

NO: **R082**

COUNCIL DATE: **May 3, 2010**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **April 29, 2010**

FROM: **City Clerk**

FILE: **4200-01**

SUBJECT: **Local Government Election Reform Task Force**

RECOMMENDATION

The Legislative Services Division recommends that Council:

1. receive this report for information;
2. Instruct the City Clerk to advise the Local Government Election Task Force of Council's support for the following positions in relation to local government elections:
 - a. That the name of the individual, group or organization should be disclosed in relation to all third party advertising which is directly funded by that individual, group or organization consistent with Provincial and Federal legislation;
 - b. That local government campaign contributions should be made tax deductible;
 - c. That Elections BC should be responsible to play a support role in local government elections relative to enforcement of regulations and other support to local government chief election officers;
 - d. Despite recommendation 2.c., that each local government should continue to appoint a Chief Election Officer to conduct the local government election process;
 - e. That legislation should be amended to provide for a four-year term of office for local government elected officials (i.e., that local government elections be held every four years rather than every three years); and
 - f. That the "corporate vote" should not be re-established, which is consistent with the current circumstance in B.C. and is consistent with the approach taken by all other Canadian provinces.

PURPOSE

The purpose of this report is to provide Council with information about the issues that are being considered by the Local Government Election Reform Task Force and to seek Council direction with respect to the submission of comments to the Task Force.

BACKGROUND

On October 2, 2009, Premier Gordon Campbell announced a joint Task Force that was tasked with making recommendations to the Provincial government for legislative changes to improve the electoral process for B.C. local governments.

The six-member Task Force is co-chaired by the Honourable Bill Bennett, Minister of Community and Rural Development and Mr. Harry Nyce, President of the Union of British Columbia Municipalities (UBCM). The Task Force includes two UBCM executive members – Councillor Barbara Steele, Surrey Councillor and First Vice-President of UBCM and Mary Sjostrom, Mayor of Quesnel and Third Vice-President of UBCM and two provincial MLAs, Donna Barnett, MLA, Cariboo-Chilcotin and Douglas Horne, MLA, Coquitlam-Burke Mountain.

There are four Acts that govern local government elections: the *Local Government Act*; the *Community Charter*; the *Vancouver Charter* and the *School Act*. The Task Force is reviewing specific issues with the legislation within these four Acts. The topic areas that are under review include:

- Campaign finances, including contribution/spending disclosure and limits, and tax credits;
- Enforcement processes and outcomes;
- Role of the chief electoral officer (B.C.) in local government elections;
- Election cycle (term of office);
- Corporate vote; and
- Other agreed upon matters (e.g., matters raised in UBCM resolutions such as eligibility of local government volunteers to be candidates).

The Task Force has held two consultation meetings with UBCM Members and has held sessions with Area Associations as part of their spring conferences. They also have a website at <http://www.localelectionstaskforce.gov.bc.ca> that provides information about the work of the Task Force and where local governments, individuals and organizations can submit comments. The Task Force is currently meeting to review the feedback received to date and is to deliver their report to the Province of B.C. and the UBCM by May 30, 2010.

DISCUSSION

The following sections provide a brief overview of the topic areas which the Task Force is reviewing.

Campaign Financing

In BC, local government elections legislation addresses campaign contributions, campaign expenses, financial disclosure and measures for enforcement /compliance.

While there are rules about what constitutes a contribution and how contributions can be made, there are no contribution limits set out in legislation or regulations. Some of the other provinces in Canada have absolutely no campaign finance rules whatsoever and others give local governments the power to set their own rules by by-law.

Since 1993, there have been a number of resolutions that have been endorsed by the UBCM on the matter of campaign financing. They are paraphrased below:

- That local government campaign contributions be made tax deductible;
- That controls be introduced in relation to anonymous election advertising; and
- That the requirement for a campaign bank account be waived for candidates that will not be accepting any contributions toward their campaign.

With regard to these resolutions, the provincial government only acted to remove the requirement for a candidate to have a campaign bank account subject to the candidate signing a declaration that they will not be receiving campaign contributions nor paying any campaign expenses.

Issues and concerns that have been raised with respect to campaign financing include:

1. Is there sufficient disclosure and transparency around campaign financing?
 - a. There have been allegations that local government candidates have been provided with support from organizations with no clearly defined mandate or principles and which did not register or file a financial disclosure.
 - b. There is inconsistency between local governments regarding access that is provided to the public in relation to financial disclosure statements provided by candidates; some provide access to physical information at a defined location (e.g., City Hall) while others provide full access to the financial disclosures on their website.
 - c. There is a suggestion that the name of the group or organization should be disclosed on all third party advertising in support of a local government candidate or party to be consistent with the Federal and Provincial election legislation.
 - d. There is a suggestion that the Province should issue income tax deductible receipts to those making campaign contributions to local government candidates.
2. The amount of money being spent on financing campaigns is a concern:
 - a. The concern is that larger contributions leave candidates susceptible to undue influence, especially where candidates and supporters appear to violate disclosure obligations without consequence.

Recommendations:

It is recommended that Council support the following changes to legislation:

- That the name of the individual, group or organization must be disclosed on all third party advertising which is funded by that is directly funded by that individual, group or organization consistent with Provincial and Federal legislation; and
- That local government campaign contributions be made tax deductible.

