

10

March 9, 2010

Our File: 01-0155-20/LGA-Part3/1

Doc #: 896440.v1

To: City Manager

From: City Clerk

Subject: **Local Government Elections Task Force**

For: **Council**

**Recommendation:**

That the Report of the City Clerk dated March 9, 2010 be forwarded to the Local Government Elections Task Force to serve as Council's official *submission to the deliberations of the Task Force.*

**Report Purpose:**

The purpose of this report is to provide a means by which Council can provide input into the work of the Local Government Elections Task Force.

**Background:**

Announced at the Union of British Columbia Municipalities (UBCM) 2009 Convention, the Local Government Elections Task Force is a joint undertaking by the provincial government and UBCM. Its co-chairs are the Honourable Bill Bennett, Minister of Community and Rural Development and Chair Harry Nyce, President of UBCM.

As part of its deliberative process, the Task Force has asked (please see Attachment 1) that local governments, and other interested parties, provide comments, preferably prior to April 15, 2010, on the following topics:

- Campaign finance, including contribution / spending disclosures and limits, and tax credits;
- Enforcement processes and outcomes;
- Role of the BC Chief Electoral Officer in local government elections;
- Election Cycle (term of office);
- Corporate Vote; and,
- Matters raised in election resolutions submitted to the 2009 UBCM Convention, such as the eligibility of volunteers.

PWS

As the next Regular Council Meeting is not scheduled to take place until April 19, 2010 (after the deadline for submissions), this report is being put forward for Council's consideration at this time.

Given the wide ranging nature of the issues to be investigated by the Task Force, it is difficult for staff to undertake a comprehensive review of all of the above noted subject areas in the time permitted. For those members of Council, staff and/or the public who may wish to review material on all or some of the topics to be investigated, the Task Force's website has a number of background papers related to the subject areas which provide both contextual information and other relevant considerations.

It is also noted that both the UBCM and various local government area associations have provided, or will be providing, opportunities for interested *members of Council to discuss each of these issues in greater depth and* provide input into the work of the Task Force through those forums. Further, all members of Council and, indeed, the public at large, have been invited to submit individual comments to the Task Force on any or all of these topics.

However, various issues related to provincial legislation governing local government elections have been raised by the Council for the City of Coquitlam over time. A list of those specific resolutions pertaining to the conduct of local elections on a province-wide basis, dating from between 2003 and 2006, is attached (please see Attachment 2) and staff are recommending that they be submitted to the Task Force for their consideration.

More recently, as Council and staff are aware, there has been an on-going discussion concerning the need to conduct a By-Election to fill the existing vacancy on Council. At its meeting of January 18, 2010, Council passed a motion which stated, in part, the following:

That staff be directed to forward a letter to the Provincial Government requesting that:

1. As part of the review currently being undertaken by the Local Government Elections Task Force, consideration be given to allowing local governments greater flexibility to deal with council vacancies that arise during a term of office in order that local taxpayers are not forced to incur the high costs associated with holding a By-Election;

This request was communicated to the provincial government in a letter dated January 19, 2010 (please see Attachment 3).

As part of its overall response to the January 18<sup>th</sup> resolution of Council, and its specific request to be granted an exemption to holding a By-Election at this time, the Ministry of Community and Rural Development stated (please see Attachment 4) that "... the Task Force is unable to consider all aspects of the election legislation and it will not have an opportunity to deal directly with the issue of by-elections."

However, it is believed by some observers that the issue of By-Elections is linked, in part, to the question of the election cycle / term of office – one of the areas under consideration by the Task Force – in that any increase in the term of office will result in a larger number of By-Elections as the vagaries of different personal circumstances arise. This connection was specifically mentioned in the letter of the Mayor to Minister Bennett dated February 26, 2010 (please see Attachment 5).

