Eric Mang on municipal finance reform

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Post by Eric Mang in City Focus, Editorial

2 comments

*Eric Mang has a lot to say about financing election campaign*s

A call for municipal campaign finance reform for Toronto and GTA municipalities

An essay by Eric Mang

In these waning days of summer, in a post-civic strike Toronto, there seems little political news to be had.

Right-wing Councillors have run out of things to sustain their rage and are preoccupied with shiny bits of foil and pieces of string; things they can use to make fine pointy hats, with wee ear flaps.

Toronto media is busying itself with news on big thunderstorms, spectacular lightening and that Canadian pastime, complaining about the weather. It was either Mark Twain or CD Warner who said "Everybody talks about the weather but nobody does anything about it." But I digress.

A few months ago, I wrote a paper on the necessity of municipal campaign finance reform. The inspiration for my essay was the excellent work undertaken by York political science Professor Robert MacDermid as well as the reforms advocated by VoteToronto.

I would give you the executive summary of my essay, but it weighs in at a meager 4,000 or so words. So don't go back to that 200 word Maxim "article" you're reading and peruse the following (with references and everything!).

NB: I just may recycle this piece in the lead up to next year's Toronto municipal election. A subtle reminder that campaign finance reform is critical.

Municipal Campaign Finance Reform: The Influence of Developers and Business in Municipal Politics

Businesses are regarded by most municipalities as drivers of the economic engine, providing taxes to pay for public services and offering places of employment for citizens. Business plays an important role in the lives of citizens, but what role should it have, if any, in municipal governance? Businesses are not democratically elected; they typically do not represent the views of citizens or endeavour to support the public good. Their focus is on the bottom line and this single-minded focus means they should have a specific place in municipal affairs.

Yet, the development industry needs municipal governments to help authorize land-use planning and provide development-friendly regulations and by-laws. Cities, in turn, rely on development to attract citizens, provide employment and a tax base, and to grow. The issue examined in this paper is the role of business in general and developers in particular and how they influence municipal elections through campaign contributions. Aware of the influence municipal campaign contributions can buy, some municipalities have changed the rules to encourage greater citizen involvement and discourage disproportionate developer involvement.

Through comparative analysis, this paper briefly examines municipal campaign finance rules in Calgary, Los Angeles and New York. This is followed by a more in-depth discussion of whether developer contributions to municipal campaigns lead to greater influence over councillors in Toronto and the Greater Toronto Area (GTA).

Literature Review

While there exists a fairly broad range of literature on federal and state/provincial campaign financing, there is very little in both Canada and the United States on local elections. Adams and Van Vechten (2004), approaching this subject from the American perspective, found that there is a substantial amount of literature on national elections "about the role of money, patterns of fundraising, and the characteristics of contributors to presidential and congressional campaigns (Jacobson 2004; Goidel and Shields 1999; Gross and Goidel 2003; Thompson and Moncrief 1998)" (p. 1). Yet there is a dearth of information on campaign finance for local elections.

In Canada, MacDermid (2006; 2007; 2009) and Young and Austin (2008) found similar results, noting that Canadian literature on local elections is "markedly thin" (Young & Austin, 2008, p. 89). MacDermid recently remarked that he knows of only two other political scientists in Canada who study municipal election financing (Wallace, 2009).

MacDermid's (2006; 2007; 2009) critical research on municipal campaign financing in Toronto and the Greater Toronto Area (GTA) examined the impact of developers' donations to candidates running for local government and whether those candidates are influenced once in office. To understand how Toronto and the GTA compare to other cities, this paper briefly reviews municipal electoral reforms and rules in Calgary (Young & Austin, 2008); Los Angeles (Adams & Van Vechten, 2004; Krebs, 2005); and, New York (Adams, 2007).

