



## City of Richmond

## Report to Committee

**To:** General Purposes Committee

**From:** Paul Kendrick  
City Solicitor

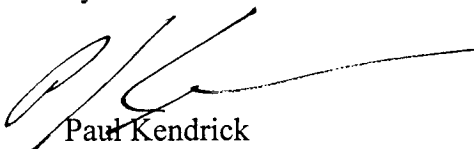
**Re:** REVISIONS TO POSITIONS ON COMMUNITY CHARTER REPORT

To General Purposes - September 3, 2002  
Date: August 27, 2002

File: 0035-02

### Staff Recommendation

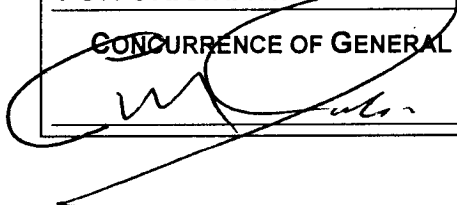
That the report of the Acting Chief Administrative Officer dated August 14, 2002, as amended, (as detailed in the attached report of the City Solicitor), be endorsed and forwarded to the Ministry of State for Community Charter, the Executive of UBCM, and the Community Charter Council after it has been reviewed and approved by Committee and before formal endorsement by Council in order to meet submission deadlines.

  
Paul Kendrick  
City Solicitor

Att. 1

FOR ORIGINATING DIVISION USE ONLY

CONCURRENCE OF GENERAL MANAGER



## Staff Report

### Origin

The Acting Chief Administrative Officer's report on Positions on the Community Charter was considered at the General Purposes Meeting of August 26, 2002. As a result of the discussion, certain amendments were suggested and this report sets out the changes made to that report. A revised report with the amendments is attached.

### Findings Of Fact

#### Revisions to Part 1.

"passive downloading" put in quotes in recommendation to make it clear that this refers to the discussion above that explains what is meant by this phrase. The words "which resources should be, at a minimum, equal to the resources the province had used to provide the service", have been added to the end of the first recommendation to give both the province and the municipalities a bench mark for the amount of resources expected to be provided.

A second recommendation has been added which asks the province to seek amendments to the Canadian Constitution that would permit the actual creation of municipalities as an order of government.

#### Revisions to Part 2.

None

#### Revisions to Part 3.

Second recommendation under (a) Animal Control revised to make it clear that the City's concern is with the power to deal effectively deal with all nuisances and not just barking dogs.

Second recommendation under (b) Building Regulations has been revised by adding the words "in the absence of other statutory provisions" to the end. This will ensure that there is not a duplication of requirements in the light of such programs as the New Home Warranty which offers a degree of protection to purchasers.

#### Revisions to Part 4.

##### (a) Annual Public Meeting and Annual Report

Comments have been revised to better explain the concerns. The recommendation is unchanged.

##### (b) Conflict of Interest

Reference to 24 months removed. Second recommendation deleted as is no longer needed. The conflict rules prohibit, except in specific cases, council members from entering in a contract with the City, or accepting a benefit from the City, (such as tax relief) until 6 months after they leave office. This seems like a reasonable restriction and no recommendation is made in this area.

(d) Nomination Fees

Comment and recommendation amended to reflect that there is a current nomination fee of \$100 in the current Local Government Act, which requirement is deleted in proposed charter.

Revisions to Part 5

(a) Role of Mayor, Council and CAO

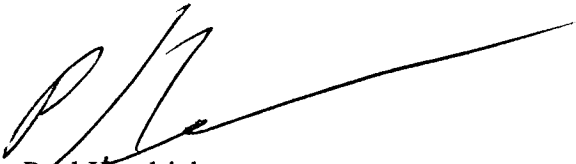
Recommendation amended to make it clear that the power of Mayor or other member of Council to direct staff is subject always to general directions given by Council

Revisions to Part 6, 7, 8 and 9.

None

**Conclusion**

The Amended Position paper be forwarded to Ministry of State for Community Charter, the executive of the UBCM and the Community Charter. It is suggested that this be done after review by the General Purposes Committee to meet the deadlines set by UBCM. The report will be forwarded to Council for formal endorsement at its meeting of September 9, 2002.

A handwritten signature in black ink, appearing to read 'Paul Kendrick', with a long horizontal line extending to the right.

