

A Handbook for Municipal Councillors & Mayors

Community Charter and Local Government Act
British Columbia Municipalities

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How to Navigate this Handbook

Any items in blue are hyperlinks, which can be pages within this Handbook or links to external websites.

The Handbook is designed to be printed double sided.

Note to Readers

The section numbers mentioned in this paper refer to sections of the Community Charter unless otherwise indicated.

Disclaimer

This Handbook is for general information only and should not be relied upon as legal advice.

Handbook for Municipal Councillors and Mayors
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Federal and Provincial

The Constitution Act (formerly the BNA Act) divides legislative authority between the federal parliament and provincial legislatures by granting them separate spheres of authority, for example:

Government	Example of Spheres of Authority
Canada (federal)	Works & Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province (e.g. Aeronautics, Railways)
The Provinces	Municipal Institutions, Property and Civil Rights in the Province

When these spheres overlap, the power of the federal government within any of its spheres of authority is paramount, i.e. takes precedence, over a provincial sphere of authority under the Constitution Act.

The provinces, under their sphere of power over municipal institutions, create local governments. The powers conferred on and exercised by a municipality by provincial legislation, such as the right to zone property by zoning bylaws, can be trumped by the constitutional powers exercised by the Government of Canada¹. Here is an example:

In a 2005 BC case, *Comox-Strathcona Regional District v. Hansen*, the BC Supreme Court illustrated the supremacy of federal legislation over local bylaws in matters of legislative power reserved to the Government of Canada under the Canadian Constitution Act, by stating the following:

“While land use is a legitimate provincial / municipal power, the regulation of aeronautics simply is not. There are some good reasons why municipalities should be able to determine where airports should be located, but under the current federal legislative scheme, this is simply not something the court can impose. This power would have to be delegated by the federal government.

“Even if a province were to enact a general anti-noise statute aimed at every type of noisy activity and every locality in the province, it would be inapplicable to noise caused by aircraft operating within the province. The reason for this is that no provincial statute is permitted to operate so as to affect any “essential” or “integral” aspect of an enterprise under federal jurisdiction, and the noise produced by aircraft would undoubtedly be regarded as integral to their operation.”

¹This is an oversimplification of the principles applied by the courts in disputes over such overlapping powers and should not be relied upon as legal advice in those matters.

Creation

Local governments have no original legal capacity, i.e. no power to self-incorporate, they are “creatures of legislation”. Municipal corporations are created by the provincial government by an Act of the Legislature or by Letters Patent issued by the Lieutenant Governor in Council (the Provincial Cabinet).

A local government in British Columbia is usually incorporated by Letters Patent issued under the name of the Lieutenant Governor of the Province of British Columbia. The Letters Patent establish the municipality’s boundaries, the size of the council and provide for a number of start up matters, such as the timing of the first election. Sometimes incorporation occurs by a special Act, e.g. the Resort Municipality of Whistler Act.

Forms of Local Government

In B.C., local governments, such as municipalities, take the form of cities, towns, villages, district municipalities, regional districts and improvement districts.

Specific Acts create and govern other forms of local government, such as school boards (the School Act) and “greater” water and sewer districts that provide region wide services.

The classes of municipalities are established in section 17(1) of the Local Government Act:

- 17 (1) A municipality must be incorporated as follows:
 - (a) as a village, if the population is not greater than 2500;
 - (b) as a town, if the population is greater than 2500 but not greater than 5000;
 - (c) as a city, if the population is greater than 5000;
 - (d) despite paragraphs (a) to (c), as a district municipality if the area to be incorporated is greater than 800 hectares and has an average population density of less than 5 persons per hectare.

Powers

While local governments do have legislative powers, i.e. the ability to pass bylaws, those powers are limited to the powers granted by the Legislature by way of statutes or Acts, such as the Community Charter and the Local Government Act and some powers are conferred by orders-in-council issued by the provincial cabinet or by ministerial orders.

Municipalities, but not regional districts, have “natural person” powers and some of the powers that corporations generally have. However, natural persons and ordinary corporations do not have legislative, taxation or regulatory powers. The provincial government must specifically grant these powers to local governments.

The Community Charter

The Community Charter (the Charter) came into force on January 1, 2004, replacing the Local Government Act in specifying the purposes, granting the powers and regulating the governance of municipalities.

