
TO: CITY MANAGER **DATE:** 2008 March 07

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

SUBJECT: LMLGA - UBCM RESOLUTIONS

PURPOSE: To present resolutions for submission to the 2008 LMLGA Conference & UBCM Convention and provide an update of resolutions previously submitted by Council.

RECOMMENDATIONS:

1. **THAT** Council approve the submission of the three resolutions contained in Section 2.0 of this report for consideration at the 2008 LMLGA Conference.
2. **THAT** Council approve the submission of the two new resolutions contained in Section 3.0 of this report for consideration at the 2008 LMLGA Conference & UBCM Convention.
3. **THAT** a copy of this report be forwarded to the LMLGA, Suite 60 - 10551 Shellbridge Way, Richmond, B.C. V6X 2W9
4. **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 both the Lower Mainland Local Government Association (LMLGA) Conference & the Union of B.C. Municipalities (UBCM) Convention, to request amendments to the Community Charter, Local Government Act and provincial or federal legislation and policies. This report presents the 2007 resolutions previously approved by Council and submitted to and endorsed at the UBCM Convention held 2007 September 24 – 28. These resolutions were adopted by Council in 2007 but were not submitted to the LMLGA Conference held in May 2007 due to time constraints. The endorsement of the LMLGA is considered to demonstrate additional broad local government support to the Provincial and Federal Governments. These resolutions are now proposed to be sent to the 2008 LMLGA Conference for their concurrence.

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In addition, this report provides two new resolutions proposed for submission to both the 2008 LMLGA Conference and UBCM Convention. A summary of the issues and the proposed resolutions are outlined for the consideration of Council.

2.0 2007 RESOLUTIONS FOR THE 2008 LMLGA CONFERENCE

The three resolutions proposed for submission to the 2008 LMLGA Conference have been submitted to the UBCM by Council and have been endorsed at the 2007 convention. They are recommended for submission to the LMLGA as adoption by this group of municipalities will further demonstrate the broad support of local governments.

2.1 A Resolution Respecting Liability for Local Governments (UBCM Resolution #B2)

This resolution is based on a broader set of resolutions submitted in 1997. It seeks to amend the Negligence Act to exclude Local Governments from joint and several liability to reduce the City's potential exposure to construction-related liability claims.

Independent third party oversight of construction and building code matters is critical to the continued health and safety of the public. Joint and several liability, however, pose a significant risk for Local Governments electing to check plans, inspect construction and issue building permits. Faced with a disproportionate exposure to claims, many Local Governments have reduced or withdrawn completely from inspections. Local Governments should not be expected, through joint and several liability, to underwrite claims against others. Nor should they be forced to place their programs or assets at risk. In 2004, the Provincial Government announced that there would be no change to joint and several liability. As the Provincial Government Modernization Strategy - Building Regulatory System prepares draft legislation to establish minimum Province-wide criteria for oversight of construction, it is critical that any such initiative include measures to ensure accountability commensurate with each party's responsibility.

Liability for Local Governments

WHEREAS the Provincial Government's Modernization Strategy - Building Regulatory System is advocating:

- Clearly defined authorities and accountabilities for the oversight of building construction and
- Managing the distribution of liability and risk effectively;

AND WHEREAS the concept of joint and several liability is inconsistent with these principles:

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THEREFORE IT BE RESOLVED that the UBCM appeal to the Provincial Government to amend the Negligence Act to exclude Local Government from joint and several liability.

2.2 A Resolution Respecting the Recovery of Hit and Run Collision Costs by Local Authorities (UBCM Resolution #B9)

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

It is believed that an insurable claim should not be denied simply by virtue of the fact that the claimant is a municipality. Given that the issue of hit and run collision costs for Local Governments has not been resolved, it is considered appropriate 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 *Motor Vehicle Act*, and specifically Section 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 A Resolution Respecting Wildlife Rescue and Ecosystem Recovery Cost Accountability (UBCM Resolution #173)

At its 2007 January 09 meeting, Council adopted a resolution to be forwarded to the UBCM regarding the Provincial government's lack of legislation for wildlife rescue and recovery in event of an oil spill. The focus of current Provincial legislation for oil spill response is oil capture, removal and mitigation, with emphasis placed predominantly on human health, contaminant management and property protection. Wildlife rescue operations are a secondary component of oil spill response activities, in which financial accountability for wildlife rescue and ecosystem recovery during and subsequent to oil spill response procedures is not currently part of the required cost liability for standard spill response costs undertaken by the Responsible Party in Canadian waters. As such, the UBCM resolution requests that the Provincial government enact legislation to require wildlife rescue and ecosystem recovery to be part of

standard oil spill response activities either on land or in water, and require the Responsible Party to make payment for those costs.