Paul Kendrick  
City Solicitor

PK:pk



## City of Richmond

## Report to Committee

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**To:** General Purposes Committee  
**From:** Chuck Gale  
Acting Chief Administrative Officer  
**Re:** Positions on the Community Charter

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*To General Purposes - Sep. 3/02*  
**Date:** August 14, 2002  
**File:** 0035-02

### Staff Recommendation

That Richmond's recommendations on the Community Charter, as presented in Attachment 1 to this report, dated August 14, 2002, be forwarded to the Ministry of State of Community Charter, the Executive of UBCM, and the Community Charter Council

Chuck Gale  
Acting Chief Administrative Officer

## **Staff Report**

### **Origin**

In May 2002, the first phase of the Community Charter was released which covers the following areas: municipal powers and procedures; public participation and Council accountability measures; financial management and revenue generation; legal proceedings; bylaw enforcement and government relations. Future phases will include planning and land use as well as regional growth strategies.

In June 2002, staff forwarded a report to General Purposes Committee which highlighted some of the potential implications of the Charter to Richmond.

After having the opportunity to undertake a more thorough analysis, as well as attend a UBCM Community Charter conference and review the positions prepared by a sub-committee of the Local Government Management Association, staff have now prepared recommendations on the key provisions of the Charter to assist Council in providing a Richmond position. Once finalized, it is recommended that the positions included in Attachment 1 to this report be forwarded to the Minister of State for Community Charter, the Community Charter Council, and the executive of UBCM.

A summary of the results of the recent UBCM conference on the Charter is also attached as Attachment 2. Overall the UBCM delegates were supportive of the Charter with the exception that they want: a re-evaluation of the business tax exemption scheme; a clearer definition of the "no-downloading" commitment; better access to revenues, and a review of the Mayor, Council and Chief Administrative Officer roles.

### **Analysis**

This section of the report contains the highlights, and recommended positions for dealing with the concerns identified in each part of the Charter. For the most part, it appears that the Charter will provide a more significant degree of change for the smaller municipalities, as Richmond is already utilizing the corporate structures and many of the mechanisms contained in the Charter.

### **Part 1: Principles and Interpretation**

This first part of the Charter sets out the principles of municipal governance and municipal-provincial relations. The highlights and recommendations for this section are listed below.

(a) Order of Government - Although the Charter recognizes municipalities as an order of government, the Province has reserved itself the power to overrule actions of municipalities. In any event the Province cannot unilaterally create a new order of government and in fact would require a change to the Canadian Constitution.

(b) Municipal Rights - The Charter provides Municipalities with the capacity, rights, powers and privileges of a natural person of full capacity. This designation will assist in the area of tenders and contracts. Municipalities may now provide any service it deems desirable.

(c) Downloading- In this part of the Charter, a section is included which precludes downloading by the Province. That is, Section 2(2) c of the Charter states that “before any responsibilities are assigned to a municipality, there must be provision for resources required to fulfill the responsibilities”. As pointed out in previous staff reports, and by the UBCM conference delegates that without some clear definitions of “downloading” and “resources” municipalities will not be protected. At the conference, the delegates specifically identified the following types of downloading:

- (1) One type of increase is in fees such as Medical Services Plan and sales tax. This is a form of downloading that is not covered by Section 2(2) c.
- (2) The second type is referred to as “passive downloading”. An example being where the Province announces that it will no longer maintain landscaping adjacent to highway interchanges. The Province does not formally “assign” this responsibility to a City but the City will be expected to pick up the expenses.

#### **Recommendation**

*The Charter should clarify the definition of downloading to include “passive downloading” so that there is recognition of the impact of these actions on local governments and a mechanism is employed to recognize and alleviate the accompanying financial burdens. As well municipalities should be given the ability to determine if resources are adequate before accepting any new responsibilities which resources should be, at a minimum, equal to the resources the Province had used to provide the service.*

#### **Recommendation**

*The Province should seek concurrence of the Federal and Provincial Governments to amend the Canadian Constitution to permit municipalities to be recognized as an actual order of government.*

## **Part 2 - Municipal Purposes and General Powers**

This second part of the Charter sets out the fundamental powers municipalities need to fulfil their purposes. This is not new, except that the Charter replaces the rules for specific areas with broader fundamental powers.

(a) Regulatory Powers – Municipalities will be able to differentiate in bylaws for a number of factors such as persons, activities, time, circumstances or conditions – but would still be subject to general rules on discrimination and Canadian Charter of Rights and Freedoms. For example, Council will have the power to tailor make bylaws to handle specific problems.

### **Recommendation**

***The Charter should be amended to grant municipalities the power to prohibit types of businesses.***

**(b) Concurrent Authority** - Within the spheres of new, broad powers there are also four areas that are described as concurrent authority and require ministerial approval in order to enact bylaws in relation to these matters. Areas of concurrent authority include public health, protection of the natural environment, buildings and other structures, the removal of soil and the deposit of soil or other material. The concurrent authority may be more restrictive than what was originally envisioned in the Charter. It will depend largely upon how this is interpreted at the provincial level and requires more clarification for local governments.

