



To: General Purposes Committee

Date: November 25, 2010

From: David Weber
Director, City Clerk's Office

File: 12-8125-01/2010-Vol
01

Re: **Comments to UBCM on the Implementation of Expense Limits and Other
Recommendations of the Local Government Elections Task Force**

Recommendation

- 1) That UBCM be advised that Richmond City Council:
 - a) supports the key elements and general approach to the establishment of expense limits as described in the BC government paper titled "Implementing Recommendations of the Local Government Elections Task Force: Expense Limits 2011;"
 - b) supports the general concept of a ban on anonymous election campaign contributions as described in the BC government paper titled "Implementing Recommendations of the Local Government Elections Task Force: Anonymous Contributions 2011," but is concerned that the implementation of a ban could more acutely impact those who mount modest fundraising campaigns, particularly in smaller communities;
 - c) supports generally an enhanced approach to transparency with regard to disclosure laws and supports specifically an amendment to the legislation that requires the disclosure of campaign contributor's names such that the requirement to disclose would be triggered with a \$50 donation as opposed to the current rule where the requirement is triggered only for donations of \$100 or more;
 - d) supports the enhancements to transparency for election advertising as described in the BC government paper titled "Implementing Recommendations of the Local Government Elections Task Force: Election Advertising Sponsorship Information 2011;" and
- 2) That a letter be sent to the Provincial Government with a copy to UBCM, reiterating Richmond City Council's previous position and support for a change to a four year term of office for local government elected officials.

David Weber
Director, City Clerk's Office
(604-276-4098)

Att. 3

FOR ORIGINATING DEPARTMENT USE ONLY		
CONCURRENCE OF GENERAL MANAGER		
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> <i>WJ</i>	NO <input type="checkbox"/>
REVIEWED BY CAO	YES <input checked="" type="checkbox"/> <i>WJ</i>	NO <input type="checkbox"/>

Staff Report

Origin

On May 28, 2010, following a period of intensive public consultation, the Local Government Elections Task Force submitted its report to the Provincial Government along with its 31 recommendations for change to the legislation governing local government elections in BC (See **Attachment 1** for a listing of the 31 Task Force recommendations). The Provincial Cabinet subsequently endorsed the Task Force recommendations for implementation prior to the local government elections in 2011. Legislation which would bring the recommendations into affect is anticipated during the coming spring session of the Legislature.

During the Task Force public consultation process in early 2010, Council asked staff to review the issues with a working group of Council members (Mayor Brodie, Councillor Barnes and Councillor G. Halsey-Brandt) for the purposes of developing a Council submission to the Task Force. Richmond Council's submission to the Task Force was approved at the April 12, 2010 Regular Council meeting (See **Attachment 2** for Council's resolutions).

Even though the Task Force recommendations and Council's submission addressed a broad range of election-related matters, UBCM recently requested in a letter dated November 17, 2010 (**Attachment 3**), that its members make further comment on the specific issue of campaign expense limits and the potential approaches for establishing expense limits currently being developed. In the letter, reference was also made to a BC government web page where three implementation papers were published on the specific topics of expense limits, anonymous contributions and election advertising sponsorship information. The Council Working Group recently met with staff to discuss these three implementation papers with a view to making a recommendation to Council for further comment to UBCM on the subject.

Analysis

The following is a summary of the three implementation papers along with the comments of the Council Working Group.

Expense Limits

Currently there are no expense limits in relation to local government election campaigns.

Based on the recommendation of the Task Force, the BC government is currently working toward the implementation of expense limits on local government campaign participants (candidates, elector organizations and third party advertisers). In making its recommendations to the government, the Task Force highlighted that:

- Expense limits must be high enough to allow reasonable campaigns but not so high that just a few will dominate election discourse.
- Expense limits need to work in different sized communities.
- Expense limits should have a neutral effect on decisions to establish or run with elector organizations.

Following further collaboration with UBCM and a detailed analysis of recent campaign spending trends, the following considerations were identified by the BC government as key toward establishing an approach to expense limits:

- Expense limits need to apply to all campaign participants (candidates, elector organizations and third party advertisers).
- Expense limits aim to ensure accessibility of local elected office into the future by preventing campaign spending from increasing to the point where few can afford to run for elected office.
- Expense limits for candidates need to be formula-based to offer the flexibility to respond to different community sizes and to the growth of communities over time.
- Expense limits for candidates need to have a common starting point or a “base amount” in order to ensure that everyone would be able to mount a reasonable campaign, regardless of where they run for office. In other jurisdictions with expense limits, the base amounts range from \$2,700 to \$10,000.
- In addition to a “base” starting point, amounts based on population would reflect the diversity of community sizes found in BC. Based on the analysis of recent election campaign spending, different per capita amounts for specified population groupings may be an appropriate way to add to the base starting point.
- Mayoral candidates need a higher expense limit.
- Expense limits for elector organizations should be “party neutral” and the decision to affiliate with an elector organization should not allow candidates to “double up” their applicable expense limit.
- Expense limits need to account for the unique nature of third party advertisers who may organize regional or province-wide campaigns. For third party advertisers, it may be necessary to establish expense limits per municipality as well as province-wide maximums.

