

**TO:** CITY MANAGER 2000 June 13

**FROM:** DIRECTOR PLANNING AND BUILDING Our File: 01.250

**SUBJECT: 2000 UBCM RESOLUTION AND UPDATE**

**PURPOSE:** To present for Council's consideration a resolution for submission to the 2000 UBCM Convention resolution process, and to provide an update of active resolutions previously submitted by Council.

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**RECOMMENDATIONS:**

1. **THAT** Council approve the submission of the resolution contained in Section 2.0 of this report to the 2000 UBCM Convention.
2. **THAT** a copy of this report be forwarded to the UBCM, Suite 15, 10551 Shellbridge Way, Richmond, B.C., V6X 2W9.

**REPORT**

**1.0 INTRODUCTION**

Each year, resolutions are considered for submission to the UBCM Convention to request amendments to the Municipal Act, Provincial legislation, or other legislation and policies.

This report presents a resolution for consideration at the 2000 UBCM Convention, and updates the status of those resolutions previously endorsed by Council and submitted to the UBCM which are still active, but have not yet been adequately addressed through changes to Provincial legislation or policy.

**2.0 RESOLUTIONS FOR THE 2000 UBCM CONVENTION**

The following resolution has been prepared for Council's consideration for submission to the 2000 UBCM Convention. Two additional resolutions are expected to be forwarded to Council's 2000 June 26 meeting from the Traffic Safety Division of the Traffic and Transportation Committee.

## 2.1 *School Site Acquisition Charge*

Earlier this year, Council requested that a resolution on the Provincial School Site Acquisition Charge (SSAC) be prepared for inclusion in the upcoming resolutions process at the 2000 UBCM Convention. Council requested that the resolution express its objection to the development charge for school site acquisition as:

- it represents the downloading of part of the existing Provincial responsibility for school and education funding onto local governments.
- development cost charges have traditionally been the purview of local governments to help fund local infrastructure and services to support community development objectives. As such, the imposition of the new charge on development limits the fiscal room available to local governments to recover costs from new development to adequately address local infrastructure and service needs.
- it is an inequitable tax as it represents a supplementary tax on new home buyers who would continue to contribute to school and education funding on the same basis as all residents through existing Provincial taxes.
- the legislation establishes a precedent for the future imposition of Provincial charges on local development that would further erode the ability of local governments to address local infrastructure needs, and contribute to increased housing and development costs.

On the direction of Council, a letter outlining Council's concern with the new SSAC legislation, and advising of a forthcoming resolution, was sent to the UBCM and Lower Mainland Municipal Association (LMMA) in early May of this year. In accordance with Council's request, the following resolution has been prepared for Council's endorsement for submission to the 2000 UBCM Convention:

### ***"AMENDMENTS TO SCHOOL SITE ACQUISITION CHARGE LEGISLATION***

***WHEREAS*** the Provincial Government has enacted legislation which requires municipalities and school boards to establish a development cost charge on new residential development to partially fund school site acquisition costs;

***AND WHEREAS*** the legislation represents the partial 'downloading' of Provincial responsibility for school and education funding onto local government that: i) impinges on the ability of municipalities to address local infrastructure and service needs through the establishment of development cost charges, ii) contributes to increased local housing and development costs, iii) represents an inequitable supplementary tax on new home buyers who would

continue to contribute to school and education funding on the same basis as all residents through existing Provincial school taxes, and iv) establishes a precedent for the future imposition of Provincial charges on local development;

***THEREFORE BE IT RESOLVED*** that the Province be requested to amend the School Site Acquisition Charge legislation contained within the Education Statutes Amendment Act of Bill 35 and B.C. Regulations 17/00 to give municipalities and school districts the power to implement the charge at their discretion.”

### **3.0 STATUS OF ACTIVE PAST RESOLUTIONS**

The following updates the status of those resolutions previously adopted by Council and forwarded to the UBCM resolution process which are still active but not yet the subject of requested changes to Provincial legislation or policy.