The requirement to receive provincial authority to act in any of these four areas of proposed concurrent authority severely restricts the ability of local government to operate efficiently within these areas. Local government has documented cases where receipt of provincial authority can take many months.

### **Recommendation**

***The four areas of concurrent authority should be included within the general powers. As with all other general powers, the Province has paramount authority in each of these four areas and should set the Provincial standard. Each local government should be required to meet the standards in any exercise of authority. However, if the local government chooses to exceed this standard, they should have the ability to do so.***

## **Part 3 – Additional Powers & Limits on General Powers**

This section of the Charter sets out additional specific powers and limitations not covered by the fundamental powers covered in the previous section. Highlights of this section include:

**(a) Animal Controls** – General Animal regulations have been removed and appear to be replaced with a “Fundamental Power” to regulate all aspects of activities related to animals. Animal regulations and processes can be tailored to each community. This allows more latitude for a community to choose how they want to address animal issues rather than having to conform to restrictions that would be the same in all communities across British Columbia. The Charter now allows an animal control officer the ability to enter and search any place except a dwelling house, and seize a dangerous dog under certain conditions. This will provide quicker service in dire situations. A warrant is no longer required. In addition to seizure of an animal the Charter also allows Council to enact a bylaw to provide for the destruction of any animal that is suffering to a degree that cannot be otherwise reasonably addressed.

This is similar to the provisions of the Prevention of Cruelty to Animals Act (PCAA) that provides authority to the SPCA to seize and destroy for “critical distress” that cannot be relieved through medical intervention. The difference is that the PCAA requires a veterinarian opinion, while the Charter does not.

The Charter does not give the City any new powers to effectively deal with nuisances.

**Recommendation**

***The Charter should be amended to require municipalities to acquire a veterinarian opinion before destroying an animal consistent with the provisions of the Prevention of Cruelty to Animals Act (PCAA).***

**Recommendation:**

***The Charter should be amended to include effective powers to deal with nuisances.***

**(b) Building Regulations** – Division 8 of Part 3 – Building Regulations has one glaring omission. The Building Code Board of Appeal is no longer in existence. Reference is also made that there will be continuing work on the Building Regulation Liability (joint and several liability) issue. There is an opportunity to draft a bylaw to create a reserve fund to address potential water penetration claims against the City. This could be achieved by an additional fee collected with building permit issuance. The current act does not expressly deal with requiring developers and builders to obtain project insurance.

**Recommendation:**

***The Building Code Board of Appeal should be put back into the Charter. Also, the issue of joint and several liability, regardless of the opinion of the Attorney-General's Office should be included in the Charter. Joint and several liability should be outlawed and guidelines for proportional liability with time limitations should be established. It is not that municipalities want to operate with impunity, but responsibility should be proportional to the level of involvement and there should be time limits on liability (suggest 10 years) so that future citizens are not being held liable for distant past acts.***

**Recommendation.**

***The Charter be amended to make it clear that municipalities may require builders and developers to obtain project insurance in the absence of other statutory provisions.***

**(c) Partnering and Other Agreements** – With the exception of sewer services, the Charter grants the authority for P3's in the areas of public transportation, water supply, gas, electrical or other energy supply. For example, Council may enter into an agreement that grants an exclusive or limited franchise for the provision of a public transportation system. A "public transportation system" is not well defined in the current draft of the Charter. This could include public transportation components such as rail and bus services and toll roadways. Although it is unlikely that any municipality would ever consider taking over a part of or the entire transit system, the new Charter would allow a municipality to introduce a small scale service such as a neighbourhood shuttle bus catered to a specific need that is not well served by the conventional transit system.



**Recommendation:**

***The additional powers should be expanded to grant municipalities the authority to enter into partnerships for the provision of sewage services including treatment facilities in addition to the other public utilities if they desire to do so***

(d) Control and ownership of highways – All public roadways in a municipality (except for provincial highways, regional park roads, and roads under federal jurisdiction), including any statutory rights of way for drainage of a highway, are now owned by the municipality and the Provincial government may resume the roadway property or interest vested in a municipality for the purpose of a provincial highway, other transportation purpose, or a park.

The ownership of all public roadways within the City (with the above exceptions) would lie with the municipality as opposed to the Crown (provincial government). This would result in total control of these roadways by the City including the regulation of traffic and parking, closure to public use, and disposing of the right-of-way on these roadways. The Charter, however, is silent on the issue of contamination that may be present in roadbeds that are transferred to municipalities.