**Conclusion:**

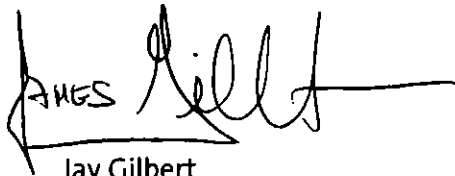
As noted above, Council has recently requested that the provincial government provide greater flexibility to local governments with regard to council vacancies that arise during a term of office in order that local taxpayers are not forced to incur the high costs associated with holding a By-Election.

Further, it is hypothesized that the need for By-Elections will only increase with any resulting increase to the term of office for members of Council and that, as a result, the need for increased flexibility will only become greater in the future.

Staff are recommending that this report, with all of its attachments, be forwarded to the Local Government Elections Task Force in order to reiterate the City of Coquitlam's position that any changes to the legislation governing the conduct of local government elections include provisions which allow for an empty Council seat to remain vacant for the remainder of the term in question, subject to the existing conditions regarding quorum, or that it is able to be filled by an alternative means – e.g., other than through a By-Election.

**Financial Impact:**

There are no financial implications associated with the submission of this report to the Task Force. However, depending on the findings of the Task Force, and the resulting legislative changes which will result from its work, there may be additional demands placed upon local governments.

A handwritten signature in black ink, appearing to read "Jay Gilbert". The signature is written in a cursive style with a long horizontal line extending to the right.

Jay Gilbert  
City Clerk

Attachment 1 – Letter to Mayor Stewart and Councillors from the Local Government Elections Task Force dated January 29, 2010

Attachment 2 – Select Council Resolutions Relating to Election Matters – 2003 to 2006

Attachment 3 – Letter to the Honourable Bill Bennett, Minister of Community and Rural Development, from the City Clerk dated January 19, 2010

Attachment 4 – Letter to Mayor Stewart from the Honourable Bill Bennett, Minister of Community and Rural Development, dated February 18, 2010

Attachment 5 – Letter to the Honourable Bill Bennett, Minister of Community and Rural Development, from Mayor Stewart dated February 26, 2010

RECEIVED

FEB - 2 2010

City of Coquitlam



ATTACHMENT 1

Ref: 134885

JAN 29 2010

His Worship Mayor Richard Stewart  
and Members of Council  
City of Coquitlam  
3000 Guildford Way  
Coquitlam, BC V3B 7N2

- Copies to Mayor & Council
- Tabled Item for Council Meeting
- Correspondence Item for Council Meeting
- For Information Only
- For Response Only *GMC'S -> still*
- Copies To *Dep CM, City Clerk*

*will prepare a report for Council consideration*

Dear Mayor Stewart and Councillors:

The Local Government Elections Task Force is currently seeking written comments from your local government, and from organizations and individuals in your community, to assist in its review of local government election issues.

Announced at the Union of British Columbia Municipalities (UBCM) 2009 Convention, the Local Government Elections Task Force is a joint, consensus-based group of provincial and UBCM members. The Task Force co-chairs are Honourable Bill Bennett, Minister of Community and Rural Development, and Chair Harry Nyce, President of the UBCM. Other Task Force members are:

- Surrey Councillor, Barbara Steele, first vice-president, UBCM;
- Quesnel Mayor, Mary Sjostrom, third vice-president, UBCM;
- Donna Barnett, MLA, Cariboo-Chilcotin; and
- Douglas Home, MLA, Coquitlam-Burke Mountain.

Recognizing the importance of hearing from local governments throughout British Columbia, the Task Force invites you to submit the comments of your local government on any or all of the following topics:

- Campaign finance, including contribution/spending disclosure and limits, and tax credits;
- Enforcement processes and outcomes;
- Role of the British Columbia Chief Electoral Officer in local government elections;

.../2



- Election cycle (term of office);
- Corporate vote; and,
- Matters raised in election resolutions submitted to the 2009 UBCM Convention, such as the eligibility of volunteers.