#### **1999 Resolutions**

##### ***3.1 Continuously Sounding Car Alarms (B42)***

This resolution seeks changes to the Municipal Act to give municipalities the authority to tow from public streets motor vehicles whose alarms sound continuously. The report to Council on this subject from the Officer in Charge, Burnaby RCMP Detachment, referenced a similar 1993 amendment to the City of Vancouver Charter which gave the City of Vancouver specific authority to deem a vehicle to be unlawfully left on a street if the vehicle has a security system that is operating in contravention of a bylaw, or a horn that is audibly sounding for a period of more than 10 minutes.

This resolution was considered and endorsed at the 1999 UBCM Convention. At this time, UBCM staff are awaiting a formal response to the resolution from the Province.

##### ***3.2 Provincial Task Force on Property Classification (A9)***

Council’s resolution on the Provincial Task Force on Property Classification was received by the UBCM and endorsed at the 1999 Convention. The resolution requested the Province to ensure that any proposed changes to the prescribed classes of property regulation not impact municipal property tax revenues nor deter the rate of mixed use development. At this time, the UBCM has advised that the Province has set aside consideration of this issue given a recent B.C. Court of Appeal decision which was contrary to the City’s perspective.

**3.3 *Laser Markers (A16)***

This resolution requested that the UBCM request the Government of Canada to amend the Criminal Code to clearly and specifically make it a criminal offence to intentionally or negligently misuse a laser marker or other laser device.

The resolution was endorsed by the UBCM membership, and the Federal Government has acknowledged receipt of the regulation. At this time, the UBCM is awaiting a formal response from the Federal Government.

**1998 Resolutions**

**3.4 *Traffic Safety And School Children*  
*(Flashing Light School Zone Signs) (B36/B57)***

This resolution was submitted to the 1997 UBCM Convention to support a change to the Motor Vehicle Act to allow for the use of flashing light school zone signs modelled on those in use in Blaine, Washington.

The resolution was not endorsed at the 1997 Convention and was referred back to the City for amendment. The UBCM staff suggested that the resolution may have been too specific and a more general wording may garner greater support amongst members. To this end, the Traffic Safety Committee re-submitted an amended resolution which Council endorsed and forwarded to the UBCM in 1998.

This resolution was considered and endorsed by delegates at the 1998 Convention. In response to the resolution, the UBCM has been advised that ICBC has begun to develop a strategy to examine road safety measures around schools. Once initiated, it is anticipated that this program will provide municipalities with the appropriate means to further address traffic safety issues in school zones.

**3.5 *Traffic Safety Enforcement (B37/C28)***

In 1998 February, Council forwarded this resolution to the UBCM requesting that the Province appropriately share traffic fine revenue with municipalities to enable municipalities to maintain an appropriate level of traffic policing to maximize traffic safety benefits. This has been a long-standing issue for local governments and the subject of previous resolutions in 1987, 1990 and 1993.

In 1999, the Ministry of Municipal Affairs announced a commitment to share \$13.2 million in traffic fine revenue with local governments with policing responsibilities. This resulted in Burnaby receiving a \$620,000 payment. The payment was, however, significantly lower than the amount being sought by the City as it was based on the total cost of our policing function, and not in direct relation to the traffic fine revenue generated by Burnaby RCMP. This year, the Municipal Affairs Minister, Cathy McGregor, confirmed that the Province would continue to share the same amount with BC municipalities of \$13.2 million. The UBCM Executive has expressed an interest in determining a means of increasing the allocation in future years. The Minister has agreed that there is a need to develop a better understanding amongst all parties on how the allocation formulation is structured and implemented.

***3.6 Legislative and Policy Changes to Address the Sexual Exploitation of Children and Youth in the Sex Trade (B49)***

This resolution arose from recommendations contained in the report of the City's Task Force on the Exploitation and Prostitution of Children and Youth. The resolution requested the Attorney General of British Columbia to strike a working committee to review existing Federal and Provincial legislation, including Sections 212, 280, 281 and 810 of the Criminal Code of Canada, and various Provincial policies relating to court procedures. The resolution also requested the Attorney General to lobby for or implement the changes necessary to ensure effective prosecution of those persons who are sexually exploiting children and youth in the sex trade, and to maintain the safety and well-being of sexually exploited children and youth throughout their involvement with the criminal justice system.