**Recommendation**

***The Charter should be amended to include relief for environmental liabilities that may arise from clean-up responsibilities for contaminated roadbeds transferred to municipalities through the ownership transfer of municipal highways by the Province.***

(e) Ownership of Parks – The Charter gives municipalities title to parkland dedicated by subdivision plan, however the Charter then makes dealing with that land more difficult by requiring voter assent.

(f) Additional Highways Powers– A municipal Council may require owners or occupiers of land to fence any part of it abutting on a highway. This would allow the City to require the landowner or occupier (e.g. CP Rail) to erect fencing along the perimeter of the property abutting a public roadway to address any safety and/or aesthetic concerns involving the use of a particular roadway by site-generated traffic.

(g) Closure and Removal of Highway Dedications - A Council may close or open all or part of a public road, or remove the dedication of a highway that has been closed (under certain restrictions such as undeveloped roadway as part of a subdivision, proximity to a provincial highway, adequate access to waterfront and private properties); and “Upon removing the dedication of a highway that has been closed, title to the property may be registered in the name of the municipality.” This would allow the City to register in its name any closed public roadway, which has been removed from the dedication of a public roadway. This would in turn allow the City to dispose of these properties to meet local objectives.

(h) Utility Poles – A Council may require a person who is permitted to erect poles on highways to provide reasonable accommodation on the poles for wires and equipment of the municipality on agreed terms. This would allow the City to require any person (e.g. BC Hydro, Telus) to provide space on poles erected within a public roadway for any municipal equipment (such as signs and traffic control). This may result in the reduction of the number of poles along the roadway by eliminating the need for separate municipal poles and thereby enhancing the City's streetscape.

(i) Use of Highways and Public Places – A Council may provide for the recovery of fees established for seizure of things unlawfully occupying a public roadway or space, including the sale of the thing. In addition to the removal of any unlawful objects occupying a public roadway (such as towing of an illegal parked vehicle), the City would have the authority to sell off the object in question in order to recover all or part of the fees associated with such offence.

(j) Reserve Funds – A Council may, by bylaw, establish a reserve fund for a specified purpose and direct that money be placed to the credit of the reserve fund. This could provide the City the authority to establish a special reserve fund towards the construction of major transportation projects such as the Blundell Road / Highway 99 interchange.

(k) Local service taxes - The only services that may be provided as local area services are (a) services that the Council considers provide particular benefit to part of the municipality, and (b) business improvement area services under section 198 [business improvement areas]. This could provide the City the authority to impose special taxes on benefiting property owners for transportation improvements ranging from local traffic calming measures (for local residential neighbourhoods) to major projects such as the Richmond-Vancouver rapid transit project (for area businesses).

## **Part 4 – Public Participation and Council Accountability**

The highlights of this section dealing with public participation and Council Accountability include:

(a) Annual Public Meeting and Annual Report – There is a new requirement for an annual public council meeting for the purpose of presenting an “enhanced” annual report. These additional requirements may prove to be very time consuming and costly with little benefit to the City or the public. The report must include the audited annual financial statements and an overview on municipal services and operations. Also required is an indication of Council’s intentions and objectives for the current and coming year as well as performance measures. There are currently no formalized “performance measure” but on an ongoing basis the public holds Council accountable for its actions or failure to respond to the public’s needs and Council as well holds staff accountable in a similar manner. Formalizing this procedure with a once a year public meeting would seem to be unnecessary, especially as the public expect Council to respond in a timely manner to changing circumstances which may render the published plans and performance measurements obsolete.

**Recommendation:**

***Complying with the annual reporting requirements of Section 83 will be both onerous and expensive. This requirement should be removed. Municipal records, for the most part, and particularly financial ones, are available for public inspection.***

**(b) Conflict of Interest** – The Charter contains significantly enhanced conflict of interest rules that apply to Council members and members of all other (advisory) bodies. Conflict of interest can relate to other interests, such as bias, in addition to direct or indirect pecuniary interests. It appears that it will be mandatory for Councillors to seek legal advice on potential conflict of interest issues. The Charter also states that members of Council cannot use information enter contacts nor accept benefits for six months after leaving office.

**Recommendation:**

***Rather than it being mandatory to seek legal advice on a potential conflict of interest issue, it should be up to the individual councillor to decide what advice they choose to seek, whether it be legal or otherwise. They are the ones who will have to live with the consequences if they are challenged, therefore they should be able to decide from whom or where they get their advice and be comfortable with their decision.***

**(c) Closed Meetings** – New criteria for closed meetings includes discussing of an administrative tribunal hearing affecting the municipality, negotiations and discussions relating to the provision of a new municipal service; and discussions with staff regarding objectives, measures and accomplishments relating to annual municipal reports. Staff believe that Section 75 is too restrictive, and that local governments should have ability to meet with staff, to hold retreats and discuss ideas away from the public venue.

