



Item
Meeting 2011 Mar 21

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2011 March 16
FROM: DIRECTOR PLANNING & BUILDING **FILE:** 2125 20
Reference: UBCM Resolutions
SUBJECT: 2011 LMLGA – UBCM RESOLUTIONS

PURPOSE: To present resolutions for submission to the 2011 Lower Mainland Local Government Association (LMLGA) Annual General Meeting and Union of B.C. Municipalities (UBCM) Convention, and to provide an update on resolutions previously submitted by Council.

RECOMMENDATIONS:

1. **THAT** Council approve the resolutions contained in this report, as outlined in Section 4.0, for submission to the 2011 LMLGA Annual General Meeting and the UBCM Convention.
2. **THAT** staff be authorized to forward a copy of this report, accompanied by copies of any applicable background Committee reports, to the LMLGA and to the UBCM, both located at Suite 60, 10551 Shellbridge Way, Richmond, BC V6X 2W9.
3. **THAT** copies of this report, following Council approval, be forwarded for information to the *Superintendent of Schools – School District #41*, at 5325 Kincaid Street, Burnaby, BC V5G 1W2, *Heritage BC*, at 914 Garthland Place, West Victoria, BC V9A 4J5, *MLA Richard Lee*, at 1833 Willingdon Avenue, Burnaby, BC V5C 5T1, *MLA Raj Chouhan*, at 5234 Rumble Street, Burnaby, BC V5J 2B6, *MLA Kathy Corrigan*, at 150 – 5172 Kingsway, Burnaby, BC V5H 2E8, *Honourable Harry Bloy, Minister of Social Development and Minister responsible for Multiculturalism*, 220 – 3355 North Road, Burnaby, BC V3J 7T9, and *Mr. Porter*, at 3782 Thurston Street, Burnaby, BC V5H 1H7.

REPORT

1.0 INTRODUCTION

Each year, resolutions are considered for submission to the Lower Mainland Local Government Association (LMLGA) Annual General Meeting. The adopted resolutions from the LMLGA are then forwarded to 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. For the convenience of Council this report outlines the Provincial response to

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resolutions previously approved by Council and submitted to the UBCM Convention in 2009 and 2010. In addition, a summary of the status of resolutions approved by Council and submitted to the UBCM between 2000 and 2008 are outlined in Appendix 1, *attached* for the information of Council.

This report also provides, for the consideration of Council, new resolutions proposed for submission to the 2011 LMLGA Annual General Meeting and the UBCM Convention. The LMLGA Annual General Meeting will be taking place from 2011 May 11 – 13 in Whistler, BC. The UBCM Convention will be taking place from 2011 September 26 – 30 in Vancouver, BC.

2.0 STATUS OF ACTIVE 2009 UBCM RESOLUTIONS

In 2009, five resolutions were submitted by Council to the UBCM Convention. The following section summarizes these resolutions and provides an update on their status, including any response received from the appropriate Provincial Government ministries. These responses have been reviewed by staff and assessed as to whether or not they are sufficient in relation to the issue.

2.1 Resolution: The Disposition of School Lands and Assets

This resolution sought to amend the Ministry of Education's *Disposal of Lands or Improvement Order* and related policy to require that local Boards of Education seek the approval of a local government prior to disposal and/or lease of school lands and assets in order to determine their financial and legal interests. This resolution was developed in recognition of the significant financial, legal and community planning interests that local governments maintain in school lands and assets, and of the fundamental financial and community plan implications that the disposal and/or lease of school lands and assets has on local governments.

At the 2009 UBCM Convention, this issue was deemed to be of sufficient importance to be categorized as one of the year's eight level 'A' resolutions. These are resolutions that are identified to be of importance to all local governments in British Columbia that have not previously been debated at Convention. As such, it was combined with another similar resolution submitted by the Corporation of Delta, which was identified as the ultimate sponsor of the resolution.

Review of the Resolution's Status:

After Convention debate, the resolution was referred to the UBCM Executive for further discussion who in turn supported the establishment of a joint UBCM-BCSTA¹ working group to address the issue of disposal and/or lease of school properties. According a UBCM Executive Release dated 2010 December 7, the discussions of this working group are still in process.

¹ BC School Trustees Association.