To assist in its deliberations, the Task Force would appreciate your comments as soon as possible, preferably by April 15, 2010. It is anticipated that the Task Force will deliver its recommendations to the Province of British Columbia and the UBCM by May 30, 2010, after which legislation is expected to be presented to the Legislature in time for the 2011 local government elections.

The Task Force is aware of the tight time frame and that the interest in local government elections extends beyond local governments to the broader community including individuals, community groups and other representative organizations. **As such, the Task Force requests that you share this request for written comments within your community, particularly with local groups and individuals interested in local government election issues.**

Written comments can be made via email to: [LocalElectionsTaskForce@gov.bc.ca](mailto:LocalElectionsTaskForce@gov.bc.ca), by fax to: 250 387-7972, or by mail to:

Local Government Elections Task Force  
c/o Ministry of Community and Rural Development  
PO Box 9839 Stn Prov Govt  
Victoria, BC V8W 9T1

Though the Task Force will receive feedback primarily through written comments, individual Task Force members will also engage in conversations on the election issues under review as they meet with local government representatives, organizations and citizens during the normal course of their responsibilities.

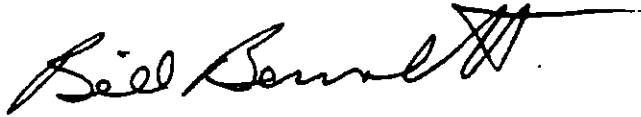
For local governments, the UBCM is planning a one-day workshop in March for its members who wish to attend. In addition, Area Associations will have a further opportunity to discuss these issues at their Spring Conventions. Workshop details will be announced shortly.

For further information on the Local Government Elections Task Force, please visit the website at: [www.LocalElectionsTaskForce.gov.bc.ca](http://www.LocalElectionsTaskForce.gov.bc.ca).

Mayor Stewart and Councillors  
Page 3

We look forward to hearing from you on ways to improve our local government election processes.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bennett". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bill Bennett  
Minister of Community  
and Rural Development

A handwritten signature in black ink, appearing to read "Harry Nyce". The signature is highly stylized and cursive, with many loops and flourishes.

Harry Nyce  
President  
Union of British Columbia Municipalities

**Select Council Resolutions Relating to Election Matters – 2003 to 2006**

January 6, 2003 – Notice of Motion – Date of General Local Election

WHEREAS the provincial and municipal governments have worked hard to increase the number of voters participating in municipal elections;

AND WHEREAS the Local Government Act stipulates that general local elections must fall on the third Saturday in November;

AND WHEREAS the onset of darkness earlier in the evening due to the reversal of daylight savings time at the end of October poses safety concerns for those campaigning and erecting election signs;

AND WHEREAS lower average temperatures and higher amounts of rain fall discourages voters from visiting the polls;

AND WHEREAS the timing of the general local elections coincides with budget deliberations and inhibits the input of new council members;

THEREFORE BE IT RESOLVED THAT the province amend The Local Government Act to require that general local elections take place on the third Saturday of October.

AND BE IT FURTHER RESOLVED THAT a copy of this Notice of Motion be forwarded to Lower Mainland Municipal Association (LMMA) and the Union of British Columbia Municipalities (UBCM).

February 3, 2003 – Notice of Motion – Mail-in Voting for General Local Elections

WHEREAS the provincial and municipal governments have worked hard to increase the number of voters participating in municipal elections;

AND WHEREAS the voter turnout for General Local Elections has remained consistently low due to the requirement for electors to be physically present at a voting place on general voting day or at an advance voting opportunity;

AND WHEREAS other provinces and jurisdictions have successfully enacted alternative voting methods such as mail-in voting as a way to increase voter turn out;

AND WHEREAS the Local Government Act of British Columbia only permits very limited use of alternative voting methods such as mail-in voting;

THEREFORE BE IT RESOLVED THAT the province amend the Local Government Act to broaden the use of mail-in voting for Local General Elections.