**Recommendation:**

***Local governments should be provided with greater ability to meet with staff, to hold retreats and discuss ideas away from the public venue.***

**(d) Nomination Fees** – Municipalities currently collect a \$100a nomination fee as part of the electoral process. This is an issue for larger municipalities that have used this as a means of discouraging nuisance candidates such as “Mickey Mouse”.

**Recommendation:**

***In the interests of consistency and fairness, the authority to charge a nomination fee should remain available to all local governments and not just the City of Vancouver.***

**(e) Alternate Approval Process** – The former counter petition process has been replaced with an Alternate Approval Process with the threshold of five per cent of the number of electors now proposed to be 10 per cent.

**Recommendation:**

***It would be more appropriate to develop a percentage based on population and the smaller the population the larger the percentage of electors required as a means to address proportional fairness in the context of the alternate approval process.***

**Part 5 – Municipal Government & Procedures**

(a) Role of Mayor, Council & CAO - Section 101(2)(d) of the Charter expands the authority of the Mayor's role to include the direction and management of policies and programs. This new authority could potentially compromise the decision making process by allowing for an individual member of Council to direct activities, programs and policies outside of the Council framework. When delegates raised this issue at the UBCM conference, the Charter Council committed to review the wording of this section.

**Recommendation**

***It is recommended that the roles of the Mayor, Council and the Chief Administrative Officer in regards to the direction and management of policies and programs be clarified to avoid potential conflicts and to ensure that any actions taken by an elected official dealing with staff be within the larger Council framework.***

(b) Confidentiality - Section 102 states that Council members past or present, unless specifically authorized by Council must keep in confidence any records until the record is lawfully released to the public and keep in confidence information considered at a meeting closed to the public until Council discusses or releases information at a meeting that is open to the public.

**Recommendation**

***Section 102(b) should be reworded to require Council to pass a resolution to release information discussed in a closed session before it becomes public unless the resolution requires a direction to be acted upon involving others. This would avoid any confusion by individual Council members when general discussion about a Council initiative has occurred in a public meeting where there is some aspect of that initiative that has also required Council discussion at a closed meeting.***

(c) Requirements for Passing Bylaws

The Charter removes the special power contained in the current Local Government Act to adopt Zoning bylaws and Official Community Plan Amendment Bylaws at the same meeting at which third reading is given. All other bylaws require that there be at least a full 24 hours between third reading and final adoption.

The Charter contemplates the creation of regulations to deal with the revision of bylaws. However, staff are of the opinion that regulations would not be needed if we were given similar authority to that contained in the Statute Revision Act.

**Recommendation**

*Section 119 should be amended or transition provisions for implementing the Charter will have to deal with the special ability to adopt an Official Community Plan or Zoning Bylaw at the same meeting at which the bylaw is given third reading as contained in the current Local Government Act.*

**Recommendation**

*Section 124 should simply provide local government with the equivalent authority for revision of bylaws provided under the Statute Revision Act in relation to statutes rather than having to wait for a regulation.*

**Part 6 – Financial Management**

The sixth part of the Charter provides a financial management framework. The highlights and recommendations for this section are as follows:

(a) Borrowing Power - Provisions are provided which enable Council to borrow money to meet current lawful expenditures and taxing obligations.

**Recommendation**

*The revenue formula for calculating borrowing power should contemplate excluding revenue from unusual or potentially volatile sources.*

**Recommendation**

*The long term borrowing process should be simplified to require the creation of only one borrowing bylaw with one point of approval from the Ministry, that can cover multiple items that can be drawn on as required by the municipality via Council resolutions.*

(b) Use of Money in Reserve Funds - Section 172(2) of the Charter states that, “If the amount to the credit of a reserve fund is greater than required for the purpose for which the fund was established, the Council may, by bylaw, transfer all or part of the amount to another reserve fund.”

### **Recommendation**

*Section 172(2) should clarify what is required to establish “if the amount to the credit of a reserve fund is greater than required for the purpose for which the fund was established.” This section should also establish that Council can “simply change their priorities”, and transfer the then surplus reserve funds to another reserve, subject to approval by Minister under exceptional circumstances.*

*The restriction that excess capital reserve funds can only be transferred to another capital reserve fund, should be exempted subject to Minister approval under exceptional circumstances.*

**(c) Five Year Financial Plans** - This subsection sets out guidelines for the development of five-year financial plans.

