cast, then the two (2) candidates with the highest number of votes shall contest in a run-off election. Where two (2) or more offices are to be filled, such as members of the executive board or delegates to a Convention, etc., each office shall be contested separately, as Position No. 1, Position No. 2, etc. Failing to obtain a majority on the first ballot, the top two (2) in each position will be in a run-off election.

(c) LUs may, upon approval of the Local's membership, adopt bylaws providing for the plurality voting system. Where two (2) or more members are nominated for an office, the member receiving the most votes shall be declared elected. Where two (2) or more offices are to be filled, such as members of the executive board, each office shall be contested separately. Where two (2) or more positions as delegates to a Convention are to be filled, then all nominated members' names shall appear on the same ballot in alphabetic order, and the members receiving the most votes in order shall be elected delegates to that Convention (i.e., eleven delegates to be elected, top eleven vote getters are elected).

14.6 Prohibition of Write-In Candidates. Under no circumstances will write-in candidates be permitted.

14.7 Election Procedures and Requirements. At least fifteen (15) days' notice of any election must be mailed to each LU member at the member's last known home address. This notice shall include a specification of the date, time and place of the election and of the offices to be filled. In the case of LUs whose bylaws provide for elections by mail, the 15-day mail notice requirement shall be met if the ballots are mailed to each LU member at the member's last known home address at least fifteen (15) days before the time and date set for the return of the

ballots. This 15-day mail notice of the election shall also serve to give notice of and specify the date of any runoff election that may become necessary under the primary system.

The FS of the LU or any elected officer designated in the LU bylaws shall preserve for one (1) year the ballots and all other records pertaining to any election of LU officers.

When an election of LU officers is held, any candidate shall have the right to have an observer at the polls and at the counting of the ballots. The election of all LU officers shall be by secret ballot. LUs shall have the privilege and option of using voting machines.

When the election is to be held by voting at the polls, no member shall be entitled to vote unless the member is in good standing and presents him or herself at the polls in person. Where in any LU an election is to be held by a mail ballot, a ballot shall be mailed to each LU member at the member's last known home address.

14.8 Challenges. Any member who is entitled to vote may challenge the conduct or results of an election by filing, within ten (10) days of the counting of the ballots, a challenge to the incumbent ST of his or her LU to such effect. The ST shall submit the challenge for decision to the executive board, subject to final ruling by the membership.

14.9 Installation. Retiring officers shall see that all officers elected are duly installed and placed in charge of the office before surrendering or turning over the office. When an elected officer fails to attend the meeting to be obligated or fails to properly qualify within three (3) succeeding meetings, except in case of sickness or delay over which the elected officer has no control, the office to which he or she was elected shall be declared vacant and a new election held to fill the vacancy in accordance with the bylaws of the LU and the provisions of the Constitution.

Retiring officers shall immediately turn over to newly elected officers upon the taking of office by such newly elected officers, all funds, books, records, papers and files of the LU. If such funds, books, records, papers and files have not been turned over within ten (10) days after the new officers have taken office, the local executive board shall prefer charges against the officer or officers who are responsible and the matter shall then be referred to the LU to be handled in accordance with the procedures set forth in Section 22 and such procedures shall thereafter be followed. In the event that no action is taken by the LU and it appears that the funds, books, records, papers and files of the LU have not been turned over to the newly-elected officers, then the GEB of the IU shall take such steps as may be necessary to effectuate compliance with the provisions of this section, and the GEB shall proceed to deal with the retiring officer or officers responsible.

14.10 Elections to Fill Unexpired Terms (Interim Elections). (a) An LU may provide for interim elections in its bylaws. If an LU does not provide for interim elections in its bylaws, and a local union office becomes vacant and there remains one (1) year or more in the term of office, an interim election shall be held to fill the vacancy; and when a local union office becomes vacant and there remains less than one (1) year in the term of office, the president-business agent, subject to approval of the LU executive board, shall appoint a member qualified to hold office under Sections 14.2 and 14.3, to serve the remainder of the term of office, except that when the

president-business agent office becomes vacant the LU vice president shall serve as provided for in Section 13.10.