AND BE IT FURTHER RESOLVED THAT this Notice of Motion be forwarded to the Union of British Columbia Municipalities (UBCM) and the Lower Mainland Municipal Association (LMMA).

June 19, 2006 – Notice of Motion – Electoral Reform

Whereas electoral reform is needed to improve democracy and decrease voter fraud in local elections;

Therefore be it resolved that the provincial legislation be amended to require electors to produce identification at voting stations regardless of whether the elector is on the list of registered electors and that this be forwarded to the Union of British Columbia Municipalities (UBCM) for their consideration; and

Therefore be it further resolved that staff be requested to prepare a report to look at the feasibility of creating additional voting divisions in the City of Coquitlam, maintaining a list of registered electors and the requirement to produce identification on voting day.

COPIED  
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# Coquitlam

January 19, 2010  
Our File: 09-4200-20/2010/1  
Doc#: 884653.v1

Honourable Bill Bennett  
Minister of Community and Rural Development  
PO Box 9056  
STN PROV GOVT  
Victoria B.C. V8W 9E2

Dear Minister Bennett,

The City of Coquitlam would like to congratulate you on your appointment as co-chair of the Local Government Elections Task Force – it very much supports the mandate of the Task Force and looks forward to its findings.

The City of Coquitlam finds the work of the Task Force particularly timely as it is currently in the process of needing, under the terms of the existing legislation, to conduct a by-election following the recent departure of one of its members of council. Under the criteria of s. 37(3) of the *Local Government Act*, if this need arose in January of 2011, Coquitlam would be exempt from having to hold a by-election as it meets all of the tests found in that section. Given the economic times in which the world in general, and local governments in particular, find themselves, the City of Coquitlam is struggling to rationalize the cost of holding a by-election (possibly up to \$250 000) versus the provision of other much needed services or, alternatively, the elimination of certain existing services.

With this in mind, Council for the City of Coquitlam passed the following motion at its Regular Council Meeting of January 18, 2010:

“That staff be directed to forward a letter to the Provincial Government requesting that:

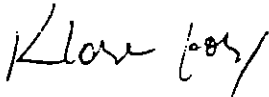
- 1) As part of the review currently being undertaken by the Local Government Elections Task Force, consideration be given to allowing local governments greater flexibility to deal with council vacancies that arise during a term of

office in order that local taxpayers are not forced to incur the high costs associated with holding a by-election;

- 2) Council receive an update concerning the work of the Local Government Elections Task Force thus far and its planned timeline for reporting out;
- 3) Pending the outcome of the aforementioned review, the City of Coquitlam be granted an exemption to the requirement to hold a by-election at this time, and thus be permitted to leave the current empty Council seat vacant or allow it to be filled by an alternative means; and
- 4) A response to the City of Coquitlam's request for an exemption be received prior to the planned appointment of a Chief Election Officer at the February 15, 2010 Regular Council Meeting."

As such, the City of Coquitlam is asking if there exists the possibility of it being granted an exemption to the requirement that it hold a by-election at this time. As I am sure that you can appreciate, time is of the essence as the City cannot defer its obligations under the *Local Government Act* for an extended period of time and must move forward with its election planning. Therefore, we ask that you provide your response at the earliest available opportunity.

Sincerely,



Jay Gilbert  
City Clerk

- c - Mike Furey, Assistant Deputy Minister, Ministry of Community and Rural Development
- Douglas Horne, MLA for Coquitlam-Burke Mountain



## ATTACHMENT 4

FEB 18 2010

Ref: 134874

BY FAX - 604 927-3015

His Worship Mayor Richard Stewart  
City of Coquitlam  
3000 Guildford Way  
Coquitlam, BC V3B 7N2

Dear Mayor Stewart:

I am responding to the letter of January 19, 2010, from Mr. Jay Gilbert, City Clerk, regarding the requirement to hold a by-election to fill a vacancy on the City of Coquitlam (City) Council. I apologize for the delay in responding.