**Resolution Respecting Wildlife Rescue and Ecosystem Recovery Cost
Accountability:**

WHEREAS financial accountability for wildlife rescue and ecosystem recovery during and subsequent to oil spill response procedures is not currently part of the required cost liability for standard spill response costs undertaken by the Responsible Party in Canadian waters;

WHEREAS the recovery and rehabilitation of the detrimental impacts to wildlife and ecosystems following oil spill events require adequate resources;

WHEREAS wildlife rescue and ecosystem recovery are not currently a requirement of the emergency spill response process;

WHEREAS government agency responsibilities for the management of oil spill events and their effects are fragmented;

WHEREAS the inclusion of financial accountability for wildlife rescue and ecosystem recovery along the US west coast would be familiar both in concept and in business practice to industry;

AND WHEREAS the US Environmental Protection Agency has an Oil Spill Liability Trust Fund which supplies adequate funding for wildlife rescue and ecosystem recovery costs in the event that a Responsible Party is either not identifiable or not able to be held accountable.

THEREFORE be it resolved that:

1. The Provincial and Federal Governments be requested to enact legislation to require wildlife rescue and ecosystem recovery be part of standard oil spill response activities either on land or in water;
2. The Provincial and Federal Governments be requested to explore appropriate measures to streamline governmental responsibilities in spill events;
3. The Provincial and Federal Governments be requested to enact legislation to require payment of those costs attributable to wildlife rescue and ecosystem recovery caused by spill events to be borne by the Responsible Party;
4. The Provincial and Federal Governments be requested to explore the feasibility of a Liability Trust Fund to provide funding for spill event remediation when the Responsible Party cannot be identified or held accountable.

3.0 2008 LMLGA AND UBCM RESOLUTIONS

3.1 A Resolution calling for a National and Provincial Housing Strategy

A comprehensive report prepared for the Social Issues Committee on affordable housing and homelessness was considered by Council on 2007 March 05. The report included specific initiatives that could be undertaken by the Federal and Provincial Governments to address these matters. The City of Burnaby joined with other Canadian municipalities, the UBCM and FCM which have long called for a National and Provincial Housing Strategy. To date, no adequate response to the urgent needs for this strategy has been addressed. The most recent Federal budget has not provided for the sustainability of existing National Housing Programs or provided any new funding to establish the needed National Housing Strategy.

The suggested Federal initiatives include:

- Preparing a National Affordable Housing Strategy.
- Establishing a renewed direct role for the Federal Government in the development and/or funding of non-market housing.
- Provide adequate funding, including the use of significant CMHC surpluses.
- Using Federally-owned land to fund or develop non-market housing.
- Sustaining and expanding the co-operative housing sector.
- Establishing taxation incentives for new rental housing.
- Protecting existing and new social housing assets.

The suggested Provincial initiatives include:

- Building non-market housing units for low-income households.
- Allocating funding, including a portion of the Provincial Property Transfer Tax, to fund non-market housing.
- Using Provincially-owned land to fund or develop non-market housing.
- Considering the development of programs and approaches to encourage the private sector to build and retain affordable rental housing.
- Focusing on the “three ways to home” of housing, income and supports to address homelessness.
- Redeveloping social housing assets responsibly.
- Providing better assistance to tenants through the Residential Tenancy Act and Residential Tenancy Branch.

British Columbia’s municipalities through the leadership of the LMLGA and UBCM have long been advocates for improving the delivery of a comprehensive housing strategy from senior levels of government. There were several reports released in 2007 and early 2008 that document the continuing crisis in housing and homelessness in Canadian communities.¹ Accordingly, it is

¹ FCM Report on Housing and Homelessness, Wellesley Institute Report, SPARC Report

recommended that the following resolution be submitted to the LMLGA and UBCM for consideration:

Resolution: Calling for a National and Provincial Housing Strategy:

WHEREAS the 2008 Federal Budget does not provide for funding to sustain existing housing programs or the establishment of a National Housing Strategy;

AND WHEREAS the lack of affordable housing and the incidence of homelessness is a growing and complex problem affecting all British Columbia communities.

