
TO: CITY MANAGER **DATE:** 2006 June 21

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** PL 2125 20
Reference: UBCM Resolutions

SUBJECT: UBCM RESOLUTIONS

PURPOSE: To present resolutions for submission to the 2006 UBCM Convention and provide an update of resolutions previously submitted by Council.

RECOMMENDATIONS:

1. **THAT** Council approve the submission of the resolutions contained in Section 2.0 of this report for consideration at the 2006 UBCM Convention.
2. **THAT** a copy of this report be forwarded to the UBCM, Suite 15, 10551 Shellbridge Way, Richmond, BC, V6X 2W9.

REPORT**1.0 INTRODUCTION**

Each year, resolutions are considered for submission to the UBCM Convention to request amendments to the Community Charter, Local Government Act and provincial or federal legislation and policies. This report presents three resolutions for Council's consideration for submission to the 2006 UBCM Convention. This report also updates the status of 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 or federal legislation or policy. In addition, a summary of those resolutions which have recently achieved sufficient regulatory or policy change is provided.

2.0 RESOLUTIONS FOR THE 2006 UBCM CONVENTION

Three resolutions are proposed for submission to the 2006 UBCM Convention. All three have been previously endorsed by Council and forwarded to the UBCM in previous years, where they were endorsed by the membership. However, as no progress has been made on these matters, and they are considered to be of importance to Burnaby and other local governments, it is recommended that the following three resolutions be re-submitted for consideration at the 2006 UBCM Convention as a potential means of resolving these concerns.

2.1 Double the Fine in School and Playground Zones (2000-B69)

This resolution seeks to “double the fine” in school and playground zones, similar to the program in work zones. As this “double the fine” 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.

This resolution was considered and endorsed at the 2000 UBCM Convention. The response from the Ministry of the Attorney General at that time was that the resolution was a fair proposal in order to protect children. An addendum from ICBC indicated 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.

However, despite this preliminary general endorsement, no further progress has been made on this resolution since its introduction in 2000. As originally submitted, this resolution included a clause pertaining to fine revenue sharing. As fine revenues are now distributed to local government, it is appropriate to drop the clause at this time. As such, it is considered appropriate to re-submit the resolution, as follows:

Double the Fine in School and Playground Zones

WHEREAS the Provincial Government is responsible for the *Motor Vehicle Act* and its regulations, including the establishment of school and playground zones with reduced speed limits to enhance the safety of children in the vicinity;

AND WHEREAS measurements of speeds at schools and playgrounds confirms a significant level of non-compliance with speed limits, and anecdotal evidence suggests a flagrant and hazardous disregard of crosswalks and other regulatory measures within school zones in particular:

THEREFORE BE IT RESOLVED that the fines for *Motor Vehicle Act* infractions including speeding in school and playground zones, whether marked by reduced speed limit signage or not, be doubled.

2.2 Recovery of Hit and Run Collision Costs by Local Authorities (2001-B51)

This 2001 resolution requested that the regulations to the *Insurance (Motor Vehicle) Act*, and specifically s.107(2)(b) of B.C. Regulation 447/83, be amended so that hit and run damage costs incurred by local governments are recoverable from ICBC. The Province's reply to the UBCM stated that expanding coverage under the fund at that time would exacerbate the rising cost of claims.

To: City Manager
From: Director Planning and Building
Re: UBCM Resolutions
2006 June 21 Page 3

The issue of hit and run collision costs for local governments has not been resolved, and as such, it is desirable to re-submit the resolution at this time.

Recovery of Hit and Run Collision Costs by Local Authorities

WHEREAS it is desirable for motorists to bear the full cost of travel, including the cost of damage to private and public property caused by collisions through insurance premiums;

AND WHEREAS the Insurance Corporation of British Columbia is required by law to compensate private property owners for hit and run damage to private property, but not local governments for hit and run damage to public infrastructure:

THEREFORE BE IT RESOLVED that the regulations to the *Insurance (Motor Vehicle) Act*, and specifically s.107(2)(b) of B.C. Regulation 447/83, be amended so that hit and run damage costs incurred by local governments are recoverable from ICBC.

2.3 Tax Exemption for Lands Leased for Park Purposes (2002-C54)

This 2002 resolution requested an amendment to the *Local Government Act* to clearly exempt from taxation land vested in, occupied, or held and used for park purposes, by a municipality which is not owned by the municipality.¹ Section 220(1) of the Community Charter 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.*

This resolution was referred to the UBCM Community Charter Policy Group and was endorsed by the membership to be pursued in that forum. The resulting Community Charter Policy Paper recommended that the Community Charter be amended to permit the exemption from taxation of land vested in, occupied, or held and used for park purposes, by a municipality. However, no changes to the wording have been implemented, nor is there any indication that change is forthcoming. As such, it is considered appropriate to pursue the amendment at this time.