### **Recommendation**

*The requirements for the five-year financial plan format should be reviewed to ensure that it fits in the best possible manner with the requirements of the PSAB (Public Sector Board Accounting) prepared financial statements and municipal budgets in order to avoid duplication of work.*

## **Part 7 - Municipal Revenue**

**(a) Revenue Sources** - Traditional financial tools for raising funds, such as property taxes and fees, are provided in this section of the Charter. The Community Charter Council have indicated that more work is needed to determine what additional revenue sources will be included in the Charter. Some of the possible additional sources include: road tolls, hotel room tax; fuel tax; local entertainment tax; resort tax; parking stall tax; and local service taxes. Outside of the Charter, the Province is also looking at transferring 75 per cent of traffic revenues back to municipalities.

### **Recommendation**

*The Charter currently does not provide any new significant revenue sources for municipalities. It is crucial that the final version of the Charter does. However, it is doubtful that there is an appetite for additional taxes and charges to offset some of the hard or soft downloading that could potentially occur. Potential revenue sources should not justify downloading. The new sources of revenue should represent a share of existing Provincial sources so that a further burden is not placed on citizens and also have relatively low implementation and administrative costs. A commitment by the Province to vacate the property tax area as a source of revenue, or at a very minimum to not erode this revenue source further is strongly desired.*

**Recommendation**

*The Provincial Home Owner Grant should be removed from the property tax process as it creates a heavy administrative load on the City with absolutely no benefit to the City.*

**Recommendation**

*That the tax deferment plan for seniors include the ability to defer municipal utility payments as well as property taxes, to enable the City to more accurately set utility rates without causing hardships to seniors.*

**Recommendation**

*The requirement that all fees must be set by bylaw should be softened to allow Council to specify by bylaw either certain types of fees, or fees under certain dollar amounts (set by regulation), that can be set and changed by designated staff.*

(b) Court of Revision - While some of the rules for parcel taxes are simplified, the procedure around "courts of revision" still appears overly bureaucratic.

**Recommendation**

*The procedure for the Court of Revision should be simplified. The legislation should specifically state that section 12 of the Charter applies to parcel taxes, fees and charges, allowing a different parcel tax to be established based on different classes of persons, places, activities, and/or things.*

(c) Business Tax Exemptions - During the consultation process on the Community Charter Discussion Paper in 2001, mixed reactions were received regarding property tax exemptions for certain types of industrial enterprises.

The major features of the business tax exemption scheme as detailed in the Charter, is as follows:

- municipalities can provide certain businesses with a property tax break;
- eligible businesses are industrial enterprises that are: new to B.C.; undertaking significant expansion, or are facing unusual economic difficulties;
- the municipality could enter into an agreement with the property owner dealing with the terms and conditions of the exemption, and
- the terms and conditions could include commitments as to investment, employment and repaying taxes, should the agreed terms and conditions be violated.

Given the mixed response to the discussion paper on this provision, the Community Charter Council decided to include a business tax exemption scheme in the draft Charter, but also recommended that the Province undertake further consultations.

A strong majority (71%) of the delegates at the UBCM conference indicated that they do not support business Tax exemptions. The position paper put forth to the Province by the Local Government Management Association (LGMA) also recommends against business tax exemptions.

Although business tax exemptions could potentially help attract new businesses, staff believe that it could be viewed as the “race to the bottom” pitting one municipality against another. The proposed scheme could also cause a significant backlash with existing businesses.

**Recommendation**

***That the expansion of powers in Section 209 respecting business tax exemptions to industrial businesses to foster economic development not be supported.***

(d) Non-Profit Tax Exemptions - Broader authority is included in the Charter for municipalities to provide tax exemptions to non-profit organizations. Staff agree with the concerns raised by the Local Government Management Association (LGMA) that municipalities will come under pressure to expand tax exemptions. Once a tax exemption is provided, it will be very difficult to discontinue it.

**Recommendation**

***The provision of broader authority to provide tax exemptions for non-profit organizations contained in Section 207 is not supported because it could lead to pressures being placed on Councils to expand this area.***

(e) Tax Exemptions / Leased Crown Land - The Vancouver Charter contains a specific clause that exempts properties leased by the city and used as parkland. Staff believe that a similar clause should be added to the Charter.

**Recommendation**

***That Charter should include a specific clause that states that land or improvements leased by a municipality from the Crown and used for a municipal purpose should be exempt from property taxation.***

**Part 8 – Bylaw Enforcement**

Part 8 of the Charter deals with Bylaw Enforcement. The changes in this section of the Charter are not significant other than maximum fines being increased for all bylaw infractions (should Council decide to include such a maximum to \$10,000). Clarification on the ability of a community to increase the penalty values on parking tickets, whether they be Municipal Ticket Information's (i.e. MTI's) or Bylaw Notices of Violation, is required. The impression that the community can set their own rate or fine, levels without having to receive the Chief Judge's approval is given. This would appear to be a benefit.