(b) In the event that an interim election is to be held to fill the unexpired term of an LU officer or executive board member, the following rules shall apply: The nominations meeting and interim election shall be held within 120 days of the vacancy in office. In order to be a candidate for office in an interim election, any incumbent LU officer, executive board member or other elected representative desiring to fill a vacancy for the remainder of the term must submit his or her resignation at or before the opening session of the monthly meeting at which nominations for the vacant office are received and prior to the close of nominations for that office and thereafter any such additional vacated offices shall be included in the interim election. The 15-day mail notice of interim elections required by Section 14.7 shall specify that the elections will include not only the original vacated position, but also any other office that may come open by resignation of the incumbent during the nominations process. All such resignations shall be effective upon the completion of the election process. An LU officer, executive board member or other elected representative whose resignation during the term of office causes an interim election shall not be deemed eligible to run for any LU office for the remainder of the unexpired term.

Also relevant are the Local 1724 Bylaws, specifically Sections 16 and 17, which reads as follows:

16.00 Nominations, Eligibility and Elections

16.01 Nominations for convention delegates shall take place at the same time as the regular nomination of Officers.

16.02 Nomination, Eligibility and Elections shall be in accordance with the International Constitution, Section 14.

16.03 Candidates for any elected office will be asked to provide a brief biography of no more than five hundred (500) words and/or a brief policy statement of no more than five hundred (500) words. The above two statements are not to exceed one thousand (1000) words. Deadline for the submission of the candidate's material is the day following the nomination meeting. All biography and policy statements will be mailed with the ballots.

16.04 Executive Board members shall be elected as follows:

Two drivers from SOFA shall be nominated and voted on to sit on the Executive Board only by those drivers currently working in SOFA.

Two drivers from NOFA shall be nominated and voted on to sit on the Executive Board only by those drivers currently working in NOFA

One Casual employee shall be nominated and voted on to sit on the Executive Board only by the Casual employees.

One Office Worker shall be nominated and voted on to sit on the Executive Board only by the Office Workers.

16.05 The offices of President/Business Agent, Vice President and Financial Secretary/Recording Secretary/Treasurer shall be nominated and voted upon by the entire membership of Local Union 1724, which includes retirees who are in good standing with the local.

17.00 Voting Procedure

17.01 Local 1724 will use the plurality voting system for elections as per the International Constitution article 14.5(c). In part reads “Where two (2) or more members are nominated for an office, the member receiving the most votes shall be declared elected”.

Summary of Facts

On May 17 at 7:00PM a nomination meeting was held. Nominations received and accepted were as follows; for the position of President/Business Agent: Mark Beeching and Tim Johnston, for the position of Vice President: Nathan Emmerson and Glen Orango, for the position of Financial Secretary/Recording Secretary/Treasurer: Marty Copeland and Denyse Mitchell.

Additional executive positions were elected by acclamation. However, there were members nominated for some of these roles whose nominations were not accepted. The explanation provided for this was that the nominated members had not met the meeting attendance requirements stipulated in 14.2 of the CGL.

On May 19 Local 1724 President Mark Beeching canvassed candidates via email regarding their availability for an all-candidates meeting and proposed a June 2 date. Substantial correspondence followed, including contentions by some candidates that such a meeting could not be legitimately called. Some candidates confirmed their attendance while others responded that they would not be attending. On June 1, the all-candidates meeting was confirmed with candidates to be held on June 3 from 7:00PM-9:00PM.

Voting was scheduled to take place on June 8 and 9. There were two voting options available to members of the union: in-person, and electronic. Electronic voting opened at 12:00PM on June 8 and closed at 1:00PM on June 9.

Electronic voting was conducted through a platform called Data on the Spot (“DOTS”), in partnership with Simply Voting.

In-person voting was available on June 8 between 1:00PM and 9:00PM, and June 9 between 9:00AM and 1:00PM. It was available in two locations. The first location was the Local 1724 office, at 204-1550 Hartley Avenue in Coquitlam. The second location was the Holiday Inn located at 17530 64 Ave. in Surrey.

The majority of votes were cast through online voting. All of the outcomes were very close.