As Mr. Gilbert noted, the *Local Government Act* requires a local government to hold a by-election to fill a vacancy on council unless the vacancy occurs in the year of the local government election. Currently, there is no ability in legislation for a municipality to be exempt from this requirement. Any change would need to be approved by the provincial legislature.

As I am required to consult with representatives of the Union of British Columbia Municipalities (UBCM) on any proposal to amend local government legislation, you may wish to raise this issue with the UBCM. For example, City Council may wish to propose a resolution for consideration by the UBCM membership at the annual convention that will be held in Whistler on September 27 to October 1, 2010.

With regard to the inquiry about the Local Government Elections Task Force (Task Force), it will present recommendations to the Province of British Columbia and the UBCM by May 30, 2010, after which any changes resulting from Task Force recommendations can be implemented in time for the 2011 local government general elections. Given this short time frame, the Task Force is unable to consider all aspects of the election legislation and it will not have an opportunity to deal directly with the issue of by-elections. The Task Force is looking into the following topics:

.../2

Ministry of Community  
and Rural Development

Office of the Minister



PO Box 9056 Stn Prov Govt  
Victoria BC V8W 9E2

Phone: 250 387-2283  
Fax: 250 387-4312  
[www.gov.bc.ca/cd](http://www.gov.bc.ca/cd)

His Worship Mayor Richard Stewart

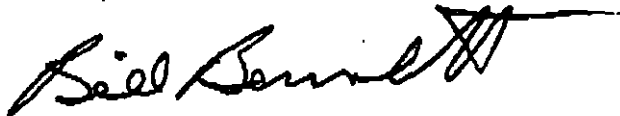
Page 2

- Campaign finance, including contribution/spending disclosure and limits, and tax credits;
- Enforcement processes and outcomes;
- The role of the British Columbia Chief Electoral Officer in local government elections;
- Election cycle (term of office);
- Corporate vote; and,
- *Matters raised in election resolutions submitted to the 2009 UBCM Convention, such as the candidate eligibility of volunteers.*

Further information about the Task Force and its plan to consult with local governments, other stakeholders and the public, is available at: [www.LocalElectionsTaskForce.gov.bc.ca](http://www.LocalElectionsTaskForce.gov.bc.ca).

Thank you, again, for writing to me about this issue. I look forward to hearing from City Council whether there is an interest to provide its views about local government election issues directly to the Task Force.

Sincerely,



Bill Bennett  
Minister

pc: Honourable Iain Black, MLA  
Port Moody-Coquitlam and  
Minister of Small Business, Technology and Economic Development

Mr. Douglas Horne, MLA  
Coquitlam-Burke Mountain

Mr. Jay Gilbert  
City Clerk  
City of Coquitlam



February 26, 2010  
Our File: 09-4200-20/2010/1  
Doc #: 893651.v1

Honourable Bill Bennett  
Minister of Community and Rural Development  
PO Box 9056 STN PROV GOVT  
Victoria, BC V8W 9E2

Dear Mr. Minister:

**RE: Request for Exemption to Requirement to Hold a By-Election**

Thank you for speaking with me yesterday regarding Coquitlam's request for an alternative to holding a costly by-election.

As discussed, a vacancy was created on Coquitlam Council with the resignation of Councillor Fin Donnelly upon his election as MP.

This string of by-elections, originating with the resignation of then-MP Dawn Black to run provincially, has proved very costly to taxpayers. It is our hope that local taxpayers here in Coquitlam can avoid the enormous expense of another by-election, particularly at this most difficult time economically.

As discussed with Deputy Minister Dale Wall and various staff, Council has unanimously endorsed this request which has received widespread public support, as well as editorial support from local press. As well, I've spoken with Mayors and Councillors from across the region and from other regions in the province, and all have expressed their support for an alternative.

