

TO: CITY MANAGER 2002 June 19

FROM: DIRECTOR PLANNING AND BUILDING Our File: 01.250

SUBJECT: 2002 UBCM RESOLUTIONS AND UPDATE

PURPOSE: To present a resolution for submission to the 2002 UBCM Convention resolution process for Council's consideration, and to provide an update of active resolutions previously submitted by Council.

RECOMMENDATIONS:

1. **THAT** Council approve the submission of the resolution contained in Section 2.1 of this report to the 2002 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 Local Government Act, Provincial legislation, or other legislation and policies.

This report present a resolution for consideration at the 2002 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 2002 UBCM CONVENTION

The following resolution has been prepared for Council's consideration for submission to the 2002 UBCM Convention.

2.1 *Tax Exemption for Lands Leased for Park Purposes*

At its meeting of 2001 November 26, Council adopted a recommendation to forward a resolution to the 2002 UBCM Convention regarding an amendment to Section 339(1)

of the Local Government Act to exempt from taxation land vested in, occupied, or held, and used for park purposes, by a municipality. In two recent examples of parkland expansion - involving Naheeno Park at SFU and Confederation Park - the City has explored the option of leasing portions of land for park purposes. In both cases, it has been BC Assessment's position that a municipality's exemption under Section 339(1)(a) of the Local Government Act does not include leaseholds, and so land leased by a municipality for park purposes is not exempt.

The Local Government Act states: *Unless otherwise provided in the Act, the following property is exempt from taxation to the extent indicated: land, improvements or both vested in, or held by, the Provincial Government or the municipality.* This section has been reviewed in the draft Community Charter legislation tabled in May 2002, Section 203(1) of which states: *Unless otherwise provided in this Act or the Local Government Act, the following property is exempt from taxation to the extent indicated: (a) land, improvements or both owned by the Provincial Government; (b) land, improvements or both owned by (i) the municipality.*

Council has moved to request an amendment to Section 339(1) of the Local Government Act to clearly exempt from taxation land vested in, leased, occupied, held, and used for park purposes by a municipality. Section 203(1) of the Community Charter would now be the appropriate vehicle to target any such revision.

In accordance with Council's request of 2001 November 26, the following resolution has been prepared for Council's endorsement for submission to the 2002 UBCM Convention:

"TAX EXEMPTION FOR LANDS LEASED FOR PARK PURPOSES

WHEREAS BC Assessment's position regarding Section 339(1)(a) of the Local Government Act (soon to be Section 203(1) of the Community Charter) holds that property leased by a municipality for park purposes is not exempt from taxation;

AND WHEREAS the exemption of such lands from taxation is clearly within the intent and spirit of the legislation:

THEREFORE BE IT RESOLVED that Section 203(1) of the Community Charter be revised to clearly exempt from taxation land vested in, leased, occupied, held, and used for park purposes by a municipality."

2.2 Purchasing Provisions of the Agreement on Internal Trade (AIT)

At its regular meeting of 2002 March 04, Council adopted a recommendation to forward a resolution regarding the purchasing provisions of the Agreement on Internal

Trade (AIT) to the 2002 UBCM Convention. The resolution seeks to oppose the inclusion of municipalities in the purchasing provisions of the AIT, and requests full consultation by the Province prior to any additional changes to the AIT. For convenience, a copy of the resolution that was forwarded to the UBCM is *attached* in *Appendix A*.

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.

2001 Resolutions

3.1 Financial Assistance Program for the Installation of Smoke Alarms in Pre-1983 Residences (B54)

This resolution requested that a program to provide financial assistance by the Province to owners installing smoke alarms in pre-1983 residences be implemented to encourage the voluntary installation of smoke alarms. The resolution was presented at the 2001 UBCM Convention but was not endorsed.

3.2 Changes to the General Local Election Date (B63)

This resolution requested that the general election day be moved from the third Saturday in November to a Saturday in October as the general voting day. The resolution was presented at the 2001 UBCM Convention but was not endorsed.

