



FONVCA AGENDA

THURSDAY June 16th 2011

Place: DNV Hall 355 W. Queens Rd V7N 2K6

Time: 7:00-9:00pm

Chair: Eric Andersen – Blueridge C.A.

Tel: 604-929-6849 **email:** ericgandersen@shaw.ca

Regrets Val Moller; :

1. Order/content of Agenda(*short)

2. Adoption of Minutes of May 26th

<http://www.fonvca.org/agendas/jun2011/minutes-may2011.pdf>

3. Old Business

3.1 Council Agenda Distribution - continued

-Basic Agenda listing still missing/incomplete from NSN

3.2 Review/Comments on DNV OCP

<http://www.nsnews.com/approves+unanimously/4895675/story.html>

3.3 Review of proposed Code of Conduct

4. Correspondence Issues

4.1 Business arising from 7 regular emails:

4.2 Non-Posted letters – 0 this period

4.3 Roundtable on “Current Affairs”

A period of roughly 30 minutes for association members to exchange information of common concerns.

5. New Business

Council and other District issues.

*** 5.1 Ethics of (Government) Gambling V2**

http://salempress.com/Store/samples/ethics_revised/ethics_revised_lotteries.htm

<http://www.arragopwing.com/lotteryposition.html>

- Despite the ethics - “Do no harm” policy is ignored!

- A regressive tax on low income people

5.2 Resilient Communities- Preparing for the Climate Challenges Jun 14-15 at SFU WOSK Centre for Dialogue

http://www.pics.uvic.ca/resilient_communities.php

For more background material see:

http://www.pics.uvic.ca/rc_background.php

References:

http://www.resilientcommunitiescanada.com/timely_topics/

<http://www.bcsea.org/get-involved/learn-about-us/members/organizations/resilient-communities-canada>

http://www.southfraser.com/timely_topics/community_resilience.php

5.3 ECO-MUNICIPALITY NETWORK

http://www.naturalstepusa.org/storage/NAEMN_TNScasestudy.pdf

Network to improve sustainability in North American Communities.

12 Indicators: <http://sekom.sekom.nu/files/indicators.pdf>

5.4 Community/Civic Engagement Strategies

<https://www.halifax.ca/CRCA/CommunityEngagement/documents/CommunityEngagementStrategy.pdf>

<http://www.cityofnorthvancouver.bc.ca/c//data/1/433/Civic%20Engagement%20Task%20Force%20Final%20Report.pdf>

<http://www.richardgilbert.ca/Files/SFU%20course%20files/Symonds,%20Engaging%20citizens.pdf>

<http://www.cpsa-acsp.ca/papers-2005/Symonds.pdf>

5.5 Tree Bylaw

- Performance of DNV junior staff at the public meetings.

-Auckland NZ removes most private impacts by Jan 1/2012 by requiring them to be individually “scheduled”.

http://www.thetreecouncil.org.nz/cms_data/files/file/tree%20protection%20rpt%20final.pdf

***5.6 No One Gives a S**t by John Scheel**

“With Special Thanks to

The Oakville Town Council for not

Listening and for its Experiments in

Waste & Inefficiency”

See <http://www.johnscheel.com/Freebook.pdf>

5.7 DNV 2010 Annual Report

<http://dnv.org/annualreport2010/>

- comments on style, content, and access- by Corrie

*** 5.8 Integrated Resource Recovery Study**

<http://www.fidelisresourcegroup.com/North.Shore.IRR.Study.Tech.Appx.FINAL29Mar2011web.pdf> - a 304 page garbage study

6. Any Other Business

6.1 Legal Issues

*** a) Judge tosses out ‘exaggerated suit’**

http://www.vancouver.sun.com/story_print.html?id=4856004&sponsor=

– Langley group exercised ‘right of free speech’

<http://www.courts.gov.bc.ca/jdb-txt/SC/11/06/2011BCSC0674.htm>

*** b) Insuring OCP input is formal part of record**

-send all correspondence to M&C and clerk@dnv.org

*** c) West Vancouver View Wars End in Court**

<http://www.nsnews.com/news/West+Vancouver+view+wars+court/4924559/story.html>

<http://www.courts.gov.bc.ca/jdb-txt/SC/11/06/2011BCSC0686.htm>

*** d) Municipal Governance Articles**

<http://www.fonvca.org/agendas/jun2011/municipal-governance.pdf>

***e) Use of Public Hearing to Block Communications**

<http://metrovanwatch.wordpress.com/learning-centre/legal-opinion-use-of-public-hearing-to-block-communication/>

6.2 Any Other Issues (2 min each)

7. Chair & Date of next meeting.

Thursday July 21st 2011

Cathy Adams – Lions Gate C.A.

ATTACHMENTS -List of Recent Emails to FONVCA

OUTSTANDING COUNCIL ITEMS -Cat Regulation Bylaw;

Review of Zoning Bylaw; Securing of vehicle load bylaw;

Snow removal for single family homes bylaw.

FONVCA Received Correspondence/Subject
25 May 2011 → 12 June 2011

LINK	SUBJECT
http://www.fonvca.org/letters/2011/23may-to/John_Scheel_5may2011.pdf	Author of a book on government waste
http://www.fonvca.org/letters/2011/23may-to/Monica_Craver_30may2011.pdf	Who are the vandals
http://www.fonvca.org/letters/2011/23may-to/Monica_Craver_3jun2011.pdf	Mountain bikers soiling the nest
http://www.fonvca.org/letters/2011/23may-to/Monica_Craver_6jun2011.pdf	Intelligent, forward thinking leadership needed in DNV
http://www.fonvca.org/letters/2011/23may-to/Monica_Craver_9jun2011.pdf	“Why didn’t you do something?”
http://www.fonvca.org/letters/2011/23may-to/Monica_Craver_9jun2011b.pdf	“Mountain biking? No dog for you”
http://www.fonvca.org/letters/2011/23may-to/Wendy_Qureshi_1jun2011.pdf	Report in SUN on Slapp suits.

Past Chair of FONVCA (Jan 2008-present)

Notetaker

Jun 2011	Eric Andersen	Blueridge C.A.	John Hunter
May 2011	Dan Ellis	Lynn Valley C.A.	Brian Platts/Corrie Kost
Apr 2011	Brian Platts	Edgemont & Upper Capilano C.A.	Diana Belhouse
Mar 2011	Val Moller	Lions Gate C.A.	Eric Andersen
Feb 2011	Paul Tubb	Pemberton Heights ← Special focus on 2011-2015 Financial Plan	
Jan 2011	Diana Belhouse	S.O.S.	Brenda Barrick
Dec 2010	John Hunter	Seymour C.A. ← Meeting with DNV Staff on Draft#1 OCP	None
Nov 2010	Cathy Adams	Lions Gate C.A.	John Hunter
Oct 2010	Eric Andersen	Blueridge C.A.	Paul Tubb
Sep 2010	K’nud Hille	Norgate Park C.A.	Eric Andersen
Jun 2010	Dan Ellis	Lynn Valley C.A.	Cathy Adams
May 2010	Val Moller	Lions Gate C.A.	Cathy Adams
Apr 2010	Paul Tubb	Pemberton Heights	Dan Ellis
Mar 2010	Brian Platts	Edgemont C.A.	Diana Belhouse
Feb 2010	Special		
Jan 2010	Dianna Belhouse	S.O.S	K’nud Hille
Nov 2009	K’nud Hill	Norgate Park C.A.	Eric Andersen
Oct 2009	Dan Ellis	Lynn Valley C.A.	Cathy Adams
Sep 2009	Brian Platts	Edgemont C.A.	Dan Ellis
Jul 2009	Val Moller	Lions Gate N.A.	Diana Belhouse
Jun 2009	Eric Andersen	Blueridge C.A.	Diana Belhouse
May 2009	Diana Belhouse	S.O.S	Eric Andersen
Apr 2009	Lyle Craver	Mt. Fromme R.A.	Cathy Adams
Mar 2009	Del Kristalovich	Seymour C.A.	Dan Ellis
Feb 2009	Paul Tubb	Pemberton Heights C.A.	Cathy Adams
Jan 2009	K’nud Hille	Norgate Park C.A.	Eric Andersen
Dec 2008	Dan Ellis	Lynn Valley C.A.	Paul Tubb
Nov 2008	Cathy Adams	Lions Gate N.A.	Dan Ellis
Sep 2008	Brian Platts	Edgemont C.A.	John Miller
Jul 2008	Diana Belhouse	Delbrook C.A.	Lyle Craver
Jun 2008	Eric Andersen	Blueridge C.A.	Diana Belhouse
May 2008	Herman Mah	Pemberton Heights C.A.	Cathy Adams
Apr 2008	Del Kristalovich	Seymour C.A.	Del Kristalovich
Mar 2008	K’nud Hille	Norgate Park C.A.	Dan Ellis
Feb 2008	Lyle Craver	Mount Fromme R.A.	Lyle Craver
Jan 2008	Dan Ellis	Lynn Valley C.A.	John Miller

FONVCA

Minutes May 26th 2011

Place: DNV Hall 355 W. Queens Rd V7N 2K6
Time: 7:00-9:00pm

Attendees

Dan Ellis (Chair) Lynn Valley C.A.
Corrie Kost EUCCA
Cathy Adams Lions Gate N.A.
Eric Andersen Blueridge C.A.
Brian Platts (notes w. Corrie) EUCCA
Katherine Fagerlund Deep Cove C.A.
Jai Jadhav Capilano Gateway Assoc.

Regrets: Val Moller; John Hunter; K'nud Hille

The meeting was called to order at 7:05 PM

1. ORDER / CONTENT OF AGENDA

3.0 FONVCA link to blog sites

6.2 added items:

- m) Drinking Water Managements Plan
- n) DNV Population census history
- p) Emails re: defn of Coach House
- q) Public Hearing used to block communications

Note: Items marked with * are mainly for information and usually involved little or no discussion by the members present.

2. ADOPTION OF MINUTES

<http://www.fonvca.org/agendas/may2011/minutes-apr2011.pdf>

Minutes approved as circulated.

3. OLD BUSINESS

3.0 Link to CGA Blog web site

Cathy moved that "Consistent with the existing FONVCA policy on the posting of correspondence, that FONVCA elects to not link to the Capilano Gateway Association blogsite, on the FONVCA website". All present spoke to this issue multiple times. A motion to table this motion until discussion of item 6.1(a) was carried.

After discussion of 6.1 (a), consideration of the tabled motion of item 3.0 resumed. After further discussion, including discussion of a replacement motion, the tabled motion was defeated.

A follow-up motion, "To remove links to all the DNV recognized associations (which have a web site)" was then discussed. It was felt that a pre-existing FONVCA

web site link pointing to the DNV collection of recognized associations and those with web sites, was sufficient to meet the needs of FONVCA members. The motion was carried unanimously.

6.1(a) Code of Conduct for FONVCA Meetings

Submitted by Diana Belhouse:

A representative of a community association must discharge their duties to their association, the Federation of North Vancouver Community Associations, members of the public, and to fellow representatives of other community associations with integrity.

Integrity is defined as soundness of moral principle, especially in relation to truth and fair dealing, uprightness, honesty, and sincerity.

A representative must act honestly and in good faith with the best interests of the F.O.N.V.C.A. and refrain from impugning the character of any representative.

All members of the F.O.N.V.C.A. are expected to demonstrate the highest standard of behavior towards other members. A representative may be suspended or expelled for conduct toward another representative which breaches this standard.

After discussion the members agreed that such a motion be forwarded ASAP to all FONVCA member organizations for their endorsement.

3.1 Council Agenda Distribution-continued

We will continue to monitor this situation. Corrie to provide at a future FONVCA meeting results of a refresh request to council and/or give history of past requests if available.

Due to prior commitment Diana Belhouse left at this time (~ 9pm)

4. CORRESPONDENCE ISSUES

4.1 Business arising from 12 regular e-mails

No discussion.

4.2 Non-posted letters – 0 this period.

4.3 Roundtable on "Current Affairs"

A period of roughly 30 minutes for association members to exchange information of common concerns.

- A) <http://www.fonvca.org/agendas/may2011/Handicap%20curb%20drop%20on%20Curling%20to%20Belle%20Isle%20Place%20pathway.pdf> - by Doug Curran –attached to full package
- B) http://www.fonvca.org/agendas/may2011/Doug_Curran_10may2011.pdf - Use of CGA blog site – by Doug Curran – attached to full package

The items A) & B) were outlined but not discussed.

5. NEW BUSINESS

Council and other District Issues

5.0 Comments by Eric Andersen

Eric referred to May 9th input to council by Doug Curran http://204.239.10.178/ramgen/council/2011/05/09/public_input.smil in which he allegedly impugns the reputation of all community associations. After three attempts by Eric, Doug refused to release the correspondence to council that he had sent to council prior to May 9th as per his own presentation to council that night.

Jai acknowledged this to be an error in judgment – Doug should first have brought any concerns to FONVCA. Eric stated that “When people have a substantial public voice, that voice should be used carefully and with consideration of others”

5.1 Review of Public Hearing on OCP

5.2 Age Friendly Cap/Marine Plan

Letter from Lions View Seniors – Doug Curran http://www.fonvca.org/letters/2011/18apr-to/Doug_Curran_2may2011.pdf
No discussion of this item.

5.3 New Low Road Project in NV

http://www2.news.gov.bc.ca/news_releases_2005-2009/2009OTP0058-000553-Attachment1.htm

Corrie, who had attended a meeting on this issue, pointed out that although beneficial to the greater community, including DNV, there were concerns from immediate CNV residents – mostly increased noise from the proposed re-aligned road.

5.4 No Municipal Electoral Reform

<http://www.vancouversun.com/news/news/4680701/story.html>
<http://www.citycaucus.com/2009/11/bramham-continues-series-on-municipal-electoral-reform>
<http://www.citycaucus.com/2009/10/american-donors-to-civic-campaigns-get-double-whammy>
<http://www.citycaucus.com/2009/08/eric-mang-on-municipal-finance-reform>

http://www.timescolonist.com/story_print.html?id=4658410&sponsor=
Requirement of citizens to enforce municipal campaign expenditures, as well as some 30 changes recommended by the Local Government Elections Task Force remain unchanged till at least 2014 municipal elections.

5.5 Questions for 2011 Municipal Election

Start to gather input for the “Top 10 Questions” see http://www.fonvca.org/letters/2011/18apr-to/John_Hunter_12may2011.pdf
Note: 2011 Civic Election is Saturday Nov 19/2011 with Advance Voting on Monday Nov 14th

All FONVCA members are urged to submit their potential list of questions that FONVCA will submit to all candidates to fonvca@fonvca.org.

6. ANY OTHER BUSINESS

6.1 Legal Issues

a) Code of Conduct for FONVCA Meetings

Diana Belhouse to table a proposal. This was discussed in relation to agenda item 3.0

b) Regulation of Wood-Burning Fireplaces

Reference to a 2006 Environment Canada Model Municipal Bylaw: http://www.ec.gc.ca/air/975A1778-B583-4E2A-9369-81800C3AC8C2/Model_By-Law.pdf (only pages 1-6 of this 50 page report was attached to the full package). **The sample bylaw illustrated on page 41-47 of the report should assist municipalities interested in proposing such a bylaw.**

c) Freedom to criticize local governments

Case involve Union Bay Improvement District http://www.vancouversun.com/story_print.html?id=4730268&sponsor=

<http://www.fonvca.org/agendas/may2011/Tiny%20town%20runs%20up%20huge%20bill%20suing%20a%20taxpayer.pdf>

“When a government is criticized, its recourse is in the public domain, not the courts”. “In a 2009 case, the B.C. Supreme court ruled that the City of Powell River had no legal right to sue citizens for defamation – or even threaten citizens with lawsuits – for saying disparaging things about their own government” – Dixon vs. Powell River <http://www.courts.gov.bc.ca/jdb-txt/SC/09/04/2009BCSC0406.htm>

6.2 Any Other Issues (2 min each)

*a) Municipal Recycling Statistics

http://www.vancouversun.com/story_print.html?id=4702694&sponsor=
DNV waste diversion was 53%, the best muni was Port Moody at 61%, Metro average was 49%

*b) Urban Agriculture/Gardens

http://www.fonvca.org/agendas/may2011/DiscussionPaper_UA%20in%20City%20of%20North%20Vancouver.pdf 12 pages attached.
<http://www.ruaf.org/>
<http://www.cnv.org/c/data/3/659/Discussion%20Paper%20-%20A%20Healthy%20Planet.pdf> (pages 1-8 only attached)

*c) Water Governance

http://www.watergovernance.ca/factsheets/pdf/FS_Water_Use.pdf
Note that residential use is a small % of overall water use in Canada.

*d) Low Trust in RCMP

<http://www.vancouversun.com/news/news/4674128/story.html>
Article speaks for itself.

*e) CAA Policy Statement on Transportation

http://www.caa.ca/documents/CAA_Statement_Policy_2008-09_E_Final.pdf (first 22 pages only)
Useful survey/results of CAA members in 2008-2009 report.

*f) The hunt for more Casinos

http://www.bclocalnews.com/tri_city_maple_ridge/tricitynews/news/120320224.html
The “addiction”, so far rejected by DNV, continues.

***g) Closing North Shore's Waste Loop**

<http://www.bclocalnews.com/news/120393869.html>

Integrated Resource Recovery (IRR) being explored for NS.

***h) Developers push new zoning's envelope (Marine Dr.)**

http://www.nsnews.com/story_print.html?id=4631837&sponsor=

The C9 zoning, adopted in 2007, has seen some significant unexpected variances.

***i) BC Boosts NV Hydrogen**

<http://www.nsnews.com/technology/boosts-hydrogen/4815656/story.html?id=4815656>

The \$870k grant will fund a small (1200Kg/day) hydrogen liquefaction plant in Maplewood.

***j) Ban Skateboards from roads**

<http://www.nsnews.com/sports/skateboards+from+roads/4763986/story.html>

Corrie noted that he has encountered skateboarders on Queens Rd coming home at night from Council meetings.

***k) Battle lines drawn in fight to preserve industrial lands**

<http://www.vancouversun.com/business/smart-shift/fp/4795095/story.html>

***l) Other Misc. articles of interest – see collection at**

www.fonvca.org/agendas/may2011/

***m) Drinking Water Management Plan**

<http://www.metrovancouver.org/services/water/planning/Pages/default.aspx>

<http://www.metrovancouver.org/services/water/planning/Documents/DraftDrinkingWaterManagementPlan.pdf>

To be brought back in future for further consideration.

***n) History of DNV Population according to Census Canada**

<http://www.fonvca.org/agendas/may2011/dnv-population-projections-b.pdf>

Attached graph, showing Canada Census figures of DNV population from 1951 to 2006 does not appear to support (assuming a consistent “undercount”) the projected population growth (20,000) for DNV by ~ 2030. The 2011 Canada Census, currently underway, may shine more light to this issue.

***p) Emails re: Definition of a Coach House**

http://www.fonvca.org/agendas/may2011/RE_%20DNV%20definition%20of%20a%20Coach%20House.pdf

The distributed pair of emails from DNV staff may assist in defining what a “coach house” is, or will be.

***q) Public Hearings used to block further communications**

<http://metrovanwatch.wordpress.com/learning-centre/legal-opinion-use-of-public-hearing-to-block-communication/>

The article illustrates that there is no law which explicitly forbids councilors from communicating with the public about the matter of a closed public hearing before it is adopted. It may, however, be prudent, not to undertake such communications.

Corrie noted that the District of North Vancouver had just completed (closed) a public hearing on their Official Community Plan on May 17/2011. During the public hearing the Mayor & Council never once informed the public that we may perhaps not speak to the already closed hearings on Regional Growth Strategy. So it seems that when public

hearings collide there are no such (or at least different) constraints.

7. CHAIR AND DATE OF NEXT MEETING

Thursday June 16th 2011

Chair: Eric Andersen Blueridge C.A.

Note: Council last meets on Monday July 11th and after a summer break resumes Monday August 29

Meeting adjourned ~ 9:30PM.

<http://www.nsnews.com/approves+unanimously/4895675/story.html>

DNV approves OCP unanimously

Young families missing from lengthy policy-shaping process

BY JEREMY SHEPHERD, NORTH SHORE NEWS JUNE 4, 2011

THE District of North Vancouver concluded what is likely its final Official Community Plan debate Monday with council unanimously approving third reading of the bylaw.

Council expressed strong overall support for the planning blueprint intended to guide the municipality for the next 20 years, while expressing a few reservations about the document.

"Anybody who wanted to participate had the opportunity to participate," Coun. Mike Little said, discussing the extensive community dialogue.

Coun. Robin Hicks said he would have liked to have seen more young families involved in shaping the OCP.

"Unfortunately, it has also been sad to notice the absence of young families in the 25 to 45 age group," he said.

Little called on the next council to govern with "responsible hands" when dealing with redevelopments outside town centres. "These policies will be targets for the development community and have the potential to be exploited against communities' interests," he said.

Little asked council to focus on function over fashion when designing the cityscape.

"Many people in the community are under the impression that adding density will help to keep taxes down."

He said designing an ornate, tree-lined street with slick lighting fixtures could fail to bring in as much tax money as it costs, resulting in existing neighbourhoods subsidizing town centres.

Coun. Lisa Muri also sounded a note of concern when discussing city-centre plans. "We will need to be cautious as we move forward to our village and town-centre concepts that we do not displace those who are vulnerable," she said.

The population of the entire North Shore is expected to grow by approximately 45,000 people by 2030, but Coun. Robin Hicks said that won't necessarily be the case.

"The projected population increase is pure conjecture based on statistics," he said.

Skyrocketing real-estate prices could cause a decline in the North Shore's population, according to Hicks.

Looking to 2030, the OCP identifies a capacity for 10,000 new housing units in the district, and a population increase of approximately 20,000.

Non-market housing, or non-profit housing run by the government, was also a sticky subject for Little.

"The cupboard could become bare very quickly when it comes to that kind of non-market housing," he said, calling on the district to invest in solid infrastructure.

Little also addressed the issue of seniors living in expensive homes but surviving on modest incomes.

"There are a lot of seniors who have million-dollar houses, and the tax bills are getting to the point where they're forced to make an uneconomical decision," he said.

The concern for seniors was echoed by Coun. Alan Nixon.

"Without looking after the weakest among us, we will never be a sustainable community," he said, discussing the rising count of homeless people in the district and the approximately 10 per cent of seniors at risk of homelessness.

Nixon called for a committee to make certain the OCP's goals were being followed. "Somebody, some committee, or the public, (will) need a vehicle by which they can hold the feet of this council and future councils to the fire to ensure that this document is paid attention to," he said.

Little put the onus on the community to ensure future councils abide by the OCP.

"It doesn't respond to all our residents' concerns; I don't think an OCP can," Mayor Richard Walton said. "It can and it should be amended in the future."

Coun. Doug MacKay-Dunn sounded the call for amalgamation, saying the City of North Vancouver was the ideal location for increased density. "Eight square miles, separate and apart from the district, serviced by our roads, financially nourished by our residents and taxpayers, and is, from a geographical perspective, the natural town centre that will support significant densities."

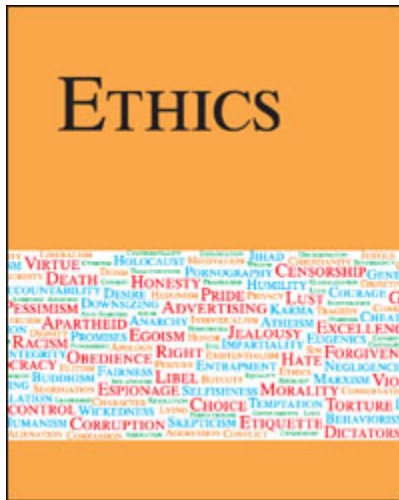
Without amalgamation, he said the district will be forced to move density to other communities.

MacKay-Dunn asked for a blue-ribbon committee to study amalgamation, and discussed the strong negotiating power a unified North Shore would have when bargaining with Metro Vancouver.

MacKay-Dunn had expressed concerns over the district's local area plans being forgotten, but the LAPs will be used as reference documents for land-use decisions. "There is a linkage between those plans and the OCP," he said.

If Metro Vancouver approves the OCP, the district could adopt the document by June 27.

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College
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Print List Price: \$364

eBook Info 

e-ISBN: 978-1-58765-318-6
eBook Single User Price: \$546

Ethics, Revised Edition Lotteries

Definition: Government-run activities involving chance selections in which people buy numbered tickets, and cash awards are granted based on numbers being drawn by lot

Type of Ethics: Politico-economic ethics

Significance: Once almost universally rejected as ethically unacceptable, lotteries and other forms of state-supported gambling have become major sources of revenue for U.S. states reluctant to raise taxes; they have also created new ethical challenges for governments.

Until the late twentieth century, a widespread American ethos rejected state support for any form of gambling. Objections were based mainly on Protestant Christian beliefs, which held that gambling itself was morally wrong. Political jurisdictions with majorities or substantial minorities of Roman Catholic voters tended to be more tolerant of some forms of gambling. Forms of gambling based on contests depending partly on skill--such as betting on horse racing--generally had better chances of public acceptance. By contrast, lotteries and casino gambling--which depend on pure luck--were slower to gain acceptance. Even without an absolutist moral stance, the dominant American attitude still rejected state-supported gambling out of a fear that such support would give a stamp of approval to an unwise or savory practice.

By the last third of the twentieth century, Americans were becoming more tolerant of gambling. While casino gambling had long been associated almost exclusively with the state of Nevada, other states became willing to experiment with it to add new sources of tax revenue. The idea that a state should enter the gambling business itself by sponsoring its own lottery did not begin until the state of New Hampshire started its lottery in 1964. Lotteries then spread slowly to other states, but the trend gained speed as states found they were facing revenue losses as they competed with states with lotteries.

Lotteries could only be acceptable when an absolute moral standard condemning gambling was replaced by a standard closer to utilitarianism. Challenges to the utilitarian ethical arguments as proper moral mode of argument are well known, especially for those who attack utilitarianism on absolutist religious grounds, but they lead to only one kind of ethical debate. Other debates occur even within utilitarianism particularly when state sponsorship is an alternative to taxation.

Proponents of state-sponsored gambling argue that the propensity to gamble is so widespread that it will flourish without state sponsorship, as it has historically, even in the face of rigorous state prohibition. Given this fact, proponents argue that the state should at least cash in on a practice that will continue in any event. Gambling may even be seen as a boon providing funds for education or other welfare activities that cannot be provided given a public reluctance to raise taxes. This argument is strengthened any time a non-lottery state faces competition from neighboring lottery states.

Arguments Against Lotteries

Opponents challenge state-sponsored gambling on grounds of hidden social costs as individuals, especially with low incomes, gamble away money that should properly be used to care for their dependents. For those low-income individuals succumbing to a gambling addiction, the state may be encouraging the impoverishment of families, especially poor families with children. Gambling may even be associated with other social problems, such as alcoholism and drug addiction. By supporting gambling, the state may seem to encourage other maladies. Above all, by supporting gambling, the state may promote get-rich-quick attitudes that contribute to eroding the work and savings ethic badly needed in any society. Opponents clearly see state-sponsored gambling as having deleterious social consequences.

Opponents bolster their arguments with statistics tending to show that the welfare cost of treating the victims may

outweigh the revenue gain. Such statistics require complicated calculations and are frequently challenged by gambling's proponents, who have continued to argue that the urge to gamble is so widespread that gambling will occur whether the state sponsors it or not.

These ethical arguments frequently lead to another debate over the size of government. Opponents of large governments tend to argue that governments are more likely to be kept small if they must receive all their revenue from taxes. Because lotteries provide additional, nontax, revenue, they thus may encourage overly large governments.

Lottery revenues are not guaranteed and may fall after the novelty interest in lotteries wears off or if excessive number of states begin to use lotteries. If the enlarged government's programs become seen as entitlements, then those programs may be difficult to eliminate--or even trim--after lottery revenues subside. Taxes may then have to be raised to support the programs. Since states often rely on regressive taxes, the tax burden on low-income individuals may be even more severe as they are caught in a scissors-like situation in which their taxes go up as their state benefits go down.

For all these reasons, ethical debates over lotteries and other forms of state-sponsored gambling are likely to continue to dominate public discussion over lotteries.

Richard L. Wilson

Bibliography

Borg, Mary O., Paul M. Mason, and Stephen L. Shapiro. *The Economic Consequences of State Lotteries*. New York: Greenwood Publishing Group, 1991.

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See Also

Betting on sports; Income distribution; Native American casinos; Taxes; Vice; Will.

Eight reasons to oppose a state lottery

by Patrick Briney, Ph.D, President [Arkansas Republican Assembly](#)

Issued: February 21, 2007 (Revised: 3/3/07)

Lt. Gov. Bill Halter announced a proposed constitutional amendment to create a state sponsored lottery in Arkansas. Presently, the state's constitution bans lotteries. Halter hopes the Legislature will approve the constitutional amendment in time for the November 2008 general election.

“Once almost universally rejected as ethically unacceptable, lotteries and other forms of state-supported gambling have become major sources of revenue for U.S. states reluctant to raise taxes; they have also created new ethical challenges for governments.” (John K. Roth, December 2004, Claremont McKenna College, Ethics, Revised Edition, Salem Press, https://salempress.com/Store/samples/ethics_revised/ethics_revised_lotteries.htm).

For over 130 years, states abandoned sponsoring lotteries because 1) revenues could be better gathered by other means, 2) because of the criminal activity associated with the practice of lotteries, and 3) because of the unethical treatment of the poor ([The State Lottery: California Hustle](#), January 15, 2007, Jonathan J. Bean, Donald W. Gribbin, The Independent Institute). In 1964, New Hampshire initiated the rebirth of lottery adoptions, and since that time forty others have followed suit. Arkansas has not, up to this time, instituted a lottery.

Is a state lottery a good source of revenue for Arkansas, and will it promote well being of Arkansans? The facts says no.

According to data from the U.S. Census Bureau, 37 states sponsoring lotteries in 2000 generated \$127 in per capita sales. This amounts to approximately less than one-half of one penny for each dollar of personal income in the state (0.44%). However, the Arkansas Advocates for Children & Families (AACF) discovered from data of lotteries in Louisiana, Missouri, and Texas, and six states (Iowa, Kansas, Nebraska, West Virginia, New Mexico, and New Hampshire), which are more demographically or economically similar to Arkansas, that from 1998 to 2000, “these nine states had median lottery ticket sales of about 0.27 percent of state personal income.” Based on this percent and on personal income figures for Arkansas in 2002, the UALR Institute for Economic Advancement calculated that a ‘traditional’ lottery in Arkansas might generate a net of \$55.4 million after the typical two-third deduction for administrative and prize expenses associated with lottery sales. Though these figures could be increased by using the video lottery terminals (VLTs), most states reject their use fearing their association with increased gambling addiction ([An Arkansas Lottery, A Bad Bet for Education & Families?](#) Richard Huddleston, 2002).