The Attorney General has established a committee on prostitution to develop inter-ministerial responses to issues related to prostitution and the sexual exploitation of children and youth in B.C. This Committee is reviewing the suggestions outlined in the City's resolution. As reported to Council previously, related amendments have been made at the Federal level to the Criminal Code of Canada to address prostitution-related issues.

***3.7 Resources to Support Sexually Exploited Children and Youth and Those At-Risk for Sexual Exploitation (B50)***

This resolution also arose from recommendations contained in the report of the City's Task Force on the Exploitation and Prostitution of Children and Youth. This resolution requested the Province to proclaim Section 9 of the Provincial Child, Family and Community Services (CFCS) Act to enable the Ministry for Children and Families to enter into agreements with youth who have left home, in order to provide them with

services and financial resources, without the necessity for the youth to come under the guardianship of the State, thus assisting the youth to avoid the risks associated with street life.

In response, in 1999 December, the Province proclaimed and implemented changes to the Child, Family and Community Services Act to allow Youth Agreements with youths aged 16 - 19 years. While this was not the requested proclamation of Section 9, the implementation of Youth Agreements with some youth is now possible. There are no new resources attached to the amendments to the Act, but the Ministry for Children and Families expects to be able to fund support services which accompany Youth Agreements with savings gained by redirecting youth from high-cost residential settings such as group homes.

### **1997 Resolutions**

#### ***3.8 100% Smoke Free Environment (A20)***

The 1997 UBCM resolution (A20) called for the UBCM to work with the WCB to implement regulations which will protect all workers in BC from exposure to secondhand smoke. Subsequently UBCM has participated in the Interagency Steering Committee with the WCB and Ministry of Health, and all three organizations signed a Memorandum of Understanding (MOU) in July of 1998. The MOU is intended to establish a framework for a cooperative approach to the implementation of province-wide requirements to control exposure to secondhand smoke.

The first implementation date of the regulations was April 1998 for most BC workplaces. The final implementation of the regulations were effective January 1, 2000 for public workplaces (public entertainment and long term care workplaces). On March 22<sup>nd</sup>, 2000 Justice Sunni Stromberg-Stein of the B.C. Supreme Court found that the WCB exceeded its powers by instituting a "sunset clause" for public entertainment (bars, restaurants, casinos, bingo halls, sporting arenas) and long term care facilities without holding the proper public hearings. As a result, the court's decision declared the January 2000 sunset clause null and void, leaving the partial exemption contained in the regulations for public entertainment workplaces in place.

The WCB is holding public hearings on an amendment to the Environmental Tobacco Smoke (ETS) regulations to ensure that a worker does not work in an indoor area where smoking is permitted, except in an emergency, in a circumstance where entry is required to investigate for illegal activity, or until the tobacco smoke has been effectively removed. Hearings are being convened in Richmond, Prince George, Kelowna and Nanaimo during the month of June. Once in force, the regulation will apply to all workplaces, including public entertainment facilities.

### **3.9 *Age of Consent for Sexual Activity (B27)***

This resolution urges the Federal Government to amend the Criminal Code of Canada to raise the age of consent for sexual activity between a young person and an adult from 14 years to at least 16 years of age. It was submitted by Burnaby to the Federation of Canadian Municipalities (FCM) in 1997 February for consideration at the 1997 FCM convention. To further focus attention on this matter, the resolution was also submitted to the 1997 UBCM resolution process. The resolution was endorsed at the Convention and forwarded to the FCM for consideration.

The Federal Department of Justice is currently reviewing this request for a change to the age of consent as part of a national consultation process on child victims and criminal justice system. Burnaby participated in this consultation process by forwarding a recommendation to the Federal Justice Minister reiterating its support for raising the age of consent to sexual activity from 14 to 16 years.