Finally, it is worth noting that there is a significant amount of literature that analyzes the extent and depth of business influence on municipal governments and policy making processes. Fleischmann and Stein (1998) and Krebs and Pelissero (2001) discussed how business interests play a prominent role in many US cities' politics. Stoker (1995) saw business as having a "privileged position in policy making" (p. 64) and Keating (1991) recognized that in growing resources, local governments may "need to accommodate business interests" (p. 69). Keating (1991), in his seminal "*Comparative Urban Politics", noted that in the US business interests are dominant while the central state is weak; thereby giving business the capacity to promote its interests (p. 76). The literature on the role of business interests in municipal politics is extensive, but for the purposes of this paper, I have briefly highlighted the sources on which I have relied.*

Background: Municipal Campaign Finance Reform

Local governments are closest to the people. Who gets elected, how they are elected and what policies they enact once elected are of importance to all citizens. As noted previously, there is a significant body of literature researching and analyzing state/provincial and national campaign funding; but very little on the influence of municipal campaign contributions. This is concerning because there appears to be evidence of money being positively associated with electoral success (Adams & Van Vechten, 2004; Fleishmann & Stein, 1998; MacDermid, 2006, 2007, 2009). This may sound like an obvious statement (whoever has the gold makes the rules), but understanding where the money comes from, to whom it goes to and if there is an exertion of influence by campaign contributors are crucial considerations and serve as the impetuses for municipal campaign finance reform.

Adams and Van Vechten (2004) found that incumbents usually win their seats and that candidates who stand a good chance of winning are more likely to receive a greater share of contributions. They also found that election campaigns, particularly in big cities, are becoming more sophisticated and more expensive. With larger donations required, there is a risk of citizens not being able to compete with wealthier contributors (Strachan, 2003 as cited in Adams & Van Vechten, 2004).

Protected incumbents, larger contributions and a diminishing role for citizens contributing to municipal campaigns raises further questions about how to engage citizens in the municipal campaign process. A few cities in Canada and the US offer rebates or public financing reforms. For example, Los Angeles and New York have matching fund programs where candidates who agree to a spending limit can receive public funds (Adams & Van Vechten, 2004; Adams, 2007). Toronto offers rebates based on a formula for contributions up to the donation maximum of $750. With respect to public financing, the intent is to reduce the emphasis on private fundraising by candidates (Adams, 2007) and with rebate policies, to encourage private citizens to donate to local candidates. These incentives, ultimately, are further intended to diminish business influence in local election campaigns, reduce the lock many incumbents have on re-election, and encourage more citizen support. Or as Adams (2007) succinctly stated: shifting to individual contributions "is seen as beneficial because it reduces the potentially corrupting influence of large donors, democratizes the fundraising process by providing incentives to candidates to rely on 'average citizens' for funds, and increases the value of their contributions for candidates" (p. 10).

It is the recognition of needing to enhance citizen engagement that has prompted some cities to reform their respective policies to diminish the power of business. What follows are three brief case studies where business has varying degrees of power and where municipal campaign finance reform (in our examples, New York and Los Angeles) has been sought to reduce business involvement in local government campaigns. This section is followed by an examination of the role of business and developer contributions in Toronto and the Greater Toronto Area (The GTA cities are: Oshawa, Whitby, Ajax, Pickering, Markham, Richmond Hill, Vaughan, Brampton and Mississauga)

A Brief Review of North American Cities' Campaign Finance Policies

Calgary

Calgary is a fast-growing city. It serves as the headquarters for a number of oil and gas enterprises and its provincial and federal ridings usually send pro-business Conservatives to the Legislative Assembly in Edmonton and Parliament Hill in Ottawa respectively; Calgary has been described as being "inclined toward monolithic Conservatism" (Young & Austin, 2008, p. 96).

In this business-friendly milieu, we find that in municipal elections, Calgary does not allow for public funding or limits on contributions. Not only are the sizes of campaign contributions without limit, Calgary does not impose spending maximums on candidates' campaigns. Where Ontario municipalities follow a spending limit contribution ($5,000 and 70 cents per voter), the big sky's the limit in Calgary.

Given swift growth, there is interest from the development industry in Calgary. Couple this interest with a predominant political ideology that sees growth as infinite and we should question how city councillors manage urban growth. This question is for another paper, but the absence of any funding rules for municipal campaign contributions makes Calgary unique compared to the other cities examined in this paper.

Los Angeles

The second largest city in the US, Los Angeles initiated municipal electoral reforms following a series of scandals during the early 1990s. In 1993, a public matching funds program was devised to offer candidates public monies to finance their campaigns if candidates agreed to spending limits (Adams & Van Vechten, 2004). Matching funds were limited to individual contributions. Businesses, unions or political action committees (PACs) did not qualify. Contributions were also limited to $500 per councillor per donor per election and $1000 for mayoral candidates per donor per election (Krebs, 2005).