The electronic votes for the position of President/Business Agent were 144 for Mark Beeching, and 130 for Tim Johnson. The physical votes were 26 for Mark Beeching and 36 for Tim

Johnston. The total vote count resulted in the election of Mark Beeching with 170 votes; a four-vote margin over Tim Johnston, who received 166.

The electronic votes for Financial Secretary/Recording Secretary/Treasurer were 138 for Marty Copeland and 136 for Denyse Mitchell. The physical votes were 30 for Marty Copeland and 31 for Denyse Mitchell. The total vote count therefore resulted in the election of Marty Copeland with 168 votes to Denyse Mitchell's 167; a one-vote margin.

The electronic votes for Vice President were 139 for Glen Orango and 132 for Nathan Emmerson. The physical votes were 30 for Nathan Emerson and 32 for Glen Orango. This resulted in the election of Glen Orango with a total of 171 votes to Nathan Emmerson's 162; a nine-vote margin.

Following the election several challenges to the election were submitted in accordance with Section 14.8 of the CGL. In the following section I have broken these challenges down into their individual complaints and provided my assessment of each.

Complaints and Findings

1. Disputes around eligibility to run for Local Union Office

As previously noted, two members have challenged the election on the basis that they believe they were wrongly ruled to have been ineligible to run for office. In both cases, the crux of the dispute is the number of meetings attended during the twenty-four months prior to and including the nomination meeting.

The union credits members for any cancelled meetings as though they had attended. No dispute has been raised regarding this practice. Due to the COVID-19 pandemic, many meetings were cancelled during this twenty-four-month period.

I was provided with copies of sign-in sheets for all meetings within the period in question, as well as a spreadsheet summarizing the attendance of members. I reviewed these documents to ensure their corroboration.

Ultimately, based upon the sign-in sheets, the members in question were both short by one meeting in the 2019-2020 year when both attendance and credits for cancelled meetings are considered. They therefore did not meet the minimum criteria set out in 14.2, which requires attendance at no less than six meeting in each of the two years.

One member noted that they may have signed-in to some meetings using a number, or a scribble instead of his name. No instances of the cited number were found on the sign-in sheets, and while in some instances there are lines drawn on pages there is no way to confirm these as representing the member and no explanation has been provided as to why the member would sign-in using their full name in some instances and not in others. Having been

offered no further evidence or explanation and confronted with a choice between physical evidence and an assertion unsupported by evidence, I must favour the physical evidence on a balance of probabilities. I must also note that allegations were made regarding potential manipulation of documents either at the meetings themselves, or later. Again, I have been provided no evidence to support these assertions and cannot give them much weight.

An additional issue related to candidate eligibility in the question of which months make up the twenty-four-month period contemplated in 14.2. The period utilized to determine eligibility was May 2019-May 2021. This includes the nomination meeting and counts back twenty-four months from that date. It has been suggested that the appropriate period would be starting from June 2019. While this point may be debateable it is worth noting that neither calculation provides eligibility to the members who have raised these challenges.

While the expansion of the time period to earlier months would improve the chances of members to achieve eligibility it cannot be reasonably seen to be in keeping with the language of 14.2. Therefore, I find that the two challenges related to meeting attendance and eligibility to run for office are not successful.

An additional challenge has been raised alleging that one member who ran for office ought not have been deemed eligible to do so. The member in question had fallen substantially behind in their dues payments during the twenty-four month period preceding the election and therefore had not been in continuous good standing as required by 14.2.

Section 21.11 of the CGL addresses these types of instances, and reads as follows:

21.11 Reinstatement After Suspension. Members, including retirees, who have suspended themselves by non-payment of dues, fines and assessments, and desire reinstatement into the Union within twelve (12) months after they become in arrears, may do so, provided they are employed, except for retirees, in some capacity in which they are eligible to membership, and there are no other charges against them but that of being suspended for the non-payment of dues, fines and assessments, by applying to the FS of the LU and paying all their arrearage and paying in addition, one dollar (\$1.00) a month for each month that they have been in arrears, as a reinstatement fee. The FS, when reporting such a member to the international office for reinstatement, shall forward all per capita tax and assessments which are due the IU on the member and in addition shall forward \$.50 a month for each month that the member was suspended, as shown by the books of the LU, as a reinstatement fee; the additional \$.50 a month of the reinstatement fee to go to the treasury of the LU. All reinstatement fees shall go into the Funeral or Dismemberment Benefit Fund. Upon the receipt of all back per capita tax and assessments and the \$.50 per month reinstatement fee at the international office, the member's name will be restored to the Local's membership roll and the member reinstated and placed in good standing in the Union according to the conditions of his or her membership prior to the time of the member's suspension. A suspended member not otherwise exempted by this section who has been in arrears for dues, fines and assessments for more than twelve (12) months cannot reinstate him or herself into membership. If the member desires to again join