¹ In two examples of parkland expansion - involving Naheeno Park at SFU and Confederation Park - the City had 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 220(1) of the Local Government Act does not include leaseholds, and so land leased by a municipality for park purposes is not exempt.

Tax Exemption for Lands Leased for Park Purposes

WHEREAS BC Assessment's position regarding Section 220(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 220(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.

3.0 STATUS OF PAST ACTIVE RESOLUTIONS

Progress has been made on the following resolutions. As such, an update of the progress to date is included below, and the following resolutions will continue to be tracked until such time as the issues are successfully resolved.

3.1 Liability for Local Governments (1997)

A series of resolutions arose from a 1997 report to Council regarding initiatives to reduce the City's potential exposure to construction-related 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 has continued to raise these issues with the Provincial Government since that time, 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. In 2004, the Provincial Government announced that there would be no changes to the joint and several legislation. Staff have been unable to obtain a copy of any report or rationale for the announcement, and the issue continues to be a priority for both the UBCM and the Municipal Insurance Association.

Time period limits for liability are currently being reviewed by the Building Policy Branch, arising from the development of the Safety Standards Authority and Safety Standards Act, and related regulations under the Safety Systems Transformation Project.

3.2 Age of Consent for Sexual Activity (1997-B27)

This resolution urges the federal government to amend the *Criminal Code* to raise the age of consent for sexual activity between a young person and an adult from 14 years to at

To: City Manager
From: Director Planning and Building
Re: UBCM Resolutions

2006 June 21 Page 5

least 16 years of age. It was submitted by Burnaby to the Federation of Canadian Municipalities (FCM) in February 1997 for consideration at the 1997 FCM convention. To further focus attention on the matter, the resolution was also submitted to the 1997 UBCM resolution process, where it was endorsed and forwarded to the FCM for consideration. Resolutions 2004-B1 and 2002-B2, also regarding the age of consent, were also endorsed by the UBCM membership and conveyed to the federal government.

The Federal Department of Justice reviewed the issue of age of consent as part of a national consultation process on child victims and the criminal justice system in 2000. Proposed amendments to the Criminal Code of Canada which would have raised the age of consent from 14 years to 16 years were introduced as Bill C-267 in late 2003. However, the proposed amendments expired in 2004 June when the federal election was called. A private member's bill aimed at raising the age of consent was defeated in the House of Commons in September 2005. When the new federal Conservative government assumed power in early 2006, it stated its intention to raise the age of consent for sexual activity to 16 years during its mandate. Staff will monitor the progress of the proposed amendment to ensure that it is pursued in a timely manner.

3.3 Riparian Areas Regulation (2004-B75)

This 2004 resolution arose when the Province enacted the *Riparian Area Regulation* (RAR) on 2004 July 27, intended to come into effect 2005 March 31. At that time, staff raised a number of concerns pertaining to the RAR, including local government liability, resourcing and implementation. Burnaby subsequently submitted a resolution pertaining to these concerns, which was considered and endorsed at the 2004 UBCM Convention.

Council received an update on the status of the RAR at its meeting of 2006 March 27. That report indicated that a number of issues remain unresolved, and it was recommended that the UBCM be requested to not endorse the tripartite agreement with the Ministry of Environment and Department of Fisheries and Oceans until all issues are resolved. Since that date, the City has continued to receive updates on the RAR status from UBCM, but outstanding issues have still not been satisfactorily resolved (e.g., release of the scientific background paper to the regulation, DFO sign-off on the regulation, resourcing, and liability issues). Staff continue to monitor this process and will report back to Council as appropriate. In the meantime, it is noted that the issues raised by the 2004 UBCM resolution regarding the RAR have not yet been resolved.

4.0 RESOLUTIONS THAT HAVE BEEN RESOLVED

The following resolutions have been previously submitted by Burnaby to the UBCM Convention. Staff are of the opinion that policy and regulatory advances have been achieved in these areas to effect the desired changes, as follows.

4.3 Legislative and Policy Changes to Address the Sexual Exploitation of Children and Youth in the Sex Trade (1998-B49)

This resolution arose from recommendations contained in the 1998 report of the City's Task Force on the Sexual Exploitation and Prostitution of Children and Youth. The resolution requested that the Attorney General strike a working committee to review existing federal and provincial legislation and provincial policies, and to lobby for or implement any 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 children and youth throughout their involvement with the criminal justice system. Resolutions 2001-B48, 2004-B100 and 2004-B102 on this topic were all endorsed by the UBCM membership and conveyed to the Province.