3.3 Recovery of Hit and Run Collision Costs by Local Authorities (B51)

This resolution requested that the regulations to the Insurance (Motor Vehicle) Act, and specifically s.107 of B.C. Regulation 447/83, be amended so that hit and run damage costs incurred by local governments are recoverable from ICBC. It was endorsed at the 2001 UBCM Convention.

In the Province's reply to the UBCM, it stated that expanding coverage under the fund at this time would exacerbate the rising cost of claims. The Province also noted that ICBC's Board is currently conducting a review of its mandate, structure and operations, and a report recommending changes will be made in due course.

2000 Resolutions

3.4 Fines/School Playground Zones (B69)

This resolution seeks to “double the fine” in school and playground zones, similar to the program in work zones. As this program has enhanced worker and driver safety in work areas, it is considered an appropriate mechanism to apply in school and playground zones. It is anticipated that apart from the general heightened awareness brought by a “double the fine” campaign, the direct punitive effect would be beneficial in changing the habits of the least responsible drivers. This program requires the support of both the Attorney General and the Minister of Transportation and Highways. The resolution also includes fine revenue sharing between the Provincial Government and the local authority.

This resolution was considered and endorsed at the 2000 UBCM Convention. The response from the Ministry of the Attorney General is that the resolution is a fair proposal in order to protect children. An addendum from ICBC indicates that anything that can be done to improve road safety in school zones would be carefully considered in consultation with the police and the Ministry of the Attorney General.

3.5 DCCs for Replacement Housing (B77)

The Minister of Community, Aboriginal and Women’s Services wrote to the City of Burnaby in November 2001 advising that he is not prepared to recommend an amendment to the *Local Government Act* to enable the collection and use of Development Cost Charges (DCCs) for the replacement of affordable housing, as advocated by this resolution. The Minister supported the existing purposes of DCCs which are intended to recover the costs of hard services which are generated by development.

3.6 Extended School Zone Hours (C21)

This resolution seeks to bring the legislation regarding school and playground speed zones into conformity, given that many school grounds function outside of regular school hours. The resolution as advanced by the City of Burnaby was not considered at the 2000 Convention, but a similar resolution was considered as forwarded by the City of Surrey, which was endorsed. The Ministry of Transportation and Highways has advised that recent changes to the Motor Vehicle Act regulations will require all school zone signs to be fluorescent yellow-green with black lettering. Signs which are blue/white or black/yellow will no longer be permitted. The present 30 km/hr tab sign will also be prohibited unless accompanied by additional wording to identify the hours and days when that speed is in effect. The new regulations will be mandatory after December 31, 2004.

This change does not, however, address the resolution's aim of extending the hours of school speed zones. As such, it is desirable to continue to pursue this resolution.

1998 Resolutions

3.7 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 and 2000, the Ministry of Municipal Affairs committed to share \$13.2 million each year in traffic fine revenue with local governments with policing responsibilities. These payments were, however, significantly lower than the amount being sought by the City as they were based on the total cost of our policing function, and not in direct relation to the traffic fine revenue generated by Burnaby RCMP. Early last year the Province reduced this to \$10 million, based on a share of projected fine revenues collected by the provincial treasury on tickets issued by local police enforcement officers, and continued to distribute to municipalities on the basis of their share of total traffic enforcement costs.

In its New Era commitments, the new Provincial Government has promised to redistribute 75% of traffic fine revenues back to municipalities. In 2001, traffic fine revenues were \$44 million and municipalities received \$10 million; the redistribution of which should ensure that municipalities receive more than \$30 million. The redistribution mechanism is not finalized at this time, and the UBCM Executive has expressed an interest in determining a means of identifying a satisfactory revenue sharing formula.

3.8 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 1998 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 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 interministerial 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.