Everyone must acknowledge the undeniably special circumstances in which we find ourselves. Firstly, all levels of government – as well as our taxpayers – are facing unprecedented economic conditions. These conditions have caused both senior levels of government to run enormous (though necessary) deficits, even setting aside balanced budget legislation in order to do so. Of course, local governments cannot budget for deficits, so when our revenues drop significantly, we must either raise taxes or try to cut unnecessary costs wherever possible. Certainly the enormous impact of



this unprecedented recession would by itself qualify as a special circumstance for local governments as it has for senior governments.

Secondly, the Provincial Government has appointed the Local Government Elections Task Force whose job is to examine questions associated with local government elections and deliver recommendations to the Province by May 30, 2010. One of the issues to be examined by the Task Group is the term of office for local governments. This issue has been debated regularly on the floor of UBCM, given the inefficiency of the current three-year term, and the potential benefits of aligning it with the four-year fixed-election-date term at the provincial level. Yet, whenever the debate takes place, one of the main objections is the cost of by-elections. For any assembly that elects members "at-large", the cost of a by-election is inordinately high due to the need to poll the entire community. In comparison, ward systems, including the provincial legislature and the federal House of Commons, can share the cost of a by-election across all their citizens, while only polling residents of the riding that was vacated. As such, the Task Group would not be able to examine the issue of Term of Office without putting its mind to BC's onerous requirements related to by-elections.

The timing of the reporting-back suggests that, should we proceed presently with the appointment of a chief election officer, the by-election would be underway at the time when the Task Group submits recommendations which would likely address the need to change the requirements for by-elections.

Other provinces have alternative ways to address vacant Council seats, in recognition of the significant cost of by-elections to local taxpayers. One local newspaper here in Coquitlam summed it up as a simple question of cost-effectiveness. Our last by-election three years ago resulted in a 4.9% voter turnout despite enormous city efforts and a significant awareness campaign. Considering the amount spent on holding the by-election, it worked out to more than \$65 per vote cast. The editorial concluded by urging Council to ask the Province for an alternative to a costly by-election.

While there may be other avenues, we certainly look to S. 155 of the *Local Government Act*, which appears to have been written specifically to deal with this type of issue. S. 155, Powers of the Minister, allows that:

"(1) If the minister considers that special circumstances regarding an election [S. 5 and 37 both define an election to include a by-election] require this, the minister may make

any order the Minister considers appropriate to achieve the purposes of this Part, including an order providing an exception to this Act or a bylaw or regulation under this Act.

(2) Without limiting subsection (1), the minister may make an order extending a time period or establishing a new date in place of a date set under this Act and giving any other directions the minister considers appropriate in relation to this. "

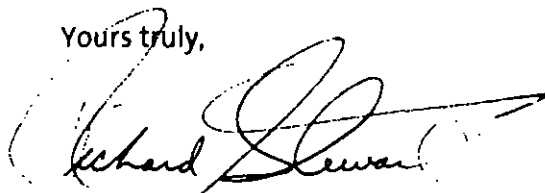
This appears to us to be quite clear. As such, given the special circumstances now facing us, we look to the Minister to issue an order allowing our Council an alternative. For most, the obvious options are to either

- a. allow the ninth candidate from the 2008 General Election results to be given the seat, or
- b. simply allow the seat to remain empty.

The latter option is already anticipated by the Act at 37(3), which states that in the year of an election (in this case, 2011), a local government can opt to leave a seat vacant as long as the number of remaining council members is at least one greater than quorum (in Coquitlam's case, even with the vacancy our eight-member Council currently has three more than quorum.)

In this context, we look to the Minister to help our Council be as prudent as possible with tax dollars during this difficult economic time.

Yours truly,

A handwritten signature in black ink, appearing to read "Richard Stewart". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Richard Stewart  
Mayor

c - D. Wall, Deputy Minister, Community and Rural Development