Enforcement Processes and Outcomes

The enforcement of local elections rules is complex and nuanced. Enforcement is not just investigation and punishment but is one element of a continuum of measures to prevent wrongdoing. The local government's role and the Province's role is more in providing information, educational resources and advice during elections, while police services are responsible for investigation into alleged election violations. The public and campaign participants play a role in enforcement by bringing matters to the attention of the police or in certain circumstance, taking matters directly through to the courts for determination. The policing of local government elections should not be left to private citizens.

The Province establishes and maintains the legislative framework for local government elections and the Ministry of Community and Rural Development provides advice for participants in local government elections and guidance and training for local government administrators in collaboration with the Local Government Management Association. Ministry of Community and

Rural Development also monitors the issues and trends to support its role in developing amendments to elections legislation as required.

Elections BC is a Provincially-appointed entity that was established to oversee and receive and investigate inquiries and complaints regarding Provincial elections and any allegations of misconduct in relation to Provincial elections. It currently does not have any role in relation to local government elections.

Recommendation:

It is recommended that Council support a position that Elections BC should play a support role in local government elections relative to enforcement of regulations and support for local government chief election officers.

Role of Chief Electoral Officer (Elections BC) in Local Elections

In local elections, a senior staff member is appointed by the local Council as a Chief Election Officer to oversee the election process and in turn they appoint the other election officials. The perception of conflict of interest can arise in relation to the distance between politicians and election administrators. Another concern relates to a person conducting investigations and being involved in enforcement of election rules against a candidate who may be your “boss” in the context of a local Council. This is difficult since staff person serving as the Chief Election Officer also has some other permanent role within the local government administration, which reports to Council. The role that the BC Provincial chief electoral officer and Elections BC should play in local government elections should be explored. Using a neutral body may help to de-politicize enforcement decisions at the local government level and ensure consistent application of the rules across the province.

Elections BC has apparently made it clear that they do not want to play a part-role only in local elections. They have apparently advised that if they become involved, they would want to take over the local elections process.

Recommendation:

It is recommended that Council support a position that Elections BC should have a role in local government elections but that local governments continue to appoint a Chief Election Officer to conduct local elections. A locally appointed chief election officer will be in a better position to monitor local elections and provide better service to all parties involved in the election process.

Election Cycle

In BC the current term of office for regularly elected local government officials is three years. Across Canada the length of term varies between three and four years. Most recently, Saskatchewan, Manitoba, Ontario, New Brunswick and PEI changed their terms of office between elections of local government from three years to four years.

Advocates for increasing the length of term of office at the local government level argue cost savings by reducing the number of elections over time and that the extended term allows for a longer planning cycle and gives local elected officials more time to learn and conduct the duties of their office, which brings efficiency and effectiveness gains.

Opponents argue that the longer term is a barrier to participation and that they actually lead to more by-elections thus eliminating any cost savings enjoyed by the longer term. There would also be fewer opportunities to hold referenda in conjunction with general elections and less opportunity for the public to express their opinion on the performance of their local elected officials.

Recommendation:

It is recommended that Council indicate its support for a four-year term of office for local government elected officials (i.e., that local government elections be held every four years).

Corporate Vote

The “corporate vote” refers to the ability of the owners of businesses to vote in a local government election in the local government jurisdiction within the business is located. Until 1973, all corporations were eligible to vote in local government elections as there were no residency restrictions. Corporations which either owned or leased their property had an unrestricted number of votes. An individual could vote in relation to the location of their residence and in relation to as many corporations as they owned which means more than one vote was allowed within the municipality.

In 1973 the “corporate vote” was eliminated then re-established in 1976 but with a much narrower eligibility than was previously the case. An individual could only vote in relation to their business if their business premises were located outside of the community where they lived. An individual could not vote more than once in any municipality. The “corporate vote” was not re-established in Vancouver.

In 1993 there was a comprehensive review of local elections legislation and the “corporate vote” was again eliminated. This has remains the case and is consistent with the rest of Canada.

Recommendation:

Although there are arguments that could be made that it is inequitable to not allocate a vote to individuals who own businesses in but who do not live in Surrey, it is recommended that Council support a position that the “corporate vote” not be re-established, which is consistent with the approach taken by all other Canadian provinces.

Other Matters

Other matters that have been raised during the Task Force consultation process include:

- Revisiting the legislated date of local elections which is the third Saturday in November to October when the weather is more dependable and therefore may assist in encouraging a larger voter turnout.
- In current legislation, employees – paid and non-paid (such as volunteer firefighters) must resign their paid position with a local government if elected to the local Council. Rural areas would prefer that volunteers be able to continue as volunteers if elected.
- Opinions have been expressed that campaign financing rules should be applied to Other Voting Opportunities, such as voting on a by-law or other matter where elector assent is required by legislation (e.g., referenda, etc.).

CONCLUSION

Based on the above discussion, it is recommended that Council instruct the City Clerk to advise the Local Government Election Task Force of Council's support for the following positions in relation to local government elections:

1. That the name of the individual, group or organization should be disclosed in relation to all third party advertising which is directly funded by that individual, group or organization consistent with Provincial and Federal legislation;
2. That local government campaign contributions should be made tax deductible;
3. That Elections BC should be responsible to play a support role in local government elections relative to enforcement of regulations and other support to local government chief election officers;
4. Despite recommendation 2.c., that each local government should continue to appoint a Chief Election Officer to conduct the local government election process;
5. That legislation should be amended to provide for a four-year term of office for local government elected officials (i.e., that local government elections be held every four years rather than every three years); and
6. That the "corporate vote" should not be re-established, which is consistent with the current circumstance in B.C. and is consistent with the approach taken by all other Canadian provinces.

Jane Sullivan
City Clerk