the Union he or she will do so subject to such penalties as the LU may determine upon, but the member must come in and be enrolled as a new member.

This twelve-month limitation upon reinstatement after suspension shall not apply to a member suspended for non-payment of dues and assessments while that member has not been working because of a disability, illness or other similar condition. Such a member may be reinstated to full membership in his or her former position by paying all back dues and assessments for the period of the member's suspension. The provision of this section shall not apply to a person who has been expelled from membership and discharged in accordance with the provisions of Section 21.9.

As I wish to be sensitive to the privacy of the member who is the subject of this challenge I will not delve into the reasons for the absence from work and the related non-payment of dues. Suffice to say that upon reviewing the relevant documentation it is clear that the member did pay up their dues and was subsequently reinstated in accordance with 21.11 and deemed eligible to run for office. I found nothing improper in this decision.

2. Electronic voting

Some members have raised concerns regarding electronic voting. These included technical issues which caused inconvenience while attempting to vote. In some cases, this continued over the course of several hours before finally they were able to access the voting system and cast their vote. Others reported accessing the voting system with ease. There are numerous factors which could have caused the problems experienced by some. These include the potential for user error, device problems related to hardware or software, and issues with the voting platform itself. Ultimately nobody stated that they did not vote because of technical issues, however it is of course possible that this could have been the case for some members.

Although some members asserted concerns about a lack of guidance with regards to the use of the voting platform, I do find that efforts were made to provide the necessary information as well as opportunities to obtain assistance with any problems.

Specifically, on May 19 the 2021 Notice of Elections was sent to members. This notice identified the use of electronic voting and included a two-page step-by-step voting instructions guide including text instructions and images depicting each step of the process. The notice also included the phone numbers and email addresses of both the union office and the voting help line of the electronic voting company. Copies of this information were also later placed in the electronic voting booths at the two physical voting locations.

At least two other notices containing the details related to electronic voting, including help numbers and emails, were issued in the lead-up to the elections; "2021 Election Information", and "Remember to Vote". Electronic voting had previously been mentioned in a President's Report issued on April 6, 2021, and an Information Webinar hosted by the union on April 29, 2021. Finally, multiple members noted that electronic voting was reviewed during the all-candidates meeting on June 3, 2021. However, not all members I spoke to agreed with this

assertion. It is also worth noting that the same electronic voting platform was used by the union during the ratification of its most recent collective agreement.

On the whole, I believe the union made reasonable attempts to ensure that members were aware of the electronic voting option, how to use it, and how to obtain assistance.

However, this is not to say that the implementation of electronic voting was perfect. For one thing, different help numbers were provided for the union on different documents. The initial number provided was for the union office, but in later notices the number for Financial/Recording Secretary Denyse Mitchell was provided. For a period of time the union office was unstaffed during the second day of elections, meaning that a member calling that number for assistance would not have been able to reach anyone. One such member left a voicemail at the office, which was not received until the following day at which point voting had concluded.

At the same time, I am convinced that a significant number of members did have problems accessing the electronic voting option, albeit for reasons that I am not able to confirm. Whatever the issues may have been, they did impede access to voting for some.

Several of those I spoke with described themselves as uncomfortable with the use of computer technology and some indicated a belief that this was true of much of the membership. While I believe it is clear that there are a wide range of comfort levels within the membership, I absolutely acknowledge that for some engaging in electronic voting was simply inconceivable, and that must be respected and accommodated in order to ensure that the voting rights of all members can be exercised.

There is no way of knowing the extent to which this impacted voting without undertaking a mass survey of the membership and, even then, it would only be possible to obtain the stated recollections of members but not to truly verify what occurred and why.