Although not in the Charter at this time, two other proposals that are being considered in the Bylaw Enforcement area are Municipal Bylaw Courts and a less formal administrative process which would be used for resolving disputes referred to as Local Government Bylaw Forums.

**Recommendation**

***There no action be taken on the creation of courts or forums for the purpose of bylaw enforcement without adequate consultation with municipalities.***

**Part 9 – Governmental Relations**

This section of the Charter includes guidelines for the relationship between local governments and between local governments and the Province. Although the intent of builder stronger relationships is supported, staff believe that municipalities should have the ability to negotiate directly with the Province. There appears to be a conflict in an “order of government” not being able to directly negotiate with the provincial government. As well the City should not be bound by negotiations undertaken by a third party such as the UBCM in which the City has no effective input.

**Recommendation**

***Individual Municipalities must have the ability to negotiate directly with the Province without the intervention of UBCM or a Community Charter Council.***

**Conclusion**

This report provides Richmond positions on the various sections of the Community Charter. A summary of the recommendations is included on Attachment 1 to this report.

  
for Lauren Melville  
Manager – Policy & Research

# **Attachment 1: Summary of Recommendations**

## **PART 1 – Principles and Interpretation**

### **RECOMMENDATION**

The Charter should clarify the definition of downloading to include “passive downloading” so that there is recognition of the impact of these actions on local governments and a mechanism is employed to recognize and alleviate the accompanying financial burdens. As well municipalities should be given the ability to determine if resources are adequate before accepting any new responsibilities which resources should be, at a minimum, equal to the resources the Province had used to provide the service.

### **RECOMMENDATION**

The Province should seek concurrence of the Federal and Provincial Governments to amend the Canadian Constitution to permit municipalities to be recognized as an actual order of government.

## **Part 2 – Municipal Purposes and General Powers**

### **RECOMMENDATION**

The Charter should be amended to grant municipalities the power to prohibit types of businesses.

### **RECOMMENDATION**

The four areas of concurrent authority should be included within the general powers. As with all other general powers, the Province has paramount authority in each of these four areas and should set the Provincial standard. Each local government should be required to meet the standards in any exercise of authority. However, if the local government chooses to exceed this standard, they should have the ability to do so.

## **Part 3 – Additional Powers and Limits on General Powers**

### **RECOMMENDATION**

The Charter should be amended to require municipalities to acquire a veterinarian opinion before destroying an animal consistent with the provisions of the Prevention of Cruelty to Animals Act (PCAA).

### **RECOMMENDATION**

The Charter should be amended to include effective powers to deal with nuisances.

### **RECOMMENDATION**

The Building Code Board of Appeal should be put back into the Charter. Also, the issue of joint and several liability, regardless of the opinion of the Attorney-General's Office should be included in the Charter. Joint and several liability should be outlawed and guidelines for proportional liability with time limitations should be established. It is not that municipalities want to operate with impunity, but responsibility should be proportional to the level of involvement and there should be time limits on liability (suggest 10 years) so that future citizens are not being held liable for distant past acts.

### **RECOMMENDATION**

The Charter be amended to make it clear that municipalities may require builders and developers to obtain project insurance in the absence of other statutory provisions.

### **RECOMMENDATION**

The additional powers should be expanded to grant municipalities the authority to enter into partnerships for the provision of sewage services including treatment facilities in addition to the other public utilities if they desire to do so.

### **RECOMMENDATION**

The Charter should be amended to include relief for environmental liabilities that may arise from clean-up responsibilities for contaminated roadbeds transferred to municipalities through the ownership transfer of municipal highways by the Province.

## **Part 4 – Public Participation and Council Accountability**

### **RECOMMENDATION**

Complying with the annual reporting requirements of Section 83 will be both onerous and expensive. This requirement should be removed. Municipal records, for the most part, and particularly financial ones, are available for public inspection.

### **RECOMMENDATION**

Rather than it being mandatory to seek legal advice on a potential conflict of interest issue, it should be up to the individual councillor to decide what advice they choose to seek, whether it be legal or otherwise. They are the ones who will have to live with the consequences if they are

challenged, therefore they should be able to decide from whom or where they get their advice and be comfortable with their decision.

#### **RECOMMENDATION**

Local governments should be provided with greater ability to meet with staff, to hold retreats and discuss ideas away from the public venue.

#### **RECOMMENDATION**

In the interests of consistency and fairness, the authority to charge a nomination fee should remain available to all local governments and not just the City of Vancouver.