### **3.10 *Liability for local governments***

- (C45) Amend Sections 694 & 290 of the Municipal Act to Include Inspectors
- (C46) Time Period Limits for Liability
- (C47) Several Liability and Insurance Requirements
- (C48) Advancement of Building Industry Education and Certification Standards
- (C50) Designation of Liability

These resolutions arose from a 1997 January 13 report to Council from the Director Planning and Building regarding the status of initiatives to reduce the City's potential exposure to construction-related liability claims. The report was prepared at the request of Council as a result of a claim pertaining to the failure of a post tension structure to perform as designed.

The report identified a number of areas of concern and concluded that the City should continue to utilize the options provided in the Municipal Act to reduce the potential exposure to liability claims. The resolutions addressed outstanding areas of concern identified in the report regarding joint and several liability, accountability commensurate with responsibility, qualifications, education, warranty and insurance.

These resolutions were not considered individually at the Convention, but were included within the discussion of an updated Liability Action Plan at the 1997 Convention. The UBCM continues to raise these issues with the Provincial Government, and are now working to reduce liability with respect to responsibilities under the Home Owner Protection Act. With respect to C47, the Barrett Commission recommended that joint and several liability not be permitted, but to date, the Province

has yet to introduce the subject legislation. With respect to C48, recent legislation does provide for better education on building code certification standards.

**Other Active Resolutions**

***3.11 Excessive Packaging (C50)***

This resolution requested that the Provincial Government enact policies and/or legislation to require manufacturers and distributors of goods and materials to reduce the amount of packaging used for their products. It further requested that the Province also enact policies/legislation whereby all public agencies and corporations give preference to suppliers of goods and materials that employ reduced methods of packaging.

Related to this matter, the Provincial Government implemented a new deposit-refund system for beverage containers in October 1998. The program requires brand owners of beverage products to submit plans to show how containers will be at least 95% recyclable or refillable by 2003 March 31, and how containers not currently recyclable or refillable are to be phased out. The Ministry of Environment, Lands and Parks has also indicated that it will be leading a provincial working group to review the implementation of a plastics recycling program at the national level.

***3.12 Authority to Designate Buildings as Unsafe for Occupancy (B10)***

This resolution requested that the Province enable municipalities, through the building inspector, to evacuate a building or portion of a building which the inspector considers to present an imminent or serious danger to life or property.

This resolution was endorsed by the UBCM and forwarded to the Provincial Government for comment. The Province has indicated that the resolution is unclear as to the particular circumstances which would warrant giving powers to the building inspector to order and enforce an evacuation of a building because of imminent and serious danger to life or property. Earlier this year, City staff wrote to the Ministry of Municipal Affairs to clarify the information provided in the resolution to assist in its further consideration by the Ministry. At this time, the Province has not provided a further response to the resolution.

***3.13 Age Classification and Restriction of Video Games (B25)***

This resolution requested the classification and regulation of video games based on violence, hatred or sexual exploitation. The resolution was endorsed at the 1994 UBCM convention and was forwarded to the Provincial Government for consideration.



In response to the resolution, the Provincial Government worked with the video game industry and others to implement a game rating system to provide consumers with information on the age suitability of games, as an alternative to government regulation of the industry. The Attorney General indicated at that time, however, that his Ministry would be prepared to re-examine the merits of amending legislation should self-regulation by the industry fail.

Recently, concerns have again been raised about the accessibility to young people of video games which portray and exalt violence. As a result, the Attorney General has directed his staff to review all policy and legislative options for providing a classification system for video games, and to report to him within a few months. As well, the City of Vancouver has submitted a resolution to the UBCM requesting the Province to enact regulations for video games like those currently in effect to rate movies. The resolution will be considered at the 2000 convention of the UBCM. As well, violence in video and computer games will be the subject of a separate forthcoming report to Council.

### ***3.14 Purchase of Factory Designed Alternative Fuel Vehicles (B58)***

This resolution was based on the fact that in British Columbia, factory designed vehicles that utilize alternate fuels are not commercially available and therefore costly retrofits are required. It was proposed that a Province wide purchasing pool for these vehicles be established to urge the automobile industry to produce factory alternate fuel vehicles for the B.C. market.