That said, even a very small impact could have caused a qualitative shift in the outcome of any of the three elections owing to the very small margins that exist across the board.

Based on this, I concur that the issues surrounding access to electronic voting are a substantial concern in relation to the election process. This is particularly so when taken together with the lack of in-person voting stations, which we will discuss shortly.

Finally, the election was also challenged based upon questioning of the security of the voting system and the potential for hacking. On this point I remain unconvinced. There is no doubt that just about anything connected to the internet is potentially subject to hacking. However, in this instance no evidence has been provided to indicate that hacking occurred in relation to the elections.

It was identified that some members were recently victims of a Facebook phishing scam. However, these types of scams are common, and have been on the rise generally during the

COVID-19 pandemic. No evidence has been provided to tie the existence of these scams, or the incidental fact that members of the union have experienced them, to the election or electronic voting. It was also suggested that issues with electronic voting could have been due to a hacker placing illegitimate votes, but again no evidence of this occurring has been provided.

There was also an instance of a member receiving a voting receipt indicating their vote was received in relation to collective agreement ratification. As noted, the union did use the same platform for its most recent ratification vote. Exactly how this information came to be displayed on the member's computer during their efforts to cast their ballots in this election is difficult to ascertain and would likely need to be investigated by Simply Voting at the unions request, if deemed necessary. Even then, it may not be possible to determine what took place depending on whether the issue was with Simply Voting, or localized on the member's device.

Given some of the information I received, it also appears possible that some anti-virus software was interfering with the voting platform on a member's device. However, again this cannot be confirmed without an investigation of the device itself by qualified persons.

Similarly, a forensic audit was suggested by a member, but this too would require the hiring of a qualified digital security professional, which I am not.

The union selected DOTS to manage the election. DOTS partners with a reputable electronic voting platform, Simply Voting, which boasts Payment Card Industry Data Security Standard (PCI DSS), TRUSTe, CloudTrust, and SOC 2 Type I certifications.

Simply Voting is utilized by a wide array of unions, professional associations, sports organizations, political parties, charitable entities, corporation & industry groups, and more. Some large, high profile organizations using the platform include the United Nations Refugee Agency, New Democratic Party of Canada, Rotary Club, and the Canadian Football League Players' Association.

Similarly, DOTS is utilized by a wide array of municipal, labour, industry, and other organizations including Rural Municipalities of Alberta, Association of Manitoba Municipalities, Ontario Real Estate Association, Canadian Union of Public Employees, and others.

While for some electronic voting is new, it is becoming increasingly normalized as a method of conducting elections of all kinds. In Australia, Belgium, Brazil, France, Germany, India, Italy, Norway, Peru, Switzerland, the UK, and several other countries electronic voting has been utilized for government elections at various levels.

The union utilized a legitimate and widely trusted provider for electronic voting. No specific evidence of hacking or interference has been provided. Ascertaining the actual causes of the various issues experienced by members would require much more expansive investigations, potentially involving DOTS/Simply Voting, or contracted security specialists. Even then, they may be difficult to pin down if in fact they were caused by user or device issues. I am therefore

not recommending this, as these concerns appear rooted in theoretical possibility rather than tangible evidence.

3. In-person voting

Many concerns were raised regarding the in-person voting stations. In particular, members felt that the existence of only two locations, and their placement in Surrey and Coquitlam respectively, formed a barrier for members who would have to travel a substantial distance from westerly locations like Vancouver or Richmond (potentially anywhere from 40-90 minutes depending on time, traffic, and other factors).

Although recollections about previous elections were not uniform, I accept that in previous votes polling stations were provided at or near most or all depots. This would have allowed for a much more accessible voting experience for those who did not wish to vote electronically.

The union experienced difficulties establishing in-person voting sites due to COVID-19 restrictions which made many venues unavailable and caused the employer to refuse the use of its own properties for voting stations.

It is notable that relatively few physical ballots were cast, particularly at the Coquitlam location. This lends credence to the complaints that the voting stations were not accessible to a large portion of the membership. While electronic voting was provided in order to alleviate the need to travel to a voting station, it is clear that for some members this also proved difficult to utilize.