#### **RECOMMENDATION**

It would be more appropriate to develop a percentage based on population and the smaller the population the larger the percentage of electors required as a means to address proportional fairness in the context of the alternate approval process.

### **Part 5 – Municipal Government and Procedures**

#### **RECOMMENDATION**

It is recommended that the roles of the Mayor, Council and the Chief Administrative Officer in regards to the direction and management of policies and programs be clarified to avoid potential conflicts and to ensure that any actions taken by an elected official dealing with staff be within the larger Council framework.

#### **RECOMMENDATION**

Section 102(b) should be reworded to require Council to pass a resolution to release information discussed in a closed session before it becomes public unless the resolution requires a direction to be acted upon involving others. This would avoid any confusion by individual Council members when general discussion about a Council initiative has occurred in a public meeting where there is some aspect of that initiative that has also required Council discussion at a closed meeting.

#### **RECOMMENDATION**

Section 119 should be amended or transition provisions for implementing the Charter will have to deal with the special ability to adopt an Official Community Plan or Zoning Bylaw at the same meeting at which the bylaw is given third reading as contained in the current Local Government Act.

## **RECOMMENDATION**

Section 124 should simply provide local government with the equivalent authority for revision of bylaws provided under the Statute Revision Act in relation to statutes rather than having to wait for a regulation.

## **Part 6 – Financial Management**

### **RECOMMENDATION**

The revenue formula for calculating borrowing power should contemplate excluding revenue from unusual or potentially volatile sources.

### **RECOMMENDATION**

The long term borrowing process should be simplified to require the creation of only one borrowing bylaw with one point of approval from the Ministry, that can cover multiple items that can be drawn on as required by the municipality via Council resolutions.

### **RECOMMENDATION**

Section 172(2) should clarify what is required to establish “if the amount to the credit of a reserve fund is greater than required for the purpose for which the fund was established.” This section should also establish that Council can “simply change their priorities”, and transfer the then surplus reserve funds to another reserve, subject to approval by Minister under exceptional circumstances.

The restriction that excess capital reserve funds can only be transferred to another capital reserve fund, should be exempted subject to Minister approval under exceptional circumstances.

### **RECOMMENDATION**

The requirements for the five-year financial plan format should be reviewed to ensure that it fits in the best possible manner with the requirements of the PSAB (Public Sector Board Accounting) prepared financial statements and municipal budgets in order to avoid duplication of work.

## **Part 7 – Municipal Revenue**

### **RECOMMENDATION**

The Charter currently does not provide any new significant revenue sources for municipalities. It is crucial that the final version of the Charter does. However, it is doubtful that there is an appetite for additional taxes and charges to offset some of the hard or soft downloading that could potentially occur. Potential revenue sources should not justify downloading. The new sources of revenue should represent a share of existing Provincial sources so that a further burden is not placed on citizens and also have relatively low implementation and administrative costs. A commitment by the Province to vacate the property tax area as a source of revenue, or at a very minimum to not erode this revenue source further is strongly desired.

### **RECOMMENDATION**

The Provincial Home Owner Grant should be removed from the property tax process as it creates a heavy administrative load on the City with absolutely no benefit to the City.

### **RECOMMENDATION**

That the tax deferment plan for seniors include the ability to defer municipal utility payments as well as property taxes, to enable the City to more accurately set utility rates without causing hardships to seniors.

### **RECOMMENDATION**

The requirement that all fees must be set by bylaw should be softened to allow Council to specify by bylaw either certain types of fees, or fees under certain dollar amounts (set by regulation), that can be set and changed by designated staff.

### **RECOMMENDATION**

The procedure for the Court of Revision should be simplified. The legislation should specifically state that Section 12 of the Charter applies to parcel taxes, fees and charges, allowing a different parcel tax to be established based on different classes of persons, places, activities, and/or things.

### **RECOMMENDATION**

That the expansion of powers in Section 209 respecting business tax exemptions to industrial businesses to foster economic development not be supported.

### **RECOMMENDATION**

The provision of broader authority to provide tax exemptions for non-profit organizations contained in Section 207 is not supported because it could lead to pressures being placed on Councils to expand this area.

### **RECOMMENDATION**

That Charter should include a specific clause that states that land or improvements leased by a municipality from the Crown and used for a municipal purpose should be exempt from property taxation.

## **Part 8 – Bylaw Enforcement**

### **RECOMMENDATION**

There be no action taken on the creation of courts or forums for the purpose of bylaw enforcement without adequate consultation with municipalities.

## **Part 9 – Governmental Relations**

### **RECOMMENDATION**

Individual Municipalities must have the ability to negotiate directly with the Province without the intervention of UBCM or a Community Charter Council.