Working Group Comments:

The Richmond Council Working Group supported the key elements presented in the implementation paper on expense limits and found the general approach to be reasonable and fair. It was also noted that the proposed approach was consistent with Council’s original submission to the Task Force which supported the establishment of expense limits provided that parity between individual candidates and elector organizations was maintained.

Anonymous Contributions

Currently, candidates and elector organizations may accept anonymous contributions up to \$50. In terms of transparency, the total amount of anonymous contributions received and the number of contributors making anonymous donations must be reported on the campaign financing

disclosure statements. Any anonymous contributions received over \$50 must be turned over to the local government.

Based on the Task Force recommendations, the BC government is currently working toward the implementation of a complete ban on anonymous contributions. The implementation paper on anonymous contributions clarifies the following points:

- A ban on anonymous contributions would not automatically mean that all contributor's names would have to be disclosed since the current rules stipulate that only contributors who donate amounts over \$100 are to be identified on campaign financing disclosure statements.
- With regard to fundraising activities such as "passing the hat" at an event or setting up a donation box, these activities could still be undertaken provided that the source of the funds so donated were recorded by the financial agent.
- The typical requirement in other jurisdictions where a ban on anonymous contributions applies is for those funds to be turned over to the local government. BC currently has a similar rule in relation to anonymous contributions over \$50.

Working Group Comments:

Council did not previously submit comments to the Task Force on the subject of anonymous contributions. However, even though the Working Group supported the general concept of banning all anonymous donations in its recent discussion, there was concern that the impact of a ban could make specific kinds of fundraising activities overly onerous to administer, to the point where they would likely be too impractical in many instances. For example, a 50/50 draw or "passing the hat" under an anonymous contribution ban would require that the source of each donation (each 50/50 ticket sold and each donation dropped into the hat) no matter how small, be documented as it is received. Given the additional documentation requirements, many would likely opt not to undertake such fundraisers.

In addition, if such fundraisers fell out of favour due to overly onerous administrative requirements, it was thought that the impact would likely be felt more acutely in smaller communities where campaigns are generally smaller and where small-scale event-based fundraising activities such as those mentioned above could account for most, if not all of the relatively low total amounts raised during a campaign.

As alternatives to a total ban on anonymous contributions, the Working Group discussed the possibility of: (a) establishing a lower threshold for anonymous contributions; (b) establishing a cap on total anonymous contributions that could be received by any one candidate; and/or (c) permitting anonymous contributions only in the context of certain types of fund-raising activities. Although none of these suggestions were explored in great depth, it was also noted that by creating complex exceptions to the rules, the process of preparing disclosure statements could become even more onerous and confusing, transparency would suffer and enforcement would likely be made even more difficult. At the conclusion of the discussion, there was a sense that even though there was general support for the increased transparency that would be realized

through the implementation of a total ban on anonymous contributions, there was also a sense that if you could no longer “just pass the hat” at a fundraising event, then perhaps the rule had gone too far.

Regardless of whether a ban were implemented or not, the Working Group felt that it would improve transparency if the rule that required the disclosure of contributor’s names was amended such that the requirement to disclose would be triggered with a \$50 donation as opposed to the current rule where the requirement is triggered only for donations of \$100 or more.

Election Advertising Sponsorship Information

Currently, the only rules around election advertising are the prohibition on election day advertising and the placement of election signage within 100 metres of a voting place. There are no rules requiring the disclosure of the election advertising sponsors. This lack of regulation has been problematic in the past, especially in the case of third party advertisers who support or oppose specific campaigns. In working toward the implementation of new advertising transparency rules, the BC government is suggesting that all advertising and signage should include:

- the name and contact information of the advertising sponsor; the name and contact information of the financial agent for candidates and elector organizations;
- a statement that the advertisement is authorized by the sponsor or financial agent; and
- sponsorship information appearing in English and in the language of the advertisement.

The new rules would apply to signs, pamphlets, newspaper advertisements, radio ads, etc., but buttons or bumper stickers would likely be exempt due to their small size.