The Provincial Government is now developing new legislation, called *the Safe Care Act*, which will replace the *Secure Care Act* introduced by the previous administration. The proposed legislation will focus on protecting the rights of sexually exploited youth through a court-based adjudicative process. The Ministry of Children and Family Development is also working with the Ministry of the Solicitor General to identify additional options to impose penalties on those people who abuse children through commercial sexual exploitation. The Province's initiative includes urging the Federal Government to raise the age of consent under the Criminal Code to better assist in enforcement. Ministry staff are also engaged in a training program providing an orientation to the legal protection of sexually exploited children and youth.

3.9 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 1998 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 December 1999, 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 were no new resources attached to the amendments to the Act, and the Ministry of Children and Family Development 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. The Ministry makes no suggestion as to additional resources for this particular program in its 2002/2003 service plan.

The Ministry's Youth Services are currently under review as part of the Province's Core Review process. At this time, it is known that some programs will be terminated, including abuse prevention services, services to lesbian, gay, bi-sexual and trans-

gendered youth, and youth training apprenticeship programs. These cuts, as well as tightened eligibility criteria for income assistance and reductions in funding for immigrant settlement services, may increase the vulnerability of some youth to recruitment into the sex trade.

1997 Resolutions

3.10 100% Smoke Free Environment (A20)

This 1997 UBCM resolution called for the UBCM to work with the WCB to implement regulations which will protect all workers in B.C. from exposure to secondhand smoke. UBCM has also passed two further resolutions (1997-A21 and 2001-B32) which advocated that the Provincial Government enforce a complete ban on indoor smoking in all public places, and not just in workplaces.

Last year the new Provincial Government reviewed the WCB environmental tobacco smoke regulations and brought in amended regulations, effective May 1, 2002. The revised regulations allows workers to enter designated smoking rooms up to a maximum of 20% of their shift, although employees must consent to work in those areas. The original regulation did not allow workers to enter those rooms except in emergencies or to investigate illegal activity.

Other features of the new regulation include:

- employee workstations cannot be located in a smoking room;
- hospitality and gaming establishments that choose to allow smoking on their premises must have separate rooms for smoking and non-smoking customers;
- smoking rooms must be structurally separate and can be no more than 45% of total floor space in hospitality settings and 65% in bingo halls; and
- air from smoking rooms must either be ventilated directly to the outside or cleaned through a system that meets a minimum standard of 95% operating efficiency at a 0.3 micrometre particle size.

The revised regulations do not override municipal bylaws that prohibit smoking. Such bylaws are in effect in more than 25 local governments in the Lower Mainland, on southern Vancouver Island and on some of the Gulf Islands.

3.11 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 reviewed this request for a change to the age of consent as part of a national consultation process on child victims and the criminal justice system. This process was concluded in Spring 2000. 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. The results of the process have not yet been communicated, and staff have been unable to obtain information from the Federal Department of Justice. The Province, through the Ministry of the Solicitor General, appears to be taking on this issue and will urge the Federal Government to raise the age of consent under the *Criminal Code* in order to assist in enforcement against adults who sexually exploit youth.

3.12 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 then-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.

In early 2002, the Ministry of Attorney General released a consultation paper and is inviting comment on a review of civil liability laws. The consultation paper considers:

- Limitation laws, which impose time limits on how long a person can wait before launching a civil suit.
- Joint and several liability, which looks at the shared rights and responsibilities of plaintiffs and co-defendants.

- Costs in class action suits.
- Vicarious liability, which holds employers responsible for the actions of their employees.
- Alternatives to the traditional "lump sum" damage awards.

The UBCM continues to raise these issues with the Provincial Government, and is working with the Municipal Insurance Association of B.C. (MIA) on a joint Task Force on Building Inspection Liability, which was established in April 2001. The Task Force is focusing on longstanding UBCM/MIA policy and resolutions.

Other Active Resolutions

3.13 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 enact policies/legislation whereby all public agencies and corporations give preference to suppliers of goods and materials that employ reduced methods of packaging.

Aside from the deposit-refund system for beverage containers implemented in October 1998, there has been no progress on this resolution. The status of this issue with respect to the policies of the new Provincial Government has not been confirmed. Staff will investigate other avenues through the UBCM and appropriate ministries to advance this issue in the current work program.