A lottery in Arkansas might generate an apparent net revenue for the state. However, indirect costs and social consequences quickly diminish this ethereal gain.

1. Arkansas' relative rural and low population density will reduce lottery revenues.
 - A. The estimated net revenue of \$55.4 million may be less for Arkansas in light of findings by University of Mississippi Professor Donald Moak. He reported that state lotteries are more costly to operate in southern states like Arkansas than in more dense and urbanized states in the Northeast and Midwest (Hill, Dr. John, Lottery Revenues Not Stable South Carolina Policy Council (803) 779-5022).
 - B. Factors that could further reduce revenue from a state sponsored lottery in Arkansas compared to other states include the state population base, personal income of citizens, tourism, interstate traffic, the mix of lottery games utilized by the state, the availability of other forms of gambling, and citizen willingness to play the lottery ([An Arkansas Lottery, A Bad Bet for Education & Families?](#) Richard Huddleston, 2002).
2. State sponsored lotteries diminish local and state tax.
 - A. "The California Grocers Association reported an average decline in food sales of seven percent since the imposition of the California Lottery." ("Not so small change" Los Angeles Times, March 26, 1986, cited in Hill, Dr. John, Theft by Consent, Alabama Policy Institute (205) 870-9900)
 - B. Given the low rate of savings among Arkansas citizens (an estimated 25% of Arkansas families have negative net worth), money spent on lottery tickets would come from reduced purchases of other goods and services. This, in turn, would reduce state and local tax revenue generated from sales of other good and services.
 - C. According to a 2000 study by Arkansas Advocates for Children & Families, the average taxpayer spends about 5.7 percent of their income on state and local sales taxes. At this rate, the estimated \$169 million spent on lottery sales would result in the loss of about \$9.6 million in state and local sales tax revenue.
 - D. Convenience stores have reported that selling lottery tickets hurts their businesses due to: 1) employee time required to sell tickets, 2) subsequent shoplifting increase because of inattentiveness by employees occupied with lottery sales, and 3) lost sales due to longer lines resulting from lottery customers. (Watson, Tom, "Many convenience stores say lottery sales not a big draw" USA Today, May 4, 1995)
3. State sponsored lotteries promote problem gambling (Richard Huddleston, 2002. [An Arkansas Lottery, A Bad Bet for Education & Families?](#)).
 - A. Research shows, "... that the lottery is a powerful recruiting device, which is responsible for inducing about one-quarter of the adult population who would not otherwise have done so to participate in commercial gambling." Lotteries create gamblers who otherwise may never have gambled. (Clotfelter and Cook, *Selling Hope: State Lotteries in America* (Cambridge, Mass., Harvard University Press) 1991 pg. 105).
 - B. Dr. Lance Dodes, who runs Massachusetts' largest outpatient treatment center for problem gamblers says that lottery players comprise 44% of his patients. (Golden, Daniel and Halbfinger, David, "Lottery Addiction Rises and Lives Fall" Boston Globe, February 11, 1997).
 - C. 43% of all callers to the national 1-800-GAMBLER hotline indicated problems with lottery gambling. (Council on Compulsive Gambling, "1995 Statistics for 1-800-GAMBLER Hotline" March 20, 1996)
 - D. 39% of persons who entered publicly funded alcohol and drug treatment centers in Texas stated that the lottery was their most problematic gambling activity. (Wallisch, Lynn, "Gambling in Texas: 1995 Survey of Adult and Adolescent Behavior" Commission on

Alcohol and Drug Abuse).

4. State sponsored lotteries makes states liable for gambling addiction. Given the current state of liability litigation (for example, the tobacco lawsuits), it may not be too long before states get hit with major lawsuits by addicted lottery players. (Novak, Viveca, "[They call it Video Crack](#)").
5. State sponsored lotteries violate government responsibility and purpose.
 - A. "Opponents challenge state-sponsored gambling on grounds of hidden social costs as individuals, especially with low incomes, gamble away money that should properly be used to care for their dependents. For those low-income individuals succumbing to a gambling addiction, the state may be encouraging the impoverishment of families, especially poor families with children. Gambling may even be associated with other social problems, such as alcoholism and drug addiction. By supporting gambling, the state may seem to encourage other maladies. Above all, by supporting gambling, the state may promote get-rich-quick attitudes that contribute to eroding the work and savings ethic badly needed in any society." (John K. Roth, December 2004, Claremont McKenna College, [Ethics, Revised Edition](#), Salem Press)
 - B. "The lottery is unhealthy for the common good. First of all, lotteries convey 'a message at odds with the ethic of work, sacrifice and moral responsibility that sustains democratic life' (Sandel, 1997, p. 27). Americans value earning a living through hard work, but the lottery encourages the idea that someone can get something for nothing. Yet, state governments promote the lottery, encouraging citizens to participate. Doing this, the government essentially turns gambling into some sort of civic virtue, equating it with staying in school or abstaining from drugs (Hertzke, 1998). (From Jesse Aukeman, [State Lotteries: A Losing Game](#), Universal Journal).
 - C. Lotteries are used to bail governments out of financial crisis and fiscal incompetence. The legislature should take responsibility for the state's fiscal condition. But instead, "[T]hey seek easy, superficial, painless solutions to the state's pressing revenue problems" like using a lottery.
 - D. Government works against the well-being of citizens when it lures citizens into risky ventures that result in an increase in social welfare cases and an added tax burden.
 - E. Government has no business enticing people to gamble their hard earned money for an against-all-odds chance of winning a big cash prize. It is bad enough that government takes our money from us in taxes. Promoting high risk gambling to get rich is irresponsible and immoral.
 - F. Knowing that it is the poor who spend more per earned dollar on lottery sales makes legislators responsible for targeting poorer people. In the hope to quickly and easily improve their conditions by the lottery (reinforced in this unwise thinking by the government), the poor lose the most. This is reprehensible.
 - G. Rep. Roscoe Cunningham (R., Lawrenceville) referred to the lottery as, "the pathological pursuit of the unattainable—an effort to get something for nothing" (Gilbert 1973b).
 - H. People can voluntarily donate already more tax money to the state without the aid of a lottery. Promoting a high risk gambling game is irresponsible.
 - I. "States need to spend less time promoting the lottery as a fun, recreational activity and follow the cue of New Hampshire's lottery director. Compulsive lottery players need to be reminded that the odds are against them." (Michael Ring, published on September 3, 1998. *The Problems with State Lotteries: Chance for Quick Fix Presents Irresistible yet Dangerous Lure for the Poor*, The Tech Vol. 118, Nmbr 39).

- J. “As new gambling ventures drain potential investment capital for other businesses, as existing businesses lose more of their consumer dollars to gambling ventures, more businesses are being pushed closer to decline and failure, more workers are being laid off, and enormous public and private costs are incurred to deal with a growing sector of the population afflicted with serious gambling problems; do we really want our governments so dependent on gambling that they are forced actively to promote an activity that takes disproportionately from those who can afford it least, does great damage to existing economies, and can be highly addictive? If governments are going into business, couldn't they find alternatives that create less trouble and offer more real long-term economic and social value?” (Carnahan, Ann, “Lottery analyzing players brains” Rocky Mountain News, July 8, 1997. Goodman, Robert, “The Lottery Mystique: Why work at All?” Newsday June, 1991).
 - K. Legalized “... gambling is definitely not painless, especially to that 10% of the population who will become problem economic gamblers (PEGS) or the 1.5% to 5% who will become compulsive economic gamblers (CEGS). A guaranteed 10% of practically any U.S. population base will redirect proportionately large amounts of consumer dollars away from the preexisting economy and transform those dollars into gambling dollars once gambling is legalized by the state government (i.e., the 'acceptability factor'). (John Kindt, "Legalized Gambling Activities as Subsidized by Taxpayers," Arkansas Law Review, Volume 48, Number 4, 1995, p. 896.)
6. State sponsored lotteries hurt children suffering in families cursed by gambling addiction.
 - A. The state is obligated not to hurt or threaten the well being of children and their families.
 - B. Studies suggest that the costs of parental gambling are borne heavily by children.
 - C. Children of problem gamblers have higher levels of tobacco, alcohol and illegal drug use, and overeating compared to their peers.
 - D. Three-fourths of problem gamblers' children reported their first gambling experience before age 11, compared to 34 percent of their classmates.
 - E. Children of compulsive gamblers are twice as likely to come from homes involving separation, divorce, or the death of a parent before the age of 15.
 - F. Compared to their classmates, children of problem gamblers rate themselves as more insecure, emotionally down and unhappy with life, and perform poorer at work and school. They are also acknowledged suicide risks at twice the rate of classmates.
 - G. Studies also suggest lotteries encourage illegal gambling by children.
 7. State sponsored lotteries hurt poorer and uneducated families.
 - A. Lotteries are sometimes called stupid tax because as a, “governmental revenue-raising mechanism, a lottery will attract only those consumers who fail to see that the game is a very bad deal.”
 - B. “One third of the families with annual incomes of less than \$10,000, spend one fifth of their income on lotteries. The National Bureau of Economic Research found that ‘the poor bet a much larger share of their income,’ and that ‘the less education a person has, the more likely he is to play the lottery,’ and that lotteries do best in urban areas with large proportions of minority groups” (Business Week, June 5, 1989).
 8. State sponsored lotteries increases welfare costs.
 - A. “When statistics are included for the state lottery and race tracks, the overall pathological and problem gambling costs in Massachusetts work out to \$170 million a year according to a behavioral study released by the University of Massachusetts Dartmouth Center for Policy

Analysis.” (Fraga, Brian. UMass study: [Out-of-state casinos bring costly problems to Bay State](#), SouthCoastToday.com, posted Wednesday, February 21, 2007).

- B. “The societal costs from pathological gambling to individuals are seen in bankruptcies, legal proceedings, and divorce. Private businesses are hurt by lost productivity, while the state pays for law enforcement, treatment, social welfare and other costs, The Center for Policy Analysis (CFPA) said. A recent University of Chicago National Opinion Research Center study on pathological and problem gambling estimated the annual cost to U.S. society to be \$6 billion” (Ibid).

Significant reading:

- Bean, Jonathan J, Donald W. Gribbin. 2006. [Adoption of State Lotteries in the United States, with a Closer Look at Illinois](#), The Independent Review 10 (3), [Accessed 2/22,07]
- Page, Larry L. [The case against legalized gambling, economics 101](#), Executive Director, Arkansas Faith and Ethics Council
- Huddleston, Richard. 2002. An Arkansas Lottery, [A Bad Bet for Education & Families?](#)
- [Arkansas Republican Assembly Blog - Search Lottery](#)
- [Arkansas Republican Assemblies](#)

Action needed

- [Contact List of committee members & the contact info for legislators](#)
- [Senate State Agencies and Governmental Affairs Committee](#)
- [House State Agencies and Governmental Affairs Committee](#)

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Public Forum

Food Security

Preparing for Climate Change

5.2

June 14, 7:00 p.m. | Goldcorp Centre for the Arts, 149 West Hastings St., Vancouver BC

Despite international efforts to reduce greenhouse gas emissions our climate will continue to change significantly over the coming decades. Are we prepared? Learn what scientists are projecting for British Columbia's climate and what this means for agriculture. Are we on the path to a more secure food supply and can we meet the climate change challenge? Hear what community and agriculture experts have to say.

This free public event is part of a two-day Vancouver forum, where leading scientists and decision-makers will discuss and debate these issues.

Visit www.pics.uvic.ca for details.

Photo credit: HB Lanarc Consultants

Presented by:



Pacific Institute
for Climate Solutions
Knowledge. Insight. Action.



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NORTHERN BRITISH COLUMBIA

PICS is hosted and led by the University of Victoria in collaboration with the University of British Columbia, Simon Fraser University and the University of Northern British Columbia.

FONVCA Agenda Item 5.3

Environmental indicators (<http://sekom.sekom.nu/files/indicators.pdf>)

SEkom has developed 12 environmental indicators that were officially adopted in 2002. The aim of these indicators is to monitor development in the eco-municipalities and to create a means for tracking trends and actions. Currently, all of the indicators measure only environmental trends, and there has been no focus placed on trying to measure social or economic trends in the municipalities. The 12 indicators are as follows:

Indicators related to the geographic area of the municipality:

1. CO2 emission from fossil fuel (tons per resident) a)CO2 emissions from local industry b)Co2 emissions from other local sources (energy production, transportation, etc)
2. Quantity of dangerous waste from households (kg per resident)
3. Percentage of arable land with ecologically grown crops a) percentage of arable land receiving support according to EU regulations b) percentage of arable land subject to KRAV control (approved for organic cultivation)
4. Percentage of environmentally approved forestry (Certified by FSC or PEFC)
5. Percentage of protected environments (nature reserves)
6. Collection of household waste for recycling (responsibility of manufacturer) (kg per resident)
7. Total amount of household waste (excluding responsibility of manufacturer) (kg per resident)
8. Heavy metals in drainage sludge (mg per kg TS)
 - a) Lead b)Cadmium c)Mercury

Indicators related to the local authority of the municipality

9. Percentage of renewable and recycled energy in municipal premises
10.
 - a)Transportation energy for business trips by car (tons per employee)
 - b) CO2 emissions from business trips by car (tons per employee)
11. Purchase of organic provisions within the municipal organization (percentage of the cost)
12. Percentage environmentally approved schools and day care centers (certified systems such as Green Schools, Schools for Sustainable Development, ISO 14001, EMAS)

The 12 indicators were narrowed down from an original list of 25, and were chosen because they corresponded to national indicators. They were also picked because they are of interest to the majority of municipalities in the network. The eco-municipalities are spread throughout Sweden, and face a variety of different environmental issues and SEkom felt that these 12 applied to the majority. Finally, they were chosen because the municipalities should be able to gather the information relatively easily.

While SEkom has officially adopted these indicators, there is no mandatory reporting system. It is up to each municipality to voluntarily report on each indicator once a year through a web based system. SEkom then compiles this data and creates graphs that can be accessed through their website, allowing municipalities to see



Community Engagement Strategy



Approved December 9, 2008
Halifax Regional Council

HRM Community Engagement Strategy

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Overview

The Halifax Regional Municipality recognizes the importance of involving residents in the development of policy, programs and services. Community engagement is also the basis for building healthy, strong and inclusive communities.

In January 2006, Regional Council identified the need to develop a new framework for community engagement across HRM. Community Engagement was designated as a key goal of the Council Focus Area on Community Relations. This *HRM Community Engagement Strategy* provides a policy and strategic action direction which will guide how the municipality will inform, consult with, and engage the public in developing and implementing its programs and services. The strategy builds on municipal and community strengths while addressing key areas in need of improvement.

The strategy is based on a Definition, Continuum of Community Engagement, Ten Principles of Community Engagement, a Checklist and 5 Strategic Approaches which will ensure that the new framework is implemented across HRM.

The Strategy does not mandate specific community engagement formats to be used at specific times. Each situation demands its own approach and process. Rather, the Strategy seeks to institute a strategic approach to every community engagement process hosted by HRM. The Strategy will not address all of the challenges of managing the complex issues of community engagement, yet by introducing a consistent, strategic approach it will equip HRM with the tools needed to move towards more meaningful, inclusive and effective public involvement.

What is community engagement?

Community engagement is the process of working collaboratively with and through groups of people to enact positive action. It includes information sharing, consultation and active involvement in decision making.

While engagement is often led by government, engagement may also be led by the community with government support. The level of community involvement and influence evolves over time and increases along a 'continuum of community engagement'. While HRM may follow some standard processes to satisfy legislative requirements, in many cases a tailored approach will have to be developed. The onus on HRM is to honour local values and traditions, to use a strategic approach to community engagement, to facilitate effective engagement and to clearly communicate to the public the purpose and scope of engagement. It is important to recognize that in the majority of cases the final decision rests with the elected municipal representatives – the HRM Regional Council.

HRM's Commitment

HRM is committed to supporting an engaged community across HRM by ensuring there is a range of opportunities for residents to be knowledgeable about local government and actively involved in the cultural and civic life of their community.

The following Principles of Community Engagement will guide all future HRM activities:

HRM's Commitment to Principles of Community Engagement

1. Citizen participation is recognized as an asset, is valued and encouraged
2. The purpose and the process are clear to all participants
3. Everyone potentially affected by the process has an opportunity to become involved
4. Barriers to access are recognized and overcome to ensure diverse, inclusive and balanced participation
5. The process is respectful, fair, effective and transparent
6. Communication is clear, timely and effective
7. Public involvement is adequately resourced
8. Participants are informed of outcomes of community engagement
9. The public has an opportunity to provide feedback on the process
10. Community engagement is evaluated and improved

A New Community Engagement Strategy for HRM

Since identifying community engagement as a Council Focus Area in January 2007, HRM staff coordinated a detailed review of its community engagement practice as well as successful approaches taken by other municipalities. The review identified a lack of consistency in HRM performance and identified a need for a coordinated approach to community engagement. Based on the findings of these reviews, five strategic approaches are recommended to guide future actions:

1. Adopt an HRM Community Engagement Framework
2. Improve Engagement Practices of Individual Divisions and Business Units
3. Increase Training and Internal Support of HRM Staff
4. Invest in Public Education, Outreach and Capacity Building
5. Ensure Accountability and Promote Excellence in Community Engagement

HRM Community Engagement Strategy

Implementation and Governance

HRM's Community Engagement Strategy will be championed by the Senior Management team (SMT) and governed by Community Development's Community Relations and Cultural Affairs Division. A primary role of this Division is to provide a comprehensive community development and cultural framework, and operationalize key municipal strategies including Immigration, Youth Development, Community Engagement, Cultural Planning and Community Grants. Council, all business units and all parties acting on HRM's behalf will be bound by this Strategy, the 10 Principles of Community Engagement and the Community Engagement Checklist. All staff reports to Council will now contain a new "Community Engagement" section. An Operating Action Plan will be implemented through an internal Community Engagement Steering Committee.

Program delivery

The implementation of the **Community Engagement Strategy** will move forward in a phased approach, with different actions within each strategic approach being prioritized in the short-term, medium-term, and long-term.

Short-term focus will be placed on the development and adoption of the HRM Community Engagement Framework by Council, including the guiding principles and checklist. Community Engagement Tool-kit, promotional materials and E-Newsletter will be launched. Councillors and key business units will be introduced to the framework in 2008. An HRM Community Engagement Steering Committee will also be established. The development of an overall (internal and external) inclusion strategy for HRM will commence.

Medium-term focus will be placed on the collaborative initiation of tailored community engagement improvement programs in relevant Business Units and staff training. An emphasis will be placed on community capacity building and improved outreach and educational materials, including maximizing HRM's use of its website and the Internet to enhance opportunities for public information, consultation, and participation. Work will also commence to changing the notification process, community calendar and launching a community database solution.

Long-term focus will be placed on, and the evaluation and monitoring of the improvement efforts of relevant Business Units and Divisions and developing a recognition program.

The **Community Engagement Steering Committee** will further identify priority areas (i.e. for specific Business Units, facilitate centralized database) and monitor and evaluate the implementation of the strategy over the next Business Cycle.

Evaluation of the implementation of the strategy will be conducted both in an ongoing way (formative) by Community Relations staff and the Steering Committee, and yearly (summative) with each Business Cycle to measure outcomes and ensure progress is in alignment with Council priorities. Annual progress reports will be tabled with Regional Council.

HRM Community Engagement Strategy

Budget and Resources

To effectively carry out meaningful community engagement initiatives, distinct resources must be allocated in the operating budgets of individual Business Units. To date, most HRM Business Units have not had dedicated budgets to support community engagement as described in this strategy with the notable exception of major corporate initiatives such as the Regional Plan, Community Visioning, and HRM by Design.

The Community Engagement Resource Group (CERG) is currently in the process of allocating funds for research, professional development / training, and equipment, in order to ensure it is well equipped to respond to inquiries and requests for support and guidance from across municipal Business Units.

This strategy emphasizes the importance of creating the right conditions for improved engagement. The real costs of engagement need to be considered by all Business Units and integrated into all existing and future engagement programs.

PART I

Building the Strategy: Review of Community Engagement in HRM

In the 2003 Community Development Business Plan, Council endorsed staff proposal to develop a Community Development Framework for improving HRM’s service delivery at the community level. The Community Development Framework was developed and has since been operationalized. It is comprised of three key strategies: Community Engagement, Community Capacity Building, and Governance and Service Delivery. Community Engagement is considered key to building informed, cohesive, organized, welcoming and safe communities. All three are implemented using an Appreciative Inquiry and Asset-based approach (Fig.1).

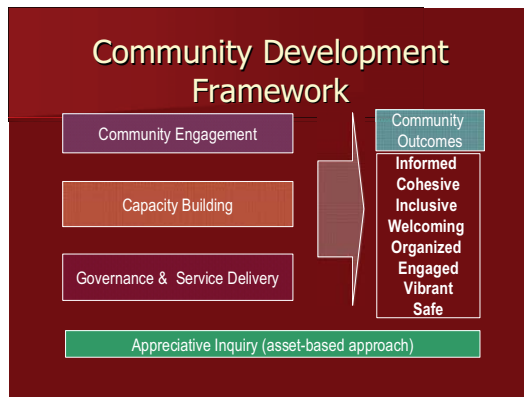


Fig. 1 HRM’s Community Development Approach

Community Engagement as one of the three key pillars of the HRM Community Development Framework will facilitate capacity building, governance and service delivery enhancement which will in turn lead to more informed, cohesive, inclusive, vibrant and safe communities. Recognizing the importance of effective community engagement, Council affirmed the need to develop a new framework for community engagement and public consultation. The process of developing the framework included:

1. **January 2007:** Council declares Community Engagement a Focus Area
2. **May 2007:** Assessment of HRM’s Community Engagement
3. **August 2007:** Internal Survey and best practice research

Assessment of HRM’s Public Engagement Exercises

In May 2007 the MacDonnell Group Consulting and One World Inc. were commissioned by HRM to conduct an assessment of a variety of HRM’s public engagement exercises. The objective was to understand HRM’s strengths and weaknesses in terms of how we engage the public as a municipality. The consultants evaluated ten past community engagement projects based on a set of indicators of good practice.¹ The process was overseen by an internal staff steering committee comprised of staff from Community Relations, Human Resources, Real Property, Police, Recreation and Planning.

1.1 Focus Groups & Case Study Research

The consultants conducted seven focus groups held throughout the HRM with residents, HRM staff, and Councillors who had participated in one or more of the ten community engagement exercises. Along with the focus groups, they reviewed documentation for each case study. Considering the collected data, as well as relevant policies, legislation, and applicable models of public engagement from other jurisdictions, the consultants identified a number of key findings and recommendations.

Findings

The key challenges identified by the report include clarity on the goals and objectives of engagement, lack of feedback and evaluation at different stages of the process, staff training and support and internal coordination. The recommendations are based on “getting the foundation right for meaningful engagement”, including:

- Improving internal consistency and communication;
- Developing a coordinated HRM-wide approach to community engagement, including plans for all processes;
- Developing guiding principles for engagement;
- Reviewing of existing policies and procedures to ensure consistency with the new approach;
- Enhancing staff engagement skills and capacities with appropriate training and through developing mechanisms for shared learning;
- Demonstrating that engagement is important and valued with appropriate venues, proper equipment, and by only seeking involvement when feedback will be used;
- Improving external communication and outreach by using clear language and diverse tools;
- Ensuring the goals of engagement activities are clear and reach a wide and diverse audience;
- Increasing the range of engagement methods used to enhance inclusion, ensuring they match the purpose of engagement and the stakeholders and communities impacted;
- Establishing clear mechanisms of feedback and evaluation for each engagement initiative.

1.2 Internal Community Engagement Survey

Complementing the findings of the consultant’s report staff conducted an internal survey of all HRM business units. The purpose of this additional survey was to determine which units regularly engage

¹ Please see the final consultants’ report for a list of the case studies and evaluation criteria.

the public, to recognize best practices, and identify opportunities for improvement. There were 24 surveys completed by relevant division and project managers. The survey asked questions about general practices, engagement goals and methods, and invited respondents to identify three wishes with respect to HRM's community engagement practices.

Findings

The survey revealed that 85% of HRM's divisions engage the public and over a quarter do it on a daily basis. Most engagement exercises are staff-driven, and while the majority of managers see their staff as being comfortable with public engagement facilitation they also identified a need for better training and internal support, particularly with respect to communication.

1.3 Best Practice Research

The consultant report provided initial research on community engagement tools and techniques. This was supplemented by staff research from various jurisdictions and professional associations. In general, best practice research pointed out the need for a framework, guiding principles, clarity on the continuum of engagement and selecting appropriate approaches to engaging the various segments of the public on specific issues. There is also a general agreement that in order to be effective investment must be made to strengthen internal government capacity. The *Community Engagement Improvement Strategy* is guided by the above findings.

PART II

Community Engagement Strategy Framework

The *Community Engagement Framework* (the Framework) includes a policy direction regarding common definition, adoption of the continuum of community engagement, and the Ten (10) Principles of Community Engagement. The *Community Engagement Strategy* (the Strategy) will be operationalized through Five (5) Strategic Approaches and actions contained in them.

Policy 1: HRM will adopt a Community Engagement Framework which will guide all of its public involvement, including initiatives led by Council, staff, external consultants and community.

2.1 Defining Community Engagement

Community engagement can be defined as "the process of working collaboratively with and through groups of people to enact positive action. It includes information sharing, consultation and active involvement in decision making".

Residents expect to be involved in the decisions that affect them, and citizen involvement in deliberations about what is important to them, how their community grows and develops is crucial to more informed government decisions and better service delivery. Effective public engagement taps into the collective knowledge and wisdom of residents and contributes to building more connected, harmonious and resilient communities. When people are involved in initiating and promoting change, the resulting solutions tend to be more successful and lasting.

Community engagement is fundamental to local representative democracy; "Exclusion, however, "is the shadow of public engagement"² and engagement that is too numerous, poorly designed and poorly executed can discourage or even silence significant portions of the community. Each situation requires a tailored approach to engagement. The onus on HRM is to honour local values and traditions, to use a strategic approach to community engagement, to facilitate effective engagement and to clearly communicate to the public the purpose and scope of engagement. It is important to recognize that in a vast majority of cases the final decision rests with the elected municipal representatives – the HRM Regional Council.

Policy 2: HRM will adopt a common definition of community engagement, including definitions contained in the Community Engagement Dictionary accompanying the Strategy.

² Social Planning Research Council of BC. Nov. 2005. Policy Spotlight on Diversity and Civic Engagement. www.inclusivecities.ca

2.2 Continuum of Community Engagement

Community Engagement covers a wide range of processes and government-community connections include information sharing, public consultation and active participation. While engagement is often led by government, engagement may also be led by the community with government support. The level of community involvement and influence evolves over time and increases along this ‘continuum of community engagement’.³ Once a mode of engagement is chosen, the decision must be clearly communicated to the public. Clear, timely and accessible information sharing and communication are part of all stages of the continuum (see Fig. 2).

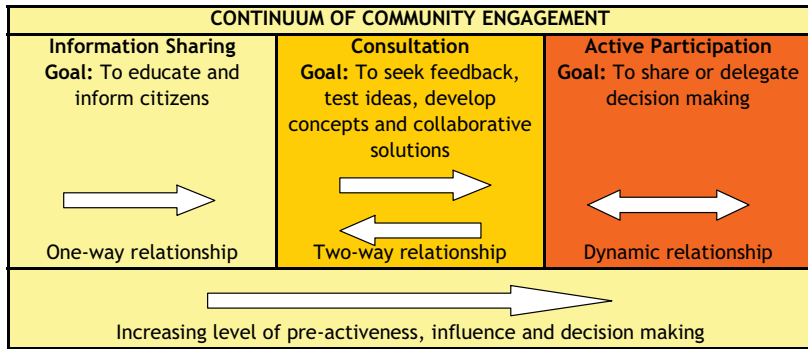


Fig. 2 Continuum of Community Engagement

Information sharing – involves sharing information to build awareness of issues that may affect the public or specific communities. HRM’s responsibility here is to provide objective, reliable, timely, easy to find and easy to understand information. Open houses, public announcements, publications such as HRM’s “Naturally Green”, the Annual Report and the Budget are all examples of information sharing tools.

Consultation – is typically part of a regulatory process where the public's input on matters affecting them is sought. Its main goals are to improve the efficiency, transparency and public involvement in projects, laws and policies. It may include simple testing of ideas or concepts to build knowledge or it may include a two-way collaboration to develop solutions and build community buy-in. HRM’s responsibility is to define goals and processes, clearly state the purpose and limits of engagement and

³ The HRM has adopted and adapted the Organization for Economic Cooperation and Development’s (www.oecd.org) engagement model to reflect the range of engagement initiatives in which the HRM is involved.

how the information collected will be used in decision making. Examples of consultation include Police Town Hall meetings, various Council public advisory committees, public hearings, etc.

Active participation – involves sharing decision making to build ownership or delegating decision making to build community capacity and responsibility. HRM’s responsibility is to provide support, time and flexibility to facilitate dialogue between the public, HRM representatives and other partners. HRM should also define a process for integrating input of active engagement in decision making. Community Visioning, community MOUs and facility management agreements are forms of active participation.

Policy 3: HRM will adopt the Continuum of Community Engagement in developing, implementing and communicating public involvement initiatives.

2.3 HRM’s Principles of Community Engagement

HRM has already embraced community engagement as a key component of sound local democracy. We realize the importance and value of placing residents and communities at the centre of our municipal activities. The *Community Engagement Strategy* recognizes the dedication and hard work of residents, staff, and Council in past and present engagement projects.

This strategy aims to build on that good work by coordinating the municipality’s approach to community engagement in order to maximize the benefits to all involved parties. HRM wishes to serve residents in an effective, efficient, and legitimate way. We want to better understand the expectations, strengths, and concerns of residents. With this strategy, we strive to make HRM’s community engagement processes more coherent, transparent, and accessible to all. The following Principles of Community Engagement will guide all future community engagement activities led by HRM and those acting on HRM’s behalf. They represent an HRM commitment to the public.