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Staff will continue to monitor the progress of discussion on this issues, and will report back to Council on any arising results of the UBCM-BCSTA working group.

2.2 Resolution: Limitation on municipal liability regarding building permits and inspections

This resolution requested amendments to the Local Government Act to include blanket immunity from liability for approving building plans and inspecting buildings, similar to the Vancouver Charter (section 294, sub-section 8). It was developed in recognition that the existing system of joint and several liability poses a significant risk for local governments that elect to check plans, inspect construction and issue building permits. The resolution also recognizes the critical role that independent third party oversight of construction and building code matters has on the continued health and safety of the public.

As such, one of the goals of this resolution is to protect communities and all taxpayers from financial losses due, not to local government liability, but to litigation affecting the construction industry. No local government should incur liability for its permitting process, which makes design professionals responsible for code compliance, or its inspection process, which serves as an auditing function to promote that compliance.

At the UBCM Convention, this resolution was amended, and subsequently endorsed, to seek the abolition in the Local Government Act of the system of joint and several liability and replace it with proportionate liability, and to reduce the limitation period from 30 years to 10 years. Under proportional liability defendants are responsible only to the degree to which they contributed to the loss.

Burnaby, in concert with the UBCM and its members, has worked consistently since 1985 to propose various legislative reforms to the Provincial Government as part of a “Liability Action Program.” In addition to this resolution, two other resolutions (2007 and 2008) on this same issue were approved by Council and forwarded to the UBCM Convention, where both were subsequently endorsed.

Review of the Resolution’s Status:

In 2004, the Provincial Government initiated the Modernization Strategy as a response to both local government and industry requests to update the building regulatory system in regards to safety in the design, construction and occupancy of buildings. The first phase of the Strategy included the introduction of Bill 10 – *The Housing Statutes Amendment Act*, implemented in 2008, which enables local governments to require that building plans and other paperwork needed for building permits be signed off by building specialist professionals. However, this amendment did not specifically include any improvement to protect local governments’ joint and several liability.

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The response to the 2009 resolution from the Ministry of Community and Rural Development² reiterated these amendments, and stated that the section in the Vancouver Charter, which provides blanket immunity, was added in 1987 before amendments were subject to the review and approval process for government bills. The response also outlines that the Attorney General's Ministry is continuing to monitor civil liability of local governments.

Staff are of the opinion that the Provincial response to this resolution does not fully respond to, or advance any viable solutions, to address the issues raised by the UBCM. The UBCM advised that it is continuing in its efforts to seek an adequate Provincial response to this issue.

2.3 Resolution: Deferral of Development Cost Charges for Non-Profit Housing

This resolution sought an amendment to Section 933.1 of the *Local Government Act* to permit the deferral of Development Cost Charges (DCCs) for non-profit housing projects. Arising from a 2008 report to Council on affordable housing and homelessness, Council adopted a series of recommendations to provide assistance with the development of non-profit housing. Included in the recommendations was a proposal to provide for the temporary deferral of DCCs which would assist the financing of non-project housing projects. Section 933.1 of the *Local Government Act* enables municipalities to waive or reduce DCCs, but does not provide explicit authority for the deferral of payments.

Review of the Resolution's Status:

Response to this resolution from the Ministry of Community and Rural Development³ states that the Province has not contemplated the option of deferring DCCs to encourage the development of affordable housing. Rather, the response highlighted the extensive process that was undertaken to allow the reduction or waiving of DCCs on specific projects, including the ability of local governments to use this tool at their discretion for projects deemed of benefit to stocks of affordable and environmentally sustainable housing.

Staff are of the opinion that the Provincial response to date does not adequately respond to or address the issues raised by the UBCM resolution, and as such this matter remains to be pursued further by the UBCM.

2.4 Resolution: Proposed Tax Authority Restrictions

This resolution urged the UBCM to advise the Provincial Government that local governments will not support any further fiscal restraints on their authority, including taxation, and that a comprehensive campaign should be created promoting the accomplishments of cities who deliver a wealth of services for only 8 cents of every tax dollar. The resolution was developed in response to a 2009 Provincial Throne Speech which stated that "more needs to be done to ensure

² Now the *Ministry of Community, Sport and Cultural Development*.