3.14 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 had 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. City staff had written to the then Ministry of Municipal Affairs to clarify the information provided in the resolution to assist in its further consideration by the Ministry. The status of this issue with respect to the policies of the new Provincial Government has not been confirmed.

3.15 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. Subsequently, the Attorney General directed his staff to review all policy and legislative options for providing a classification system for video games, and the City of Vancouver submitted a resolution to the UBCM requesting the Province to enact regulations for video games like those currently in effect to rate movies, which was considered at the 2000 convention of the UBCM. On 2001 April 10, the former Provincial Government introduced the Video Game Act to impose B.C. standards on existing American-developed and industry-based classifications and to impose regulations on retailers to limit access of minors to age-inappropriate material. The Video Game Act was repealed by the current Provincial Government, which will rely on industry self-regulation of videos and video games.

3.16 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 November 1995, 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 fuel vehicles. To further assist with this proposal, the Provincial Government has also established vehicle purchasing guidelines for vehicle fleets. In 2000 the Province purchased 150 alternative fuel vehicles from Ford Canada. In early 2001, the UBCM had discussions with the Green Economy Secretariat about how local governments can work with the Province in purchasing alternative fuel vehicles and at that time, the Province indicated that it was willing to work with local governments on this issue. The status of this issue with respect to the policies of the new Provincial Government has not been confirmed.

3.17 Development Cost Charges for Social Amenities

This resolution was first introduced by the City in 1990 to request amendments to the then-Municipal Act to authorize municipalities to collect development cost charges (DCCs) 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 February 2000, Council reiterated its intent to continue to pursue authority to collect DCCs for those social amenities identified and deemed appropriate by the local municipality.

Through its participation on the Development Finance Review Committee (DFRC) and other forums, the UBCM continues to make numerous requests to Municipal Affairs to broaden the purposes for which DCCs may be collected. There continues to be opposition from the development industry which makes it difficult for the Provincial Government to develop a cooperative approach to meeting this need of local government. The DFRC developed a document entitled *Development Finance Choices Guide* (October 2000) which in part discusses the various tools that local governments have to finance social amenities, as well as other infrastructure, as part of new development other than by using DCCs. It is anticipated that DCCs will be reviewed in the development of the Community Charter.

3.18 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. The Community Charter is proposed to contain provisions to assign municipalities title to municipal roads and allow road abandonments at the discretion of municipal councils.

3.19 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.

In 1994 the Ministry of Finance and Corporate Relations circulated a discussion draft of the proposed new Condominium Act. A review of the draft revealed that provision had 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 outlined in Sections 2.1 of this report, staff will forward this resolution to the UBCM for consideration at the upcoming Convention.

The UBCM deadline for receipt of resolutions is 2002 June 30. Resolutions received after this date are not included in the Resolutions Book for the Convention. Late submissions are reviewed by the UBCM 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.


 J.S. Belhouse, Director
PLANNING & BUILDING

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

Appendix A

UBCM Resolution as forwarded to the UBCM in March 2002

Purchasing Provisions of the Agreement on Internal Trade (AIT)

WHEREAS B.C. municipalities already comply with the intent of the procurement provision rules of the Agreement on Internal Trade (AIT) and enshrining these rules in legislation opens an avenue of challenge based on creative interpretations placing municipalities in a position of unnecessarily defending legitimate criteria set for tenders, with no discernable benefits being achieved by the legislation;

AND WHEREAS the dispute resolution process denoted in the AIT is contrary to the stated spirit of the Community Charter, potentially leading to decisions that are detrimental to the achievement of municipal objectives and good governance through the exclusion of municipalities from the dispute resolution process;

THEREFORE BE IT RESOLVED that the municipalities of B.C. be on record as being opposed to inclusion in the purchasing provisions of the AIT, and the Province be requested to commit to full consultation with the municipalities before adoption of any further changes to the AIT;

AND BE IT FURTHER RESOLVED that in the absence of rescinding the legislation the Province commit to pay any and all costs, regardless of outcome, arising from disputes under the AIT.