HRM's Commitment to Principles of Community Engagement

1. Citizen participation is recognized as an asset, is valued and encouraged
2. The purpose and the process are clear to all participants
3. Everyone potentially affected by the process has an opportunity to become involved
4. Barriers to access are recognized and overcome to ensure diverse, inclusive and balanced participation
5. The process is respectful, fair, effective and transparent
6. Communication is clear, timely and effective
7. Public involvement is adequately resourced
8. Participants are informed of outcomes of community engagement
9. The public has an opportunity to provide feedback at the various stages of the process
10. Community engagement will be evaluated and improved

Policy 4: HRM will adopt the Ten Principles of Community Engagement and use them to guide the development and implementation of all HRM community engagement processes.

2.4 Community Engagement Checklist

Community engagement is an important but only one component of government decision making. It may not always appropriate to engage the public, and when a decision is made to engage the process must be planned for to ensure the public involvement is meaningful, effective and results in positive results for the community. The Continuum of Community Engagement along with the Ten Principles provides a framework for planning any public engagement exercise. Community engagement must take place within a strategic and deliberate decision making process to help ensure that an appropriate level of engagement (see Fig. 3).

To assist staff, Councillors and external parties hosting community engagement on HRM's behalf a 'Readiness Checklist' has been developed to assess the level of readiness to engage the public (Appendix 1). The expectation is not to achieve a perfect score, but to cover as much as possible all of the key aspects prior to engagement to ensure a meaningful and effective exchange between HRM, its residents and stakeholders. A longer version of the Checklist focussed on the key stages of planning community engagement (see Fig. 4) has been developed and will also be provided in the Community Engagement Toolkit.

Each level of engagement along the continuum can be implemented through a range of engagement tools and techniques. In the past, HRM used both traditional techniques, such as advisory committees and public meetings, as well as more innovative processes such as community visioning, asset mapping and appreciative inquiry. The complexity of the issues at hand, the desired outcomes of the

process, and the timeline, all help to determine which methods are most appropriate. The Community Engagement Tool-Kit will provide a guide to the various techniques.

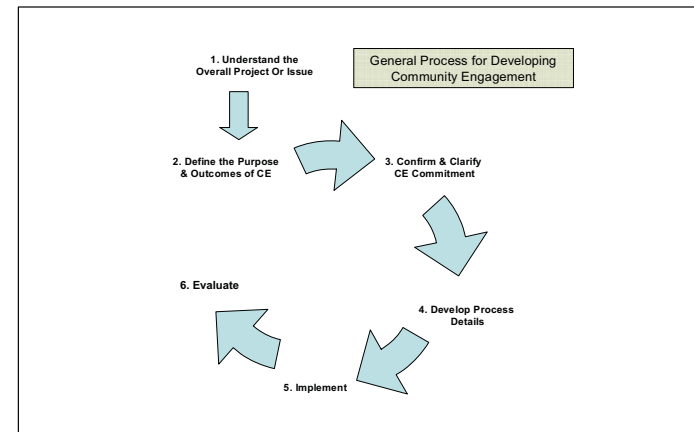


Fig. 3 General process for developing Community Engagement processes

Policy 5: HRM will adopt the Community Engagement Checklist in the development and implementation of its community engagement initiatives.

PART III

The Strategy: Improving Community Engagement in the HRM

The assessment of HRM's current engagement practices identified many strengths but also the need to improve and coordinate HRM's community engagement practices. Further best practices research has augmented these studies and together form the basis for the five strategic approaches and accompanying actions set forth in this strategy. An administrative Action Plan was also developed and it details the governance, costs, and timelines associated with these actions.

Strategic Approach 1: Adopt an HRM Community Engagement Framework

A community engagement framework will shape and direct HRM's community engagement (CE) practices. It will help staff make decisions about when engagement is appropriate, how processes should be designed and implemented, and who should participate. This framework will also enhance both staff and public understanding of community engagement goals, methods, tools, and techniques.

Action 1.1 Develop a community engagement dictionary

There are many terms used to describe community engagement, many of which are not used consistently. To ensure expectations are accurate for any given process, HRM will use the Continuum of Community Engagement and the terms in the Community Engagement Dictionary. Regardless of what terms are used by other agencies, HRM will consistently use these terms and definitions to ensure clarity and avoid misunderstanding. A draft community engagement dictionary has been developed by Community Relations staff and will be provided as part of a Community Engagement Tool-Kit.

Action 1.2 Develop and implement Community Engagement Checklist & Readiness Test

To assist staff and those acting on HRM's behalf with designing engagement processes and making decisions about public processes, a community engagement checklist has been developed. The checklist identifies the typical stages in any engagement process, and allows staff to "check off" key actions along the planning process. A short checklist focused on "readiness" confirms that community engagement is ready to proceed. Public communication should regularly reiterate the process and the checklist may also be used as a basis for public monitoring and evaluation. A short and along version of the checklist will be provided. A short version of the checklist is appended to this strategy (Appendix I).

Action 1.3 Develop a 'Community Engagement Tools and Resources Kit'

To assist staff with designing engagement exercises and making decisions about public processes, a Community Engagement Toolkit will be developed. The kit will include key HRM community engagement documents such as the Guiding Principles, Checklist, Dictionary, Risk Assessment, Communication Guide and Evaluation Guide. It will also provide explanations of both traditional and innovative engagement techniques, the goals and circumstances under which each is most appropriate, as well as the contact information of relevant support staff. The kit will be available in hard copy and on line and will also be made public on HRM's website to support community-driven engagement processes.

Strategic Approach 2: Support Improved Community Engagement Practices of Individual Divisions / Business Units

To facilitate the integration of the new community engagement framework across HRM, it is proposed that Community Relations staff support each Business Unit in the development of its own program for improvement. The *Community Engagement Strategy* champions will work as a team and actively engage staff in the implementation of this new direction.

Action 2.1 Develop a 'Community Engagement Resource Group' (CERG)

HRM has a number of staff with substantial knowledge and experience in community engagement. These staff members will comprise Community Relations Resource Group (CERG) who will focus on skill development and relevant research (i.e. developing the toolkit). This group, comprised of Community Relations staff to begin with, will be available for guidance and consultation in regards to the design, implementation and evaluation of all of HRM's engagement exercises. The group will also help build capacity amongst staff and provide peer-to-peer mentoring. Over time, Community Engagement expertise will grow throughout the organization as staff becomes familiar and confident with community engagement principles and techniques.

Action 2.2 Develop a Community Engagement Steering Committee

A Community Engagement Steering Committee will guide and support each relevant HRM division to tailor the community engagement framework to fit its own requirements. CERG will work with the Senior Management Team to identify appropriate staff. The Steering Committee will monitor, evaluate and guide revisions to the Community Engagement Strategy.

Action 2.3 Educate staff and Councillors on the new Community Engagement Framework

The new Community Engagement Strategy will need to be communicated clearly to staff, Councillors, and contractors acting on HRM behalf and the public. The Community Engagement Framework will be shared with staff and Councillors through workshops, presentations, written materials, on the web, intranet and open discussions. A special effort will be made to incorporate community engagement as part of new staff and Council orientation sessions. Templates will also be developed to clearly communicate where specific processes are on the Continuum of Engagement. Community Relations will work with Corporate Communications to develop promotional materials.

Action 2.4 Develop a ‘Process Improvement Program’ for individual Business Units

Community engagement should align with Council Focus areas and Corporate priorities but it can also inform those priorities. Some HRM business units and divisions have already moved forward with community engagement improvement plans, while others still need to initiate such a process. Community Relations staff will provide support and foster an environment where divisions can easily adapt and apply their improvement programs consistent with the HRM Community Engagement Framework. The goal is to initially assess the three top community engagement processes in each business unit or division and develop a standardized plan that complies with the Principles of Community Engagement.

Action 2.5 Develop a Community Engagement Calendar to improve coordination

Currently various divisions may post notices of meetings in newspapers and on their individual websites but there is no coordinated approach either internally or externally to notify staff and public of upcoming meetings. As a result more than one HRM meeting may take place in the same community on the same day or several meetings may occur in one week. This results in confusion, poor attendance, community confusion and burn-out. It also means that internally opportunities are missed to coordinate a more efficient approach to community engagement. Community Relations staff will work with Corporate Communication, Clerk’s Office, Web Services and all the business units to develop and promote the use of an interactive Community Engagement Calendar for internal and external use.

Strategic Approach 3: Increased Training and Internal Support of HRM Staff

It is essential that staff have the appropriate skills, tools, and supports to engage the public in an effective, efficient, and meaningful way. The HRM community engagement review process identified the need for more comprehensive staff training, which may include both community engagement processes and techniques. Internal support should place emphasis on internal and external communication and allocation of appropriate resources. It may include developing new staff competencies related to community engagement.

Action 3.1 Expand and promote HRM’s staff training programs

Many staff members are comfortable working with the public and bring substantial skill and expertise to HRM’s community engagement projects. The HRM community engagement review process found, however, that our performance lacks professional consistency. Expanded opportunities for staff training will support the implementation of the community engagement framework and allow staff to explore innovative opportunities and gaining comfort with engaging the public. Programs should focus on the Community Engagement strategy itself, process facilitation, public speaking and presentation style, community engagement tools, diversity training, planning inclusive events and processes, conflict resolution, and media relations among others.

Action 3.2 Develop a Community Engagement Newsletter

In addition to staff training, a quarterly electronic newsletter will be developed by Community Relations staff in conjunction with Corporate Communication. The objective will be to share information on ongoing initiatives, best practice research in facilitation and community engagement, and to provide staff with practical tips on how to effectively engage the public.

Action 3.3 Develop a strategic communications plan for business units and their divisions

The HRM community engagement review process revealed that strategic communication, both between business units and with the public, is often lacking. Emphasis should be placed on timely, clear, concise, objective communication free of technical jargon. Communication materials may also address history of the issues, relevant policy and procedures, and alternative approaches to addressing issues. Communication should also regularly reiterate the basics of the process such as schedule, milestones, decision making points, progress and opportunities for feedback. Business Units and Divisions should work in cooperation with Corporate Communications to develop their own strategic communications plan to improve their exchanges with the public and with one another.

Action 3.4 Develop appropriate budget and resource allocation for community engagement

The review process revealed that while traditional engagement processes are relatively well resourced, there is little budget support for Community Engagement processes that are innovative, that go beyond the status quo dictated by policy or legislation, or that focus on reaching more diverse participants. Additionally, staff is often forced to play a dual role of both an expert and a facilitator, a situation that creates a perception of bias, public confusion, and staff burnout. In order to promote effective and representative engagement, dedicated resources to support defined community engagement roles as well as inclusive and more innovative processes should be prioritized. All business units will be encouraged to incorporate realistic plans for community engagement as part of their business planning.

Action 3.5: Develop a plan to address needs for technology, equipment, facilities, and meeting spaces

The HRM community engagement review process revealed that logistics and technology often pose a challenge in delivering effective engagement initiatives. Inconsistent access to updated audio-visual technologies, appropriate facilities and meeting spaces, and other equipment has on occasion resulted in less-effective processes. Business Units and Divisions should assess their inventory of technology and equipment. Priority should be placed on ensuring that equipment is updated and maintained in working order. All business units should work collaboratively to inventory community meeting spaces and facilities that meet basic standards of quality and accessibility. They should also ensure resources, if needed, are available to secure appropriate locations.

Strategic Approach 4: Invest in Public Education, Outreach, and Capacity Building

HRM recognizes the importance of informed and active residents, and will continue to provide training and support to build community through volunteerism and active participation. HRM is also committed to representative participation in its community engagement processes and will take steps to improve public outreach to underrepresented groups and those that experience barriers to participation. To this end, the municipality will continue to explore new and innovative ways to initiate and sustain the involvement of the broadest range of participants in its engagement processes. HRM will value and respect citizens' input and participation through appropriate and varied opportunities for involvement.

Action 4.1 Improve public knowledge of HRM's processes and structures

For many, government structures and practices are confusing and unclear. HRM should promote a higher level of awareness amongst public and private sectors about how the municipality works and what opportunities exist for participation. Community engagement can inform how these processes can be modified to create a better fit and easier access for local communities. In addition, HRM "how-to" guides (print and web-based) should outline municipal structures, services provided and how to access them, and how to participate in municipal processes. Materials should be translated to increase access by linguistically diverse groups. Workshops should be developed on specific topics, i.e. volunteering, getting permits, getting involved in planning and development processes. Tours of City Hall and informal meet-and-greets between municipal Councillors, staff and community leaders should also be encouraged and promoted.

Action 4.2 Improve HRM's website

HRM's website is an efficient and relatively low-cost way to reach out to the public. At a minimum, the website is an easy way to share information. However, the interactive nature of the Internet provides many opportunities for innovation in community engagement (i.e. on-line forums such as the one used in Vision HRM; an interactive calendar of Community Engagement events; audio and video-streaming). HRM should explore how it can maximize the benefits of the web, keeping in mind that online Community Engagement is dependent on public access to computers and the Internet. HRM recently announced an expansion of high-speed Internet access to rural areas. More public access terminals with well-advertised locations would also broaden the accessibility of on-line Community Engagement. The revision of Halifax.ca provides an opportunity for a higher level of service.

Action 4.3 Develop a community contact database solution

HRM should coordinate a centralized database solution for maintaining community contact information that would be accessible to all divisions. The database would arrange and cross-reference the contact information of concerned residents and community groups, based on areas of interest, geography, past participation in training or public processes, etc. The database would help to ensure

that all the appropriate residents and community groups are informed about participation opportunities. New contact forms will be developed to incorporate consent for internal sharing of contact information.

Action 4.4 Develop a Community Engagement Inclusion Guide & Workshop

Many divisions reach out to diverse groups in their engagement exercises; however, there is no consistent approach for addressing diversity in public outreach. The Community Engagement review process identified this lack of coordination as often contributing to a less representative participant base than desired. HRM should draw on current expertise within HRM Human Resources and Community Relations as a first step to developing a Community Engagement Inclusion Guide. Such a strategy would develop contact and media lists, consider potential barriers to participation (based on age, language, literacy, economic status, gender, race, ethnic or cultural background, newcomer status, communication style) and develop strategies for addressing these barriers. More inclusive processes must include multiple and appropriate opportunities for involvement.

Action 4.5 Develop a new volunteer management strategy

HRM recognises that an empowered and organized community sector is the main aim of community development, which enables residents to assess, communicate, and act on their diverse needs and concerns more effectively. HRM currently provides training to community members and groups in facilitation, leadership and board development in order to promote volunteerism, build capacity and help community develop the skills and confidence necessary to act as significant stakeholders in the municipality. Similar training could be offered to all HRM citizen committees to ensure a clear understanding of purpose, decision making scope and effective group dynamics. The annual HRM Volunteer Conference provides an opportunity to connect with volunteers and exchange expertise. The development of a coordinated Volunteer Management Strategy is currently underway and will contribute to stronger and more legitimate community engagement.

Action 4.6 Develop a revised and enhanced notification process

Current notification practices for most HRM Community Engagement processes primarily rely on formal newspaper notifications as well as mail outs, website notification and placards on properties. In order to reach a broader range of participants, an enhanced notification process should be developed that will go above and beyond notification mandated by legislation and utilize a combination of traditional and innovative communication vehicles (i.e. community-based networks such as notice boards and church bulletins, television spots, internet communication such as e-mail and Facebook, door-to-door campaigns, etc). Special attention will be paid to considering the need for clear language, translated materials, and amount of time notice is given in advance of events. Community Relations will work with Clerk's Office, Corporate Communication, Web Services and other Business Units to enhance the existing process.

HRM Community Engagement Strategy

Action 4.7 Allocate resources to support inclusive participation in HRM processes

Inclusive processes require resources to remove barriers to participation. This may include communication resources to broaden advertising in community newspapers, assisting volunteers with transportation costs, childcare, interpreters and ensuring accessible meeting spaces. It is imperative that HRM allocates resources to broaden its base of engaged citizens.

Strategic Approach 5: Improved Accountability and Promotion of Excellence

The goal of this strategy is to empower and enable HRM as an organization to demonstrate its commitment to public involvement by increasing the level of staff professionalism, increasing internal resources and coordination. The Strategy invites each business unit to take ownership of reviewing and improving their respective activities. To this end, it is proposed that all engagement initiatives use the “Community Engagement Checklist” as part of engagement planning, and that staff reports include a new “Community Engagement section”. In addition to regular evaluation it is recommended that a corporate program to recognize excellence and innovation in community engagement be recognized in HRM.

Action 5.1 Institute the “Community Engagement Checklist” as part of planning for all community engagement

Appendix I includes a checklist for planning community engagement activities. The completion of this checklist is mandatory for any staff or Council driven community engagement exercise, as well as any exercise led by a third party acting on behalf of HRM (i.e. consultant). This checklist has been developed in accordance with HRM’s Community Engagement Guiding Principles and is intended to help staff design effective and accessible community engagement processes.

Action 5.2 Introduce a new mandatory ‘Community Engagement’ section in staff reports

A new “Community Engagement” section will become a mandatory requirement of staff reports. It will include a mandatory description of a Community Engagement process including how internal and external stakeholders were engaged on a given initiative (i.e. how they were informed, consulted or actively engaged). Staff may also wish to append more detailed description of the process to staff reports (e.g. meeting minutes, key issues and how they were addressed). In the event that stakeholders or the wider community were not engaged, the new section will provide a brief rationale for that decision. Community Relations will work with SMT and Clerk’s Office to institute this change.

Action 5.3 Revise HRM contract templates to ensure external consultants use the new Community Engagement Framework

The new Community Engagement Framework will apply to all parties representing HRM. It is therefore important that Request for Proposal templates include a requirement that any public involvement abides by the Community Engagement Principles and Framework. Community Relations will work with Procurement staff to institute this change.

HRM Community Engagement Strategy

Action 5.4 Require regular evaluation of completed engagement processes

All engagement initiatives should incorporate public feedback and evaluation as part of the planning process. Evaluation should not be onerous and should correspond to the length and complexity of the engagement process. It can be completed by staff, an outside consultant or the participating public. All evaluation should be shared with the CERG to help assess need for training, coordination and to share “lessons learned” across the municipality.

Action 5.5 Develop a program to recognize excellence in community engagement

The improvement of community engagement practice at HRM will initially require additional staff resources. This effort and innovation should be recognized and celebrated by the municipality. It is recommended that these successes be shared among business units through an annual community engagement recognition program. Community Relations will work with Corporate Communication and the DCAO Office to implement the program.

Implementation and Governance of the Strategy

Governance

HRM's Community Engagement Strategy will be championed by the Senior Management team (SMT) and governed by Community Development's Community Relations and Cultural Affairs Division. A primary role of this Division is to provide a comprehensive community development and cultural framework, and operationalize key municipal strategies including Immigration, Youth Development, Community Engagement, Cultural Planning and Community Grants.

A Community Engagement Resource Group (CERG) has been established to support and coordinate the implementation of the Community Engagement strategic directions across the organization. The Community Engagement Resource Group will convene a Community Engagement Steering Committee comprised of representatives of all business units involved in community engagement work. The Committee will work collaboratively to ensure the recommendations are flexible and suitable to the requirements of their divisions, as well as oversee the implementation and evaluation of the strategy on annual basis.

Program delivery

The implementation of the *Community Engagement Strategy* will move forward in a phased approach, with different actions within each strategic approach being prioritized in the short-term, medium-term, and long-term.

Short-term focus will be placed on the development and adoption of the HRM Community Engagement Framework by Council, including the guiding principles and checklist. Community Engagement Tool-kit, promotional materials and E-Newsletter will be launched. Councillors and key business units will be introduced to the framework in 2008. An HRM Community Engagement Steering Committee will also be established. The development of an overall (internal and external) inclusion strategy for HRM will commence.

Medium-term focus will be placed on the collaborative initiation of tailored community engagement improvement programs in relevant Business Units and staff training. An emphasis will be placed on community capacity building and improved outreach and educational materials, including maximizing HRM's use of its website and the Internet to enhance opportunities for public information, consultation, and participation. Work will also commence to changing the notification process, community calendar and launching a community database solution.

Long-term focus will be placed on, and the evaluation and monitoring of the improvement efforts of relevant Business Units and Divisions and developing a recognition program.

The *Community Engagement Steering Committee* will further identify priority areas (i.e. for specific Business Units, facilitate centralized database) and monitor and evaluate the implementation of the strategy over the next Business Cycle.

Evaluation of the implementation of the strategy will be conducted both in an ongoing way (formative) by Community Relations staff and the Steering Committee, and yearly (summative) with each Business Cycle to measure outcomes and ensure progress is in alignment with Council priorities. Annual progress reports will be tabled with Regional Council.

Budget and Resources

To effectively carry out meaningful community engagement initiatives, distinct resources must be allocated in the operating budgets of individual Business Units. To date, most HRM Business Units have not had dedicated budgets to support community engagement as described in this strategy with the notable exception of major corporate initiatives such as the Regional Plan, Community Visioning, and HRM by Design.

The Community Engagement Resource Group (CERG) is currently in the process of allocating funds for research, professional development / training, and equipment, in order to ensure it is well equipped to respond to inquiries and requests for support and guidance from across municipal Business Units.

This strategy emphasizes the importance of creating the right conditions for improved engagement. The real costs of engagement need to be considered by all Business Units and integrated into all existing and future engagement programs.

Community Engagement Action Plan

Strategic Direction/ Action	Progress	Short Term (2008-2010)		Medium Term (2011-2013)		Long Term (2014-2016)	
		Staff	Budget	Staff	Budget	Staff	Budget
Strategic Approach 1: Adopt an HRM Community Engagement Framework							
1.1 Develop a community engagement dictionary	Completed	CRCA	N/A				
1.2 Develop and implement Community Engagement Checklist & Readiness Test	Completed	CRCA, All BUs	N/A				
1.3 Develop a "Community Engagement Tools and Resources Kit"	Completed	CRCA	\$5,000			CRCA	\$5,000
Strategic Approach 2: Support improved CE practices in Divisions/BUs							
2.1 Develop a "Community Engagement Resource Group" (CERG)	Completed	CRCA	N/A				
2.2 Develop a Community Engagement Steering Committee	Started	CRCA/All BUs	N/A				
2.3 Educate staff and Councillors on the new Community Engagement Framework	Started	CRCA, CC	N/A	CRCA, CC	N/A	CRCA, CC	N/A
2.4 Develop a "Process Improvement Program" for individual Business Units	Started with P&D	CRCA, All BUs	Individual operating	CRCA, All BUs	Individual operating	CRCA, All BUs	Individual operating
2.5 Develop a Community Engagement Calendar to improve coordination	In progress – Web Services	CRCA, CC, WS, All	WS operating				
Strategic Approach 3: Increase training and internal support to staff							
3.1 Expand and promote HRM's staff training programs	Started	CRCA, HR	\$5,000	CRCA, HR	\$5,000	CRCA, HR	\$5,000

Strategic Direction/ Action	Progress	Short Term (2008-2010)		Medium Term (2011-2013)		Long Term (2014-2016)	
		Staff	Budget	Staff	Budget	Staff	Budget
3.2 Develop a Community Engagement Newsletter	Started – Online version	CRCA, CC	\$ 1,000	CRCA, CC	\$1,500	CRCA, CC	\$1,500
3.3 Develop a strategic communications plan for business units and their divisions	Started	All BUs, CC, CRCA	Individual operating	All BUs, CC, CRCA	Individual operating	All BUs, CC, CRCA	Individual operating
3.4 Develop appropriate budget and resource allocation for community engagement	Started	All BUs	Individual operating	All BUs	Individual operating	All BUs	Individual operating
3.5 Develop a plan to address needs for technology, equipment, facilities, and meeting spaces	CRCA – Started	CRCA, All BUs	\$5,000	CRCA, All BUs	\$5,000	CRCA, All BUs	\$5,000
Strategic Approach 4: Invest in public education, outreach and capacity building							
4.1 Improve public knowledge of HRM's processes and structures	Started	CRCA, CC, All BUs	\$5,000	CRCA, CC, All BUs	\$5,000	CRCA, CC, All BUs	\$5,000
4.2 Improve HRM's website	Started – Web Services Halifax.ca	WS					
4.3 Develop a community contact database solution	Started	CRCA, All BUs					
4.4 Develop a Community Engagement Inclusion Guide & Workshop		CRCA, CC		CRCA, HR	\$3,000		
4.5 Develop a new volunteer management strategy	Started	CRCA					
4.6 Develop a revised and enhanced notification process	Started with CC	CRCA, CC		CRCA, CC, All BUs	Individual operating	CRCA, CC, All BUs	Individual operating
4.7 Allocate resources to support inclusive participation in HRM processes	Started	CRCA, CC		CRCA, All BUs	Individual operating	CRCA, All BUs	Individual operating
Strategic Approach 5: Improved Accountability and Promotion of Excellence							
5.1 Institute the "Community	Completed –	CRCA, All	N/A				

Strategic Direction/ Action	Progress	Short Term (2008-2010)		Medium Term (2011-2013)		Long Term (2014-2016)	
		Staff	Budget	Staff	Budget	Staff	Budget
Engagement Checklist" as part of planning for all community engagement	SMT approved	BU's					
5.2 Introduce a new mandatory "Community Engagement" section in staff reports	Completed - SMT approved	CRCA, All BU's, Clerk's Office	N/A				
5.3 Revise HRM contract templates to ensure external consultants use the new Community Engagement Framework	Completed	CRCA, Finance	N/A				
5.4 Require regular evaluation of completed engagement processes	Ongoing	CRCA, All BU's	N/A				
5.5 Develop a program to recognize excellence in community engagement				CRCA, DCAO's Office	\$500	CRCA, DCAO's Office	\$500
Total			\$20,000		\$20,000		\$22,000

Appendix I – HRM Community Engagement Readiness Test

Introducing the Readiness Test

This "Readiness Test" is a short form of a longer Checklist available in the Community Engagement Tool-Kit. It is designed in a form of questions to help those who lead community engagement to check their level of readiness to engage the public. It is accompanied by a point system which allows one to assess relative readiness. While one may never be completely ready, the more bases are covered through the planning process the greater the probability that an engagement process will be meaningful, effective and efficient.

The completion of this test is mandatory for any staff driven community engagement exercise, as well as any exercise lead by a third party acting on behalf of HRM (i.e. consultant). The readiness test has been developed in accordance with HRM's Community Engagement Guiding Principles and is intended to help staff design effective and accessible community engagement processes. Additional templates to help staff work through the Test will be provided in the Community Engagement Toolkit.

The checklist has been developed and revised based on feedback from HRM staff experienced in developing a variety of community engagement processes. Each community engagement process is unique. In most cases, the essential activity areas in each of the phases will inform one another and be worked on simultaneously, rather than sequentially.

Community Engagement Readiness Test

READINESS STATEMENT	NO	SOME WHAT	YES
1. We can confirm that a decision has not been made and there is a purpose for the involvement process beyond education and information sharing			
2. We know what information the decision makers are looking for and how they will use it			
3. We have clear understanding of what we need to know from the public and how we will facilitate input			
4. We selected appropriate engagement strategies to reach our objectives			
5. There is adequate time for meaningful involvement			
6. We have project budget and have identified resources to sponsor an effective process			
7. We have identified potential stakeholders, their level of engagement			
8. We have developed an inclusion strategy to address potential barriers to participation including training and support			
9. We have developed project plan including key milestones, decision making points and timing			
10. We identified and analyzed risk			
11. We developed an effective communication plan			
12. We have identified project spokesperson			
13. We have coordinated our process with other HRM processes			
14. We have a plan on how to collect and report public input back to participants and decision makers			
15. We developed an evaluation plan as part of the process			
16. <i>Our process clearly aligns with the HRM Principles of Community Engagement</i>			

Appendix II – HRM Community Engagement Checklist

The Checklist

This Checklist is designed to guide those who plan community engagement exercises in ensuring that public involvement is carried out in accordance with the new Community Engagement Framework. The checklist has been developed and revised based on feedback from HRM staff experienced in developing a variety of community engagement processes.

Each community engagement process is unique. Depending on the purpose and complexity of community engagement some of the components of the Checklist may not apply. In most cases, the essential activity areas will inform one another and be worked on simultaneously, rather than sequentially. The Checklist is a tool that can be refined over time. The Community Engagement Tool-Kit will provide more detailed guides to help staff work through the Checklist.

A shorter form of the Checklist was also developed in the form of a “Readiness Test” to assess one’s relative readiness to engage the public. It is designed in a form of questions. While one may never be completely ready, the better the planning process the greater the probability that an engagement process will be meaningful, effective and efficient. The completion of the Short Checklist (i.e. Readiness Test) is mandatory for any staff driven community engagement exercise, as well as any exercise lead by a third party acting on behalf of HRM (i.e. consultant).

Community Engagement Resource Staff

Community Relations Staff are available to assist staff in the development of community engagement initiatives including:

- Process design and troubleshooting
- Advice on innovative community engagement techniques
- Assistance with community contacts
- Assistance with addressing inclusion in community processes
- Assistance with revising existing business unit processes to align with community engagement framework

Staff Contacts:

<p>Phil Hammond Community Developer Community Relations and Cultural Affairs Tel. 490-6577 E-mail hammonp@halifax.ca</p>	<p>Natalie Perkins Community Developer Community Relations and Cultural Affairs Tel. 490-5190 Email perkinn@halifax.ca</p>	<p>Lee Moore Community Developer Community Relations and Cultural Affairs Tel. 490-5451 Email moorel@halifax.ca</p>
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Community Engagement Checklist

Phase 1 – Preliminary Design

1.1 Understanding the Overall Project or Issue

- Decision** - What is the decision being made in this project?
- Decision makers** - Who will make the final decision (Council, Senior Management etc)?
- Scope** - What is the scope of this project?
- Affected parties** - Will or how will this project affect other departments, other municipalities, specific communities, specific interest groups, businesses, individuals, the environment etc.
- Situational analysis** - Are there historical factors or previous decisions that affect how this project will be implemented?
- Decide to do community engagement** – is community engagement necessary, appropriate, feasible within the timeframe? What are the risks of not engaging?