³ *Ibid.*

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that provincial tax relief is not negated by local property tax hikes. Our government will work with the Union of British Columbia Municipalities to develop new legislation over the summer, for introduction early next year that will protect provincial tax reductions."⁴

In recognition of the ongoing financial reality of local authorities and the off-loading of the cost of services from other levels of government, Council developed the resolution on this matter which was subsequently endorsed at the UBCM Convention.

Review of the Resolution's Status:

No response has yet been received from the Province regarding this resolution. The UBCM continues in its efforts to seek an adequate Provincial response to this issue through its 'Finance' policy area and other avenues.

2.5 Resolution: Proposed Tax Authority Restrictions

This resolution was developed in reaction to the non-payment of full taxes by Catalyst Paper to the City of Port Alberni, and the subsequent legal action taken by Catalyst Paper in which the corporation petitioned the Supreme Court of British Columbia regarding the legality of Port Alberni's major industry property tax rate. As such, the resolution requested the UBCM to strongly condemn Catalyst Paper's actions, to write the Provincial Government to support the community in its legal action, and to be prepared to assist in its legal action and for all members of the UBCM to do likewise.

Review of the Resolution's Status:

At the UBCM Convention, this resolution was forwarded to the UBCM Executive for further deliberation. The Executive then forwarded the issue for more substantive discussion to the UBCM Steering Committee on Industrial Taxation. In a 2010 November UBCM Executive Release, an update was provided stating that a study has been proposed on the municipal taxation of industrial properties, and that Executive-directed work continues on the study.

Regarding the Catalyst Paper/Port Alberni legal dispute noted above, in 2010 May Catalyst Paper abandoned its appeal of the British Columbia Supreme Court decision in which Mr. Justice Voith upheld the legal validity of the City of Port Alberni's 2009 Tax Rates Bylaw.

The UBCM advised that the issues raised in this resolution are continuing to move through the UBCM Executive consideration process.

⁴ http://www.gov.bc.ca/premier/2009_throne_speech/index.html.

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3.0 STATUS OF ACTIVE 2010 UBCM RESOLUTIONS

In 2010 Council advanced one resolution to the UBCM Convention. As in Section 2.0 above, the following section summarizes this resolution and provides an update on its status, including a staff assessment of any response raised from the appropriate Provincial Government ministries.

3.1 Resolution: Comprehensive Economic and Trade Agreement

This resolution was developed to request that the UBCM work with the Provincial Government to negotiate a clear, permanent exception for local governments from the Comprehensive and Economic Trade Agreement (CETA) between the government of Canada and the European Union. The content of this resolution sprang from experiences demonstrating that the European Union and European corporations, through CETA, are insisting on full access to procurement by sub-national governments, including local governments, social boards, and other provincial agencies. If unaddressed, this could significantly reduce or eliminate the right of local governments to specify local priorities when public money is invested in goods, services or capital projects.

This resolution was similar to another resolution sponsored by the District of Logan Lake, which was identified as the ultimate sponsor of the resolution. After debate, the resolution was endorsed and referred to the Federation of Canadian Municipalities (FCM). No response from the FCM has yet been received.

Review of the Resolution's Status:

This resolution appears to be being given further review through the UBCM/FCM consideration process.

4.0 2011 LMLGA AND UBCM RESOLUTIONS

The following two resolutions have been developed for Council's consideration for advancement to the 2011 LMLGA Annual General Meeting and the UBCM Convention. These resolutions are presented with a summary of their background and the significance of these issues as they relate to all local governments in British Columbia, including Burnaby.

4.1 Resolution: Renewed Support for British Columbia's Heritage Program

On 2011 February 14, Council approved a report from the Community Heritage Commission requesting that staff prepare a resolution for the LMLGA and the UBCM regarding the funding of British Columbia's community heritage programs, in support of Heritage BC. This report stemmed from correspondence received by the Commission from the President of Heritage BC outlining the precarious state of Provincial support and funding of community heritage programs and seeking the support of local governments in the organization's advocacy to the Provincial Government.