Finally, all donations in excess of $100 are itemized and candidates are required to file their campaign disclosure statements (Adams & Van Vechten, 2004). Despite these incentives to encourage more individual campaign donations, business appears to be active in campaigns, with development interests at the top (outpacing the entertainment industry, which is notable since this sector is synonymous with Los Angeles) (Krebs, 2005). But Krebs (2005) found that the non-corporate sector also had a significant role contributing to campaigns; however, this may not be due necessarily to campaign finance reforms incenting individual contributions, but may "reflect the established activism of homeowner, environmental, and social advocacy interests in Los Angeles" (Krebs, 2005, p. 173).

New York City

The largest city in the United States, New York has had a reputation of occasionally corrupt machine politics (for example, Tammany Hall), but in the early 1990s, like Los Angeles, New York initiated campaign finance reforms. Similar to Los Angeles and Toronto, all contributions in excess of $100 must be reported. But if contributions are matched with public funds, even if less than $100, New York requires that these contributions be reported (Adams, 2007).

In 1998, corporate donations were banned. Unfortunately, a loophole was opened allowing limited liability corporations and partnerships to contribute. These donations grew from 2.5 percent in 2001 to at least 11 percent for the 2009 campaign (Rivera, 2007). To close this loophole, New York city council is developing legislation that would cap developer contributions, particularly real estate developers, while "enhancing the power" of small donors (Rivera, 2007). Indeed, steps were taken in 2000 to augment small donations by changing the matching funds formula from a 1:1 match to a 4:1 match. Matching funds are still capped at $1000 per candidate, but now a smaller donation (for example, $250) yields the same benefit (Adams, 2007, p. 11). The next city election is to be held in November 2009. It remains to be seen whether changes to campaign municipal finance rules encourage more individuals to participate and contribute.

Summary

This brief examination of municipal campaign finance rules and efforts to reduce business influence while increasing citizen participation helps set the stage for a look at Toronto and the GTA. Before moving on, however, it should be noted that there are a number of variables affecting municipal campaigns and donations, many of which would exceed the scope of this paper. But to offer a few brief examples of intervening variables, Fleishmann and Stein (1998) found that scholars studying New York usually did so during boom periods, when more money was flowing into the coffers of candidates. Therefore, we might not be able to fully appreciate what contribution patterns would be like for New York suffering in a depression with development projects on hold and citizens saving money.

Finally, even with myriad efforts at municipal campaign finance reform, New York and Los Angeles do not have highly competitive elections; not because of rules surrounding contributions or the preponderance of business interests. Rather, single parties dominate these cities' elections (Adams, 2007). Toronto does not have any municipal political parties, so we need not concern ourselves with this comparison.

Developer and Business Involvement in Municipal Campaigns: Toronto and the Greater Toronto Area (GTA)

In 2003, the newly elected Mayor of Toronto, David Miller, spoke publicly about reforming municipal campaign finance by banning corporate and union donations. By early 2009, a decision still had not been rendered, no reform was imminent and the issue was referred to the Mayor's executive committee for another nine-month study.

Mayor Miller said that for him and many other councillors, banning corporate and union donations was moot since he and some of his colleagues did not accept these donations. Further, with a limit on council candidate donations of $750, one councillor was quoted as saying that this was an insufficient amount to lead to corruption (Lu, 2009). This statement has meaning only in the eyes of the beholder (that is, who is to say what constitutes a "corruptible amount"?) and perhaps this particular councillor cannot be influenced by a donation of that size, but there are two additional problems worth considering. The first is that owners of private companies can exceed the $750 limit through a donation in the name of their company, another donation as an individual and in some cases, though it may contravene the *Ontario Municipal Elections Act (1996)*, another donation through company subsidiaries (Wallace, 2009). That $750 maximum may now have ballooned to at least $1,500. That leads to the second point: even a "small amount of money may give a candidate publicity and profile" (MacDermid, 2006, p. 3).