1.2 Mandating Community Engagement

- Situational analysis**
 - What triggered the need for a CE process (i.e. legislative requirement, council-driven, public controversy, responding to emerging community issues)?
 - What information do decision makers need to assist them in this decision?
 - Can any major issues be anticipated regarding socio-economic and political factors, public perception, and presence of conflict?
 - What factors will influence the decision about level and scope of engagement (time, resources etc) – How?
 - Identifying and managing risks – What is the level complexity of the project? What is the level of political interest? What is the history of community and stakeholder need?
- Define the nature and scope of the engagement process**
 - What are the main issues to be resolved and decisions to be made?
 - What specific information are you seeking from the public?
 - How will this information add value to decision making?
 - Where does this process fit on the continuum (information, consultation, participation)?
 - What degree of decision-making authority or influence, if any, is being delegated to or shared with the public?
 - What are the public expectations of the CE process?
 - What are some initial options?
- Estimate an initial timeline for the CE process and identify key milestones**
- Explore linkages to other HRM initiatives or processes**
- Develop the team that will plan the CE process**, considering functional responsibilities, facilitation capacities and skills, knowledge of issues and stakeholders

1.3 Clarifying the Community Engagement Commitment

- How will you use the information gathered?**
- How will you demonstrate and communicate that the information was considered in decision making?**
- How will the process reflect commitment to the 10 Principles of CE?**
- What other principles, values or commitments need to be considered (policies, by-laws, legislation)**

Phase 2 – Developing the Plan

2.1 Project Scope

- What is the overall purpose of the CE process or event?**
- What are the goals?**
- What are the objectives?**
- What are the timelines for the project?**
- What are the timelines for public involvement?**
- What are the key decision making points?**
- How will stakeholder input be incorporated at this decision making point?**
- What is outside the scope of the process?**

2.2 Ensuring Inclusive and Balanced Participation

- Consider defining boundaries for CE process**, including core zones and secondary areas (is the process for a local neighbourhood, district, or region?)
- History of the area and impact of decision**
- Identify possible stakeholders from all sectors (what is the group, what category do they belong to?)**
 - Aboriginal groups
 - Advocacy groups
 - At-risk persons
 - Business and professional organizations
 - Charities, service or religious organizations
 - Community and neighbourhood organizations
 - Councillors
 - Developers
 - Disability organizations
 - Educational institutions and academics
 - Employee groups/unions
 - Ethno-Cultural and Linguistically Diverse Groups
 - General public

HRM Community Engagement Strategy

- Individuals, community leaders
- Media
- Other HRM Business Units and Divisions
- Property owners
- Seniors Groups
- Umbrella organizations
- Youth
- Other

- What issues would they be interested in?
- What is their level of interest?
- What method will you use to communicate with this stakeholder?
- What training, orientation or support will they need to effectively participate?
- Contact CE coordinator and / or diversity coordinator for guidance in including groups and residents that often face barriers to participation (i.e. linguistic, cultural, economic, accessibility, age, gender)
- Reach out to stakeholders early, using “pre-consultation” to help design involvement and communications and develop positive and welcoming linkages (when appropriate)

2.3 Select Involvement Strategies and Tools

- Consult with CE Coordinator for advice on designing the process
- Identify appropriate level of involvement to meet needs of stakeholders (participant, level of interest, level of CE involvement, potential number of participants, appropriate involvement tool to meet stakeholder need)
- Refer to the CE toolkit for ideas and guidance
- Select overall CE strategy and a combination of specific techniques that best match your mandate, objectives, and stakeholders / participants
- Define linkages to other HRM initiatives or processes
- Is there a need for a steering group/committee?
 - What will be its mandate, composition, structure, decision making capacity?
 - What training and support will be the group need?
- Decide how input will be gathered, synthesized and analysed
- Develop an evaluation plan, in accordance with HRM CE Evaluation Guidelines

2.4 Develop a Communications Strategy

- Contact Corporate Communications early – offer a heads-up, solicit assistance on key audience, key messages and tools.
- Draw on diverse communication methods appropriate for the range of stakeholders involved:
 - Presentations
 - Web development and maintenance
 - HRM newsletters
 - Inserts in organizational newsletters
 - HRM website /Community Relations Website

HRM Community Engagement Strategy

- Community bulletin boards, church bulletins
 - Newspapers articles, notices and inserts: regional, community, ethnic, etc.
 - Hand delivered flyers
 - Brochure notices to community associations
 - Exhibits/displays notice posting or signs at sites
 - Television, radio spots
- Focus information on what people need to know for informed participation (this may differ depending on stakeholder group)
 - Ensure information is timely, accurate, credible, accessible for diverse stakeholders, includes contact information, and it regularly provided throughout the process
 - Regularly communicate where you are in the process
 - Prepare to provide and receive information by setting up communication channels (e.g. plan for consolidation and communication of public input – database, report, newsletter, etc).

2.5 Risk Identification and Management

- What is the risk, its probability and potential effect?
- How will you identify the risk?
- How will you mitigate the risk?

2.6 Assign Resources

- Define roles and responsibilities for community engagement team
- Develop a detailed schedule and work plan or “map”, which will include identified stages of the process and associated dates, locations, costs, staff responsibilities, etc.
- Develop budgets, covering staff or contractors, data gathering, technical information and research, communication, logistics, outreach, participant costs, internal records
- Monitor budget

Phase 3 – Implementation

3.1 Follow the schedule and work plan

- This is the map for the implementation of the process. It dictates how steps follow each other, how they are linked, and how specific needs of different stakeholders groups and the public are met.

3.2 Apply strategy and tools

- Implemented in sequence, with monitoring, feedback and evaluation built in
- May need to be adapted if planned actions do not achieve desired results
- Meet obligations in terms of those affected by decision and general public

3.3 Receive and provide information

HRM Community Engagement Strategy

- Implement communications strategy**
- Receive, organize, and analyse information**
- Track data dutifully (source, date, key points, location where it is stored, how it was used)**
- Incorporate information into next steps**
- Prepare information for feedback to participants**

3.4 Monitor the process

- Implement evaluation plan**

Phase 4 – Feedback and Follow-Up

4.1 Incorporate the public input

- Prepare input for decision-makers or for decision-making process**

4.2 Report to participants

- Report in a timely fashion to participants** what has been heard and how it has been used (process was defined in communications plan)
- Involve participants in implementation, where appropriate** (i.e. through advisory committees, community monitoring, visioning implementation teams)

4.3 Evaluate overall process and ensure it is used to improve future programs

- Implement evaluation plan using evaluation framework and tools identified in Phase 2.** For longer-term engagement initiatives, evaluation activities may be necessary at several stages throughout the process as well as at the end
- Celebrate accomplishments, recognize community and staff contributions**

**Report of the City of North Vancouver
Civic Engagement Task Force
January 11, 2011**

Mayor and Council,
City of North Vancouver,

January 11, 2011

We, the members of the Civic Engagement Task Force respectfully submit our report.

In June 2010 we were appointed to the Task Force to examine and make recommendations to City Council regarding opportunities for engaging the citizens of the City of North Vancouver and improving voter turnout in municipal elections. We began meeting June 30, 2010. Two meetings were held during the summer, and regular meetings held Sept 2, 2010 to Dec 30, 2010. Our final meeting was January 11, 2011.

The Task Force reviewed existing City policies, past practices and election turnout records. We also reviewed relevant research and literature as well as studies conducted for some other municipalities on civic engagement and election turnout. Three individuals made personal presentations at our meetings, and Task Force members met with a number of community groups and organizations plus two Grade 12 classes at Carson Graham High School. All submissions as received are appended to our report.

Our report contains numerous recommendations that are listed in the Summary of Recommendations. A more detailed discussion is provided in the body of the report. Most of the recommendations can be implemented without additional resources; however some may involve costs which City staff can quantify.

The last recommendation is: That Council receive this Report of The Civic Engagement Task Force and;

- A. Refer it to staff for comments including cost and administrative considerations,
- B. Hold a public meeting during which the Task Force recommendations can be discussed and commented on by residents and interested parties, and
- C. That Council reassess civic engagement and voter turnout following each municipal election.

We wish to express our appreciation to those members of the public who contributed to our deliberations for their participation in this process. We would encourage any individual, group or association who feels that any of the issues they raised are not adequately addressed in our recommendations to make further submissions direct to Council. We would also like to recognize the hard work of all City staff that assisted us, particularly City Clerk Robyn Anderson, City Communications Officer Connie Rabold and City Committee Clerk Secretary Penny Lurbiecki.

It was a pleasure for us to participate in this effort. Thank you for the opportunity.

Sincerely,

The Members of the Civic Engagement Task Force

Don Bell, Chair

John Jensen, Vice Chair

Councillor. Guy Heywood

Robyn Newton

George Pringle

Trustee Mary Tasi, School District #44

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Introduction and Executive Summary

The City of North Vancouver Civic Engagement Task Force was initiated to examine the issue of civic engagement in general and voter turnout in particular. A turnout of 18% of the City's eligible voters is not the lowest ever, but low enough to be concerning to anyone interested in the health of our local democracy.

The task force was comprised of four City resident volunteers, one City Councillor and one School Trustee. It was given a place to meet at City Hall and a budget sufficient to cover the cost of a recording secretary and miscellaneous meeting expenses.

The Task Force organized its work based on its Terms of Reference which are appended to this report. The first section discusses the engagement of the City with individual citizens, focusing specifically upon procedural and technological initiatives that might be considered. A second section discusses ways to improve the level of engagement between the City and groups in the community. The last section deals specifically with measures that could be considered to improve voter turnout in elections.

By way of summary, the following are the recommendations of the Task Force, organized by their general theme, which appear again in context in the narrative part of the report. There was healthy and spirited discussion of all proposals with the result that twenty-seven of the twenty-nine final recommendations were approved unanimously, and two recommendations (#10 and #16) were approved by a significant majority vote of the Task Force.

TASK FORCE RECOMMENDATIONS

General Principles

#1: That Council adopt the following Core Values of the International Association of Public Participation (IAP2) as Council Policy:

1. Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.

6. Public participation provides participants with the information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

Internet Presence & Social Media

- #2: That the City strengthen its presence in online social media such as Facebook and Twitter, including the further enabling of Facebook functions to allow direct input from residents. The City should also explore the use of Virtual Public Forums and other forms of online deliberation.
- #3: That the City produce a localized website map that identifies current City developments and operations.
- #4: That the City use the website to gather public input on budget priorities by asking citizens to consider possible trade-off decisions with which Council may be faced.
- #5: That the City use a task or typical user-based streamlined design when amending the City's website.
- #6: That the City continue to consult with young people as it works to make the City's youth page on the website more appealing and adopt strategies to make it more interactive. A strategy to drive traffic to the page through social media and conventional promotion strategies should also be considered.

Make City Government & Council Meetings More 'User Friendly'

- #7: That the City develop a "Welcome Package" for new City residents with basic information about City services and processes and that core sections be translated into a number of languages that are prevalent on the North Shore.
- #8: That City staff work with the Recreation Commission to include in the Recreation Guide a section on local government and opportunities to engage with the City.
- #9: That the City engage with commissions, third-party groups and individuals to encourage civic engagement and to explore partnerships to exchange information.
- #10: That City Council provide more notice to residents of upcoming council agenda items by publishing Council meeting agendas at least 5 calendar days prior.
- #11: The City list on their website items that are known to be in preparation for future agenda meetings but presently unscheduled.

- #12: That the agenda for Council meetings be reorganized to move the Public Input Period to follow any in-camera session, just before the regular agenda.
- #13: That Council double the public input period from 10 minutes to 20 minutes, if deemed appropriate to accommodate more speakers at any particular Council meeting, maintaining the two-minute speaking limit.

More Public Spaces

- #14: That the City strive to encourage the retention and creation of community "third places" in its planning policies and processes.

New Curriculum in Schools, Lower the Voting Age To 17

- #15: That Council advocate through the Union of B.C. Municipalities (UBCM) to the Provincial Government for an educational program about local government to be included in the school curriculum.
- #16: That Council advocate through the UBCM to the Provincial Government to lower the voting age to 17 years for municipal and school board elections.

Reach Out To Community Associations and Strata Councils

#17: That the City adopt a policy to formally recognize community associations that meet established criteria that include open membership within a defined geographical area with non-overlapping boundaries with other similar associations, the holding of advertised general meetings and the election of officers. The policy should have provisions for these formally recognized associations to receive support from the City that could include:

- a) Provide a listing of Recognized Community Associations on the City web site, links to their web pages and information about their general meetings;
- b) Provide meeting space in City facilities; and
- c) Continue to provide community associations with notices of developments in their geographic area, as well as notices of meetings on City-wide issues.

#18: That the City work with the North Vancouver Recreation Commission to include in the Leisure Guide a section that describes all of the Recognized Community Associations.

#19: That the City reach out to strata councils and to tenants during the municipal election and during significant public consultation processes, such as the Official Community Plan update process. An example could be notices designed specifically for display in residential elevators and bulletin boards.

Suggestions for Election Time

- # 20: That the City publish information about the municipal election in the September NV Recreation Commission Guide.
- #21: That the City expand candidate listings on the City's election web page, providing each candidate with an opportunity to describe their platform in their own words within a 200 word limit.
- #22: That the City publish a booklet with candidate profiles similar to the one published by the City of Vancouver in 2008, and distribute this booklet through the Library, City Hall, recreation centres, multi-family buildings and via the City web site.
- #23: That the City provide posters that can be displayed in Strata and Rental Buildings to raise awareness of election, and the location of polling stations, and that the poster direct people to the City web site for more information.
- #24: That the City provide grants for all-candidates meetings for the 2011 election, similar to the pilot program in 2008.
- #25: That the City work with other partners such as community groups and major employers to encourage residents to vote.
- #26: That the City provide pre-election information kiosks/display boards to be located in both recreation centers and the library that would be available during the election to display and dispense City sponsored information as well as approved campaign material provided by candidates.
- #27: That the City conduct advanced voting opportunities at the Library every day in between the first required voting opportunity (ten days prior to the election date) and the day prior to the election.
- #28: That the City provide an additional Voting Place at the John Braithwaite Community Center without reducing the total number of polling station locations.

#29: That Council receive this Report of The Civic Engagement Task Force and:

- A. Refer it to staff for comments including cost and administrative considerations;
- B. Hold a public meeting during which the Task Force recommendations can be discussed and commented on by residents and interested parties; and
- C. That Council reassess civic engagement and voter turnout following each municipal election.

CIVIC ENGAGEMENT IN THE CITY OF NORTH VANCOUVER

“Civic Engagement”: a Definition

“Civic engagement can take many forms— from individual volunteerism to organizational involvement to electoral participation. It can include efforts to directly address an issue, work with others in a community to solve a problem or interact with the institutions of representative democracy. Another way of describing this concept is the sense of personal responsibility individuals should feel to uphold their obligations as part of any community.” (Source: Wikipedia)

At the very beginning of its work the Task Force struggled with the definition of its objective. The foregoing definition is one Task Force members felt encompasses the three part terms of reference that the Task Force was given by Council.

Current Status of Civic Engagement in the City

How is the state of civic engagement in the City of North Vancouver? The short answer is that it is both quite good and somewhat troubling.

First to reflect on why it might be seen as good:

- Satisfaction levels with civic services when they have been surveyed are generally measured as being very high.
- Social service agencies represented by the Inter-Agency Network report that the level of volunteerism is high. They commented that there are at times challenges in finding constructive ways to use all the available volunteers given the limited financial resources at their disposal.
- One point of view is that voter apathy need not be seen as a bad thing if it is the result of a relative level of satisfaction on the part of voters who therefore don't think that they have to pay as much attention to civic governance.

However, by a number of measures the level of engagement is lower than one might like it to be:

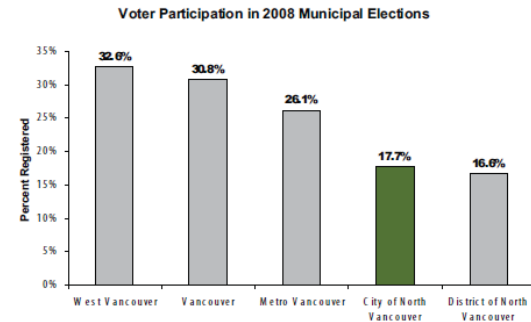
- Low voter turnout is always a concern in a democratic society. It means that only a small portion of the population actively (by voting) supports the governance of the community and that the satisfaction with the government amongst the larger, non-voting portion of the population might be quite low. It could mean that the government will be less able to marshal the support of the larger community to address long-term or complex works or for a response to a crisis.
- Lower engagement could also mean that there is less of the collective wisdom of citizens being applied to the issues and challenges faced by the community as a whole. At times the City does have difficulty recruiting members to serve on advisory committees. Given that advisory committees are time-consuming there is a good reason to believe that some of the best talent that the City has in a number of areas would find it difficult to become engaged.
- The decline of civic engagement as a continent-wide issue was compellingly documented in Robert Putnam's articles and subsequent book entitled *Bowling Alone*. In a section entitled "Whatever Happened To Civic Engagement" he laments that: "By almost every measure, Americans' direct engagement in politics and government has fallen steadily and sharply over the last generation, despite the fact that average levels of education, the best individual-level predictor of political participation, have risen sharply throughout this period. Every year over the last decade or two, millions more have withdrawn from the affairs of their communities." This lament, to a degree, also applies to the City of North Vancouver.
- Citizen engagement broadly defined is widely seen as a key contributor to the quality of life in a community. While it was beyond the scope of this report to assess all different forms of engagement, it seems entirely logical that whatever we can do to promote it has the potential to contribute positively to the quality of life in the City of North Vancouver.

Voter Turnout in the City of North Vancouver

A review of voter turnout statistics in the City over the last three decades shows that turnout has never exceeded 26.1%, and since 1974 has averaged 18.6%. In 2008, turnout was 17.67% which was one percent better than the District of North Vancouver but significantly less than the District of West Vancouver, Vancouver and the average of Metro Vancouver municipalities. (see graph)

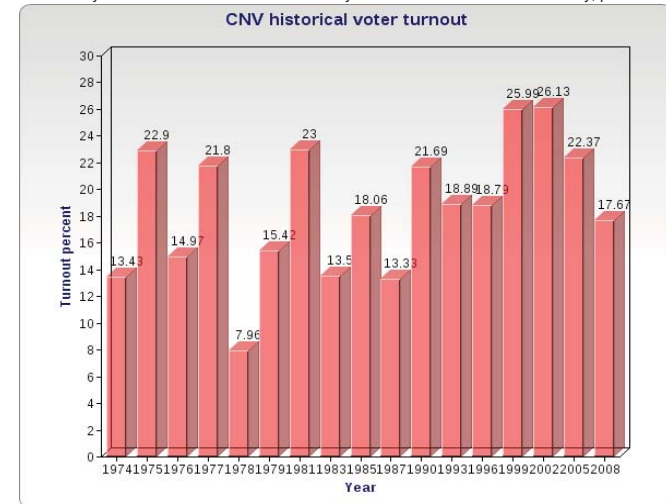
It is acknowledged that many factors can affect voter turnout such as whether or not there is a mayoralty contest, or if a controversial referendum or question is included on the ballot. In 2008, for example, there was a mayoralty contest in West Vancouver but not in the City or District of North Vancouver where both mayors were acclaimed.

Another concerning aspect about low voter turnout is the even lower number of votes traditionally cast for School Board candidates.



Municipal websites, 2008

Source: City of North Vancouver 2009 Community Profile. Release 1 – Data Inventory, p. 34.



FONVCA Agenda Item 5.4

<http://www.richardgilbert.ca/Files/SFU%20course%20files/Symonds,%20Engaging%20citizens.pdf>

Engaging Citizens – How do BC municipalities engage citizens in their communities?

Jill Symonds
Masters of Public Administration Candidate
University of Victoria
Victoria, BC Canada
jsymonds@uvic.ca

Paper Prepared for the
The meeting of the Canadian Political Science Association,
June 2-4, 2005, London, Ontario, Canada

Abstract

This report looks at the non-statutory citizen engagement practices in local governments in British Columbia. This information is important for several reasons. First of all, citizen engagement is a cornerstone of representative democracy. Secondly, the Community Charter's emphasis on accountability is a step toward encouraging greater interactions with citizens. Thirdly, the Annual Reporting exercise required by the Community Charter should include a citizen engagement component in order to ensure that there is a feedback loop into what is being measured.

This report will outline the key findings from a survey and case studies with Chief Administrative Officers in BC municipalities. These results will be explained within the framework of the International Association of Public Participation spectrum. Conclusions and recommendations for the Ministry of Community, Aboriginal and Women's Services to consider are based on this analysis.

Introduction

Local governments are said to be the most democratic level of government in that they are the closest to the people. Local governments have a history of citizen engagement, both through formal mechanisms like planning processes and informal mechanisms like chatting with a council member in the grocery store. Increasingly, however, it appears that the nature of this relationship is changing. The complexity of some of the issues facing municipalities and the demand for transparency and accountability in government are two of the main drivers for citizen engagement.

The *Community Charter* came into effect in January 2004 and is premised on the principles of broader powers for municipalities, clearer jurisdictional recognition between the province and local governments, and greater accountability. With more scope and flexibility in powers under the *Community Charter*, municipalities may have more options for providing services or enacting bylaws, and therefore, more need to engage citizens as they make their choices.

One of the provisions in the *Charter* requires local governments to produce annual reports outlining their objectives, measures and accomplishments. The annual report is one mechanism for local governments to be democratically accountable to their citizens, with the goal of providing open, accountable and transparent local government (Gergley, 2004).

Successful implementation of performance measurements, requires participation on the part of the administration, the council and the citizens (Wray and Hauer, 1997; Callahan and Hodzer, 1999). The full participation of both council and the citizenry ensures that the annual reporting does not simply become a bureaucratic exercise, but rather, that it adapts, and incorporates the needs and views of those whom it is meant to serve. However, Barb Svec's study of annual reporting in British Columbia indicates that only

21% of municipalities consulted with citizens and only 18% of communities received feedback from the public on the 2004 annual report (Svec, 2005).

Further, citizen engagement is now viewed as integral to good practice in policy circles. To this end, *The Regulatory Best Practices Guide* was designed to offer guidance to local governments as to how they can best make use of these broad powers. The guide emphasizes the rational approach to policymaking; it encourages municipalities to work through issues that arise and to evaluate possible options and solutions. Some of these options and solutions may include regulation. However, the guide also suggests that alternatives to legislating may be the optimal solution in some cases. Either way, “involving those affected” is highlighted as a best practice for arriving at the ultimate outcome. Involving those affected – or citizen engagement, is one mechanism for ensuring both accountability and good policy practices.

The *Charter* then brings citizen engagement into the limelight through the need to use citizen engagement in the policy process as well as a component of the use of performance measures.

The Context

Broadly speaking, the roles of governments and of citizens are shifting and changing. These changes impact the environment in which local government is functioning and the relevancy of citizen engagement. Docherty et al argue that “the current ascendancy of community participation in urban governance can be seen as a response by governments and citizens to a simultaneous crisis of confidence in the ability of the state and the market to create socially cohesive and economically successful cities” (Docherty, Goodlad & Paddison, 2001, p.22225). The trends are briefly outlined:

Urban Political Economy

- Globalization, international capital, free trade
- Knowledge economy
- Impersonal technological revolution
- Intergovernmental nature of wicked policy problems (Maxwell, 1997)

Citizens Question Democracy

- Government bureaucracies are perceived as distant and difficult to be held accountable
- Perception that interest groups dominate politics
- General distrust of political process
- Citizen alienation
- Democratic deficit – decline in voter turnout (Curtain, 2003)

Changing Society

- Changing demographics
- Families are diverse: single parent households, two wage earners (less time for civic affairs)
- Mobility of people
- Long commutes (Saturn, 1998)
- Suburban isolation
- Job instability/ frequent job changes
- Decline of welfare state
- Increasingly educated populace (Curtain, 2003)

The Relevancy of New Public Management

A new paradigm of government administration evolved in response to the perceived inefficiency of government during the 1960s and 70s. Called New Public Management, this ideology has penetrated and changed the way that all levels of government work (NPM). David Osborne and Ted Gaebler’s 1992 book called *Reinventing Government* is considered the starting point of this revolution. NPM relies on the theory of the marketplace and on implementing a business-like culture in public organizations.

NPM places the emphasis on the citizen as a customer (consumerist participation). The values associated with this assumption are not necessarily congruent with the values of democracy and citizenship (Sharpe, 1990). The emphasis on the customer obscures that which the citizen might actively contribute to the community. The customer is a passive recipient rather than an active partner. NPM encourages citizens to be passive by giving citizens the power of exit, while discouraging the “original power of voice” (Vigoda, 2002, p.533). Eran Vigoda argues that “the term client or customer, which is so applicable in the private sector, contradicts the very basic notion of belonging, altruism, contribution to society, and self-derived participation in citizenry actions” (2002, p.534).

According to Cheryl King et al, the implications of this shift on the administration of local government are significant (1998). Given the increasing interest in citizen engagement and the potential for new partnerships, the primary responsibility of citizens is to become actively engaged in running their lives and communities. This can be accomplished at the individual, group or institutional level (King et al, 1998). For the administration directly, the implications of this shift mean that skills in communication, team building, meeting facilitation, and listening are of critical importance. In addition, the administrator must come to value experience as well as expert knowledge (King et al, 1998). Some of these shifts speak to a culture shift within an organization. The degree to which this paradigm is new will impact the degree to which the administration will need to adapt.

Ultimately, this shift from the citizen to the customer and back again is an important starting point for thinking about citizen engagement. Ironically, it seems that local governments are being forced toward viewing the citizen as client and viewing the citizen

as citizen simultaneously. As higher levels of governments increasingly seek to regulate and standardize practices across municipalities, they are complying with accounting principles and a government philosophy of business accountability. On the other hand, as citizens increasingly demand participation and are critical when they are not given sufficient opportunity, local governments are being forced to respond to a different definition of *accountability*. Both higher levels of government and citizens are putting pressure on local governments in BC for increased accountability – so defined in differing terms.

A Definition of Citizen Engagement

The definition of citizen engagement is difficult to pin down. Ideas about citizen engagement get lumped in with and overlap other concepts such as community, civic and public consultation or participation. The following are a few examples of the divergent thinking about citizen engagement:

- Participation simply means the act of participating, in whatever form (Aslin and Brown, 2004).
- Engagement goes further than participation and involvement...Engagement implies commitment to a process, which has decisions and resulting actions. So it is possible that people may be consulted, participate and even be involved, but not be engaged (Aslin and Brown, 2004).
- Consultation has been a common term in the lexicon of decision-makers over the past decade. This has generally meant better canvassing the view of stakeholders and clients in the making of sound public policy, often in the form of advisory boards, forums or task forces. Citizen engagement, by contrast, has emerged more recently to denote processes of deliberation with individuals and groups who may be affected by policy or program changes, but who lie outside the circle of departmental clients as conventionally defined. It also entails agenda-setting and more open time frames for deliberation on issues of public policy (A voice for all, p.1, 1998).
- Involvement is usually taken to mean the involvement of people in official local decision making but involvement in the voluntary and community sector is more accessible to the whole population, and for most a necessary stepping stone to other forms of involvement (Urban Research Summary#10, 2003).

Citizen engagement is obviously a somewhat ambiguous term. The implications of the definition are significant, so it's important to be clear about what is being discussed. Two common typologies of citizen engagement are Sherry Arnstein's ladder and the International Association of Public Participation's spectrum (Arnstein, 1969; IAP2 spectrum available at <http://iap2.org/practitionertools/index.shtml>). Both of these typologies define citizen engagement in terms of a continuum, with different implications and expectations associated with different points along the continuum.

The confusion over the lexicon of citizen engagement leads to further questions over what is within the purview of local government responsibility. Both Arnstein and IAP2 make a distinction between those activities/tools that share decision-making power and those that do not. This distinction is very divisive and is often considered to be the difference between citizen *participation* and citizen *engagement*. Both typologies also stop short of including ideas about social capital, empowerment or community building.

The International Association of Public Participation has created a visual typology in the form of a public participation spectrum. IAP2 distinguishes the various stages along the spectrum by the participation goal and the promise the goal entails to the public. The spectrum also provides examples of tools that are appropriate for each stage (IAP2 spectrum available at <http://iap2.org/practitionertools/index.shtml>).

The IAP2 spectrum includes the following stages of increasing citizen impact:

1. Inform: to provide the public with balanced and objective information to assist them in understanding the problems, alternatives and or solutions
2. Consult: to obtain public feedback on analysis, alternatives and or decisions
3. Involve: To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered
4. Collaborate: to partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution
5. Empower: to place final decision-making in the hands of the public (IAP2 spectrum available at <http://iap2.org/practitionertools/index.shtml>)

The public participation goal is KEY to the entire process. Depending on what stage of the policy process the local government is currently at, they will have different objectives and goals for using citizen engagement. In addition, the type of issue they are dealing with will impact where they should be along the spectrum. Perhaps most importantly, matching the types of tools that are used to the appropriate public participation goal is critical to the success of the process.

The International Association of Public Participation Spectrum

INCREASING LEVEL OF PUBLIC IMPACT				
INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Public Participation Goal: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	Public Participation Goal: To obtain public feedback on analysis, alternatives and/or decisions.	Public Participation Goal: To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.	Public Participation Goal: To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	Public Participation Goal: To place final decision-making in the hands of the public.
Promise to the Public: We will keep you informed.	Promise to the Public: We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	Promise to the Public: We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	Promise to the Public: We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	Promise to the Public: We will implement what you decide.
Example Tools: <ul style="list-style-type: none"> ● Fact sheets ● Web Sites ● Open houses 	Example Tools: <ul style="list-style-type: none"> ● Public comment ● Focus groups ● Surveys ● Public meetings 	Example Tools: <ul style="list-style-type: none"> ● Workshops ● Deliberate polling 	Example Tools: <ul style="list-style-type: none"> ● Citizen Advisory Committees ● Consensus-building ● Participatory decision-making 	Example Tools: <ul style="list-style-type: none"> ● Citizen juries ● Ballots ● Delegated decisions

<http://iap2.org/practitionertools/index.shtml>

Citizen Engagement as a Paradigm Shift

The debate in the literature around the definition of citizen engagement goes beyond the degree to which decision-making is shared. There are issues about the culture of the local government bureaucracy and its ability to adapt to more participatory processes (Vigoda, 2002; Walters et al, 2000; A Voice for All, 1998; Sharpe, 1990). Walters et al argues that citizen engagement means fundamentally redefining roles within the bureaucracy (power shift) (2000; Nalbadian, 1999; King 1998; Yang, 2005). Vigoda outlines the conflict that between the traditional bureaucratic paradigm and one premised on citizen engagement:

Based on the Weberian legacy of clear hierarchical order, concentration of power among senior officials, formal structures with strict rules and regulations, limited channels of communication, confined openness to innovation and change, and non-compliance with the option of being replaceable. These ideas seem to be substantially different from the nature of collaboration, which means negotiation, participation, cooperation, free and unlimited flow of information, innovation, agreements based on compromises and mutual understanding, and a more equitable distribution and redistribution of power and resources (2002, p.529).