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As stated in the Council report, the Provincial Government has provided Heritage BC with more than 20 years of consistent financial support. This consistency enabled the non-profit organization to provide education and programming to local governments on the protection of unique heritage resources and to support related community projects. However, in 2009 the organization's request for Provincial funding was denied, along with its gaming grant application. As a result, Heritage BC was forced to cease operations, although it was able to resume limited operations three months later with the support of the Heritage Legacy Fund.

The Heritage Legacy Fund is an endowment managed by the Vancouver Foundation that was established through an initial investment of \$5 million, contributed by the Ministry of Community, Aboriginal and Women's Services.⁵ The goal of the Fund is to provide financial assistance and guidance to help protect, care for and showcase heritage resources in British Columbia. Administratively, the Fund is a joint initiative of The Land Conservancy and Heritage BC. The decision to support Heritage BC from the Fund, though necessary, reduced the monies available for the support community heritage projects. As a result, the Board of Directors of Heritage BC is embarking on a vigorous campaign for reinstated and adequate heritage conservation funding.

The expertise and public education provided by Heritage BC, and by other heritage focused organizations and initiatives, is of importance to all local governments in B.C. for their support of ongoing efforts to preserve and celebrate community history. As such, the following resolution has been developed for Council's consideration:

WHEREAS all local governments in British Columbia benefit from the funding and expertise of Heritage BC, and other heritage focused organizations and initiatives, to protect unique heritage resources and support community projects,

AND WHEREAS heritage conservation is vital to maintain a sense of place distinctive to each community that is a positive investment in the local economy and a stimulus to tourism:

THEREFORE LET IT BE RESOLVED that the Union of BC Municipalities call on the Provincial Government to restore the Heritage Branch budget, and to implement Heritage BC's call for renewal of provincial heritage programs.

4.2 Resolution: Introduction of Uniform Provincial Smoking Standards

On 2011 February 21, Council approved a report from the Environment Committee which requested that the Province be approached to review various existing non-smoking bylaws with the purpose of introducing uniform standards province-wide. This report was prepared as a result of correspondence from Mr. Porter, a Burnaby resident, seeking possible changes to the existing

⁵ The Ministry now responsible for heritage conservation is the *Ministry of Tourism, Trade and Investment*.

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City bylaw in order to ban smoking from all mall property including sidewalks, walkways, promenades, decks, seating areas, bike racks, and outdoor and indoor parking areas. The current City *Smoking Regulation Bylaw*, enforced by the Fraser Health Authority on behalf of the City, prohibits smoking in a wide range of shared public spaces, including malls. However, the bylaw does not prohibit smoking in areas outside of malls, excepting the current Provincial *Tobacco Control Act and Regulation* [4.22 (1)] stipulation that prohibits smoking within 3 meters of building entrances, open windows and air intakes.

Mr. Porter’s correspondence was forwarded to the Fraser Health Authority which responded recommending amending the *Smoking Regulation Bylaw* to extend the buffer zone around public buildings from 3 meters to 7.5 meters and to prohibit smoking on playgrounds and in other public spaces where people sit or stand in close proximity.

Based upon this correspondence, and on the recommendations from the Fraser Health Authority, the Environment Committee reviewed smoking bylaws from fifteen other local governments in the province, and noted that there is no consistency in buffer zones where smoking is prohibited outside public building entrances, including malls. As a result of this review, the Committee resolved to request the Province to consider and introduce uniform regulations, and submitted the 2011 February 21 report to Council regarding this request.

The health and wellness implications of smoking and tobacco use has an impact on all local governments, which collectively would benefit, from both an administrative and citizen perspective, from a uniform regulation that could standardize non-smoking rules and expectations province-wide. As such, the following resolution has been developed for Council’s consideration:

WHEREAS tobacco use and exposure to second-hand smoke remains the single most preventable cause of disease and death in Canada, contributing to the deaths of approximately 6,000 British Columbians each year;

AND WHEREAS research indicates that reducing the places where people can smoke through legislation and regulation makes it more likely that they will not take up smoking, or that they will quit:

THEREFORE LET IT BE RESOLVED that the Union of BC Municipalities recommend to the Provincial Government that a review of existing non-smoking bylaws be conducted with the purpose of considering amendments to the *Tobacco Control Act and Regulation* to introduce further uniform standards province-wide.