Working Group Comments:

The information provided on election advertising sponsorship is consistent with Council’s previous comments to the Task Force, therefore the Working Group supported the general approach being taken and had no further comment on the subject.

Local Government Term of Office

Although UBCM did not request comment on the subject of term of office in its recent letter, the Working Group discussed the issue and recounted how the resolution to endorse the extension to a four year term of office had failed at the UBCM convention in the fall of 2010 even though the Task Force had recommended moving to a four year term following their public consultation process. It was also noted that the Metro Vancouver Board had recently resolved to write a letter to the Provincial Government requesting that they adopt the Task Force recommendation of a four year term for local government elected officials. Given that there may be no further opportunities for input on the Election Task Force recommendations before legislation is tabled in the spring session, there was a sense that it may be fitting to reiterate Richmond Council’s position that moving to a four year term of office is preferred.

Financial Impact

There is no financial impact to the City.

Conclusion

Having reviewed the BC government implementation papers on the subjects of expense limits, anonymous contributions and election advertising sponsorship information, the Working Group was generally supportive and comfortable with the key elements and approaches currently being developed, with some concern with the practical impacts that the anonymous contribution ban might have on certain types of fund-raising activities and on campaigns where relatively low amounts are raised. In addition, the Working Group wished to reiterate and remind the BC government and UBCM of its previous position on the subject of term of office. These comments and suggestions will assist UBCM and the BC government as they move toward implementing new rules and enhancements to transparency for local government elections in BC.



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Appendix 1: Summary of Recommendations by Topic Area

Campaign finance

Expense limits

- Implement expense limits for all campaign participants (e.g. candidates, elector organizations and third party advertisers)
- Development of the expense limits should be guided by some key considerations:
 - Expense limits should be high enough for campaign participants to mount reasonable campaigns and express their views, but not so high as to allow a few participants to dominate election discourse
 - Expense limits need to work in different-sized communities (i.e. formula cannot be based only on an amount per number of electors or population)
 - Expense limits for elector organizations should have a neutral effect on decisions to create elector organizations or not (i.e. formula should be based on the number of candidates supported)

Contribution limits

- Ban anonymous contributions
- Do not implement general contribution limits or restrictions

Election Advertising

- Require all election advertising to disclose who sponsored (paid for) the advertising
- Sponsorship information should be in English and the language of the advertisement
- Make it an offence to publish ads without required sponsorship information
- Explore establishing some automatic (administrative) penalties in relation to election advertising (e.g. for failing to comply with the proposed requirement for advertising to include sponsorship information)

Third party advertisers

- Establish that third party advertisers must register and must disclose what they spent on ads and who contributed to them (possibly for advertising expenditures over a certain threshold)
- Prohibit advertising by unregistered third parties
- Explore establishing some automatic (administrative) penalties for failure to comply with third party advertising rules, such as exceeding expense limits or failing to file a disclosure statement.

- Continue to regulate people or organizations (currently referred to as “campaign organizers”) that undertake election campaigns that support (or operate in place of) a candidate or elector organization’s campaign and conduct political activity such as collecting campaign contributions.

Other voting (referendums)

- Apply “third party advertising” rules for election campaigns to referendums by requiring
 - individuals and groups taking out referendum-related advertisements to register
 - advertisements to include sponsorship information
 - disclosure of contributions received and expenses incurred by registered third party advertisers to be made after the referendum

Public Financing

- Do not implement public financing (tax credits or rebates for campaign contributions or campaign expenses)

Campaign finance disclosure

- Require campaign finance disclosure statements to be submitted no later than 90 days after general voting day
- Require campaign finance disclosure information to be published online and made centrally accessible through Elections BC
- Develop standard campaign finance disclosure statement forms
- Require local governments to use best efforts to provide notice of the remaining 30 day late filing period to those candidates who have not filed at the end of initial filing period
- Make the rules for disclosing volunteer and candidate “in kind” contributions consistent with the provincial rules

Separate Act

- Establish a separate Act dealing with campaign finance rules in local elections

Enforcement processes and outcomes

Roles and responsibilities of local Chief Elections Officers (CEOs)

- Provide local Chief Election Officers with additional powers for enforcement during the campaign; for example, to
 - enforce rules against election-day advertising (e.g. provide clear authority for Chief Election Officers to enter on private property to remove unauthorized campaign signs on election day)
 - seek injunctions in order to enforce rules, such as stopping unauthorized advertising

- Clarify the status of the local Chief Election Officer by statutorily establishing that position as impartial