Another strand of this debate focuses on the types of outcomes that different tools tend to engender. Traditional citizen engagement tools are considered more antagonistic than some of the newer and more meditative types of tools (town hall meeting vs. open house). The following table illustrates this division:

Traditional models	Engagement models
Encourage venting, advocacy	Encourage reflection, learning, choices
Treat interest groups one by one, creates a platform for them	Force interest groups to a) Listen to citizens b) Interact with other interests
Encourage a "me-first" dynamic	Permit focus on common ground
Focus on technical choices	Focus on moral choices – no right or Wrong answer
Seek validation of government's choices "govt knows best"	Assume citizens will add value and that new options will emerge
Tend to control process, focus on process, not outcome	Encourage new ideas through an open-ended process
Impose rigid deadlines	Take time, cannot meet deadlines

http://www.iog.ca/policity/CP/Public%20Library/library_reference_civcengagement.htm

Making the case for participatory democracy on theoretical grounds is much easier than demonstrating that it will work. Only the naïve would assume that simply creating new opportunities for participation will lead to expanded political activity, more knowledgeable and capable citizens, enhanced public confidence in government, or any of the other benefits promised by advocates of participatory democracy. Changes in opportunities need to be coupled with new efforts at political socialization and significant

changes in the political culture. Yet politicians seem to have little incentive to expend their political capital to pursue structural reforms that may pave the way for more participation. Even sympathetic political elites are likely to reason that efforts at expanding participation have been tried before and have failed. (Berry et al, 1993, p.21).

Citizen Engagement Matters Because....

The Urban Research Summary from the UK, *Searching for solid foundations - community involvement and urban policy* argues that the reasons local governments should use citizen engagement fall into three broad categories: involvement as governance, as social capital, and as service delivery (2003).

Citizen engagement is an important governance tool. Citizen engagement is a mechanism or forum through which issues can be discussed and the tradeoffs of different decisions can be clarified (Curtain, 2003). As citizens learn more about the issue, they may become more empathetic to the decision that the municipality faces as well as more understanding or aware of other perspectives (Irvin and Stansbury, 2004, p.55). In addition, by taking part in the process, people are more likely to have a stake in the issue and have greater ownership of the solution. Greater buy-in is an effective regulatory and enforcement strategy for the municipality (Irvin and Stansbury, 2004, p.56).

Citizen engagement can also lend credibility to a municipality. By actively seeking public input into decision-making, citizen concerns are heard and legitimized. Richard Curtain argues that in order to “overcome a common perception among citizens of a democratic deficit, governments have to demonstrate that they are open to citizen input and are responsive to their concerns” (Curtain, 2003, p.9).

Citizen engagement is also a means of encouraging social capital in a community. Citizen engagement is often a face-to-face process and can build trust and relationships. Citizen engagement can be a forum to build up the density of relationships and strategic alliances within the community. These relationships and networks can benefit both current and future projects (Irvin and Stansbury, 2004).

Further, many argue democracy requires that citizens learn how to be citizens through some form of civic learning, of which citizen engagement is one possible option (Sharpe, 1990; Investing in Canada, 2004). Communicating with others about issues in the community can help to break down nimbysism and overcome feelings of exclusion and alienation from the political process (Pelisso, 2003).

According to *Investing in Canada: Fostering an Agenda for Citizen and Community Participation*, a report by the Sports Matter Group, citizen engagement and the resulting impact on community have far reaching positive impacts. They explain:

When citizens choose...to participate in collective action two outcomes occur. The individual gains personal benefit and they create mutual benefit for the community. The results are exponential and pervasive. Health and psychological

research shows that individuals who feel connected to others and to their community experience higher levels of well-being and health status, do better in work and economically, raise better adjusted children and are encouraged to stay active. Community development and economic research tells us that communities with high levels of citizen participation are safer, more democratic, more attractive to investment, have lower incidences of crime, homelessness, pollution, youth and newcomer alienation (Investing in Cnd, 2004).

Lastly, citizen engagement is a tool for increasing the efficiency of municipal service delivery. Citizen engagement can be used to discern citizen preferences on a specific issue or set of issues (Sharpe, 1990). This may increase efficiency over the long run by being more responsive to citizen demands (iPlan - Planning information and services for New South Wales¹). Udaya Wagle explains:

If the goal of the whole concept of policy science is to improve the quality of public policy that essentially invokes improvement in the quality of information on which such policy decisions depend, the notion of community participation has much to offer in this process. This is precisely because the quality of info will improve, only when it truly reflects the subjective values and individual interests and preferences of those who are the ultimate stakeholders of public policies (2000, p.218).

Some Broad Guidelines for Using Citizen Engagement

Successful citizen engagement processes require that the *purpose and the nature of the issue be appropriately matched to the right use of tools* (Leatherman and Howell, 2000; Best Value Victoria; Walters et al, 2000;Health Canada, 2000). The IAP2 spectrum is an example of a framework for citizen engagement that broadly maps citizen engagement purposes to the appropriate tools. For example, John Clayton Thomas states that decision makers should involve the public to gain information and to exchange public acceptance for influence (1995). He recommends *more public participation when the acceptance of a decision is important and less public participation when the quality of a decision is important* (1995, p.352).

It is important to note that none of the stages of policy development necessarily exclude successful citizen engagement. Walters notes that:

the purposes for including the public require different forums and approaches to solicit that participation. Using this process of determining a policy’s status in the policy development process enables decision makers to narrow the purpose possibilities, which in turn, provides guidance on when to include the public and the best methods to solicit that participation. Good decisions on citizen participation methods facilitate their success by both managing public expectations and clearly specifying how public input will be incorporated into the analysis (2000, p. 354).

¹ See <http://www.iplan.nsw.gov.au/engagement/essentials/benefits.jsp>

Success Factors

- Set the goalposts (from the beginning)
- Clarify expectations
- Create process minders (someone over viewing process)
- Have people talk to each other
- Choices are about values not technical expertise
- Use a variety of involvement techniques
- Creating informed choices – use surveys cautiously
- Reach out to groups and communities (White, 2004, p.113-14)

Our findings indicate that effective, or authentic, public participation implies more than simply finding the right tools and techniques for increasing public involvement in public decisions. Authentic public participation, that is, participation that works for all parties and stimulates interests and investment in both administrators and citizens, requires rethinking the underlying roles of, and relationships between, administrators and citizens (King et al, 1998, p.317).

Barriers to the Use of Citizen Engagement

Despite the numerous arguments in favour of citizen engagement, there are several significant barriers or disadvantages for local governments who pursue citizen engagement strategies. Key among them, are the financial cost of citizen engagement to the local government, citizen complacency, issues regarding representation, managing expectations, and the cost of wrong decisions.

The financial cost of citizen engagement is one of the most significant barriers, especially since it is not often accounted for in annual budgets (Stansbury, 2004). As such, citizen engagement process may pull resources away from projects with more tangible results. The difficulty of measuring the outcome can be a deterrent for investing money in citizen engagement. It is difficult to quantify the impact that citizen participants may gain by becoming involved. It is also difficult to quantify whether the policy is implemented more effectively due to greater citizen input and buy-in. Evaluation and success is not often measured in terms of these qualitative measures, and therefore, rationalizing a justification for investing in citizen engagement can be difficult. The lack of studies on the actual impact or result of citizen engagement in the policy process at the local level doesn't help. That being said, another financial cost that is difficult to quantify, is the cost of not using citizen engagement.

Next to the cost of citizen engagement, one of the more pervasive arguments against using citizen engagement is the complexity of the issue (Walters et al, 2000; Curtain, 2003). The professionalization and specialization of knowledge within local governments has lead some experts to think that Joe Citizen will be unable to grasp the complexities of the issue.

Apathy is another challenge for local governments trying to use citizen engagement. Complacency may exist because of the nature of the issue, the form/tool of engagement, or the culture of the community (Stansbury, 2004). The extent of the demand for citizen engagement varies from one municipality to another. Some municipalities have contributed to citizen expectations for engagement over time by choosing to engage often. In some cases, engagement begets more engagement. Other municipalities choose not to engage and are not faced with a significant demand from their citizens.

A study done in the UK regarding citizen's perspectives on citizen engagement indicate that citizen apathy is often mistaken for disinterest. Where in fact, the participants in their study cited the following reasons for not participating: 1) Citizens have a negative view of the municipality 2) Lack of awareness about opportunities to participate 3) A lack of council response 4) 'it's not for people like me' – issues of social exclusion (Lowndes, Pratchett & Stoker, 2001).

Ensuring the appropriate representation of stakeholders can be a challenge for the local government to overcome. It is important for the municipality to establish who the stakeholders are, determine if there are any barriers to participation, and then adjust citizen engagement processes to accommodate those stakeholders. Recognizing that there some citizens face barriers to participation ensure that all stakeholders have a voice in the process (Stansbury, 2004). Further, depending on the tool chosen for citizen engagement, highly polarized views can become exacerbated; leading to the conclusion that citizen engagement is divisive and caters to organized interests (rather than diverse stakeholders). This may be the case regardless of the tool chosen, however, some tools are certainly better than others for allowing space for dialogue.

Managing citizen's expectations is a critical part of successful citizen engagement processes. Insufficient communication can make citizens feel disappointed and disillusioned with the process. It is very important for the local government to set out expectations, responsibilities and roles at the very beginning of the process (Stansbury, 2004). Citizens like to see how and if their input is going to be heard and used. If this communication loop is not connected, then citizens may feel disenfranchised and duped.

Finally, in some cases, the local government may choose to allow citizens to make the final decision. This scenario is usually the cumulative result of a long process that involved many different citizen engagement tools along the way. Although there are benefits to choosing to do this, the potential negative outcome is that the less desirable option is chosen – it might be less efficient, etc. (Stansbury, 2004).

CITIZEN ENGAGEMENT SURVEY

The purpose of this research was to obtain information about the forms, methods, purposes and implications of citizen engagement being used in municipalities in British Columbia. The survey allowed us to get a general sense of what is happening from a larger sample population. Recognizing that it may be difficult to generalize across a

broad range of engagement initiatives, the survey simply tried to get a flavour of what is happening.

Survey Methodology

The survey was administered by CivicInfo BC. An email was sent to participants, which indicated that they could complete the survey online. The survey was sent to Chief Administrative Officers and Municipal Clerks in 154 municipalities in British Columbia. Regional Districts were not included in the survey population since the *Community Charter* does not apply to them. CAOs and Municipal Clerks were chosen for the survey because it was assumed that they would have a broad view and that they would not have professional biases that positions like communications or planning may have.

Respondents were given approximately two and half weeks to complete the survey. A reminder email was sent out approximately 10 days into the process to encourage more participants to reply to the survey. The results from the survey were obtained from a secure website administered by CivicInfo BC.

For the purpose of the survey, citizen engagement was defined as any voluntary initiative through which a municipality seeks to interact with or involve members of the public in the planning, decision-making, implementation or other activities of the municipality. Members of the public may be individual citizens, groups of citizens or representatives of established interests such as the business community, environmental groups or other sectors. For the purpose of this survey, citizen engagement does not include interactions that are required by legislation or regulations (e.g. public hearing for a rezoning; notice/opportunity for representation in relation to a road closure).

Summary of Survey Results and Key Findings

The following is an analysis of the key issues that arose from the survey data.

Response Profile

A total of 46 people responded to the survey representing a total of 41 municipalities. This results in a response rate of 27%, or roughly one third of the survey population. Despite being emailed to respondents in specific positions, the survey appears to have been passed along in some cases. Of the 46 respondents, 24 are COAs (52%) and 14 (30%) are Municipal Clerks (including Corporate or Financial Administration).

Respondents were asked to indicate the population size of their communities as either very small, small, medium or large. Respondents were more or less dispersed evenly between four population categories. 14 respondents were from very small municipalities, 13 from small municipalities, 7 from medium municipalities and 12 from large municipalities.

Perspective

The definition of citizen engagement is a key part of any discussion about the topic. It's possible that respondents were considering examples of statutory engagement given that they listed "statutory requirement" under the "other" category of several questions in the survey. Another fuzzy spot is the variety of positions that respondents hold. Different positions within the municipality probably have different views on the use of citizen engagement. The survey results do not unfortunately provide consistency in this regard. Regardless, however individuals defined or understood citizen engagement for themselves, will have had an impact on the results and any subsequent discussion.

Frequency

100% of respondents report using citizen engagement. Of these, 50% report using citizen engagement at least 11 times a year. Apart from how the respondents define citizen engagement, frequency might also be related to the capacity of the municipality to undertake these initiatives or the culture for citizen engagement in the community.

Either way, this is an interesting result. Similar data for other regions either within Canada do not appear to be available. It would be interesting to know if this was consistent with experiences of other provinces. It would also be interesting to determine if there are regional differences within BC. For example, do northern communities use citizen engagement to the same degree as those on the lower mainland? Does geographical location have any impact?

IAP2 Spectrum – inform – consult – involve – collaborate – empower

Responses to multiple questions in the survey indicate that respondents' experiences with citizen engagement appear to be predominately at the "inform" end of the IAP2 spectrum. More than half of the respondents ranked gaining information on citizen views as the number one purpose for choosing to use citizen engagement. The second most important purpose is increasing citizen awareness. These two purposes fall under the "inform" and "consult" end of the IAP2 spectrum.

The most frequently used forms/tools used also fall under "inform" and "consult". Informal feedback was overwhelmingly ranked 1st as the most frequently used tool followed by information from municipality to citizen and public meetings. The proliferation of web-based applications may be part of the explanation for this result.

The results of the survey also indicate that respondents engage more often at the beginning of the policy process. Respondents ranked gathering background information, identifying options, and identifying the issue as the top three points in the process they choose to engage. These three stages also correspond to the "inform" or "consult" end of the IAP2 spectrum.

Pros and Cons

Both critics and proponents list various reasons for using or not using citizen engagement at the local level. Interestingly, the survey results confirmed the validity of both perspectives. According to critics, the significance of the decision, the contentiousness and complexity of the issue are reasons not to engage with citizens. Respondents indicate that these issues are the top three considerations when choosing which tool to use in a given situation. This suggests that respondents are not shying away from these types of issues.

Other big issues for critics are the time consuming and expensive nature of citizen engagement. While time and money are certainly barriers or negative consequences, they are not preventing respondents from using citizen engagement (the case studies pick up on this theme). The issues over which respondents would choose not to engage citizens are legal, administrative/management or commercial issues. It appears that respondents would prefer not to engage if there is some kind of negotiation involved.

Interestingly, lack of public interest was considered the number one barrier for using citizen engagement. This calls into question whether there really is an increasing demand for citizen engagement. It may also point to the types of issues over which respondents are trying to engage (expanding a highway versus discussing budget priorities).

Supporters of citizen engagement cite greater citizen awareness (which can lead to increased ownership of issues and responses) as well as improved decision-making as reasons to engage. Greater citizen awareness and better decision-making (even if slow) were the top two positive outcomes according to respondents. Greater citizen awareness speaks the “inform” end of the IAP2 spectrum and perhaps to the tools and purposes to which respondents choose to engage. Better decisions also speaks to the fact that citizen engagement is always a two way learning process. Even if a local government’s purpose for engagement is just to give information, they will inevitably hear about it from citizens.

Population Size

Does population size impact the experiences of local governments with regard to citizen engagement? Where it was possible to make this kind of analysis, it appears that population size does make a difference. Choosing which tools to use, deciding what issue to engage over, the frequency of use, and the existence of a formal policy about citizen engagement all indicate a different experience for different sized populations. The largest contrast is between very small and large municipalities. The trend throughout the survey is of larger municipalities tending toward the more formal citizen engagement processes and tools and smaller municipalities tending toward less formal (this theme will also be carried forward in the case studies).

Paradigm Shift

Interestingly, culture, is another consideration that respondents listed as being taken into account when choosing between forms/tools. Specifically, respondents wrote, “heavy citizen involvement has always been part of community’s culture” and “our framework and politics for public involvement”. This seems to imply that there is a culture of engagement or that there are expectations on the municipality (sometimes formal) about how they will engage (the case studies will pick up on this theme).

Source of Pressure

The results of this question fall into three groupings. The top two sources of pressure were closely ranked. Individual citizens and council members are overwhelmingly the top two sources of pressure for citizen engagement. Missing from the list, is the option to choose “staff” as a source of pressure in the community. The reasons listed under other point to the fact that staff do in fact form a source of pressure in some cases.

The business community, other interest groups and non-profits are closely ranked in third, fourth and fifth.

The media, neighbourhood associations, and other are ranked at the bottom of the list in sixth, seventh, and eighth. One would assume that the activity of neighbourhood groups varies from one municipality to another.

Interesting Insights

- Citizen engagement processes can be a training ground for council
- Purpose for using citizen engagement: “distribute the political burden”
- “Heavy citizen involvement has always been part of community’s culture”
- Negative consequence of citizen engagement: “change is viewed negatively”

FOLLOW-UP CASE STUDIES

The purpose of the case studies was to elaborate on a specific example of citizen engagement in a local government. They were conducted with an eye to getting at the more nuanced decisions, pressures and rationales that get made throughout the public policy process. The case studies allow us to glean examples of what works and what challenges municipalities may have faced in using citizen engagement in their communities.

Case Study Methodology

The final question in the online survey asked, “Would you be willing to do a follow-up interview (by phone or by email) about an example of citizen engagement in your

municipality that you thought was particularly successful or from which lessons could be learned?" This question allowed participants who completed the survey to identify if they would be interested in doing a follow-up case study. To some degree, then, the case study participants were self-selected.

Those who volunteered were then emailed about their availability for conducting an interview. 8 interviews were arranged. In keeping with the assumption that small and large communities experience citizen engagement differently, respondents were chosen from each population category. Interviews were conducted with respondents from 1 very small community, 3 small, 2 medium and 2 large.

Respondents were then contacted by phone at a time convenient to them. The interview questions were similar to those in the survey, as they applied to the specific scenario the respondent was describing.

Analysis of case study results

Population Size

In the very small and small municipalities, citizen engagement tends to happen from the ground up. The city is often aware of issues within the community by word of mouth, complaints, and people dropping by the city hall (informal engagement). According to respondents, citizen engagement tends to occur when there is a demand for it as it relates to a particular issue or concern.

Contentious Issues

Most of the respondents identified examples where they increased the use of citizen engagement with regard to a particular issue while they were in the midst of addressing it. The degree of public concern, outcry, complaints, interest, etc urged the city to look for ways to include citizens to a greater degree, be it through information sharing or focus groups.

Undesirable Outcomes

A possible outcome of citizen engagement is that council may make a decision that might be less than optimal. The outcome of a referendum might have significant impacts for the community. In order to avoid undesirable results, the city may increase its citizen engagement strategies, particularly of the information sharing kind. Even if the city is not using a referendum for a particular issue, Council might be pressured to accepting suggestions or ideas that have come out of consultation with the public. Ideas that are derived from citizen engagement processes possess a certain degree of democratic legitimacy despite the fact that the ideas may be less technically sound.

Education & Access to Information

The importance of access to information cannot be overstated. Access to information is the fundamental starting point for all other forms of citizen engagement. According to respondents, getting information out to citizens was an integral component of turning a contentious issue into a dialogue between stakeholders as opposed to a confrontation. When citizens have access to information, they are more able to weigh the tradeoffs and become collaborators with the city as opposed to strictly playing the watchdog role. Further, educating citizens mean that they can help to frame and expand the discussion about the issue. One respondent had a very positive experience with a developer when pictures of a similar development were made available to citizens – this enabled citizens to understand what might happen.

Tools/Forms

Respondents report using a variety of tools depending on what the situation calls for. Ultimately, however, several respondents commented that they try not to use traditional town hall type meetings. These types of public meetings tend to be highly confrontational. Further, those who are upset will monopolize the microphone. One respondent claims, "public hearings are the last true blood sport." King et al. confirm this view. They argue that the public hearing is the most ineffective technique and they do not work, "administrators recognize that the structure of public hearings and public meetings prohibits meaningful exchange" (King et al, p.323, 1998; See also Kweit and Kweit, 1990).

Respondents report that open houses can be a successful form of citizen engagement. Open houses are non threatening means for people to ask questions, get information, engage with various stakeholders, and problem-solve about the issue. One respondent indicated that using an open house as early on in the process as possible, allows the problem definition, options and solutions to remain somewhat open to possibilities. Some respondents in medium and large municipalities report contracting out citizen engagement to third parties.

Positive Outcomes & Challenges

Among the various barriers that were mentioned, it was generally agreed that time and money are always a hindrance. Citizen engagement can often consume a lot of staff time, however, the result is that the issue does not come back to bite you! Respondents report that citizen engagement is generally a positive experience for citizens, staff and council.

Some respondents report having difficulty dealing with neighbourhood and interest groups who tend to dominate the process. Others, however, note that inclusion of groups in the process (via focus groups, open houses, etc) incorporates their energies into problem solving and ownership of the solution. Lastly, apathy is generally an issue and a

concern for some of the respondents. Trying to get people to participate in engagement processes over certain issues can be difficult.

Paradigm Shift

Several respondents indicated that a particular experience with citizen engagement caused them to consider incorporating these tools more frequently. Others reported that their municipality uses citizen engagement because that's just the way that they do business. The municipality may not have a formal policy for using citizen engagement, but it is apart of the culture of the organization (including council).

One respondent noted that citizen engagement requires direction and leadership in order for the municipality to function this way – there is a fundamental paradigm shift that needs to happen. This particular municipality is broadening the staffs that are involved in such initiatives to go beyond the planning department to include the engineering and recreation departments. Further, this paradigm allows a lot of the groundwork to be done before the issue even gets to council. Contentious issues receive a lot of attention (citizen engagement) and council does not get drawn into the debates to the same degree.

According to one respondent, the intent of Community Charter is positive and it serves to re-enforce citizen engagement paradigm.

Source of pressure

There was no discernable trend regarding the source of pressure to engage among respondents. The pressure to engage appears to be specific to particular issues and circumstances and may also become a fundamental expectation on the part of citizens that the city will allow them to participate. One respondent noted that pressure for citizen engagement comes as more things change.

CONCLUSIONS & RECOMMENDATIONS

This research paper set out to understand the current non-statutory citizen engagement practices in local governments in British Columbia. This information is important for several reasons. First of all, citizen engagement is a cornerstone of representative democracy. Secondly, the Community Charter's emphasis on accountability is a step toward encouraging greater interactions with citizens. Thirdly, the Annual Reporting exercise should include a citizen engagement component in order to ensure that there is a feedback loop into what is being measured. The following key insights have come out of this research project:

1. 100% of respondents report using non-statutory citizen engagement.
2. Citizen engagement tends to fall toward the “inform” end of the IPA2 spectrum for purpose, tool and goal. Information is the foundation of further citizen

engagement (we are seeing increasing availability of local government websites as well as communications officers on staff).

3. Population size impacts the use of citizen engagement. Small municipalities tend to be more informal and use citizen engagement less frequently. In addition, they are less likely to use tools that fall under the “empower” end of the IPA2 spectrum.
4. In some cases, there is an understanding of the link between the kind of tool being used and the overall purpose trying to be achieved.
5. Confrontational forms of engagement such as town hall meetings are not the most effective and can have negative impacts (hardening of positions).
6. Time and money are significant concerns.
7. Some respondents report having difficulty dealing with certain groups.
8. Citizen apathy is a concern.
9. The use of citizen engagement within the municipality may constitute a paradigm shift. Some local governments report “its just the way we do business”.
10. Citizen engagement is a two-way learning process. Both staff and council learn valuable input from citizens as well as learning about the impact of using citizen engagement in decision-making. Citizens, for their part, learn more about the issues affecting them.

Recommendations for the Ministry of Community, Aboriginal and Women's Services to Consider

The Use of Citizen Engagement - from inform to empower

Question: Are local governments using citizen engagement? If so to what degree? What kinds of engagement are they using?

Answer: 100% of the respondents report using citizen engagement in their municipality (as defined in the preamble of the survey). 50% of respondents indicated that they use citizen engagement at least 11 times per year. Informal feedback and information sharing are the two most used forms of citizen engagement.

Implications:

Information is the foundation for all citizen engagement. However, moving further along the IAP2 spectrum is important as citizens are increasingly called upon as customers, evaluators, coproducers, and catalysts for community action.

Consider encouraging/fostering the use of more citizen engagement in local governments.

Consider encouraging/fostering the movement along the IAP2 continuum toward more shared decision-making models. Especially with regard to the annual report, it is essential to have a feedback loop into the process in order for the objectives and measures to have meaning and reflect citizens' preferences (efficiency).

Any tools or best practices guides with regards to annual reporting should stress the link between citizens, staff and council in annual reporting and suggest means by which local governments can incorporate citizen engagement in the process.

The Implications of Population Size

Question: Does population size impact the use of citizen engagement?

Answer: Yes. Population size impacts the frequency of engagement and the types of tools that are used. Smaller local governments tend toward more informal citizen engagement.

Implications:

Any tools or best practices guides that might be developed should consider the relevancy of population size. A small community may be better suited to the use of informal tools.

A Citizen Engagement Paradigm - within Local Government Bureaucracy

Observation:

The literature review, the survey and the case studies point to the fact that citizen engagement requires an emphasis on the process rather than merely on the outcome. This constitutes a shift in the way that some bureaucracies function. Given the degree of technical expertise within local government, this may constitute a fundamental paradigm shift (experts vs. facilitators). Citizen engagement should be considered at the outset of the policy process and not merely an add on.

Implications:

Consider further exploration of how to foster a culture of citizen engagement in local government bureaucracy.

Access to Resources

Fundamentally, MCAWS should promote a better understanding and appreciation of citizen engagement in local government. The following information could be included in a best practice guide, in case studies, in courses, or on the MCAWS website.

- Provide information on various citizen engagement tools. This might include what the pros and cons are for using different tools. It might compare tools. It might also suggest which tools are more conducive than others to particular circumstances. Other governments have created charts that map particular tools to particular situations.
- Town hall meetings are not great – steer clear of these.
- Suggest that local governments anticipate that they will be using citizen engagement and plan on spending money (it's the way to do business). Citizen engagement should be considered at the outset – a go no go decision. If this is always the case, then a culture of citizen engagement will be engendered and local governments can anticipate that they will have to allocate time and resources to the process.
- Make information available about how to engage different stakeholders.
- Offer suggestions/best practices for dealing with citizen apathy. This may relate to what tools are being used; it may be much broader (i.e. democratic deficit & changes in society).

Questions for Further Study

1. Trend data - are local governments moving along the IPA2 spectrum? Is engagement increasing?
2. Specifically, what issues are local governments engaging over?
3. Investigate the use of citizen engagement with respect to annual reporting.
4. What works in British Columbia? Make case studies and examples available.
5. How is capacity built within local government so that they are better able to respond to citizens?
6. How can local governments overcome barriers to participation?
7. How are local governments engaging with aboriginal peoples?
8. What other resources are needed?
9. It is not uncommon to use citizen engagement in issues around sustainability as well as population health. What are other Ministries doing in this regard? What tools have the BC government already developed?
10. Would training workshops be useful (see IAP2 courses for example)?

Conclusions

Local governments in BC have long been engaging citizens. This report highlights some of the trends and issues currently facing local governments in BC. The recent inception of annual reporting highlights the need for ensuring that local governments know when to engage, what tools to use, and why. The success of performance measurement programs rests on the input, feedback and engagement of staff, council and citizens in the process.

Ultimately, the Ministry should encourage and support the use of citizen engagement at the local level in both general policy decisions as well as specifically regarding the annual report. Governments in Australia and the UK have written toolkits, case studies and many other resources for local governments to access with regard to citizen engagement. The fundamental starting point in the provision of information is making clear the links between citizen engagement and governance, social capital and service delivery. It would be useful to highlight the importance of engagement regarding annual reports as well as providing case studies and examples of what others in British Columbia are doing. Further, a guide that would match the tools of engagement that are available to the point in the policy process as well as the engagement goal would be helpful.

Community consultation enables governments to govern better and communities to be more engaged and connected. Active, informed citizens who are involved in the life of their communities and who take an interest in their government, will give rise to better candidates for office, more transparent and accountable decision-making and, generally, better governments. In a well-developed local community, the council and the community are mutually reinforcing pillars of representative democracy and good governance.

Community Consultation Resource Guide, p.4 (available at: http://www.vlga.org.au/library/contents/issues/consultation_engagement_BestValueVictoriaCommunityConsultationResourceGuide0.pdf)

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MADISON HARDY
COMPANY, COMMERCIAL AND BUSINESS LAW

NEWSLETTER # 137

THE NEW TREE PROTECTION RULES

You may recall that in 2009 the Government announced changes to the rules relating to the trimming, felling, damaging or removal of trees in urban areas. This was part of the reform of the Resource Management Act 1991 that was a central plank of the National Party's election manifesto in 2008. The newly-elected Government wasted little time in introducing the Resource Management (Simplification and Streamlining) Amendment Act 2009 which came into effect on 1 October 2009.

In February 2009 a Technical Advisory Group had reported that according to the Ministry of the Environment, approximately 4,500 consents were issued annually to allow the trimming, pruning and removal of non-protected trees in a relatively small number of urban Councils. Apparently virtually all of these applications were granted, but they represented about 10% of the national total of resource consent applications. So the Government decided that the benefits of the existing tree-protection regime were outweighed by the costs.

That is not to say that the Simplification Act abolished tree protection altogether. What the Government had in its gunsights were "blanket tree protection rules" that a number of Councils, particularly in Auckland, had imposed on private urban land.

These rules required, for example, a resource consent to be obtained before any tree above a certain height or girth could be trimmed, felled, damaged or removed. The intention of the Simplification Act was to require the Councils to specifically identify individual trees or groups of trees that were worthy of protection, and list these in a schedule.

In addition to the blanket rules, listing specific trees in a schedule was already a common practice, and this practice will obviously continue. As at December 2010 there were 3,690 individual trees in the greater Auckland urban area that were "scheduled". The intention is to add all the remaining noteworthy trees on private urban land into the schedule by the deadline of 1 January 2012.

From that date onwards, trees that are not on the schedule or are not protected in some other way (eg. by a covenant issued as a condition of a subdivision or land use consent), can be felled without the Council's consent. So the Councils need to get the schedules up to date before the blanket tree protection rules are abolished.

In the Auckland area, the process by which trees are to be added to the schedule is as follows.

Local Boards were asked to nominate any notable trees by 31 March 2011. These had to be in the "urban environment", which means that that had to be on a section of 4,000 m² or less that is

Level 6, Wyndham Towers, Cnr. Wyndham & Albert Streets, Auckland 1010
P. O. Box 630, Shortland Street, Auckland 1140

Phone: 09 970 9569, Fax: 09 379 0504, E-mail: geoff@madisonhardy.com, Website: www.madisonhardy.com

connected to a reticulated water supply and sewerage disposal system, and on which stands an industrial, commercial or residential building. So trees on vacant sections, or sections greater than 4,000 m² in area are not covered. Similarly, trees on Council reserves or that are subject to a conservation management plan or strategy are not covered, because they are already protected.