In 1995 November, the Provincial Government released a policy paper entitled 'Green House Action Plan' that contains a proposal for the promotion and demonstration of fuel efficient and alternative fuelled vehicles. To further assist with this proposal, the Provincial Government has also established vehicle purchase guidelines for vehicle fleets. This year, the Province will be taking delivery of 150 alternative fuel vehicles from Ford Canada. The Province is also continuing to work with all Crown and Provincial Government fleet managers to develop performance targets for the reduction of average fleet green house gas emissions.

### ***3.15 Development Cost Charges for Social Amenities***

This resolution was first introduced by the City in 1990 to request amendments to the Municipal Act to authorize municipalities to collect development cost charges (DCC's) for child care facilities and other social amenities, as deemed necessary by local governments. Similar resolutions were also passed in 1991 and 1994. As part of the revised Burnaby Child Care Policy, adopted in 2000 February, Council reiterated its intent to continue to pursue authority to collect DCC's for those social amenities identified and deemed appropriate by the local municipality.

Through its participation on the Development Finance Review Committee and other forums, the UBCM has made numerous requests to Municipal Affairs to broaden the purposes for which DCC's may be collected. The Ministry of Municipal Affairs is currently undertaking a comprehensive review of the Municipal Act, including an assessment of the DCC sections. Given the Ministry's aim of reducing the general restrictiveness of the Act for municipalities, the review may provide an appropriate opportunity to further pursue the requested amendments to the DCC provisions for social amenities.

### ***3.16 Provision of Compensation to Municipalities for Street Closures***

Endorsed by the UBCM in 1979 and 1983, this issue was brought up for consideration in 1987 at the Premier's Conference on decentralization. The Land Title Amendment Act 1993, eliminates the entitlement of landowners, other than the original subdivider, to annex adjacent dedicated roads without compensation. In such a case, the purchaser must pay market value. A proposal to assign municipalities title to municipal roads and allow road abandonments at the discretion of municipal councils remains in the hands of the Ministry of Municipal Affairs. The Ministry of Municipal Affairs has indicated that they are still looking at legislative changes regarding this issue.

### ***3.17 Strata Plans for New and Unoccupied Buildings***

This resolution was first sponsored by Burnaby in 1983 and again in 1987 to ensure that municipal bylaws are not made ineffective by excluding municipal approval of strata applications for new and unoccupied buildings.

The Ministry of Finance and Corporate Relations circulated in 1994 April a discussion draft of the proposed new Condominium Act. A review of the draft reveals that provision has not been made for municipal approval of strata applications for new and unoccupied buildings. Subsequently, staff submitted a letter to the Ministry of Finance and Corporate Relations requesting inclusion of this item within the Condominium Act revisions. Some amendments to the Act were made in 1999 relating to the definition and role of approving officers related to bare land strata plans. This has not fully addressed Burnaby's concerns. The UBCM has been advised that the consultation is still ongoing with respect to the Condominium Act revisions, and that further amendments may be forthcoming.

**4.0 CONCLUDING COMMENTS**

With Council endorsement of the resolution on the *Amendment to the School Site Acquisition Charge Legislation*, staff will forward this resolution to the UBCM for consideration at the upcoming Convention.

The UBCM deadline for receipt of resolutions is 2000 June 30. Resolutions received after this date are not included in the Resolutions Book for the Convention. Late submissions are reviewed by the UBMC Resolutions Committee to determine whether the resolution should be considered at the Convention under the guidelines for Emergency Resolutions. Late submissions that do not meet the guidelines for consideration as an emergency resolution are brought forward for consideration at the next UBCM Convention.

*B. Ruk*  
D.G. Stenson, Director  
PLANNING AND BUILDING

  
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- cc: City Manager                                      Director Parks, Recreation and Cultural Services
- Director Engineering                         City Solicitor
- Director Finance                                Chief Building Inspector

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