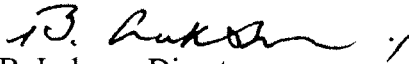
5.0 CONCLUSION

This report provides an update on 2009 and 2010 resolutions submitted to the LMLGA and the UBCM, and recommends that two resolutions, as outlined in Section 4.0 above, be submitted by Council to the 2011 LMLGA Annual General Meeting and the UBCM Convention for

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consideration. In addition, this report recommends that staff be authorized to forward a copy of this report, accompanied by copies of any applicable background Committee reports, to the LMLGA, to be held from 2011 May 11 – 13 in Whistler, BC, and to the UBCM, to be held from 2011 September 26 – 30 in Vancouver, BC.

Any additional UBCM resolutions which may come forward subsequent to this report, and prior to 2011 June 30, may also be submitted directly for consideration at the 2011 UBCM Convention.


B. Luksun, Director
PLANNING AND BUILDING

RM:sa
Attachment

cc: City Manager
Deputy City Managers
Director Engineering
Director Finance
Director Parks, Recreation and Cultural Services
OIC – RCMP
Fire Chief
Chief Building Inspector
Chief Librarian
City Solicitor
City Clerk

**UNION OF BC MUNICIPALITIES
SUBMITTED RESOLUTIONS
CITY OF BURNABY
2000 – 2008**

A summary of resolutions that the City has submitted to the Union of BC Municipalities (UBCM) from 2000 – 2008 is provided below.

As well, the summary includes statements of the UBCM Convention decisions, and an overview of details pertaining to any response received from higher levels of government. The current status of any legislative or policy changes that can be associated with the resolutions are also provided as available.

2000

Resolution: School Site Acquisition Charge Legislation

Convention Decision: Not Endorsed

Resolution: Double Traffic Violation Fines in School/Playground Zones

Convention Decision: Endorsed

Provincial Response: The Provincial response stated that anything that could be done to improve road safety in school zones would be carefully considered by ICBC in consultation with police and the Ministry of the Attorney General.

Resolution: Authorization to Levy Development Cost Charges for Replacement Affordable Housing

Convention Decision: Endorsed

Provincial Response: The Ministry of Municipal Affairs response stated that they were open to continuing the discussion with the UBCM regarding this matter.

Resolution: Extended School Zone Hours

Convention Decision: Not Admitted for Debate

2001

Resolution: Recovery of hit and run collision damage costs by local authorities

Convention Decision: Endorsed

Provincial Response: The Ministry of Finance response stated that expanding coverage under the fund at this time would exacerbate the rising cost of claims.

Resolution: Financial assistance program for the installation of smoke alarms in pre-1983 residences

Convention Decision: Not Endorsed

Resolution: Changes to the local government election date

Convention Decision: Not admitted for debate

2002

Resolution: Purchasing Provisions of the Agreement on Internal Trade (AIT)

Convention Decision: Endorsed

Provincial Response: The response from the Ministry of Community, Aboriginal and Women's Services response stated that, based on the experience of other provinces, that there have been no significant negative impact on costs associated with local governments regarding the AIT.

Resolution: Tax Exemption for Lands Leased for Park Purposes

Convention Decision: Referred to Community Charter Policy Paper

Current Status: The Community Charter [Section 224(2)(b)] provides local governments with the general authority to provide permissive exemptions from taxation for land or improvements, or both, which council considers are used for a purpose of the local authority

2003

Resolution: Local Consultation on Healthcare

Convention Decision: Endorsed

Provincial Response: The Ministry of Health response stated that health authorities are committed to building positive solutions to health care issues, and that when and where appropriate health authorities may undertake wide consultation.

Current Status: The revised Public Health Act [SBC 2008 / Chapter 28] makes provision for instances of required consultation with local governments

Resolution: Extended School Zone Hours

Convention Decision: Not Endorsed

Resolution: Privatization of BC Hydro

Convention Decision: Endorsed as Amended

Provincial Response: The Ministry of Energy and Mines response stated that if 'Regional Transmission Organization' (RTO) West materializes, that the BC Transmission Corporation (which independently operates BC Hydro's transmission system) would continue to have regulatory authority and responsibility to approve the terms, conditions and rates for the provincial transmission system.