THEREFORE BE IT RESOLVED that the Union of BC Municipalities urge the Federal and Provincial Governments which are responsible for providing affordable housing to:

- Urgently work together to prepare a National Housing Strategy, along with a complementary Provincial Housing Strategy, to provide a comprehensive plan to address housing and homelessness issues over the long term through the provision of an adequate continuum of housing, income and support.
- Allocate sustained funding, including the use of surpluses and property transfer tax revenue, to support the development and maintenance of affordable housing for those in need, including non-market housing units.
- Work together to establish incentives for the private sector construction of new rental housing including low income tax credits, GST exemptions, and capital cost depreciation allowances.

3.2 A Resolution Respecting Cosmetic Pesticide Usage on Private Properties

Burnaby's Environment Committee has been working to establish a new civic bylaw respecting the use of cosmetic pesticides and presented a comprehensive report to Council on 2008 February 18 which outlined the limitations of local government authority in this matter. All pesticides sold or used in Canada must be approved under the federal Pest Control Products Act and Regulations administered by Health Canada's Pest Management Regulatory Agency (PMRA). The Province, through the BC Integrated Pest Management Act regulates all aspects of pesticide sale, use, storage, transport and disposal of registered pesticides.

Recently, through the *Community Charter*, the Province has allowed local governments to regulate, prohibit and impose requirements in relation to the natural environment and public health. However, these broad powers have subsequently been restricted through the *Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation* by limiting the regulation or prohibition of cosmetic pesticides to residential properties or on land vested in the municipality. Furthermore, local government does not have the authority to regulate pesticides for the management of pests that: transmit human diseases; impact agriculture or forestry; on residential

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areas of farms; and on land used for agriculture, forestry, transportation, public utilities or pipelines (unless the land is owned in the municipality).

At its 2008 February 18 meeting, Council adopted a report respecting the use and regulation of cosmetic pesticides on private properties. In order to achieve a broader benefit to public health and the environment, in addition to regulatory consistency, Council requested staff to develop a resolution for submission to the UBCM and the LMLGA. This resolution proposes that the B.C. Minister of Environment be requested support a province wide prohibition of cosmetic pesticides through amendment of the BC Integrated Pest Management Act and to amend applicable section(s) of the *Spheres of Concurrent Jurisdictions – Environment and Wildlife Regulation* to allow local governments to regulate, prohibit and impose requirements in relation to cosmetic pesticides on all private lands.

Resolution: Cosmetic Pesticide Usage on Private Properties

WHEREAS the use of pesticides pose a potential risk to the environment and human health and the application of non-essential cosmetic pesticides is purely for aesthetic purposes only;

WHEREAS the *Spheres of Concurrent Jurisdictions – Environment and Wildlife Regulation* limits the regulation or prohibition of cosmetic pesticides to residential properties or land vested in the municipality only;

THEREFORE BE IT RESOLVED that the Provincial Government of British Columbia be requested to amend the applicable sections of the *Spheres of Concurrent Jurisdictions – Environmental and Wildlife Regulation* to allow local governments to regulate, prohibit and impose requirements in relations to cosmetic pesticides on all private lands; and that a province-wide prohibition on use of cosmetic pesticides be supported through amendment of the BC Integrated Pest Management Act.

4.0 STATUS OF ACTIVE UBCM RESOLUTIONS


To date the Provincial Government has not provided a formal response to the 2007 City of Burnaby resolutions endorsed by the UBCM. Upon receipt of a report on the outstanding resolutions being received by the UBCM, staff will provide an information report to update Council.

5.0 CONCLUSION

This report recommends that the three resolutions submitted and endorsed by the UBCM in 2007, be forwarded to the LMLGA for their endorsement. In addition, the report discusses two new resolutions respecting Housing and Cosmetic Pesticides which are recommended for submission to the 2008 LMLGA Conference and 2008 UBCM Convention.

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Any additional resolutions which may come forward subsequent to this report prior to June 30, 2008 could also be submitted for consideration at the September 22-26, 2008 UBCM Convention. Staff will also continue to monitor active resolutions and report to Council as appropriate.


B. Luksun, Director
PLANNING & BUILDING

JW:tn

cc: Director Engineering
Director Finance
Chief Building Inspector
City Solicitor
City Clerk

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