There is a misconception that the Community Charter sets no limits on municipal powers and that anything goes. Not so! While subsection 8 (1) in Part 1 of the Community Charter confers the capacity, rights, powers and privileges of a “natural person” of full capacity on every municipality in the province, subsection 8(10) states that the powers are subject to any specific condition and restrictions under the Charter or another Act. Furthermore, the power must be exercised in accordance with the Charter. An example is the power of a natural person to buy and sell property. Division 3 of Part 2 of the Charter contains, among other conditions and restrictions, notice provisions for the disposition of land or improvements and restrictions on the exchange or disposal of park land.

Not only do the restrictions in subsection 8(10) also apply to the powers granted to municipalities under subsection 8(2) to provide any service the municipality considers necessary or desirable and to the regulatory powers under subsection 8(3), but conditions and restrictions on many of those powers are set out elsewhere in the Charter.

The so-called “broad powers” given under the Charter may be tested in the courts. Even the “natural person” powers, pioneered and implemented in other provinces prior to BC’s adoption of them, are still relatively new and untested. An Alberta court used the old rule of interpretation that a municipality’s power has to be expressly granted, but the Supreme Court of Canada overturned this in favour of the “broad powers” approach.

The Local Government Act

The Local Government Act continues to govern the procedures for incorporation of local governments, amalgamations and boundary changes. It also governs the incorporation of and the purposes, powers and governance of regional districts and improvement districts. It continues to contain the procedures for local government elections, including referenda, as well as the powers and procedures for community development, including land use planning and zoning.

Other Enactments

Be aware that there are many other provincial statutes and numerous regulations affecting local government, for example:

Environmental Management Act

Financial Disclosure Act

Freedom of Information and Protection of Privacy Act

Motor Vehicle Act

Workers Compensation Act

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Primary Roles

The structure of local government is divided into two primary roles: political (policy making) and administrative (day-to-day operations). The framework looks like this:

Who	Community Charter	Responsibility to	Relationship to Administration
Council	Sections 114, 115, 146, 152, 154	The electors as the municipality's Governing body & Policy makers	Establishes non statutory officers; Appoint / terminate May delegate authority
Mayor	Section 116 – the head and chief executive officer of the municipality	Provides leadership & communicates info to council; must reflect the will of council; may suspend municipal officers (for good reason)	Provides general direction to administration regarding council's policies etc.
Chief Administrative Officer (CAO)	Section 148: statutory powers, duties, functions; Section 154: if any delegations	Reports to Council, ensures council policies are carried out and keeps council informed.	Responsible for overall management of operations
Statutory Officers (statutory powers, duties and functions and other duties)	Corporate Officer: section 149 Finance Officer: section 147	Council to carry out statutory duties and any others assigned or delegated by Council.	Oversee their department's operations
Department Heads	Sections 146(c) and 147; section 154: delegations, if any.	Council through the CAO	Report to CAO; oversee operations in their department

Examples of a Council's policy initiatives to direct the present and future operation of the community are:

- adopting annual financial plan (budget)
- adopting official community plans by bylaw
- adopting zoning bylaws
- adopting other regulatory bylaws
- making policy by council resolutions

The Mayor provides, on behalf of Council, general direction to municipal officers respecting the implementation of Council's policies, programs and other directions of Council as a mayor's responsibility under section 116(2)(d).

The Administration puts the Council's policies into effect, under the coordination and overall management of the CAO, through such activities as:

- capital and operating expenditures as set out in the budget
- bylaw administration and enforcement
- administration of provincial and federal laws affecting local government.

The CAO reports to council on the operation and affairs of the municipality in accordance with section 147(c). It is important to note that the CAO reports directly to Council, not through the mayor.

Council members should respect the organizational structure of the municipality by recognizing the CAO's position as the liaison between Council and the Administration. If council members deal directly with other members of the Administration, bypassing the CAO, they undermine the authority of the CAO and effectively cut the CAO "out of the loop". The CAO's lack of knowledge will impair his / her ability to perform the duties of a CAO and eventually make the CAO's job untenable and the organization dysfunctional.