Once the new trees were nominated, the owners were notified, and Council arborists then went around making assessments of each tree based on a standard set of criteria. At the time of writing this newsletter (May 2011), Council staff are about to review those assessments and decide which trees are to be included in the schedule. A District Plan change containing the proposed new schedule will then be drawn up, and publicly notified.

People will be able to make submissions, and further submissions in response to those submissions, before a final decision is made and notified. The Auckland Council will apply to the Environment Court for the changes to come into effect on 1 January 2012, subject to the outcome of any appeals that have still not been resolved by that time.

Various Auckland Councils were uncertain whether some of the trees listed on their existing schedules would continue to be protected under the new rules. This was because they were described in such a broad way that they might not be identified specifically enough to qualify for protection once the blanket rules were abolished. So the Councils asked the Environment Court for guidance.

The Court went for a fairly liberal interpretation of the Simplification Act, and effectively said that blanket protection rules were still okay provided they met the objectives of the Resource Management Act and the District Plan. So, for example, a rule that protected "all exotic trees over 3 metres high in the residential 5B zone" could still be perfectly valid. Time will tell whether the Government accepts that interpretation, or tightens up the legislation once again.

In the meantime, if your tree or group of trees ends up being protected, you will not be able to cut down, alter, injure, destroy or partially destroy it without a resource consent. Minor trimming or maintenance will be permitted but subject to strict conditions. It will have to be done by hand-operated secateurs or pruning shears, in accordance with modern day accepted arboricultural practice, and only if it does not detract from any qualities for which the tree has been scheduled.

However, for any trees that are not listed on a notable tree schedule, it has been legal to trim them since 1 October 2009 regardless of what the District Plan says. And come 1 January 2012, it will be legal to cut down, damage or destroy them. Whether that leads to a mass de-forestation exercise by people suffering from New Year hangovers, remains to be seen.

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This newsletter is not intended to be relied upon as legal advice.

Level 6, Wyndham Towers, Cnr. Wyndham & Albert Streets, Auckland 1010
P. O. Box 630, Shortland Street, Auckland 1140

Phone: 09 970 9569, Fax: 09 379 0504, E-mail: geoff@madisonhardy.com, Website: www.madisonhardy.com

TREE PROTECTION ISSUES IN AUCKLAND – March 7th 2011

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Introduction

From 1 January 2012, there will be great changes in tree protection. As a result of the government’s changes to the Resource Management Act (RMA) in September 2009, local authorities in urban areas will no longer be allowed to have any type of tree protection rule for trees on private land, from that time, apart from listing notable trees in their District Plans (scheduling).

This change was done without consultation. Whilst there is nearly general agreement that the existing general tree protection rules needed to be reviewed, there is a view that the move has ‘thrown the baby out with the bath water’. This move has created a potentially serious risk to the health and maintenance of Auckland’s urban forest, most of which is made up of trees on private land. Scheduling trees only gives protection to a relative handful of significant individual trees, or groups of trees. Trees on public land should generally remain protected via existing general tree protection and other vegetation and heritage policies.

The previous councils of Waitakere, North Shore and Auckland Regional Council are awaiting the result of their application to the Environment Court for a declaratory judgement of some of their existing protection policies relating to groups of trees on private land in specific natural and heritage areas, eg coast line, native bush. This may resolve a few of our concerns. However the majority of our report concerns pressing matters not covered by this judgement.

The Value of Trees in the Urban Environment

Auckland’s urban forest comprises trees on both public and private land. While older parts of Auckland appear to be very treed, urban intensification threatens this. Allowing trees space and time to grow to maturity confers the greatest benefits in urban situations.¹ Large trees offer the most benefits.

Healthy mature trees are vital for the wider health of society and ecosystems, particularly in an increasingly densely populated urban environment. They:

- reduce soil erosion and stormwater run-off and absorb water;
- offset the effects of air pollution;
- shelter us from, and temper, strong winds;
- provide shade and cooling from sun and high temperatures within built up areas;
- provide individual and community amenity and aesthetic values;
- enable and increase bio-diversity through green wildlife habitat and corridors;
- provide natural air conditioning and heat island reduction;
- contribute to green house gas mitigation through carbon sequestration and storage;
- provide habitats for birds and other fauna;
- mask traffic noise;
- provide beauty and soul to the landscape and built environment;
- provide positive impact on physical and mental health and well being;
- have the potential to increase residential and commercial property values by between 7-15%².

¹ [‘No Trees, No Future - Trees in the urban realm’](#) Nov 2008, The Trees and Design Action Group (pg 27) www.forestry.gov.uk/forestry/INFD-7KDEHU (part of the UK government’s forestry department)

² as above pg 7

Trees will thus play a significant part in ameliorating conditions caused through climate change, especially in the higher density urban areas of the future.

Since the changes to the RMA in September 2009, New Zealand has gone backwards in terms of its approach to the valuing of trees in the urban, built environment. As a result of the implications of these legislative changes, various professional and interest groups have come together to urge Auckland Council to take an active and proactive stance to improve tree protection and management measures within the whole of the new Auckland Council region, using whatever tools are now available.

Purpose of the Report

This report has been produced with the aim of creating a starting point for further discussion and consultation on tree protection and management with the Council and the public, so that policies can be in place before 1 January 2012, and longer term initiatives put in train.

The request for this report followed a meeting on 1st February 2011 between senior council officers, and *The Tree Council* and other environmental and professional organisations. The meeting itself was in response to a letter from the above organisations to the Mayor, Len Brown, requesting that a working group be set up to look at tree protection as a whole, which he has endorsed. In addition, the meeting was also a response to a similar resolution by Council, initiated by Councillor Richard Northey, agreed at the Unitary Plan and Urban Design Forum on 7th December 2010, and approved by the Governing Body on 16th December 2010, Item 19.

The report puts forward a mix of both voluntary and regulatory mechanisms, which include a 'carrot and stick' approach. See Appendix 1 for a list of international sources of good practice and examples.

Nature of the Group

This report has been compiled and endorsed by, the following organisations:

The Tree Council

New Zealand Arboricultural Association
New Zealand Institute of Landscape Architects
Royal New Zealand Institute of Horticulture
Environmental Defence Society
Landscaping New Zealand
Garden Design Society of New Zealand
Department of Landscape Architecture, UNITEC
Mike Wilcox, Auckland Urban Forest expert

Endorsed by:

Civic Trust Auckland
Waitakere Ranges Protection Society

7th March 2011

Tree Protection Issues, Mechanisms and Recommendations

Focus for tree protection should be on the following areas:

- 1) Integrating the need to maintain amenity and natural characteristics through tree cover with sustainable growth and development of the City
- 2) Increasing the profile of the urban forest and tree values
- 3) Maintaining/enhancing urban forest/city greening (including accommodating climate change, food loss)
- 4) Maintaining/enhancing landscape and social amenity (including trees as landmarks, spatial features, elements of good urban design, for storm water retention, erosion control, and for comfort eg shade, shelter and screening)
- 5) Maintaining/enhance biodiversity
- 6) Maintaining/enhancing heritage protection (natural & cultural)

Some identified risk areas resulting in tree loss on private land following the removal of general tree protection

- Trees protected by existing conditions of resource/subdivision consent
- New greenfield subdivision areas where existing trees are routinely removed for new development
- Infill housing subdivision where existing trees are routinely removed for new development
- New housing intensification resulting in little space for new trees
- Redevelopment of commercial sites where existing trees are routinely removed for new development
- Coastal areas/gardens with trees that block views
- Areas of vegetation on residential sites currently protected under general tree protection rules only, including stream edges and remnant / regenerating bush/indigenous forest
- Trees in gardens where they are a major contributor to heritage character

Recommendations listed below, marked with an asterisk *, are regarded as most urgent, ie. to be undertaken and completed before 1 January 2012.

Issue 1: Auckland as a Liveable City

Auckland Council Mayor, Len Brown, campaigned on the principal of making Auckland, "the most liveable city in the world," an Eco City, based on the Waitakere model. This, he agrees, involves having a strong environmental focus, as recognised by cities with a reputation for high quality liveability, such as Melbourne, Vancouver, Portland, Seattle and San Francisco. We wish to support that vision. A healthy, urban forest, supported by the community is integral to sustainable development and this vision.

Recommendation:

- a. Create a culture within Council that recognises tree value and their importance in relation to urban design, sustainability and climate change.

- b. Policies to ensure the health, growth and maintenance of Auckland’s urban forest, on both private and public land, need to be developed and integrated into social, economic and cultural outcomes. This involves both exotic and native trees.
- c. Create an organisational structure that allows coordination of tree related activity eg. parks and streets arborists; planners; heritage officers; biosecurity; urban designers; transport engineers.

Issue 2: Public and professions are not fully aware of implications of tree protection changes after 1 January 2012

Recommendation:

- a. * Implement an effective and well resourced campaign to educate the public and professions on what trees will still be protected after 1 January 2012 (see Issues 3, 4 and 5 below, including trees currently protected under conditions of resource/subdivision consent), and on the reasons to conserve trees even if not legally protected.
- b. * New leaflets to be made available and widely disseminated.

Issue 3: Uncertain status of trees in the built environment on sites less than 4,000m2, but which have no reticulated water and sewage, nor a building

The amended RMA legislation defines an urban environment as a Lot which: *“is connected to a reticulated water supply system AND a reticulated sewerage system, AND, on which is a building used for industrial or commercial purposes, or a dwelling house.”*

This situation may cover all subdivisions, whether infill or larger blocks of land. This needs to be confirmed legally, but on the surface would seem to indicate that most development land would still come under existing general tree protection provisions, ie there is no existing building, and on many sites no existing water or sewage infrastructure (at least not for the proposed new buildings or new subdivided lot?).

Recommendation:

- a. * Council needs to clarify the situation and if appropriate, confirm its retention of existing rules in these situations. This also needs to be publicised widely, within the public domain and professions, eg. planners, transport engineers, architects, and landscape architects.
- b. * Once the situation is clarified, the relevant sections of the District Plans that contain rules for general tree protection will need urgent review to ensure provisions are made to keep protection where possible and appropriate. This also provides an opportunity to review and improve any such rules within the District Plans (see Appendix 2) and improve the processes by which they are administered (see Appendix 3).

Issue 4: Uncertain status of trees on sites in the built environment which are over 4,000m2

The amended RMA legislation specifically states that the ban on any rules applies only to sites in the urban environment, which is defined as a Lot of less than 4,000m2. Therefore existing

general tree protection should remain on those sites over 4,000m2, even though it is within the ‘urban environment’.

Recommendation:

- a. * Council needs to clarify the situation, and confirm its retention of existing rules in these situations, and publicise that this is the case, both within Council and the general public and development professions, eg. planners, transport engineers, architects, and landscape architects.
- b. * Once the situation is clarified, the relevant sections of the District Plans that contain rules for general tree protection will need urgent review to ensure provisions are made to keep protection where possible and appropriate. This also provides an opportunity to review and improve any such rules within the District Plans (see Appendix 2) and improve the processes by which they are administered (see Appendix 3).

Issue 5: Trees protected by existing consent conditions

There is a risk that trees currently protected through previous conditions of resource/subdivision consent, will be considered exempt from restrictions from 1 January 2012, although this is not the case.

Recommendation:

- a. * Ensure that trees protected as a condition of a resource/subdivision consent are placed on the property’s LIM. Council staff should identify all of them and compile a register of trees protected in this manner. Council staff should send letters reminding owners of their continued protection after 1 January 2012, and that if they damage or fell the tree(s) without consent, they will be liable to prosecution.
- b. * Improve the monitoring and enforcement of trees that have been identified to be retained.

Issue 6: Loss of mature trees in greater Auckland, especially in areas of intensification and development

Developers can cut down any non-scheduled tree after 1 Jan 2012 (but see Issues 3, 4 and 5 for exceptions), prior to submitting their plans, and thus have no, or few trees, for the Council to consider when granting consent, and/or deciding conditions of the consent.

Recommendation:

- a. * Investigate legality of by-law possibilities and the development of ‘special tree policies’. Both of these were methods that the Minister for the Environment, Nick Smith MP stated, in a recent letter to a North Shore environmental group, could be “used by local authorities to protect trees (other than blanket protection rules).”
- b. * Importance of tree vitality and inter-generational continuity of the urban forest (most of which is on private land) should be reflected in the Spatial Plan and the District Plan’s policies regarding development. Plans need to demonstrate allowance for appropriate tree retention and future tree growth.
- c. * Policies for urban design development need to include tree management and protection. Urban Design Panel should consider tree protection and management as an important element in assessing development proposals.

- d. * Make it a requirement for any developments to be designed around existing good specimens of trees if at all possible. Applications should include aerial photos to reveal current or recent tree cover.
- e. Require mandatory provisions for planting of larger trees on development sites, if no remaining trees. Design must allow for the trees to grow to maturity without conflict.
- f. * Investigate possible incentives to retain good specimens of trees, and to allow space for medium to large trees to grow - best incentives will be those resulting in easy/speedy consenting process.
- g. * Improve the process for scheduling trees (See Appendix 4 for a range of recommendations).
- h. Monitor tree cover across all areas over time, including protection of notable trees, citywide urban forest/greening, ecological linkages and corridors.
- i. * Adopt 'tree removal' as a controlled or discretionary activity for zones where trees are identified as contributing significantly to the character of the zone eg. heritage residential zones (See Appendix 5).
- j. * Targeted tree protection for Conservation Areas or Landscape Protection Areas (eg coastal).
- k. Develop a NZ standard for the protection of trees on development sites similar to the Standard recently developed in Australia – 'AS 4970 – 2009, Protection of Trees on Development Sites'. See news release 6th November 2009 <http://www.standards.org.au/OurOrganisation/NewsRoomArchive/tabid/339/y/2009/Default.aspx>
- l. Review and strengthen NZS 4044 Part 7 Land Development and Subdivision Infrastructure
- m. * Prepare specific Auckland Council Code of Development and Subdivision.
- n. Develop/expand Heritage, Conservation and Open Space Covenants to include trees.

Issue 7: Reduction in numbers of suitable trees for future scheduling as notable trees, and reduction in the future tree stock in existing suburbs

There is a risk of a reduction in the development of potentially large and good specimens of trees or groups of trees which could grow to a stature worthy of scheduling later in time. This is because there is a risk that more trees will be cut down without restriction. This is also because developers may have a much freer hand in cutting down trees on development sites.

The elimination of general tree protection rules also weakens the existing provision to require a land owner to plant an appropriate replacement tree (mitigation) if consent is granted to fell an existing tree.

Recommendation:

- a. * Develop proactive policies in the District Plan which would give the council more power to demand retention of good trees before resource consent was given, and to liaise more actively with developers at design stage to help in getting trees integrated into the design – linked to urban design policies (See Issue 6).
- b. * Applications for development should include an aerial photo to identify current or recent tree cover.
- c. * Give greater emphasis to education about the value of trees in the urban environment, and also about the types of trees which are suitable for specific locations.

- d. * Improve the process for scheduling trees (See Appendix 4 for a range of recommendations)
- e. * Allow targeted tree protection for Conservation Areas or Landscape Protection Areas

Issue 8: Maintaining and enhancing biodiversity

Maintaining and enhancing biodiversity is a key platform for Government, and removing protection of scrub and other indigenous vegetation (of whatever size) does not support existing national policy.

Recommendation:

- a. Utilise a variety of available methods for protecting indigenous vegetation linked to biodiversity - see Policy 6 from the proposed national policy statement on indigenous biodiversity - and integrate into the city's tree and urban forest policy (See Appendix 6).
- b. * Classify relevant land as significant natural areas.
- c. * Promote voluntary and statutory covenants.
- d. Allow landowners to claim the value of covenanted land (significant natural area or ecological feature) as a tax deductible donation to the QE11 Trust or other recipient organisation (See Appendix 7).
- e. * Develop different tree/vegetation schedules based on coastal amenity, landscape values, habitat, ecosystem functioning, erosion, visual/landmark and heritage values.
- f. * Zone for protection of indigenous forest on private land.

Issue 9: Public and professions are not generally aware of the roles that trees have in the city, nor the role of the green and urban forest infrastructure.

Recommendation:

- a. * Create a multi-disciplinary community/local body/professional Action Group/Forum for the Urban Forest, similar to that in London, England (see Appendix 8) and place this on Len Brown's list of initiatives – no 101.
- b. * Undertake more education geared towards the community, including web based material.
- c. * Develop specific education materials for new migrants.
- d. * Council to consider giving free advice through a range of means, including talking to an arborist (like the eco building advisor service).
- e. * Create avenues for the public and the council to have more discussion of the merits of trees in the urban environment and their protection.
- f. * More emphasis on understanding about the needs and importance of trees for the related professionals working for and with Council – eg, planners, transport engineers, architects, and landscape architects.
- g. Recognise and protect trees and vegetation for function eg erosion protection, stream protection, inundation protection.
- h. Scheduled trees to have plaques/information signs.

Issue 10: Improve the management of street trees and impact of road and utilities infrastructure development, and redevelopment of public open spaces.

With a reduced ability to protect trees on private land, those on public land assume an increased importance. In particular, with the re-organisation and amalgamation of the Auckland Councils, street trees may now fall under the management of the transport CCO, and as such, recognition of the importance of accommodating trees within the road reserve and policies to achieve this should be included in their statutory obligations.

Recommendation:

- a. Review and strengthen NZS 4044 Part 7 Land Development and Subdivision Infrastructure
- b. * Prepare specific Auckland Council Code of Development and Subdivision
- c. Council to require shared utility trench or allocated space (See Appendix 9 for example from Manukau District Plan).
- d. Council to take the lead in scheduling more of their own trees.

Conclusion

There are significant and immediate risks to the future of the tree cover in Auckland because of the change in RMA legislation, particularly in the light of Auckland's high pressure development environment. These risks include a degradation of coastal and heritage sites, and treed sites eg. Titirangi, Laingholm, and Birkenhead. In particular, trees on development sites and sites of intensification are at risk. Council needs to clarify when a site is not considered 'urban', using the definition in the legislation, ie. when a Lot is over 4,000m2, and when a Lot under 4,000m2 does not have reticulated water, sewage, nor a building. If appropriate, Council needs to confirm its retention of existing rules in those 'non-urban' situations. Trees protected by existing conditions of resource/subdivision consent are also very vulnerable.

These risks put at jeopardy Mayor Len Brown's vision of Auckland as the world's most liveable city, as well as NZ's environmental credentials.

Many of our recommendations require work to be undertaken immediately to get policies in place before 1 January 2012. Scheduling trees is not the sole answer to protecting and managing the urban forest and its associated functions and qualities of landscape, heritage, social amenity, erosion control, stormwater, biodiversity and more. Other recommendations are more long term. Much good work on tree policy has been done by the previous councils, eg. Auckland City's Urban Forest Plan. This needs to be pulled together and strengthened.

We have put forward a range of ideas that can be implemented through existing legislation. We are mindful of budget limitations, but not everything put forward costs money, and amalgamation should help to reduce costs.

We look forward to working with the Council in coming to an agreed position and set of policies and initiatives, which will be integral to creating the most liveable city in the world.

APPENDIX 1 – Resources

See below for a range of best practice examples, or ideas, from other international cities:

- Trees and Design Action Group 2008 (updated Feb 2010) 'No Trees, No Future – Trees in the urban realm': Forestry Commission (UK)
<http://www.charteredforesters.org/upload/file%5CDownloads/No%20Trees%20No%20Future.pdf>
- The United States Conference of Mayors 2008, Protecting and Developing the Urban Tree Canopy, <http://www.usmayors.org/trees/treefinalreport2008.pdf>
- City of Melbourne Planning Committee, Report on Tree Protection Controls (November 2009) - currently developing new tree protection measures
<http://www.melbourne.vic.gov.au/AboutCouncil/Meetings/Lists/CouncilMeetingAgendaItems/Attachments/4458/5.4.pdf>
- City of Seattle Department of Planning and Development July 2010, Proposed Tree Regulations,
http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@treeregulation/documents/web_informational/dpdp019341.pdf
- International Society of Arboriculture: Developing Urban Forestry Ordinances
http://www.isa-arbor.com/membership/resources/memb_UAA_TreeCareOrdinances.pdf

Survey of NZ Local Authorities

Keep in touch with the nationwide survey about to be undertaken of NZ local authorities and their tree protection and other tree policies (by NZ'er but through a British university). This survey will gain knowledge of the range of tree protection policies that NZ local authorities currently have, and what local authorities are doing in the light of the new legislation, along with opinions and actions they might be taking.

NZ Arboricultural Association should be able to provide contact details etc and progress of this. Contact Adrian Lamont, 09 623 3514.

Auckland City Council's Urban Forest Plan (2007) – This is primarily focused on trees on public land.

<http://www.aucklandcity.govt.nz/council/documents/octforestplan/default.asp>

APPENDIX 2 –Potential changes to District Plans

The requirement to remove any provisions for ‘general tree protection’ from all District Plans in time for January 2012 will necessitate a review of most of the operative District Plans covering the Auckland City region. Because of the way the various District Plans are worded and set out, in most cases there is a need for the existing general tree protection provisions to be amended (rather than simply deleted), or new provisions added, if Council is to retain its ability to protect trees on non-‘urban’ land. Brief comments relating to each of the District Plans is provided below:

Auckland Central Area (CBD)

General tree protection applies to all publicly owned trees, but only individually scheduled privately owned trees are protected. It should therefore be possible to retain the existing levels of tree protection in this part of the City and significant changes to the District Plan ought not to be required, because the areas where general protection applies would not be defined as urban.

Auckland Isthmus

General tree protection provisions are contained in two separate sections, dealing with trees on roads and un-zoned land separately from trees on all zoned land. The former section is applicable predominantly to the road reserve, which would fall outside the definition of ‘urban’ and it should therefore be possible to retain that section within the Plan. The latter section includes many sites where tree protection could be retained if desired, including all parks and reserves and large sites such as golf courses, schools and hospitals etc. In order to retain protection on such sites, revision of the relevant section (5C.7.3.3C) would be required rather than its complete deletion.

Franklin

There are no provisions for general tree protection in the Franklin District Plan, with only individual notable trees listed. Scope exists to protect trees on non-urban land (which would be applicable to a large proportion of the district) and could be considered as part of the development of the Auckland Spatial plan that will guide the new Auckland District Plan.

Gulf Islands

There is no land within the Gulf Islands that meets the relevant definition of urban, predominantly because there is no reticulated water supply. As such, it is assumed that there would be little need to change this District Plan and it will be possible to retain the tree protection provisions as they are.

Manukau

This District Plan includes a list of tree species to be protected (Schedule 6C). Protection is afforded to any tree of the listed species over a defined size, regardless of its location or zoning. Therefore, removal of the provisions that protect these trees will remove protection for all trees in any zone, including the road reserve. If protection of trees on non-urban land is to be retained, the relevant sections of the Plan will require revision or replacement, rather than deletion.

North Shore

This District Plan is set out in a similar way to the Auckland Isthmus District plan, separating trees on roads and reserves from all other trees, so the same comments generally apply.

Papakura

This District Plan includes a list of tree species to be protected (Schedule 3E). Protection is afforded to any tree of the listed species over a defined size, regardless of its location or zoning (within the built up part of Papakura town only, rather than the surrounding rural area as defined in District Plan maps). Therefore, removal of the provisions that protect these trees will have the same implications as in Manukau. Additionally, scope exists to consider protecting trees on non-urban land outside the built-up area of Papakura township that are not currently protected. This could be considered as part of the development of the Auckland Spatial plan that will guide the new Auckland District Plan

Rodney

The District Plan protects most trees over a certain size within the built-up parts of the District, regardless of zoning. Therefore the comments made with regard to Papakura provided above are generally applicable, including the possibility of adding protection to trees growing on non ‘urban’ land outside existing built-up areas, which are not currently protected.

Waitakere

Levels of tree protection are based on ‘natural areas’ that overlay and do not generally coincide with land use zoning (referred to as ‘human environments’) throughout the district. If elements of general tree protection were to be retained this would require amendments to the provisions pertaining to each ‘natural area’ to specify where any such rules were applicable.

APPENDIX 3 – Improving Implementation of General Tree Protection

Where elements of general tree protection can be retained (or considered), as described above, much scope exists for improving implementation. The existing general tree protection rules are all ‘first generation’ and, generally, practitioners would agree that improvements could readily be made. Some points for consideration are provided, many of which were made in submissions to the select committee that reviewed the Resource Management Amendment Bill:

- **Simplify the rules.** For example, in the Isthmus District Plan the girth threshold to determine tree protection status is measured at 1.4m above ground level for trees in zoned land but at 500mm above ground level for trees in the road reserve. Also, the height and girth threshold for protection varies slightly by zone for exotic trees but is uniform across all zones for native trees. It may be timely to consider the scope for any simplifications as they can ultimately be carried through to the new Auckland District Plan
- **Review assessment criteria and activity status** for the various activities involving generally protected trees. For example in Manukau all work within the driplines of street trees is a restricted discretionary activity. However many such works are essential and inevitable and could be assessed as ‘controlled.’ In the North Shore, removal of any vegetation of any size in the road reserve is in most situations a ‘discretionary’ activity, regardless of the likely adverse effects or necessity for the works. Generally, assessment criteria could be more geared towards the effects of the activity, increasing the scope for tree officers to approve applications where the adverse effects will be less than minor even though the reasons for the application may be spurious.
- **Increase the nature and extent of permitted activities.** To some extent this was achieved by allowing pruning of up to 30% of the canopy of generally protected trees. Other examples may include allowing works in the driplines of trees that comply with approved standards, applying a minimum size threshold for protection status in the North Shore District Plan for trees on roads and reserves or increasing and standardizing the size of tree to be protected. In Papakura, trees with a trunk girth (circumference) of over 500mm at 500mm above ground level are generally protected. This size threshold is very low and captures large numbers of insignificant trees.
- **Provide adequate delegations to Council tree officers.** This could include the ability to sign off consents for any activity involving generally protected trees and any activity involving scheduled trees except their removal. This reduces the number of people that must provide input on each application and will reduce delays while consents are signed off.
- **Expand the use of on-site decision making,** whereby Council tree officers can issue a hand written consent at the time of their site visit. This has been used to some extent but increasing the delegations for tree officers could make this possible in most cases and greatly reduce processing times and paperwork.
- **Issue more ‘blanket’ consents** for utility companies, parks officers etc. Several of these are now in use, whereby consent is issued not for individual sites but for a particular type of work wherever it may arise (e.g. to repair leaks in the water

reticulation network). Any adverse effects are assessed on the basis of the methodology to be used rather than the specifics of individual sites.

- **Improve monitoring** of consents that are issued to ensure conditions such as replacement planting are followed and that the protected status of replacement trees is acknowledged.
- **Assess the possibility of making modifications** to the District Plans rather than plan changes, as was done for the changes to the pruning regulations that were made immediately after passage of the RMA Amendment Bill.

APPENDIX 4 - Improvements to Scheduling Process

- 1 *Revise the evaluation system used to assess whether trees are worthy of scheduling.***

The current evaluation sheet being used by Auckland Council to assess potential scheduled trees is a modified version of the STEM system that ascribes a score of generally between 1 and 5 (in some categories the range is less) to a tree for each of 15 categories. These scores are added to achieve a total score. Currently the threshold for inclusion is 36 points out of a possible maximum of 68 points. Four of the criteria tend to favour larger (and therefore generally older) trees and only one criterion favours younger trees. This has the overall effect of making it more difficult to get younger trees with good future potential added to the schedule, thereby compensating for scheduled trees that are felled or decline in health. This could be addressed in different ways:

 - a. Lower the threshold for inclusion.
 - b. Revise the criteria and / or the scores available for each to reduce the discrimination against younger trees. (For example there is a criteria for size of tree but not for expected *future* size of tree)
 - c. Implement a 2 tier (or more) system with a category for developing trees with lower STEM score trees with good potential, possibly with less strict rules.
 - d. Keep a register of trees nominated and inspected that have not reached the required threshold, for future re-inspection and possible inclusion.
- 2 *Set timeframes for reviewing trees to be added to the schedule.***

Currently the necessary plan changes to add trees to a schedule are carried out irregularly and at long intervals. Hitherto, in most cases the trees in question would have been generally protected so have been under less immediate threat of removal than they are likely to be in future. However if the plan changes are made on a regular basis (possibly annually) or whenever the number of trees awaiting assessment reaches a set threshold this may reduce any threat to these trees. In some districts, all plan changes (even though unrelated) are processed and notified simultaneously to minimise the administration and costs. These measures could also be a way of avoiding the need for private plan changes, which are unduly onerous to most individuals.
- 3 *Protect 'pending' trees while the assessment and plan change process is carried out.***

Provision could be made to protect trees in the interim between being nominated and then added to the schedule. The system in the UK that operates under the 'Town and Country Planning Act' allows for 'tree preservation orders' to be issued instantly where a valuable tree is under imminent threat of removal or damage, and does not require the owner's consent. This allows time for a proper assessment to be made as to whether the TPO should be applied permanently or lifted.
- 4 *Allow for plan changes to add trees to the schedule to be non-notified or limited notified.***

If the inclusion of an individual tree is supported by the owner and any immediately adjacent neighbours that may be considered to be affected by its inclusion, provision should be made for the required plan change to be carried out on a non-notified basis. Where potentially affected persons have not provided support, notification should be limited to those persons only plus organisations with specific interests eg The Tree Council, thus reducing the time and cost that the plan changes incur.