As with the other municipalities discussed above (with the exception of Calgary), there are donation limits. In Ontario, it is $750 per council candidate and $2,500 per mayoral candidate. Spending limits are enforced for councillors at $5,000 plus 70 cents per voter. Candidates and their spouses (including same-sex spouses) can make unlimited donations to their own campaigns and surplus campaign funds can be held in a "war chest" to fight the next municipal campaign. There is no limit on the number of candidates a contributor can support and these contributions can be spread around to all municipalities in Ontario (MacDermid, 2009). Again, as is the case in New York and Los Angeles, donations in excess of $100 are reported; however, unlike American disclosure rules, the *Municipal Elections Act* does not demand that addresses of contributors be publicly disclosed (MacDermid, 2009). Finally, in the GTA, only Toronto, Ajax and Markham offer contributors a rebate, despite all municipalities in Ontario having the option to do so.

In MacDermid's studies (2006, 2007, 2009) on municipal campaign financing for Toronto and the GTA, he examines the role of developers in municipal campaigns. He argued forcefully that developers, through their contributions to councillors and mayors, buy influence; influence that most citizens do not have the resources to individually wield. MacDermid (2006), seeking to put democratic power firmly in the hands of citizens, said that: "Developers do not make up 50 percent of the economy, they are not simply giving their 'fair' share but a sum that is far greater" (p. 14). To get a sense of MacDermid's concerns and the impact of developers on Toronto and GTA councils, we delve further.

Businesses in general and developers in particular are some of the most prolific and ubiquitous contributors to municipal campaigns. For example, in the GTA cities during the 2003 municipal election (see footnote 2 for a list of cities), of all corporate contributions, more than two-thirds are from the development industry (MacDermid, 2006, p. 13). And in the 2007 municipal elections for GTA communities, 43 per cent of contributions from corporations were from developers with an additional 22 per cent for companies associated with the development industry (MacDermid, 2009, p. 26). But having a significant share of total contributions does not necessarily mean that developers have greater influence over councillors than "average" citizens.

Understanding the depth and extent of developer influence can pose some challenges, but we will start with available data covering the electoral stage. Although Toronto municipal races are not saturated with the same amount of developer contributions as most GTA races, we know that developers strategically target contributions. The high-profile Bellamy Inquiry, also known as the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry, found that "contributions are orchestrated and delivered to different candidates supportive of policy directions favourable to donors. A number of witnesses at the inquiry testified to how political influence is organized through orchestrating financial support for particular candidates." (MacDermid, 2006, p. 15). In the City of Toronto during the 2003 election, "in 16 of the 28 wards where the candidate that received the most funds from the development industry won, the losing candidate received not a penny from the development industry." (MacDermid, 2006, p. 16). We also find in 2003 that for all Toronto and GTA races, over three-quarters of development industry contributions disclosed (recall that developers can make additional contributions under $100 and not have their names publicly revealed) went to candidates who won (MacDermid, 2007, p. 7). In the 2006 municipal elections, for Toronto and the GTA, the median disclosed contribution from individuals was $300 and for corporations it was $700 (MacDermid, 2009, p. 17). Thus far, we see that developers invest heavily in municipal campaigns and usually back winning candidates; sometimes multiple winning candidates. But does this combination of money leading to electoral success necessarily result in more influence by contributors? We continue to peel this onion.

Developers must work with city councils to obtain permits and work with (and sometimes lobby to alter) planning regulations. And many municipalities rely on development projects to increase property taxes and generate more tax revenue for the city. While MacDermid finds that Mayor Miller may be correct – that developer and corporate contributions are not ubiquitous in Toronto election campaigns – in the GTA communities, where development is prominent in the local economy, we see a different picture. For example, MacDermid (2009) found that councillors in Vaughan, many of whom had campaigns largely financed by developers, passed all development applications and did so without recording votes (p. 40).

To conclude, developer contributions in Toronto campaigns is no small matter – in 2006, developers gave more than $10,000 to the campaigns of seven Toronto councillors (MacDermid, 2009, p. 42) – but research has found that: "Developers and other corporate interests are less important to Toronto campaigns in general (though still important to some campaigns) and candidates must or choose to turn to citizens and other groups for funding." (MacDermid, 2009, pp. 42). While this is seems to place more power in the hands of citizens, presently there are no formal bans on corporate or union contributions in Ontario municipal campaigns. A ban would enforce what appears to already be happening in Toronto; but in GTA communities like Vaughan, a ban on these types of donations could be critical if developer influence is to be diminished.