2004

Resolution: Riparian Areas Regulation

Convention Decision: Endorsed as Amended

Provincial Response: The Ministry of Water, Land and Air Protection response stated that under the new Riparian Areas Regulation, development projects are assessed on a case-by-case basis.

Resolution: Excessive Packaging

Convention Decision: Not Admitted for Debate

2006

Resolution: Double the Fine in School and Playground Zones

Convention Decision: Endorsed as Amended

Provincial Response: The Ministry of Transportation response outlined that in 2003 amendments were made to the Motor Vehicle Act to allow school speed zone hours to be expanded beyond the traditional 8 a.m. - 5 p.m. period where children are attending extracurricular and community activities outside regular school hours. The response also stated that supplemental fines had been instituted in addition to the regular fine and driver penalty points, for significant speed violations.

Resolution: Recovery of Hit and Run Collision Costs by Local Authorities

Convention Decision: Endorsed

Provincial Response: The Ministry of Public Safety and Solicitor General response stated that transferring costs from one rate payer group to another rate payer group would result in many of the same people paying and ultimately would not achieve any efficiency.

Resolution: Tax Exemption for Lands Leased for Park Purposes

Convention Decision: Endorsed as Amended

Provincial Response: The Ministry of Community Services response stated that local governments already have the ability to authorize permissive exemptions for land which they lease from a taxable owner, which is used for a park or another purpose Council deems appropriate.

2007

Resolution: Wildlife Rescue and Ecosystem Recovery Cost Accountability

Convention Decision: Endorsed

Provincial Response: The Ministry of Environment response stated that it would continue to press the federal government, through Transport Canada, to adopt a national oil spill incident management system.

Federal Response: The Transport Canada response stated that such a project would not be eligible within the categories under the Building Canada Fund.

Resolution: Trade, Investment and Labour Mobility Agreement (TILMA)

Convention Decision: Not Admitted for Debate

Resolution: Liability for Local Governments

Convention Decision: Endorsed

Provincial Response: The Ministry of Attorney General response stated that it was evaluating the current civic liability regime, and that it was reviewing stakeholder feedback and is considering the direction future changes to the Limitation Act will take.

Resolution: recovery of hit and run collision costs by local authorities

Convention Decision: Endorsed

Provincial Response: The Ministry of Public Safety and Solicitor General response stated that recovering hit and run damage costs incurred by local governments through ICBC insurance

premiums would effectively transfer costs from one rate payer group to another, and ultimately would not achieve any efficiencies.

Resolution: Rental Zoning

Convention Decision: Endorsed

Provincial Response: The Ministry of Community Services response stated that limiting the type of land tenure on residential land using zoning or other regulatory powers would be a significant intervention in the use of private property.

2008

Resolution: Calling for a National and Provincial Housing Strategy

Convention Decision: Endorsed

Provincial Response: The Ministry of Housing and Social Development response stated that the issues of a National Housing Strategy had been raised with the Federal Minister Responsible for Canada Mortgage and Housing Corporation and that no firm response had been provided.

Federal Response: The Ministry of Human Resources and Social Development response stated that it was fulfilling its commitment on housing.

Resolution: Liability for Local Governments

Convention Decision: Endorsed as Amended

Provincial Response: The Ministry of Attorney General response stated that it would continue to monitor the Liability Modernization Strategy and explore options to more effectively manage the distribution of liability in the construction industry.

Resolution: Recovery of Hit and Run Collision Costs by Local Authorities

Convention Decision: Endorsed

Provincial Response: The Ministry of Public Safety and Solicitor General response stated that this proposal would be less efficient and result in a greater increase in total insurance premiums than a corresponding reduction in municipal taxes.

Resolution: Wildlife Rescue and Ecosystem Recovery Cost Accountability

Convention Decision: Endorsed

Provincial Response: The Ministry of Environment response stated that it was in the process of developing an oiled wildlife response plan to provide clear direction to spillers, and that the Province will continue to advocate that Transport Canada require the existing marine response cooperative to develop an appropriate oiled wildlife response capacity and capability.

Federal Response: The Ministry of Transport, Infrastructure and Communities response stated that the polluter pays all reasonable costs of an oil spill in Canadian waters.

Resolution: cosmetic pesticide usage on private properties

Convention Decision: Not Admitted for Debate