- 5 *Require a plan change before felling a scheduled tree.***

For example, in Section 8.4.6.2 of the North Shore District Plan it states that 'any alteration to the schedule must be by way of a plan change' but as currently no plan change is required when felling a tree on the schedule the bureaucratic process required to remove a scheduled tree is much less onerous than the process required to schedule a tree in the first place.
- 6 *Provide financial or practical incentives for owners to schedule their trees.***

Scheduled trees are recognised as such because they provide benefits to the whole community rather than just the owner. As such, it may be considered appropriate to offer incentives funded by the community, such as rates relief or assistance with tree maintenance, arboricultural advice and property maintenance that may be required due to the presence of a scheduled tree (e.g. repairs to cracked paths, installing gutter guard and the like). A fund was recently made available for this purpose on the North Shore where rebates were provided to owners of scheduled trees to pay for pruning, if deemed appropriate by Council Tree Officers. A similar scheme operates in New Plymouth where owners of such trees can apply for funds set aside for property repairs or tree maintenance, subject to an assessment by a Tree Officer. Currently, this is achieved with an inventory of approximately 1500 trees and an annual budget of only \$56,000. The probable (?) reduction in workloads for Auckland's Tree Officers and cost savings that will arise from reduced tree protection should enable resources to be reallocated to this purpose.
- 7 *Review the objectives and rules in relation to scheduling in the various District Plans.***

Consideration should be given to reviewing District Plan tree scheduling rules and submissions sought from interested parties or those who have experience in working with the rules. To our knowledge the rules have never been amended based on the experience that has been gained since they were introduced. For example the North Shore District Plan currently has no separate assessment criteria for works affecting scheduled trees, so they are the same as for generally protected trees, including removal of a tree because it causes 'undue interference with the reasonable enjoyment of the land' which is vague and may well not be appropriate in the case of scheduled trees. In the Isthmus District Plan pruning of scheduled trees may be assessed as a 'controlled activity' so consent has to be granted, and there is no provision for removing dead wood as a permitted activity. Consideration could also be given to categorising some activities as non-complying.
- 8 *Remove or rebate fees for private plan changes to add trees to the schedule***

(Self explanatory).
- 9 *Improve monitoring of scheduled trees.***

In some districts Council Tree Officers are warranted to carry out regular inspections of the stock of scheduled trees. This enables them to check for violations of the rules, inspect the condition of the trees, provide advice to the owners and assess requirements for any maintenance that may be required. This ensures the tree stock is maintained in a healthy and safe condition and information on any reduction in tree numbers can be collated more easily. Also it provides support for the owners of the trees and helps develop a positive relationship between them and Council.

APPENDIX 5 - Heritage zone tree protection

Having reviewed existing District Plan zoning objectives, there seems to be potential to increase tree protection, by placing conditions on Resource Consents. Below are examples of the objectives and policies currently in the Auckland City district plan, relating to protecting trees for Residential Zones 2,3 & 4, where flora and or landform are prioritised in the objectives, and also 'Bush Living' zone (Waitakere):

Objective 2 for Residential Zone 2 (Built / Flora):

To protect the landscape qualities of those residential areas which display a special blend of built and natural features, generally involving period housing, coupled with the presence of trees.

Policies

- By maintaining the quality of spaciousness which characterises the zone.
- By requiring the retention of the larger trees, located on private property, roads and reserves, which give the zone a distinctive character.
- By requiring replacement planting to maintain the landscape qualities and spaciousness of areas in this zone. Replacement with indigenous trees will be encouraged when this is the traditional pattern of planting in the area or when an indigenous tree has been removed.

Objective 4 for Residential Zone 3 (Landform):

To protect the landscape qualities of those residential areas which display a special blend of built and natural features, generally involving period housing, coupled with distinctive landforms and the presence of trees.

Policies

- By maintaining the open or treed character of land included in the zone.
- By requiring the retention of the larger trees, located on private property, roads and reserves, which give land included in the zone a distinctive character.
- By requiring, where appropriate, replacement planting of trees to maintain the landscape qualities and spaciousness of areas in this zone.

Objective 1 for Residential Zone 4 (Flora Dominant):

To protect and maintain the primacy, cohesiveness, continuity and botanical health of existing areas of mature or regenerating forest, particularly native forest, in association with limited housing development.

Policies

- By restricting to a very low density any residential activity within mature or regenerating forest, particularly native forest, so that the forest remains predominant.
- By ensuring that every residential unit and vehicular access is visually compatible with, and subservient to, the natural character of the forest.
- By restricting any earthworks to a minimum

Resource consents could have conditions placed on them similar to those described under the General Tree Protection rules (see below):

Tree Plan to accompany applications

All applications for resource consent shall be accompanied by an accurate plan of the positions of existing trees on the site, the location of the development proposals and (if relevant) the vehicle path for any building intended to be moved to or from the site.

Conditions may be imposed as part of any consent to an application; and may include the following:

- The requirement to provide adequate protection to a tree(s) during construction work in the vicinity;
- The requirement to pay a bond to ensure that a tree(s) is not damaged or destroyed during the carrying out of pruning and maintenance or works in the vicinity;
- The requirement to enter into a covenant over the title of the land where consent has been granted from one or more development controls in order to retain a tree(s);
- The requirement to provide a replacement tree or trees (where a tree(s) is removed) elsewhere on the site or in the near vicinity, where this is appropriate. The replacement tree(s) shall be of a size and species which is approved by the Council, having regard to the amenity of the area.

Tree removal could also be scheduled as a controlled or discretionary activity for these zones recognising the character contribution of existing trees.

APPENDIX 6 - Proposed National Policy Statement on Indigenous Biodiversity - Policy 6

To promote the maintenance of biodiversity outside of identified areas of significant indigenous vegetation and significant habitats of indigenous fauna, and to support the resilience and viability of populations and species assemblages within identified areas and habitats, decision-makers should:

- a. recognise the contribution that all remaining areas of indigenous vegetation make to the maintenance of indigenous biodiversity and encourage the retention of as many elements as possible
- b. recognise the full range of potential adverse effects on indigenous biodiversity including, but not limited to, population fragmentation, degradation of non-living components (eg, water and soil), interruption to breeding cycles and migratory pathways, and increased exposure to invasive introduced plant and animal species that pose a threat to indigenous biodiversity.
- c. encourage the retention of existing vegetation, whether indigenous or not (but not including recognised pest plants), that provides:
 - i. habitat for indigenous species
 - ii seasonal food sources for indigenous species
 - iii ecological linkage between areas and habitats identified in accordance with Policy 4
 - iv a buffer to indigenous vegetation for areas and habitats identified in accordance with Policy 4
- d. when the retention of existing vegetation and habitat will not achieve sustainable management, encourage measures that mitigate and offset adverse effects on indigenous species during, and subsequent to, removal or modification of that vegetation or habitat through harvest or clearance or other activity that may threaten the survival of affected species populations
- e. encourage the planting of naturally occurring, locally sourced indigenous species and the creation of habitats for indigenous species as well as plant and animal pest control
- f. encourage the establishment of additional indigenous riparian vegetation as a means of increasing connectivity and enhancing freshwater habitat for indigenous species
- g. ensure human-made structures do not adversely impact on indigenous species by interfering with their natural migratory movements
- h. consider both regulatory incentives (such as bonus development rights in exchange for protection and enhancement of vegetation and habitats) and non regulatory incentives, (such as technical advice and practical help) to support and encourage landowners to make appropriate land management decisions.

APPENDIX 7 - Proposed Amendment Two²: Allow Landowners to Claim the Value of Covenanted Land (SNA or Ecological Feature etc) as a Tax Deductible Donation to the QE II Trust or Other Recipient Organisation.

From the Centre for Resource Management Studies

We now have a situation where DoC and other organisations appear to be able to declare large areas of bush or wetland on private property as "Significant Natural Areas" or "Ecological Features" which are supported by rules in the District or Regional Plan that prohibit or severely restrict any activity within those protected areas without any requirement for compensation.

In other cases, landowners frequently volunteer to protect bush or wetland areas by a deed of covenant as part of the deal making that goes on between applicants and consent authorities. Remarkably, some local authorities then refuse to allow for any discount of the reserve contribution even though the covenanted area is much more valuable than the standard cash contribution. Councils obviously want their cash.

While many district plans provide for rates relief, real relief is seldom granted. One argument is that the bush or wetland area is a requirement designed to benefit the National Interest (biodiversity etc) while the cost of the rates relief fall on all other ratepayers who have to make up the difference, and that the districts with the most SNAs and Ecological Features also tend to be among the poorest.

US law seems to offer a useful solution. The Internal Revenue code provides that conservation easements are tax deductible if they meet certain requirements in the Code or Regulations. A person who contributes a "qualified real property interest" to a "qualified organisation" exclusively for a "Conservation purpose" can claim an income tax charitable deduction to the extent of the value contributed.

Such a deduction can be claimed whether the contribution is made voluntarily or as a result of a rule in a District or Regional Plan.

The scope and range of tax deductible donations is being extended by statute next year and this would seem a good time to bring this US rule to bear.

² Proposed Amendments to RMA from Centre for Resource Management Studies reported in Centre Digest Archives July 2008

APPENDIX 8 - Urban Forest Forum

As well as addressing tree protection law and regulations, we suggest working towards a longer term multi-disciplinary community/local body action group to collaborate on the role of trees in urban environment, the health of the urban forest and public awareness, etc.

We need to increase the profile of Auckland's urban forest in order to create a community of people who have conversations about trees and who appreciate a range of values relating to the public and private good of trees that make up the urban forest. [urban forest: the total collection of trees in public and private ownership including residential, commercial, street trees, park trees, indigenous forest, revegetation, motorway infrastructure]

This can be achieved by a joint effort of multi-disciplinary community and professional organisations and individuals working with council staff. There are models for this, such as overseas action groups specific to urban forest (e.g. the London based 'The Trees and Design Action Group' TADG www.forestry.gov.uk/forestry/INFD-7KDEHU and many cities in America www.americanforests.org, as well as local examples such as the public awareness that has built up for plant pest management by the ARC in conjunction with community and professional groups, riparian revegetation and streamcare, and landcare groups in rural areas.

The advantage of this is that more people will be positively working towards protecting the urban forest by understanding that trees on their own and neighbouring properties contribute to the broader urban forest context, and an understanding of the multiple values (including monetary) of urban forests (e.g. visual amenity, landscape/human scale, human health, biodiversity, habitat, faunal food, ecological connectivity, ecological services, etc.).

The objectives (strategic and operational) could be drawn up by such a group. Examples of objectives of other tree groups are:

- Ten Point Action Plan (TDAG)
- Identify unforeseen challenges such as decline in the scale and stature of trees e.g. 'planting of smaller, less substantial trees when choices are being made in replacing street trees or the landscape elements of new developments.' (TDAG)
- Identify gaps (deficit) in urban forest (geographical, connectivity, capacity to mitigate climate change, resilience to climate change, etc) (TDAG and American Forests)
- Resolve multidimensional requirements for urban living with tree management over time (TDAG)
- Develop criteria for 'right tree in right place' for tree health and lifespan (TDAG)
- Urban ecosystem analysis (40 metropolitan areas participating) (American Forests)
- Quantify green infrastructure (American Forests)
- Minimum % tree cover standards (American Forests)
- Increase tree cover (American Forests)
- Identify green infrastructure as public utility (American Forests)

APPENDIX 9 - Street Trees and Services - Relevant drawing from Manukau City Council's District Plan as an example

The Manukau District Plan has a standard profile that provides a 'window' for all services and includes a requirement for resource consent to lay services outside the allocated position.

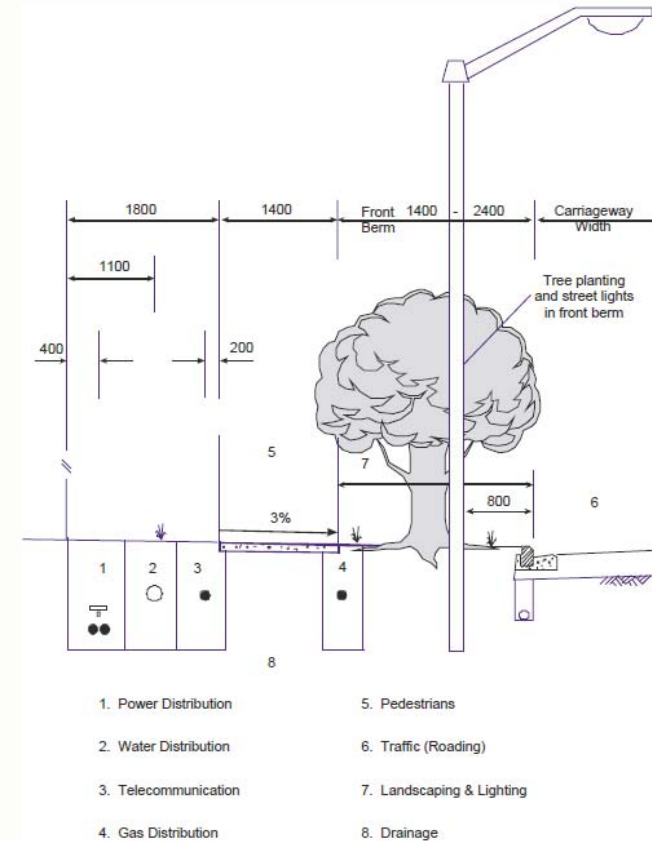


FIGURE 7.1 NETWORK UTILITY LOCATIONS



Judge tosses out 'exaggerated' suit

Group exercised 'right of free speech'

BY LARRY PYNN, VANCOUVER SUN MAY 28, 2011

The B.C. Supreme Court has dismissed a multimillion-dollar damage claim against a small conservation group and one of its members in Langley who sought to protect fish habitat.

The Glen Valley Watersheds Society and two individuals were sued after expressing concerns about a proposal to deposit a large amount of soil fill on farmland and how that might negatively impact nearby fish-bearing streams.

Landowner Robin Scory had claimed a total of \$13 million, including \$5.5 million from the society, \$5.5 million from society member and local resident Sian Krannitz, and \$2 million from another resident, Jack DeWitte.

In dismissing the claim against the society and Krannitz, Justice Catherine Bruce concluded "the claimant has greatly exaggerated the statements made by the respondents and has fabricated other allegations concerning their conduct and statements."

Bruce noted that the small nonprofit society with "limited resources" had been "effectively silenced" by the lawsuit.

"The respondents merely exercised their right of free speech to voice objections to the proposal," she said.

"There was nothing objectionable or unlawful about their conduct in this regard. Lastly, even if the respondents' actions could constitute nuisance, the claimant has failed to prove any damages flowing from their acts."

Scory sought a permit to deposit 750,000 cubic yards of fill onto a 55-hectare property to enhance the site for farming.

The judge noted that Scory "has not been denied a permit" but must simply provide the required information to authorities to "get his application back on track."

Ecojustice lawyer Jennifer Agnolin said Thursday that the decision was a victory for free speech and that "meritless lawsuits against people who speak up for the environment will not stand."

Ecojustice represented the society only, but Scory's claim against Krannitz also was dismissed.

Scory is appealing the Supreme Court decision, said Agnolin, noting she is unaware of a court decision yet in the DeWitte matter.

lpynn@vancouversun.com

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Scory v. Krannitz*,
2011 BCSC 674

Date: 20110525
Docket: S021632
Registry: Chilliwack

Between:

Robin Scory

Claimant

And

**Sian Krannitz, Jack DeWitte and
Glen Valley Watershed Society**

Respondents

Before: The Honourable Madam Justice Bruce

Reasons for Judgment

Robin Scory:	In Person
Counsel for Sian Krannitz:	N. Muirhead
Counsel for Glen Valley Watershed Society:	T. Leadem, Q.C. J. Agnolin
Place and Date of Hearing:	Chilliwack, B.C. May 3, 2011
Place and Date of Judgment:	Chilliwack, B.C. May 25, 2011

INTRODUCTION

[1] This is an application for summary dismissal by the respondents, Ms. Krannitz and Glen Valley Watershed Society (“Glen Valley”). The claimant’s action arises out of the respondents’ opposition to his application for a permit to deposit a large quantity of soil fill on his 55 hectares of undeveloped property located in the agricultural land reserve. The application was submitted to the Township of Langley in or about October 2009. Ms. Krannitz is the claimant’s neighbour; she and her family own ten acres located in close proximity to the claimant’s property. Ms. Krannitz is also a member of Glen Valley, which is a non-profit society whose mission is to protect and enhance the ecological integrity of the watersheds in the Langley area. Glen Valley works with other local and provincial watershed organizations and the Department of Fisheries and Oceans (“DFO”).

[2] The claimant’s action alleges several causes of action against the respondents, arising out of the respondents’ statements and written material they circulated in response to the claimant’s permit application. While the claimant’s original notice of claim alleged violations of the *Charter of Rights and Freedoms* and the *Farm Practices Protection Act*, the amended notice of claim filed on May 2, 2011, withdraws these claims.

[3] The claimant and the respondents agreed to set down this application for summary dismissal during the week of May 2, 2011 in Chilliwack. The claimant was aware that, due to the assize system in this registry, the respondents’ application could be heard on any day of the week depending on the availability of a judge. Accordingly, the registry notified the parties that this application would be heard on May 3, 2011. The day prior to the hearing, the claimant forwarded correspondence to the court indicating that he would not be able to appear on that date due to a prior commitment. The claimant volunteers each Tuesday to transport meals to persons with HIV. The respondents objected to an adjournment of their application. In light of the prior arrangements with respect to the hearing dates, and the claimant’s delay in notifying the respondents of his unavailability, I declined his request for an adjournment of the hearing. The respondents agreed that the claimant’s unsworn affidavit and his response to the application, along with the amended notice of claim, could be considered by the court. I have addressed the respondents’ application on this basis.

[4] A threshold issue is whether this action is suitable for a summary trial based on the affidavit material filed by the parties. While the claimant disputes many of the facts alleged by the respondents, neither the amended notice of claim nor the claimant’s affidavit provides any evidence of the material facts underlying his claim. The claimant’s evidence amounts to no more than bare assertions about the true state of affairs. I am also satisfied that there are no complex issues of law involved in this claim that warrant a trial based on *viva voce* evidence. In addition, the prejudice to the respondents if there is further delay, and the additional costs involved if the matter proceeds to trial in the normal course, favour a summary proceeding. Glen Valley is a small non-profit organization whose members have been

effectively silenced by the claimant's action. He claims damages in the amount of \$13,000,000. Glen Valley has limited resources for a lengthy trial. For these reasons, I find that the claim can be fairly and properly addressed by summary trial.

MATERIAL FACTS

[5] The claimant owns 55 hectares of property in Langley that is largely forested and is characterized by steep-sided ravines. The property has two fish-bearing streams that are fed by smaller tributaries, which are also located on the property. It was the claimant's intention to rehabilitate about 66 acres of his property for farming. To do this he needed to deposit 750,000 cubic metres of soil on the property to fill in the low lying areas, level the land and improve its drainage.

[6] To secure a permit for the soil deposit, the claimant completed an application form and submitted it to the Township of Langley in or about October 2009. The application indicated that 750,000 cubic metres of "excavation, structural fill, topsoil" would be deposited three metres deep on 20 hectares of land over a period of five years. The claimant's plan involved using a bulldozer and an excavator to brush cut and mulch small trees and deposit structural fill on top. Included in the application was the claimant's description of the benefits to be achieved by rehabilitating the land for farming, the problems anticipated and the solutions to those problems. In particular, the claimant's application recognized there were class A and B waterways within the property that needed to be crossed in order to permit access to the trucks carrying the soil. The solution indicated was to work with the DFO and the Township of Langley "for a waterway crossing and access from 264th." The claimant recognized there were environmental issues and his solution was described as to "follow all government regulations." The problem of increased noise due to truck traffic was to be solved by the Township of Langley.

[7] The claimant anticipated that he would be paid approximately \$350,000 by construction companies in return for permission to deposit their waste fill on his property. These monies would be used to clear and rehabilitate the property for farming.

[8] The Township of Langley has enacted a Soil Deposit and Removal Bylaw that governs the permit application process. In addition, the Township submits applications for a soil deposit permit to all of the affected federal and provincial regulatory authorities for review, and every application must ultimately receive approval from the Agricultural Land Commission ("ALC").

[9] When the Township of Langley received the claimant's application, it was forwarded to the DFO to determine if that department had any concerns about the proposal. The Township's letter of November 10, 2009 described the claimant's proposal as follows:

The attached sketch plan indicates the general areas of the property where fill is to be placed. The application indicates that an approximate total of 100,000 truck loads of material with a maximum depth of 3.0 metres is to be deposited. The applicant has stated that the fill is to be used to provide [sic] the development of a turf farm operation.

[10] On November 13, 2009, Mr. Jonsson, of the DFO, replied as follows:

Fisheries and Oceans Canada notes that there are significant questions with regard to the completeness of watercourse mapping on the subject property. In addition, the proposed areas of fill include very steep slopes adjacent to known watercourses. Therefore, significantly greater detail shall be needed with regard to habitat, topography and extent of fill before an assessment can be completed.

[11] Ms. Krannitz learned of the claimant's fill deposit application from one of her neighbours, who had received notice of the application from the Township of Langley. Because Ms. Krannitz lived adjacent to the claimant's property, was an active member of Glen Valley, and had a background in forestry, she also became concerned about the impact of the claimant's application on the streams that flowed through his property. Ms. Krannitz spoke to Mr. Jonsson about the claimant's application and met with a Township of Langley counsellor, Mr. Fox, as well as Mr. Albrecht, a soils conservation officer employed by the Township. After these meetings, Ms. Krannitz sent emails containing the information she had received to several of her neighbours. She encouraged her neighbours to write to the Township of Langley if they had concerns about the proposal.

[12] On February 24, 2010, Glen Valley held a meeting of its members and Ms. Krannitz raised the claimant's fill deposit application as an issue of concern due to the location of two streams on the property. The information sheet Ms. Krannitz circulated at this meeting indicated that the proposed fill deposit would be one of the largest in the Lower Mainland; that all trucks would have to enter the property off 264th or 267th Street; that this process could take up to ten years; that increased accident potential from increased truck traffic could be expected; and that the constant noise from truck traffic would be stressful for residents living nearby. The information sheet also indicated that the Township's engineering staff do not endorse the proposal because the amount of fill is excessive, and that the water resource staff recognize the environmental sensitivity of the proposed fill site and the uniqueness of the drainage concerns in the area. Lastly, the information sheet encouraged members of Glen Valley to actively oppose the claimant's application through various means, including contacting the mayor and council.

[13] In or about April 2010, Ms. Krannitz completed a background report concerning the claimant's application. The report recommended against the proposal and it included a list of persons and organizations that supported this position. Glen Valley was on the list of names attached to the report. Ms. Krannitz's report contained statements based on her own research and information she obtained from the Township of Langley and the DFO. The report recommended that the Township of Langley ask the ALC to put a hold on the claimant's application in order to carry out a proper environmental impact study and a study of the negative impact the proposal would have on the neighbourhood.

[14] Apart from the estimated size of the amount of fill to be deposited, there is no evidence that any of the statements in Ms. Krannitz's report are untrue. While the claimant asserts there are mistakes of fact in the report, he provided no evidence to support his claims. Ms. Krannitz erred in her calculation of the cubic metres of soil to be deposited on the claimant's property when she determined the volume

carried by 100,000 truckloads. Thus she erroneously included in her report a statement that 1,200,000 cubic metres would be deposited rather than 750,000 cubic metres.

[15] Ms. Krannitz forwarded her report to a number of interested persons, including her MLA, Richard Coleman. When Ms. Krannitz met with Mr. Coleman on April 9, 2010, they discussed her report, the practice of depositing fill on land to create farmland, and the lack of transparency in the ALC approval process for fill deposit permits. The claimant alleged in his notice of claim that Ms. Krannitz told Mr. Coleman that his proposal would have a negative impact on the local water table and drinking water aquifer. Ms. Krannitz denied that she said these things to Mr. Coleman and these assertions were not in her report. The claimant also alleged that Ms. Krannitz contacted the Aldergrove Star newspaper about her meeting with Mr. Coleman. Ms. Krannitz denied this allegation.

[16] Ms. Krannitz delivered her report to the Township of Langley councillors and attended a council meeting on April 12, 2010. She gave a presentation at the meeting and expressed her concerns about the large volume of fill in the claimant's permit application. She asked the council to request that the ALC put the application on hold pending an environmental study. Neither Ms. Krannitz's speaking notes nor the council minutes of the meeting indicate that Ms. Krannitz provided false information to the attendees.

[17] The claimant also asserts that Ms. Krannitz posted handwritten notices on trails around his property wrongly describing his proposal as a "landfill" site. Ms. Krannitz denied that she posted these notices and the claimant did not provide evidence that he or anyone else witnessed her posting the notices. Further, Ms. Krannitz deposed that the term "landfill" is commonly used to describe the deposit of fill on farmland and that this term was also used by the local newspapers to describe the claimant's proposal.

[18] Ms. Krannitz denied that she arranged for a low flying aircraft to take photographs of the claimant's property, as alleged by the claimant. Nor did she tell others that the proposed deposit of fill would kill fish, destroy the ecological system, or displace wildlife.

[19] All of the directors and officers of Glen Valley filed affidavit evidence describing their actions in response to the claimant's proposed fill deposit. Ms. Martin deposed that on behalf of Glen Valley she drafted a letter outlining the society's concerns about the claimant's application and sent it to the Township of Langley Mayor and councillors, Mr. Coleman, Mr. Penner (Minister of the Environment) and Mr. Thompson (Minister of Agriculture). She also sent the letter to the ALC and to the other directors of Glen Valley. This letter indicates that Glen Valley is opposed to the claimant's application because of the potential adverse impact on Nathan Creek due to the fact that the streams on the property flow into this creek. The letter also states that Nathan Creek was designated a Sensitive Stream by the provincial government in 1997. The letter indicates that in 2009 the Township completed flood control measures on Nathan Creek in conjunction with the DFO and the Ministry of the Environment in recognition of the importance of preserving fish stocks in the creek. Lastly, the letter said:

Given the lack of resources for fill site monitoring, the very real possibility of slope failure on the property's steep sided ravines resulting in toxic materials and silt entering these watercourses, and the overall imperilled nature of fish stocks, GVWS believes it would be irresponsible to now abandon the environmental principles that so admirably informed the recent flood control project. We urge all levels of government and their agencies to actively oppose this fill site application.

[20] Ms. Martin did not assist Ms. Krannitz with her report; she authorized Glen Valley to be listed as a supporter of the report's recommendations. Ms. Martin also spoke at the April 12, 2010 Township of Langley meeting. There is no evidence that anything she said at this meeting was false. Ms. Martin deposed that her intention was to protect the Nathan Creek watershed; she did not ask the Township to urge postponement of the application for any wilful or malicious purpose or to harm the claimant personally. In response to the allegations contained in the claimant's notice of claim, Ms. Martin deposed that she did not fabricate any statements about the claimant's proposal, install notices referring to the proposal as a "landfill", communicate with the media about the proposal, or arrange for aircraft to take photographs of the property or the claimant. Nor did she exercise any control over the websites: countylinecurrents.com and landfillfarming.shawwebSPACE.ca.

[21] Mr. Bunbury, Ms. Bunbury, Mr. Boswell, Ms. MacIntosh, and Mr. Howes, who are the remaining directors of Glen Valley, also swore affidavits denying all of the claimant's allegations concerning the conduct of the society. Mr. Howes attended a March Public Forum meeting where the claimant's proposal was briefly discussed. This event was not organized by Glen Valley.

[22] Ms. Dreves is the coordinator for Glen Valley and for the Langley Environmental Partners Society. She organizes meetings for Glen Valley and takes minutes. She prepared a poster for the March Public Forum, which referred to a "100,000 truck load fill site application". The poster was not approved by Glen Valley before it was posted on four Canada Post Superboxes in the Glen Valley area. She did not author or post any other written material about the claimant's proposal. No petition opposing the claimant's application was circulated at the March Public Forum. In June 2010, the claimant contacted Ms. Dreves and asked for an opportunity to discuss his proposal with the Glen Valley members at a meeting. He declined to attend the June meeting. Before the next meeting in September, the claimant filed this action. Ms. Dreves denied the allegations made by the claimant in his notice of claim insofar as these relate to Glen Valley.

[23] Mr. Albrecht deposed that the Township of Langley did not proceed with the claimant's proposal because it required additional information that has yet to be received. By letter dated September 15, 2010, the Township asked the claimant to provide the following material in support of his proposal:

1. Provide a topographic survey of the site and the proposed fill design and estimated volume of fill prepared by a qualified professional.
2. DFO requirements relative to the existing site watercourse protection based upon the proposed fill deposit.
3. Prepare a Storm Water Management Plan (SWMP) to address site access, sediment control, detention (if required) as well as the final drainage patterns of the site.
4. Correspondence from Kinder Morgan regarding the review and approval of the proposed fill

deposit works.

[24] Mr. Albrecht also deposed that the claimant has not paid the non-refundable fill deposit fee of \$0.50 per cubic metre on the maximum permitted volume under any permit issued. No permit will be issued for the fill proposal until this fee is paid.

ARGUMENT AND DISCUSSION

[25] The claimant's claims under the *Charter* and the *Farm Practices Protection Act* have been withdrawn. However, for completeness I will address them. First, the *Charter* does not govern the relationship between private citizens. The *Charter* can only be invoked against the state or an agent of the state. Neither the state nor an agent of the state is a respondent in this action. Thus any claim based on a violation of the *Charter* is dismissed.

[26] The claimant argues that the respondents have violated his right to farm under the *Farm Practices Protection Act*; however, this legislation merely provides a defence to farmers if they are sued for specific causes of action such as nuisance. The *Act* does not establish a right to farm or a cause of action against persons who interfere with farming operations or the establishment of farms. This legislation may only be used as a shield and not a sword. Thus any claim based on the *Farm Practices Protection Act* must be dismissed.

[27] The respondents have correctly identified six causes of action in tort that may be inferred from the allegations contained in the claimant's amended notice of claim, although these are not specifically named in the notice of claim. These are: (A) defamation; (B) injurious falsehood; (C) conspiracy to injure; (D) unlawful interference with economic relations; (E) trespass; and (F) nuisance. Each of these torts shall be addressed below.

A. Defamation

[28] I am satisfied that the claimant's cause of action in defamation must fail against Ms. Krannitz and Glen Valley for several reasons. Although the claimant has asserted both respondents have published false and malicious statements about his proposal to deposit fill on his property, he has failed to prove that any of the statements actually made by the respondents were false apart from Ms. Krannitz's error concerning the amount of fill to be deposited. This single misstatement of fact cannot support a claim for defamation. In addition, there is no evidence that the statements made by Glen Valley and Ms. Krannitz concerning the possible negative consequences of the proposed fill deposit were represented as absolute certainties. It is apparent that the respondents' statements were opinions about what could happen. These opinions are on a matter of public interest, were recognizable as comment by any objective standard, and not actuated by malice. Thus the defence of fair comment is also available to the respondents even if the statements are proven to be false.

[29] While the claimant asserts that references to his proposal as a "landfill" on the handwritten

notices posted near his property suggest that he was creating a garbage dump, there is no proof that either respondent put up the notices or authored them. Thus in regard to this statement, there is no evidence that either respondent published the allegedly defamatory statement.

B. Injurious Falsehood

[30] There is no evidence that either respondent made false statements about the claimant or his business affairs that would satisfy the tests for this tort. There is no evidence that any of the statements made by the respondents in support of their opposition to the claimant's proposal were actuated by malice. If the handwritten notice posted near the claimant's property can be interpreted as defamatory, there is no evidence that the respondents either posted the notices or authored them. Lastly, there is no evidence that any damage was caused to the claimant by reason of a statement made by the respondents.