Nothing I have seen or heard suggests any malice in the decision to limit the voting stations to two locations. Rather, it appears this was the result of difficulties brought on by the COVID-19 pandemic. While it is quite possible that a further search for locations could have been conducted, there is no way to definitively know whether a suitable location could have been found in the vicinity of other depots. Nonetheless, regardless of what I believe were honest intentions, this situation did clearly impact negatively on the ability of some members to exercise their right to vote.

4. Retiree voting

A challenge was raised stating that the union failed to appropriately notify retirees of their right to vote, resulting in retirees ignoring the election notices and not casting their votes.

Section 21.13 of the CGL details the rights of retired members.

21.13 Retention of Membership; Retirees. Members retiring on pension from the active service and who continue in good standing will be entitled to the following rights and benefits:

They will have a voice but no vote on any matters affecting the LU, except that they shall be permitted to vote in the election of all LU officers and delegates to Conventions elected by the entire membership of the LU, but not in the election of any other officers and delegates.

Retirees shall not be allowed to serve in any decision-making capacity in the election process but may perform ministerial electoral functions such as acting as tellers, ballot clerks, election

observers, not, however, including service as a member of the election committee. They will not be entitled to dismemberment benefits. As to local sick and funeral benefits, their rights in connection with these will be subject to the bylaws of the LU.

It is clear that retired members in good standing are entitled to vote for local union officers. While the election notices were sent to such retirees, they did not specify who was eligible to vote, or name retirees in particular.

It is conceivable that additional votes might have been cast by retired members had their right to do so been explicitly communicated to them. One specific instance has been identified to me, and that alone might have impacted the outcome of the election. It has been indicated that others feel the same, but as those others have not come forward, I cannot confirm this.

Once again in this case I do not find anything malicious in the union's election notices, and there is no evidence that anyone who was eligible to vote was actually excluded from receiving the information about how and when to do so.

One retiree indicated not receiving the information that had been sent via mail, but that individual had moved and not updated the union with their new address. Also, the individual did receive the emailed materials. I therefore found nothing concerning in that specific circumstance.

Ultimately, eligible retirees received the information but were not specifically educated as to the fact that they had the right to vote. It is therefore possible that, if they had not familiarized themselves with their rights and duties under the CGL, they may assume the bulletins were not applicable to them and simply ignore them.

I believe in this case there is responsibility both on the part of the union to provide full and proper notification to all eligible voters and of members, including retirees, to be aware of their rights and responsibilities.

Again though, I do share the concerns expressed that votes may have been missed as a result of these circumstances which could have made a difference in any of the three elections.

5. Presence of Executive Members and candidates at polling stations

The election was also challenged on the basis that some Executive Members (incumbent candidates and others) made themselves present at polling stations. However, it appears that their presence was generally in connection with assisting the balloting committee through management of COVID-19 protocols or conducting other duties reasonably connected with the elections. Further, even in instances where this was not the case there has been no evidence provided that any Executive Members engaged in campaigning or other inappropriate conduct while in the vicinity.

It was contended by some that there was no need for the presence of Executive Members because it was not busy at the voting stations. While it is true that the stations were not especially busy, this would not have been known in advance.

There were also some concerns about the conduct of one Executive Member at a voting location, with a couple of members indicating they heard what they deemed to be an unprofessional remark made by one individual. However, I find no evidence that it made any impact on the election process or outcomes particularly since voting had closed by the time of the incident. The Election Rules issued by the Financial Secretary restrict campaigning at voting stations and expressing opinions about candidates or who to vote for, and therefore if the election had not been concluded by the time of the alleged remarks further investigation into a possible violation of the rules may have been required.

While there is no doubt that Executive Members were present in the vicinity of voting stations, I have received no evidence to indicate that they engaged in conduct that did anything to compromise the integrity of the process. There exists no blanket rule against Executive Members being present in the area of the voting station. As such, I cannot find in favour of these challenges.

6. Vote counting

No issues were identified to me about the actual in-person casting and counting of the votes. Good Voting Procedures and Election Instructions were issued by the Financial Secretary, and they appear to have been well adhered to.