Offence Act

- Override *Offence Act* limitation for investigation of an alleged local elections offence, extending it to one year instead of the current six months
- Specify that the one year period starts from when the alleged contravention is brought to the attention of local elections administrators enforcers

Candidate responsibilities

- Require candidates to make a solemn declaration when filing nomination papers, attesting that the candidate understands the requirements for running for office; for example, requirements to
 - appoint a financial agent
 - open a separate bank account for campaign finances
 - file a campaign finance disclosure statement within 90 days
 - meet eligibility criteria

Role of the provincial Chief Election Officer

- Establish a key role for Elections BC in enforcing campaign finance rules in local elections, focusing on:
 - Publication and compliance review of campaign finance disclosure statements;
 - Provision of guidance on campaign finance rules during elections;
 - Response to campaign finance queries and complaints after elections;
 - Management of preliminary investigations and, when required, referral to the appropriate law enforcement bodies.
- Continue a role for local government in enforcing campaign finance rules, focusing on local Chief Election Officers as frontline contacts and responders on certain compliance issues that arise during a campaign.
- Build mechanisms to clearly define the responsibilities and relationships of those involved in campaign finance enforcement; support collaborative development of training and education materials, standard forms and provision of guidance; and provide Elections BC and local governments with the authority they need to effectively fulfil their roles.

Election cycle

- Extend the term of office for local elected officials to four years

Corporate vote

- Do not establish a corporate vote
- The Task Force recommends exploring non-electoral approaches to addressing the concerns of businesses. Local governments and businesses have shared interests in ensuring a competitive property tax climate to encourage investment and support a sustainable, strong and diversified tax base for communities. The Task Force recommends that the UBCM, the Province and business groups work together to recognize the issues expressed to the task force, and to encourage effective local ways to engage with business, further strong relationships and foster a competitive business climate.

Other agreed upon matters

Candidate eligibility of employees

- Clarify that volunteers who receive no direct monetary compensation are not considered to be “employees” for the purposes of determining eligibility to run for, and hold, elected office while continuing to volunteer

Education and advice

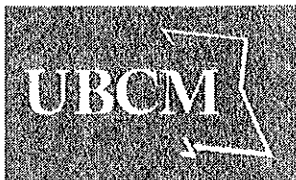
- Strengthen commitment to collaborative local elections education
 - Establish a more formal process for guiding development of elections education
 - Involve more participants - organizations such as LGMA, UBCM, Elections BC, Ministries of Education and Community and Rural Development and LGLA.
 - Ensure all involved commit staff and/or financial resources to education and advice
- Provide education and advice
 - On **new topics** resulting from implementation of Task Force recommendations (e.g. third party advertising rules)
 - For **new audiences** (e.g. candidates’ financial agents, third party advertisers, other campaign participants)
 - In **new ways** (e.g. webinars, “candidate schools,” advice line for election administrators on general voting day)
- Enhance education and advice in a phased approach
 - Focus first on materials to assist in understanding of new rules, roles and responsibilities for the 2011 elections
 - Expand to cover other issues based on feedback from 2011 elections

Richmond City Council Resolutions
for Submission to the BC Local Government Elections Task Force
(April 12, 2010)

- (1) *That in response to the January 29, 2010 request for comments on specific election-related topics, the Local Government Elections Task Force be advised that Richmond City Council:*
- (a) *supports moving toward a four year election cycle for local government elections, provided that the time frame during which a council may decide that a by-election is not to be held is extended;*
 - (b) *does not support the reinstatement of the corporate vote;*
 - (c) *does not support the concept of election campaign expenses being reimbursed from public funding sources;*
 - (d) *supports the implementation of a system of tax benefits for contributors to local government election campaigns, provided that the source of funding for such a system comes from provincial income taxes, as the funding from other taxation sources, such as property taxes, would be impractical as many voters are not property owners; however, if the source of funding cannot come from provincial income taxes, that no tax benefit system be implemented at all;*
 - (e) *supports, in relation to the topic of third party advertising,*
 - (i) *legislative changes that would require all election advertising to include a statement which identifies the sponsor of local election campaign ads, whether sponsored by a candidate, elector organization or by a third party;*
 - (ii) *a change to the term "campaign organizer" to a more understandable term such as "third party advertiser;" and*
 - (iii) *a province-wide public education campaign outlining the responsibilities and obligations of third party advertisers once they become active in local government elections; and*
 - (f) *supports expanded election enforcement provisions, including new powers of investigation and enforcement, and that the provincial chief electoral officer be made responsible for exercising these new powers on behalf of the public in relation to local government elections;*
 - (g) *supports the establishment of limits on election expenses / election campaign spending, provided that the disparity between individual candidates and elector organizations be addressed;*