The Province is developing new legislation, the *Safe Care Act*, which will give Provincial Safe Care Delegates and, in urgent situations, the police, the authority to apprehend commercially sexually exploited youth who are unable or unwilling to access help on a voluntary basis. Under the *Safe Care Act*, short-term detainment in a residential setting, medical and psychological assessment and care, and re-integration into community-based services will be provided. Although the Province had intended to introduce the *Safe Care Act* in the Spring 2005 legislative session, it did not, stating that further consultation is required before the Act becomes law. In the interim, funds have been made available at the community level through the Ministry of Children and Family Development for support services for individual high-risk young people identified as requiring an integrated and comprehensive service response.

At the federal level, amendments were made to the *Criminal Code* in 1999 to make it easier to prosecute those obtaining for consideration (e.g. money, shelter, etc.) the sexual services of a young person, or those communicating for that purpose, and to make it easier for police to use electronic surveillance for the interception of private communications in respect of procurement and certain bawdy house related offences. Additional amendments to the *Criminal Code of Canada* and to the *Canada Evidence Act* – designed to protect children and other vulnerable people from sexual exploitation, violence, abuse and neglect – were approved in 2005. The amendments facilitate the use of testimonial aids in court (e.g., screens, closed-circuit television, support persons) for victims and witnesses under the age of 18. As well, the amendments increase the maximum sentence for sexual offences against children from ages five to ten.

4.4 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. It requested the Province to proclaim Section 9 of the *Child, Family and Community Services Act* (CFCS) to enable the Ministry of Children and Family Development

To: City Manager
From: Director Planning and Building
Re: UBCM Resolutions
2006 June 21 Page 7

(MCFD) to enter into agreements with youth who have left home. Such agreements would provide a youth with services and financial resources to assist him/her to avoid the risks associated with street life, without the necessity for the youth to come under the guardianship of the state.

In December 1999, the Province proclaimed and implemented changes to the *Child, Family and Community Service Act* to allow Youth Agreements with youths aged 16 - 19 years. Youth Agreements allow MCFD to provide residential, educational, financial or other support services to some youth for whom there is no family home, or for whom a return to the family home is not possible for reasons of safety. Youth Agreements are now being widely used by MCFD as an alternative to government-funded residential care.

4.5 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. A similar resolution was considered at the 2000 and 2002 conventions of the UBCM.

In 2001, the previous Provincial Government introduced the *Video Game Act* to establish B.C. standards for existing American-developed and industry-based classifications, and to establish regulations compelling retailers to limit access of minors to age-inappropriate material. The act still remains to be passed. As an alternative to legislation, the Province is encouraging industry self-regulation. The industry's "Commitment to Parents" initiative seeks to educate and inform families of the American-based Entertainment and Software Rating Board (ESRB) rating system which already exists, and of the ratings which can be found on almost all video game products. The ESRB system provides ratings based on age suitability with reference to sexual and/or violent content. The Provincial Government has advised that the Film Classification Office will respond to complaints of overly violent or graphic material, and work with the industry to ensure that such material is not rented or sold to minors. The Province advises that, to date, the Film Classification Office has received no complaints about video games. The Provincial Government has also advised that it will implement its own rating system if industry self-regulation is deemed ineffective.


5.0 CONCLUSION

At this time, a number of resolutions previously submitted by Burnaby to the annual UBCM Convention remain unresolved. As certain issues are still of concern to Burnaby and other local governments, and given the lack of progress on them, it is recommended that three resolutions be resubmitted for consideration at the 2006 UBCM Convention, as outlined in Section 2.0 of this report.

To: City Manager
From: Director Planning and Building
Re: UBCM Resolutions
2006 June 21 Page 8

In addition, Burnaby has submitted several resolutions that have either been resolved or have seen progress made toward the desired outcomes. Resolutions which continue to require attention are included in Section 3.0, and future reports to Council will provide an update as required. Those resolutions that have been resolved are included in Section 4.0.

Additional resolutions which may come forward subsequent to this report would be 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.


for J.S. Belhouse, Director
PLANNING AND BUILDING

KSF/sla

cc: City Solicitor
Director Finance
Director Engineering
City Clerk

R:\Long Range Clerical\DOCS\Kim\Reports\UBCM Resolutions 2006.doc