The votes appear to have been counted correctly and recorded on the appropriate forms. Blank ballots have been accounted for, as has the spoiled ballot. Physical and electronic ballots have then been tabulated together to obtain the final outcome. It was also indicated that due to the close outcomes, the votes were recounted at least three times before the totals were officially confirmed. The votes were counted and witnessed by members of the balloting committee from both voting stations.

There is, however, a disagreement about the state that the ballots were in between the conclusion of the count and the initiation of a recount some twenty or so minutes later. While most information I was given indicated that all materials had been appropriately sealed in envelopes and placed in a Rubbermaid bin which was subsequently sealed with tape, other information I was provided suggested that the envelopes were sitting in an open box, and nothing was sealed as it should have been. I am not sure what to make of this discrepancy as I clearly was not present to witness it myself.

Next, given the close margin between the candidates an official recount was requested by one or two of the candidates. A phone call was made by one of the candidates to the International Vice President, who confirmed the right to request a recount.

Balloting committee members were called back to the voting station. Again, here I received conflicting versions of events from members I spoke with. The ballots were either fully recounted in accordance with the proper procedures provided in the election instructions, or they were spread out on a table so that the candidates could review them. If the former, then everything was done appropriately, if the latter then that is another issue of concern. In any case, following the recount the ballots were returned to their envelopes.

The Financial Secretary then directed that all of the election materials be sealed and placed in the box which was then also to be sealed. It was in this state that I received the materials.

If indeed the information regarding the unsealed box and the improper recount are accurate that I very much sympathise with those concerns. Unfortunately, it is very difficult to ascertain exactly what took place in that regard. What is clear in any case is that concerns remained for some candidates following the recount.

Thankfully, it does not appear by any account that the materials were left unattended at any time. Furthermore, I did not see any evidence of tampering having taken place as everything was properly sealed, with no apparent indication of having been opened or otherwise disturbed since the election. Upon reviewing the contents of the box, everything appears to be in order.

A concern was also raised regarding the lack of a physical version of electronic votes that can be visualized and re-counted. While individual voters would have received their own vote receipt, the results are provided to the union by Simply Voting in the form of both a spreadsheet listing votes per candidate and percentage calculations as well as individual documents certifying the outcome of each of the three elections. As noted previously, there is no apparent reason to doubt the accuracy or legitimacy of the results provided. While I acknowledge that this format is new for many members, the reality is that a traditional election is not necessarily any more secure than an electronic one. In both cases manipulation of the votes is certainly possible and many examples exist throughout history, but in neither case has evidence been provided that is actually occurred in this case.

7. Candidate conduct

Many members raised concerns about the conduct of some candidates throughout the election period. These concerns included allegations of personal attacks, spreading inaccurate or out-of-context information, the use of pressure tactics, aggressive campaigning, and the proliferation of suggestions that corruption and incompetence exist among opposing candidates. There was even a case of an abusive message being sent anonymously to a candidate.

I do not consider it useful to detail the specifics of these allegations or to comment further on them given the scope of my investigation. Suffice to say that some campaigning which took on a personal, and less than comradely nature, is apparent and can be located in print. As previously noted, my mandate does not extend to the question of whether or not there are

legitimate charges to be levied under Section 22 of the CGL or other sections. Due to this, I have only viewed these complaints through the lens of a challenge to the election process.

I do not believe these issues impacted the ability of members to engage in the election process in terms of casting their vote. Further, as there is no way to know whether any of this impacted on the outcome of the election and there are no explicit rules regarding candidate conduct, it is difficult to find in these complaints a cause for upending the election, troubling as they may be.

It has also been noted that not all candidates participated in the all-candidates meeting, or had their biographies circulated by the union in accordance with Section 16 of the Local 1724 Bylaws. However, the evidence I have received demonstrates that these outcomes were the result of the decisions of the candidates, which is their right.

What I will say is that the tone of the election campaign was reported to have left many members feeling dismayed and even disengaged, which is harmful to the democratic process. I will make recommendations in relation to this for future elections

Recommendations and Conclusion

Many of the members I spoke to describe this election cycle as being the most fraught with difficulties, frustrations, and complaints that they have experienced.