[31] The claimant's application was not put on hold due to representations by the respondents. The application was put on hold because the DFO required additional information from the claimant in order to properly assess the proposal. While the council voted to request that the ALC put a hold on the application pending an assessment by the DFO at the meeting of April 12, 2010, the Township had already asked the department to assess the proposal in a letter dated November 10, 2009 and the response of the department ultimately led to the Township's request for additional information from the claimant. Thus it was the need to obtain further information from the claimant that led to the delay in processing the claimant's application rather than the council's resolution. To date the claimant has failed to supply the required information to the Township. It is also the case that the claimant's application has never been denied and may still be processed by the Township and the ALC in the event the additional information requested is supplied.

[32] In addition, the claimant is unable to prove any loss of profits from contracts for the supply of soil that he can no longer fulfill. During the claimant's discovery he acknowledged that he had no contracts in place for the supply of fill. There was only a preliminary conversation with a representative of Peter Kiewit and Sons in regard to the price the claimant could expect for permitting the deposit of truckloads of fill on his property.

[33] Lastly, the claimant has not proven on the balance of probabilities that his proposal had a chance of being accepted by the Township of Langley or the ALC had the respondents not campaigned against it. The application completed by the claimant contains very limited information about his plan to deposit the fill on the property. While even the claimant recognized there would be environmental problems to address, the application contained no specifics about his plans for the protection or preservation of the streams running through his property or the watershed into which they flow. Even the DFO's cursory review of the application identified a need for significantly greater details about the habitat, the topography, and the extent of the fill before the proposal could be assessed. Thus I am not satisfied that the claimant has proven any damage caused by the actions of the respondents.

C. Conspiracy to Injure

[34] The claimant is unable to prove the elements of this cause of action. There is no evidence that he was caused any damage by the acts of the respondents in concert. There is also no evidence that the respondents acted unlawfully or lawfully with the purpose of causing harm to the claimant. In this regard, the undisputed purpose of the respondents' campaign in opposition to the claimant's proposal was to protect the watershed fed by the streams that run through the claimant's property. The respondents' actions were not designed to injure the claimant or his proposed plan to farm the property.

D. Unlawful Interference with Economic Relations

[35] This cause of action must also fail on the facts before me. There is no evidence that the claimant had a business contract or arrangement with another party that was terminated or interfered with due to the actions of the respondents. In particular, there was no contract for the supply of fill that the claimant lost or breached as a result of interference by the respondents. Nor is there any evidence that the respondents knew of such a business relationship or an expectation of a business opportunity with a third party. There is also no evidence that the respondents acted unlawfully to interfere with any business relationship or opportunity. Lastly, there is no proven loss to the claimant because his application for a fill permit has not been denied by the Township of Langley. He may still pursue this application by providing the Township with the requested information.

E. Trespass

[36] The claimant alleges that the respondents used a low flying aircraft to photograph and monitor his activities on the property. While low flying aircraft can be regarded as trespass in some circumstances, there is not a scintilla of evidence that either of the respondents engaged someone to fly over the claimant's property for any purpose. Nor is there any evidence that either respondent themselves flew over the claimant's property in a low flying aircraft. This is another unproven bare assertion contained in the amended notice of claim. There is no evidence that the respondents trespassed on the claimant's property in any other manner.

F. Nuisance

[37] The existence of low flying aircraft can constitute a nuisance. However, as described above, there is no evidence to connect the respondents to any low flying aircraft over the claimant's property. Even if the respondents' opposition to the claimant's proposal can be characterized as an interference with the claimant's right to farm his property, which I doubt, it was not the acts of the respondents that prevented the claimant from creating farmland out of his property. The decision to issue a permit for the fill deposit rested with the Township of Langley and the ALC. The respondents could not prevent these government bodies from issuing a permit to the claimant if he satisfied all of their requirements. The respondents merely exercised their right of free speech to voice objections to the proposal. There was nothing objectionable or unlawful about their conduct in this regard. Lastly, even if the respondents' actions could constitute nuisance, the claimant has failed to prove any damages flowing from their acts.

As set out above, the claimant has not been denied a permit. He has simply to provide the required information to get his application back on track.

CONCLUSION

[38] I am unable to identify any additional causes of action based on tort or contract that could be pleaded based on the facts alleged by the claimant in his amended notice of claim. In regard to the whole of the claim, I find there is no evidence to support any of the causes of action described above. The claimant has made very serious, unproven allegations against the respondents. He has provided no evidence to support many of his assertions. Moreover, based on the evidence filed by the respondents, it is apparent that the claimant has greatly exaggerated the statements made by the respondents and has fabricated other allegations concerning their conduct and statements.

[39] The claimant's notice of claim must therefore be dismissed with costs to the respondents.

[40] At the conclusion of the hearing, I agreed to adjourn the issue of costs and to permit the parties to make submissions on this matter at a later date. In view of my conclusion that the claimant's action must be dismissed, Ms. Krannitz's application for production of documents is moot. Thus there is no need to hear this application at a later date.

"Bruce J."

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***Kranz v. Shidfar***,
2011 BCSC 686

Date: 20110527
Docket: S065416
Registry: Vancouver

Between: **Frederick Kranz and Katarina Kranz**

Plaintiffs

And: **Mohammad Shidfar,
John Doe #1 and John Doe #2**

Defendants

Before: The Honourable Mr. Justice Groves

Reasons for Judgment

Counsel for the Plaintiffs:
(June 8-11, 2010)

S. Donley

Counsel for the Plaintiffs:
(September 13-15, 2010
and January 17, 2011)

D. Hunter

Counsel for the Defendant Shidfar:

R. Barreto

Place and Date of Trial:

Vancouver, B.C.
June 8-11, 2010,
September 13-15, 2010
and January 17, 2011

Place and Date of Judgment:

Vancouver, B.C.
May 27, 2011

Introduction:

[1] The plaintiffs, Frederick Kranz and Katarina Kranz (hereinafter referred to as the “Kranzs” or the “plaintiffs”), and the defendant, Mohammed Shidfar (hereinafter referred to as “Shidfar” or the “defendant”), were neighbours on Fairmile Road in the British Properties neighbourhood of West Vancouver, British Columbia.

[2] The Kranzs owned 875 Fairmile Road and Shidfar owned 883 Fairmile Road. These properties are next door to each other. The property line between the two residences was not clearly defined by way of marker or by way of fence. From the Shidfar property towards the Kranzs’ property, the property slopes towards a creek. The Kranzs’ home was on the west or far side of the creek from Shidfar’s home.

Incident:

[3] In March 2006, as part of renovations and redevelopment of the Shidfar property, Shidfar instructed Enayat Tavakoli, an acquaintance who was doing work on his Shidfar’s yard, to cut down a number of trees on his property. Shidfar instructed Mr. Tavakoli to cut down all the trees on Shidfar’s side of the creek. On the 28th of March 2006, with the possible exception of one tree, Mr. Tavakoli followed Shidfar’s instructions. Unfortunately for all concerned, a number of the trees cut, approximately ten in total, were actually trees on the Kranzs’ property. There is a dispute in the evidence as to whether or not one tree was cut down on the 28th of March 2006 or was in fact cut on the 29th of March 2006. The significance of this relates to the plaintiffs’ claim for punitive damages.

Issues:

[4] There are a number of issues which need to be determined in this litigation:

1. Was there trespass when Shidfar directed Mr. Tavakoli to cut down the trees situated on the Kranzs’ property?
2. What is the appropriate amount of damages, if any, to be awarded in this case?
3. Is an award for punitive damages appropriate and if so, how much?

1. Issue - Trespass:

[5] The plaintiffs argue that the defendant committed trespass, in that all persons who aid or join in a trespass are deemed in law to be joint trespassers. The plaintiffs argue additionally that Shidfar is vicariously liable for the trespass in that he admits that Mr. Tavakoli was his agent, acting within the scope of that agency. They argue that a principal is vicariously liable for the actions of his agent. The plaintiffs also point out that trespassing is actionable without proof of damages and that it is no defence for Shidfar to say that he thought that all the lands on the west side of the creek were his property.

[6] Shidfar admits that Mr. Tavakoli and his workers were under his direction when, as Shidfar says, they accidentally trespassed on the Kranzs' property and cut down nine of the ten trees that were actually on the Kranzs' property. Shidfar admits that under these circumstances he is a joint trespasser and he is vicariously liable for damages.

2. Issue - Measure of Damages:

[7] The plaintiffs seek damages valued between \$150,000-\$175,000. Their claim is based on what they believe to be is the diminished value of their property on the one hand, and the corresponding enhancement of Shidfar's property on the other, as a result of the removal of their trees. They rely, to a great degree, on the evidence of Darlene Dunnett. Ms. Dunnett was the realtor who sold 875 Fairmile Road to the Kranzs, who subsequently sold the property for the Kranzs after the trespass to David Christopher, and who sold it for a third time, this time for Mr. Christopher, just a few months after he had purchased it from the Kranzs.

[8] There are a number of aspects of the evidence in regards to the value of the property and the allegation of diminishment which are of concern. First off, there is no comparative appraisal evidence to indicate any diminishment in value as a result of the loss of the ten trees. Secondly, although there is evidence before the Court as to the unsightliness of the area from which all the trees were cut, one must keep in mind that Shidfar had every apparent right to remove his own trees and the effect of the general unsightliness of the removal of Shidfar's trees is not something that the Kranzs can claim damages for. The fact that a neighbour makes a mess in his yard and it is viewable by you is not actionable, or at least not pled in this case to be actionable.

[9] Additionally, the evidence of Ms. Dunnett, the realtor, and Mr. Christopher, the purchaser of the Kranzs' property, are substantially at odds on some crucial points.

[10] Ms. Dunnett testified that in the absence of the trees being cut down, she would have listed the Kranzs' property when they wanted to sell it for \$1.88M. She testified that because of the unsightliness and loss of privacy resulting from the removal of the trees, she listed the property for \$1.788M and that was probably a "stretch". She testified that if the trees had not been cut down, the Kranzs' property would have sold for between \$1.85M and \$1.875M, but instead the Kranzs' property sold for \$1.7M.

[11] Ms. Dunnett testified in-chief as to the number of efforts she made to sell the property, and about receiving about what she characterized as "lowball" offers. She stated that numerous individuals were turned off by the unsightliness of the area where the trees were removed. The tenor of her evidence was that she did the best she could for her client in selling the property for \$1.7M.

[12] Mr. Christopher testified that he was surprised that the house was listed at only \$1.788M, that he was looking for a house in that neighbourhood for a client that week and had looked at a couple of houses listed in the area for \$2.4M to \$2.5M. He said that he expected the price, considering the location of the property, to be higher, in excess of \$2M. Additionally, Mr. Christopher said that it was the

comments of Ms. Dunnett that caused him to make an offer at lower than the list price. He said that as he was looking at the pool area, the realtor mentioned to him what had happened in regards to the trees, and that because of what had happened, the vendor would be prepared to take a reduced price. Essentially, it was an invitation by Ms. Dunnett for Mr. Christopher to make an offer lower than the list price.

[13] Additionally, in regards to the actual value of this property, again in the absence of appraisal evidence, there is evidence before the Court that a few months after Mr. Christopher purchased the property, he resold it, without doing anything to it, for \$2.1M. The suggestion of the plaintiffs is that the ultimate purchasers, Michael Lui and Pam Mason, paid an inflated price because of their desire to have that piece of property. The suggestion is that one or both of them were obsessed with the property. Michael Lui testified in these proceedings. Nothing in his evidence confirmed to me any obsession with the property; rather, he felt that the property was worth the money he paid because of its unique character. He did concede that his wife likes the property very much, but he denied any obsession.

[14] Unfortunately, one is left with inconsistent evidence as to what the value of this property was when it was sold by the Kranzs. Additionally, there is no real evidence about what effect the loss of trees on the Kranzs' property had on its value.

[15] One cannot ignore the fact that shortly after purchasing the property for \$1.7M, Mr. Christopher was able to sell it for \$2.1M. However, one also cannot ignore the fact that much of the apparent "devastation" that, according to Ms. Dunnett, caused the diminished value and interest in the property is not subject to this action - namely the removal of trees on his own property by Shidfar. If the Kranzs' ten trees had not been removed, there would have been a more modest screening from the pool area of the Kranzs' property looking west towards the higher elevated Shidfar home. This screening would have been from the tops of these trees. That being said, the "devastation" caused by the removal of a large number of trees on Shidfar's own property would still have been viewable from the Kranzs' pool area. This is because there was little, if any, screening created by the lower portion of the Kranzs' trees.

[16] A forester, Glen Murray, testified that with the removal of Shidfar's trees, the balance of the Kranzs' trees would eventually, within two years perhaps, have filled in and again created a screen for the Kranzs' property, particularly around the pool area. Even based on that evidence, no such screen would have been apparent or available at the time when the Kranzs sold their property. In other words, even if the Kranzs' trees were not cut down by Shidfar, the evidence suggests that there would have been some visible affront on the Kranzs' property as a result of Shidfar's removal of his own trees.

[17] In any litigation, the plaintiff bears the obligation of the proof of the claim and proof of his or her damages. Having considered all of the evidence, the plaintiffs have not proven that they suffered a loss of value when they sold their property as a result of the unlawful removal of their trees by Shidfar. What the plaintiffs have proven is that the reasonable cost of remediation for trees, relying on the report of Glen Murray, is \$42,000. They have proven an entitlement to that claim of damages.

[18] However, the evidence also suggests that when the Kranzs sold 875 Fairmile to Mr. Christopher, they sold it for less than market value. Though I accept that the removal of trees was unsightly, clearly there was substantial value to this property not realized when it was sold to Mr. Christopher, as evidenced by the fact that Mr. Christopher sold it just three months later for a price he had requested. His evidence suggests that the going price for homes in that neighbourhood was over \$2 million.

[19] That being said, the plaintiffs have proven a loss of enjoyment of land. The evidence before me suggests that the plaintiffs purchased 875 Fairmile with the intent to use it for their retirement. It was particularly appealing to Mrs. Kranz who liked the pool area and the privacy the home offered. After the cutting of the trees by way of trespass, Mrs. Kranz could no longer enjoy the privacy around the pool. This loss inflicted by the cutting of trees on the Kranzs' property by Shidfar does warrant compensation. Our Court of Appeal in *Dykhuzen v. Saanich* (1989), 63 D.L.R. (4th) 211, confirmed that damages for destruction of trees can extend to compensation for loss of amenities. In *Hutton v. Morehouse*, [1998] B.C.J. No. 668 (S.C.) [*Hutton*], McEwan J. of this Court awarded \$25,000 for loss of amenities because of the sense of invasion and violation that the plaintiff suffered as a result of the defendant's actions in trespassing and logging on the plaintiff's land.

[20] I agree with counsel for the plaintiffs that the reasoning of Mr. Justice McEwan in *Hutton* is persuasive. Here, as in *Hutton*, a significant component of the plaintiffs' loss as detailed in the evidence is the loss of privacy and the sense of invasion that the Kranzs have suffered. Keeping in mind, however, that some of this loss or invasion was no doubt facilitated by the removal of trees from Shidfar's own property, I would fix an appropriate award in this area at \$20,000.

[21] As such, I award damages payable by Shidfar to the Kranzs at \$42,000 for remediation costs and \$20,000 for loss of enjoyment of the land.

3. Issue - Punitive Damages

[22] An analysis of the concept of punitive damages starts with *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, [2002] 1 S.C.R. 595 [*Whiten*]. In *Whiten*, the Supreme Court of Canada considered ten principles from its comprehensive review of the law of punitive damages. The B.C. Court of Appeal summarized these principles in *Bowen Contracting Ltd. v. B.C. Log Spill Recovery Co-operative Assn.*, 2009 BCCA 457 at para. 23:

1. Punitive damages are not limited to particular "categories" of wrongs, although by their nature they will "largely be restricted to intentional torts";
2. The general objectives of punitive damages are punishment, deterrence of the wrongdoer and others, and denunciation;
3. Since the primary vehicle of punishment is criminal law, punitive damages should be resorted to only in "exceptional cases and with restraint";
4. The use of pejoratives such as "high-handed" or "oppressive" does not provide useful guidance (or discipline) to judges or juries and a more principled approach is desirable. (Notwithstanding this, the Court said at para. 94 that punitive damages are to be imposed only if there has been "high-handed, malicious, arbitrary or highly reprehensible misconduct that departs to a

marked degree from ordinary standards of decent behaviour.");

5. In setting punitive damages, the court should ask itself "in particular" how an award would further one or other of the objectives of the law and what is the lowest award that would serve the purpose;

6. It is "rational" to use punitive damages to relieve a wrongdoer of its profits where compensatory damages would amount to "nothing more than a licence fee to earn greater profits through outrageous disregard of the legal or equitable rights of others."

7. A "formulaic" approach should be avoided. The court should focus not on the plaintiff's loss but on the defendant's misconduct;

8. The overall award should be rationally related to the objectives for which punitive damages are awarded;

9. Juries should receive more help from judges concerning the function of punitive damages and factors governing such awards and the assessment of a proper amount;

10. Punitive damages are not "at large" and an appellate court may intervene if an award exceeds the outer boundaries of a rational and measured response to the facts of the case.

[23] There are really two areas in which the plaintiffs argue the conduct of Shidfar justifies an award of punitive damages.

[24] The first relates to the reckless way, it is argued, that Shidfar went about removing the trees from his property and more particularly the reckless way in which he failed to make any effort to identify the actual property line between his property and the Kranzs' property before instructing Mr. Tavakoli to remove trees.

[25] The case of *Kachanoski v. Grace*, 2002 BCCA 615 [*Kachanoski*], it is argued by the plaintiffs, is very similar to the facts here. In *Kachanoski*, the defendant trespassed onto the plaintiffs' land and cut down 21 trees. The defendant defended his actions on the basis that he did not know where the property line was, and that he thought he was cutting trees on his own property, as Shidfar states here.

[26] The Court of Appeal agreed with the trial judge's finding that the defendant's conduct justified an award of punitive damages. The chambers judge stated (reproduced at para. 7 of the Court of Appeal's decision):

[10] Mr. Grace made nothing but the most casual inquiry to establish the property line before he began the cutting. The best that can be said for his evidence is that he formed the general view from some conversations that he had had with the previous owners that the property line must be further over than it actually was. There is no support in any of the evidence for a contention on his part that anyone told him where the property line was except [*sic*] in the very vaguest of ways. He did not attempt to find the iron posts that mark the corner of the property and, therefore, the property line. He did not make any inquiries of his neighbours. He did not consult any plan; although I am satisfied that he would have had access to plans if he wished which showed the property line between the two properties.

[11] ... Mr. Grace acted almost completely irresponsibly.... I am satisfied that his actions can be characterized as reckless. He simply did not inquire. He wanted to cut the trees down. He thought they may be on his property and so he cut them down.

[12] I am satisfied that there is no basis upon which he could have said, "I honestly thought they

were on my property." In order to say that he would have had to make some logical inquiry, some inquiry that was based in reason, and he did not do so. I am satisfied Mr. Grace is liable in trespass to the plaintiffs. I am satisfied that the basis of his actions was not simply negligence but recklessness.

[27] The Court of Appeal upheld the chambers judge's finding that this recklessness fell into the category of malicious or highhanded conduct so as to justify an award of punitive damages.

[28] The plaintiffs argue that the following facts from the evidence suggest that Shidfar's actions are comparable to the situation before the Court in *Kachanoski*. They say:

- (a) the best that can be said is that Shidfar formed the general view from a conversation with his broker in 1988, as well as from relying on Iranian property law, that the property line was the creek;
- (b) there was no evidence that he made any attempt to physically inspect the property boundary before the cutting;
- (c) there was no evidence that he made any inquiries of the neighbours;
- (d) Shidfar did not consult the registered subdivision plan in his possession, despite the fact that this plan would have revealed that the creek was not the boundary; and
- (e) he did not seek to obtain any other plan or survey of the property to ascertain the property boundary.

[29] In order for Shidfar to say that he honestly believed the trees were on his property, he would have had to have made some inquiry to establish the property line. Reliance on principles of Iranian property law and a 20-year-old comment from a broker is not reasonable. Such reliance clearly does not negate Shidfar's negligence in failing to ascertain the true property line before cutting numerous trees. I have concluded this recklessness warrants an award of punitive damages.

[30] The second aspect of the plaintiffs' argument for punitive damages relates to the removal of the final tree. In that regard, there are two versions of events.

[31] The plaintiffs' version of events is that on the 28th of March 2006, Mr. Kranz received a frantic call from Mrs. Kranz indicating that trees on their property were being cut down. When Mr. Kranz arrived, he saw individuals with chainsaws on the western edge of his property in the creek area; he told those individuals to stop cutting and to get off his property. Mr. Kranz further testified that Shidfar attended and apologized, indicating that he did not want to cut down Mr. Kranz's trees. Mr. Kranz took numerous photos of the creek area on the 28th of March, and those photos are in evidence. These photos show that one tree remained standing. Mr. Kranz's evidence was that he told Mr. Tavakoli and Shidfar not to cut down the one tree that remained standing.

[32] Mr. Kranz further testified that when he returned to the property on the 29th of March at about

10:00 a.m., the final tree had been cut down and that he did not observe any contractors on the Shidfar property at that time.

[33] Mr. Kranz's evidence is confirmed by Mrs. Kranz. Specifically, she said that she witnessed Mr. Kranz have a conversation with Mr. Shidfar on the 28th of March, and when she returned with Mr. Kranz on the 29th of March, the final tree had been cut down. The Kranzs' evidence in this regard was clear and unequivocal and was not seriously challenged in cross-examination or by contradictory evidence.

[34] In regards to the issue of the final tree, Shidfar's evidence is different from that of Mr. Kranz. He states that he received a call from his employee, Mr. Tavakoli, to the effect that the neighbours were complaining about the cutting down of the trees and that Shidfar should attend at the home to deal with it. Shidfar was at his office at the time. Shidfar says that he returned to his home on the 28th of March between 1:00-1:30 p.m., but his neighbours were not there. Shidfar says he waited for about 1½ hours and told Mr. Tavakoli that if his neighbours did come back, Mr. Tavakoli should call him and he would return. Shidfar then stated that Mr. Tavakoli told him that the Kranzs appeared on the property later on that day and had told Mr. Tavakoli that Mr. Kranz had been at the dentist.

[35] The evidence of Shidfar, in this regard, is inconsistent with that of Mr. Tavakoli. Mr. Tavakoli was clear in his evidence that he had one conversation with Mr. Kranz and that was when Mr. Kranz told him to stop cutting the trees. Additionally, Shidfar's evidence as to his instructions to his contractors, as pointed out by the plaintiffs in their argument, is inconsistent at best, specifically as it relates to when he provided instructions to his contractors to stop cutting the trees.

[36] In addition, the evidence of Mr. Tavakoli is not only inconsistent with the evidence of Shidfar, but is, with respect, not believable. Mr. Tavakoli suggests that either the Kranzs or someone on their property gave him permission to cross their property and cut the trees. This is inconsistent with the believable evidence of Mrs. Kranz as to her surprise and horror when she saw the trees being cut down and Mr. Kranz's believable evidence that he arrived on the scene after all but one of the trees were cut.

[37] Additionally, Mr. Tavakoli in his evidence suggests that it is Mr. Kranz who directed him to cut the final tree. Mr. Tavakoli's evidence, in summary, is that while Mr. Kranz watched the trees being cut, he asked the contractor to cut one more tree on his side of the creek and immediately became upset and told them to stop cutting. There was, of course, at that point nothing left to cut. This evidence is simply not believable. Mr. Tavakoli's evidence further was that the final tree was on the east side of the creek when in fact there are no trees on the east side of the creek or anywhere close by.

[38] Additionally, it is the suggestion of Mr. Tavakoli in his evidence that these events happened over the course of 2½ days despite the fact that all the evidence, including that of Shidfar, suggests that the entirety of the circumstances occurred within less than 24 hours.

[39] I conclude that despite the Kranzs' request, an agent of Shidfar cut down the final tree.

[40] Having found that Shidfar's conduct in not making any reasonable effort to ascertain the borders

of his property prior to instructing an agent to cut trees, and having found as I have that it was Shidfar or his agents who cut the last tree despite the specific request from Mr. Kranz, I now turn to the issue of the amount of punitive damages.

[41] In support of a claim for substantial punitive damages, the plaintiffs argue that the trees were cut by Shidfar to improve his view and as such improve the value of his property, which he subsequently sold. It is pointed out that Shidfar, at his examination for discovery, when asked the question, "what was the purpose of having the trees cut", answered, "to have a better view". This was disputed in his cross-examination at trial. At trial he was adamant that the view did not get better with the cutting of the trees on the Kranzs' property.

[42] There is no clear evidence as to an increase in value in Shidfar's property as a result of an alleged better view. It is logical that this evidence could have been obtained by permission from the current owner of 883 Fairmile Road or by way of court application to obtain access for the purpose of assessing the view.

[43] Also, in terms of the view, logic suggests that any enhanced view that would have been obtained, would have been an enhanced view based on the cutting of trees on the higher slope. In other words, an improvement in the view would have been obtained by the falling of trees on the Shidfar property at the top of the slope, as opposed to the trees which were on the Kranzs' property at the bottom of the slope or hill.

[44] Based on the evidence before me, I cannot conclude that the cutting of trees on the Kranzs' property enhanced Shidfar's view. Logic suggests that the cutting of his own trees may have enhanced his view but there is no solid evidence in that regard.

[45] The plaintiffs, in their argument, submit that the key consideration in an award for punitive damages should be the disgorging of profits that flowed to Shidfar as a result of the tree cutting. They suggest that the evidence of Ms. Dunnett, that Shidfar's property would have only sold in June 2007 within the range of \$1.6M-\$1.65M but instead sold for \$1.8M, indicates that Shidfar made between \$150,000-\$200,000 in profit because of the felling of the trees.

[46] Little weight can be placed on this argument. First off, Ms. Dunnett is not an appraiser. I commented earlier on the somewhat improvident way in which she sold the Kranzs' property. Her estimate of property values appears to have been wrong in that regard. Secondly, there is the evidence of Shidfar of doing over \$100,000 of renovations to his property prior to its sale in June 2007, renovations which Ms. Dunnett does not have the details of.

[47] Finally, as already discussed, there is really no evidence, although it could have likely been ascertained, as to whether it was the cutting of the Kranzs' trees or the cutting of Shidfar's own trees that enhanced the view, if there was in fact an enhanced view

[48] That being said, a significant award is necessary in these circumstances to denounce the conduct of Shidfar and certainly to deter persons such as Shidfar from similar types of action. I would award \$35,000 in punitive damages. The amount awarded in general must be the lowest award that

would serve the purpose of deterring the impugned conduct (*Whiten*). There is little evidence of Shidfar's net worth or financial means. Deterrence must have some negative impact on the party required to pay. I have assumed, based only on the neighbourhood he lived in, that Shidfar has some financial means and as such the amount of the award must be significant to have effect.

Conclusions:

[49] Damages are awarded against the defendant Mohammed Shidfar in favour of the plaintiffs, Frederick Kranz and Katarina Kranz, in the amount of \$42,000 for the cost of restoration of the trees cut as a result of the trespass of Shidfar, \$20,000 for loss of enjoyment of the land, and \$35,000 in punitive damages.

[50] The plaintiffs have been successful and are entitled to costs. If there are any issues in regards to costs the parties can arrange through trial scheduling to appear before me.

The Honourable Mr. Justice Groves

Details for June 16th 2011 FONVCA Agenda Item 6.1 (d)

*** d) Municipal Governance Articles**

ABUSE OF PUBLIC OFFICE

http://online.cle.bc.ca/CourseMaterial/pdfs/2002/378_4_4.pdf

BROAD MUNICIPAL POWERS

http://online.cle.bc.ca/CourseMaterial/pdfs/2006/720_2_1.pdf

Corporate Powers and Municipal Property Issues

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_4_1.pdf

DEALING WITH MUNICIPALITIES

http://online.cle.bc.ca/CourseMaterial/pdfs/2003/473_4_1.pdf

DEVELOPMENT COST CHARGES

http://online.cle.bc.ca/CourseMaterial/pdfs/2008/136_4_1.pdf

LOCAL GOVERNMENT FINANCE

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_6_1.pdf

LATECOMER CHARGES

http://online.cle.bc.ca/CourseMaterial/pdfs/2008/136_2_1.pdf

LOCAL GOVERNMENT SUSTAINABILITY TRENDS

http://online.cle.bc.ca/CourseMaterial/pdfs/2008/182_5_1.pdf

LOCAL GOVERNMENT ELECTIONS

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_8_1.pdf

LOCAL GOVERNMENT REGULATORY POWERS

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_3_1.pdf

2010 AMENDMENTS RELATING TO COMMUNITY PLANNING

http://www.cscd.gov.bc.ca/lgd/intergov_relations/planning_bulletins/bulletinBill11v2.htm

MUNICIPAL COMPANIES, CONTRACTS, AND PRIVATE-PUBLIC PARTNERSHIPS

http://online.cle.bc.ca/CourseMaterial/pdfs/2006/720_3_1.pdf

MUNICIPAL LIABILITY AND ASSISTANCE TO BUSINESS

http://online.cle.bc.ca/CourseMaterial/pdfs/2006/720_6_1.pdf

MUNICIPAL GOVERNANCE - A PRIMER

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_5_1.pdf

MUNICIPAL DEALINGS IN PROPERTY UNDER THE CHARTER

http://online.cle.bc.ca/CourseMaterial/pdfs/2006/720_5_1.pdf

MUNICIPAL SERVICES

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_2_1.pdf

NEGLIGENCE AND NUISANCE: LIABILITY AND LIMITATIONS

http://online.cle.bc.ca/CourseMaterial/pdfs/2006/720_7_1.pdf

SUING THE LOCAL GOVERNMENT

http://online.cle.bc.ca/CourseMaterial/pdfs/2009/213_7_1.pdf

TORT OF ABUSE OF PUBLIC OFFICE

http://online.cle.bc.ca/CourseMaterial/pdfs/2001/331_3_1.pdf

PUBLIC INPUT TOOLKIT FOR MUNICIPALITIES

http://www.sturgeoncounty.ab.ca/LinkClick.aspx?fileticket=gl2_eoAHRGE%3D

TRADITIONAL REZONING “NEGOTIATIONS” AND THE NEW PHASED DEVELOPMENT AGREEMENT

http://online.cle.bc.ca/CourseMaterial/pdfs/2008/136_7_1.pdf