- (h) *does not support the establishment of:*
 - (i) *restrictions on who can contribute to election campaigns; and*
 - (ii) *limits on the amount that can be contributed by any single source;*
- (2) *That the following election-related recommendations be submitted to the Local Government Elections Task Force for consideration:*
 - (a) *That the Provincial Government address the legislated disparity and unequal treatment of independent candidates versus elector organization endorsed candidates with a view to establishing one set of rules for the disposition of surplus election campaign funds that would apply to all;*
 - (b) *That electors be required to prove their identity and residential address by presenting identification prior to receiving a ballot at a local government election voting opportunity, provided that solemn declarations or "vouching" could be used to accommodate people of no fixed address or people who may not have adequate identification;*
 - (c) *That the signature requirement for local government election advance elector registration be eliminated so that local governments may explore the implementation of on-line and phone-in municipal voter registration mechanisms;*
 - (d) *That the Local Government Act provide for the possibility of voting by electronic means and establish the parameters and requirements for an electronic voting system;*
 - (e) *That local governments be permitted to establish, by bylaw, whether the non-resident property elector registration process will be available at every voting place or whether it will be available only at the Election Office, provided that such registration opportunity is available at the Election Office during regular office hours, during all advance voting opportunities, and until the close of voting on General Voting Day;*
 - (f) *That the apparent discrepancy in the reporting period for election expenses and contributions be addressed and clarified;*
 - (g) *That the requirement to record in a campaign financial disclosure the names and addresses of two directors or principals of contributing numbered companies or unincorporated organizations be considered satisfied if the information is otherwise publicly available;*
 - (h) *That campaign financial disclosures emphasize the net financial benefits flowing from fund-raisers, with the gross costs (expenses) and gross price of tickets sold (contributions) disclosed in a separate schedule which reports the overall net financial benefit of the fund-raiser as part of the main campaign financing disclosure document;*

- (i) *That the timing for the processing and receipt of mail-in ballots be reviewed with a view to possibly extending or otherwise providing a longer period of time for the receipt of mail-in ballots so that rigid timelines do not pose an undue restriction on the voting opportunity afforded to electors who are away from the municipality and who choose to vote by mail-in ballot;*
- (j) *That the period between the end of the nomination period and General Voting Day be shortened to 28 days;*
- (k) *That the City ask the Provincial government to streamline and clarify the requirements of disclosure documents that must be submitted annually under the Financial Disclosure Act (and that form part of the election nomination documents); and*
- (l) *That the campaign financing disclosure requirements regarding in-kind contributions be clarified.*



MEMBER RELEASE

November 17, 2010

TO: Mayors, Chairs and Administrators
FROM: Union of BC Municipalities
RE: **Ministry Website on Implementation of the Elections Task Force
 Recommendations: Campaign Expense Limits**

The Ministry of Community, Sport & Cultural Development has launched a webpage to highlight some of the key recommendations of the Local Government Elections Task Force and to provide information on how the recommendations may affect candidates and others who participate in local elections. The webpage includes questions and answers on a number of topics, including information on the development of campaign expense limits for future local government elections.

All UBCM members are encouraged to visit the following link to review the information:

www.cd.gov.bc.ca/lgd/governance/taskforce_implementation.htm

Please submit any feedback specifically regarding campaign expense limits to UBCM as soon as possible. As part of the next steps in developing the actual expense limit formula, UBCM will forward your feedback to the Province.

Since Cabinet endorsed the Task Force recommendations earlier this year, UBCM and staff from the Ministry of Community & Rural Development (now Community, Sport & Cultural Development) have worked collaboratively to develop potential approaches for campaign expense limits. This has included consideration of expense limits in other jurisdictions and a sampling of actual spending data from the 2008 local government elections.

Although the process is not yet finalized, and the Province will make final decisions on the implementation of the campaign expense limits, the Ministry's webpage outlines a number of further considerations that are intended to guide the development of an actual formula for campaign expense limits. These include:

- Total spending is affected by population size and expense limits should accommodate population differences;
- Candidates for mayor spend more than candidates for other elected offices and this needs to be recognized in the limits;
- Expense limits should be formula-based and include a base amount as well as per capita amounts, and;
- Expense limits for elector organizations should be based on the expense limits of the candidates they support.

UBCM will continue to work with the Province on this file and will provide additional information to members as it is available. For more information or to submit feedback regarding campaign expense limits, please contact:

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