I want to recognize that it has taken place in the context of the COVID-19 pandemic, which ruled out the normal election process that long-time members were familiar with. It led to a lack of physical voting stations, the implementation of electronic voting, and online rather than in-person meetings.

My experience in conducting this investigation suggests to me that all of those involved in conducting the election process acted in good faith to run a fair election under difficult circumstances.

Despite this, there were many different challenges to these elections, as noted above. Some of these hold water, while others do not in my opinion.

On the whole, I conclude that there are enough legitimate concerns at play to undermine confidence in the elections held on June 8 and 9. This is particularly true owing to the extremely close results of all three elections. The presence of so many issues combined with these close outcomes, raises too many questions as to whether in fact the will of the majority of members is reflected. Left alone, it is my fear that this will continue to sow division and suspicion throughout the membership. **Therefore, it is my recommendation that new elections be held for the positions of President/Business Agent, Vice President, and Financial Secretary/Recording Secretary/Treasurer.**

A new election would provide an opportunity to address the challenges that have been raised to this round of voting and ensure that everything possible is done to guarantee full access to voting for all members, and the utmost confidence in the integrity of the outcomes.

Also, as a result of the present lifting of COVID-19 restrictions, it may now be possible to provide for additional voting stations if not even in-person meetings with appropriate safety protocols.

I would make the following additional recommendations, should a new election take place:

- In fairness to all members, the 24-month period used to determine eligibility at the May 17 nomination meeting should continue to be utilized for the new elections; and
- If electronic voting is again utilized then instructions should be once again circulated and made available at any electronic voting stations, as well as explained at any pre-election meetings, and a single phone number and email address for help should be provided and staffed consistently throughout the voting periods; and
- Additional in-person voting stations should be established at or near as many worksites as possible, with at least one station in Vancouver, Richmond, and/or North Vancouver; and
- Retirees in good standing should receive all election information and be specifically informed of their right to vote; and
- Members who are concerned about the security of their own devices, technical issues, or other problems with electronic voting should consider voting by physical ballot at an in-person location or utilizing the voting computers at the voting stations if they are comfortable with doing so; and
- Balloting and counting should be carried out in strict adherence to the Voting Procedures, and Election Instructions issued by the Financial Secretary, candidates should be encouraged to have scrutineers present for all counts and any requested recounts should be performed promptly and in full keeping with procedures.

It may also be advisable for the Executive to explore the possibility of establishing campaign guidelines, beyond the existing Election Rules, which would provide consistent and known expectations for the conduct of all candidates not just at voting stations but throughout the election campaign period. Such guidelines would reasonably be expected to include prohibitions against personal harassment, and discriminatory conduct, as well as complaints and investigation processes, and consequences for non-compliance.

Finally, I would recommend that, if it is not already the case, sign-in tables at all meetings should be staffed at all times and members reminded that they must legibly sign-in if they wish to be credited with having attended the meeting. This is crucial for those wishing to run for election in the future. To be clear, the intent of this recommendation is to assist members and help to avoid any future disputes over sign-in sheets. The responsibility to attend meetings and sign-in clearly and legibly rests, in my view, with each member.

I want to acknowledge the hard work and dedication of everyone who has participated in the election process leading up to June 8 and 9, and in the conduct of the elections themselves.

I also want to recognize all of those who put their names forward for election, regardless of whether or not they were successful in the June 8 and 9 vote or whether they were deemed eligible to run. I know that running for, and holding, a leadership role in a union requires substantial commitment, effort, and sacrifice.

Finally, I thank all of those who participated in this process and took the time to discuss their concerns, provide me with information and documents, and share their perspectives.

I hope that whether or not a new election is held all of the members of Local 1724 will find in this an opportunity to be reminded that at the end of the day a union is about working together for the betterment of all of its members, and of their communities.

Election campaigns are a reality for any democratic organization, and they can sometimes become heated. But when the dust settles, and the members have made their choices it is crucial that everyone works to find the common ground and move forward in the best interests of the organization as a whole.

I wish all of the members of Local 1724 all the best as they move forward from this together.

Best regards,

A handwritten signature in black ink, appearing to read 'Stephen von Sychowski', with a long horizontal stroke extending to the right.

Stephen von Sychowski