A Brief Analysis of the Role of Developers and Business in Municipal Campaigns and Reasons to Ban Corporate Contributions

That developers play a role in urban affairs and that many developers seek to procure influence by contributing to municipal political campaigns is not startling news. But it is concerning for those who believe that citizens, through the democratic process, should be the ones who "choose representatives who will make decisions, which will affect and reflect their views" (Wolman, 1995, p. 135). Simply put, developers are neither citizens nor do they represent citizens. Developers represent a defined interest. However, many municipalities hold this interest, usually referred to as the "growth machine", in high esteem. As Logan and Molotoch (1987) found: "…research on local 'growth machines' hypothesizes that local politicians must rely on contributions from those who 'have the most to gain or lose in land-use decisions ... particularly people in property investing, development, and real estate financing'" (as quoted in Fleischmann & Stein, 1998, p. 674). Moreover, many city councils see development as a way to broaden the tax base (MacDermid, 2006).

Keating (1991) recognizes that business is the most influential interest group: "In so far as local governments wish to promote employment or tap private resources for wages for their citizens and taxes for themselves, they need to accommodate business interests" (p. 69). Indeed, businesses have the resources and the organizational ability to effectively lobby municipal governments. Unless there are profound structural changes in North America, we can expect business will typically spearhead the elite and continue to be a potent and vocal interest group. But in this paper, we are concerned with businesses and developers using money to curry favour with elected officials, to put developers' interests before the interests of the citizenry, and to give developers a greater slice of the democratic pie, all bought with campaign contributions. While there is not an apparent causal connection between developer donations and councillor and mayor decision-making in favour of developers, we do know that developers and businesses usually back winning candidates and in some communities meet little resistance to or rigorous questioning of planning proposals from city council.

Unfortunately, it is difficult to determine how well municipal campaign finance reforms work. Adams (2007) revealed that numerous variables affect a candidate's competitiveness (e.g. popularity, election rules) so understanding the effects of public financing is complicated. Moreover, even with municipal campaign finance policies in place that encourage greater citizen participation, it can be difficult to follow the business money trail. Particularly if businesses are operating in environments where local officials are becoming less enamoured with corporate participation in local elections; thereby causing some businesses to conceal their contributions. For example, businesses do not need to make financial contributions to establish or fortify relationships with municipal candidates. Many offer in-kind contributions (e.g. allowing employees to work on political campaigns, offer supplies and services such as stationary and photocopying, etc). Unless there are requirements to report in-kind contributions, these can be impossible to track.

Despite efforts to engage citizens in municipal campaign financing, there remains, in many Canadian and American urban governments, a preponderance of business influence. Therefore, studying how local government candidates are funded is critical because it assists us in understanding the interests involved in policy-making, who is given a prominent voice in local government, and to some extent, the beliefs held by elected officials and whether the sources of their campaign funds are influential (Krebs, 2005; MacDermid, 2006).

Cities such as New York, Los Angeles and Toronto have sought to augment citizen influence by offering rebate incentives, or public financing, or caps on donations; but the evidence shows that businesses are significant contributors to municipal campaigns, that more business-backed candidates win and that businesses typically view municipal campaign contributions as "an investment strategy" (Fleischmann & Stein, 1998, p. 673). Until corporate donations are banned, many candidates will continue to be dependent on business for electoral success and business will continue to expect a significant (and many would say, disproportionate) share of influence.

Conclusion

The little-studied subject of municipal campaign finance needs more attention. Municipal government is closest to the people, yet many cities suffer from poor citizen involvement while businesses and developers wield a significant amount of power and influence over city councils.

While some of the benefits developers bring to cities bear value, they are not representative of citizens; indeed, it is not their *raison d'etre* to be advocates for citizens. Cities that have implemented rules banning corporate donations while encouraging more citizen donations (and other non-monetary contributions, such as in-kind support) seem to indicate a desire for more representative democracy; by diminishing or eliminating power held by business and developer interest groups and transferring that power to "average" citizens. But until we devote more research and critical discussion on municipal campaign finance reform, we cannot be sure whether these reforms are putting a check on developer influence.

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