Responsibilities of Members of Council

The Mayor (section 116)

There are specific statutory duties and responsibilities assigned to the office of the mayor, in the mayor's capacity of chief executive officer (CEO) of the municipality, that are additional to those of the Council and the mayor as a member of Council, namely:

- providing leadership to the council
- recommending bylaws, resolutions and other measures to assist the peace, order and good government of the municipality
- communicating information to council
- presiding at council meetings
- providing, on behalf of Council, general direction to municipal officers respecting implementation of Council's policies, programs and other directions of Council
- establishing standing committees of council (section 141)
- suspending municipal officers and employees (section 151)
- reflecting the will of council
- carrying out other duties on behalf of council
- carrying out other duties assigned by or under the Community Charter or any other Act

While there are various forms of municipal governance in effect throughout North America and other countries, modeled on democratic forms of government, BC has what is called the "weak mayor" system of local government, the most common form in Canada. This simply means that the mayor has

only one vote on council and has limited powers in addition to that one vote. The mayor does not vote only when there is a tie vote and does not have an additional vote in order to break a tie vote.

The Council (section 115)

The members of Council, including the Mayor, have these statutory responsibilities:

- to consider the well-being and interests of the municipality and its community
- to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities
- to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed
- to carry out other duties assigned by the council
- to carry out other duties assigned by or under the Community Charter or any other Act

Duty to Respect Confidentiality (section 117)

The duty of each member of council is to keep in confidence

- any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required.
- information considered in any part of a council meeting or council committee meeting that was lawfully closed to the public, until the council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

This duty applies to both current and former councillors. In other words, the consequences of a mayor’s or councillor’s unlawful disclosure will follow them after they leave office. The municipality has the statutory authority to sue to recover damages from a councillor whose breach of confidentiality results in loss or damage to the municipality.

This was a matter that, prior to the enactment of the Community Charter, most councillors had respected. Unfortunately, some councillors chose to disregard it, to the chagrin of their colleagues and municipal officers and sometimes at the expense of the taxpayers. As a result of lobbying by UBCM, this statutory duty was included in the Charter.

Size of Council (section 118)

This section prescribes the size of a council according to the type and population of a municipality as follows, except where provided otherwise in Letters Patent or a local bylaw adopted under this section:

Municipality or district over 50,000	mayor + 8 councillors
Municipality or district less than 50,000	mayor + 6 councillors
Town or village	mayor + 4 councillors

Any change in size is based on the population as of January 1st in a general local election year and is effective for that election.

In addition, council may adopt a bylaw that changes its size to a mayor and 4, 6, 8 or 10 councillors. This bylaw must be adopted at least 6 months before the next general local election. It becomes effective for that election and overrides the letters patent of the municipality.

If the bylaw reduces the number of council members or maintains it despite an increase in population that warrants an increase under the above formula, the bylaw must have the assent of the electors.

Term of Office (section 119)

The term of office begins on the first meeting after the election and ends immediately before the first regular council meeting following a general local election, as provided under the council's procedure bylaw.

The Community Charter provides for maintaining continuity in the office of mayor. If the incoming mayor has not taken office by delivering the oath or affirmation of office to the corporate officer by the first regular council meeting after the local general election, the previous mayor continues to hold office until the successor takes office.

A similar transitional provision is provided if the number of incoming councillors is less than a quorum. In that case, the previous councillors continue in office along with the incoming members who have taken office (delivered their oath or affirmation) and, if the above paragraph also applies, the previous mayor. This could result in more than the statutory number of council members, but that is the compromise provided by the Act. It does not allow for picking and choosing among the previous council members to fill only the required number of vacant seats.

Oath or Solemn Affirmation of Office (section 120)

The form and substance of the oath or solemn declaration may be established by bylaw and may be different for the offices of mayor and councilor. If there is no bylaw, the form prescribed by provincial regulation, BC Reg. 380/93 applies. An oath of allegiance to the Crown is not necessary.

The oath or affirmation can only be made before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace, a commissioner for taking affidavits for British Columbia, the corporate officer or the chief election officer.

The oath or affirmation must be made within these time limits, as applicable:

- if elected by acclamation, within 50 days after general voting day
- if elected by voting, within 45 days after declaration of results of election
- if appointed to office, within 45 days of effective date of appointment

The completed oath or affirmation or a certificate of it must be produced to the corporate officer or the chief election officer before a person is eligible to take office as a council member. In other words, despite being elected, **a person cannot take office and exercise the powers of that office until the person has made the oath.**

If a person elected by acclamation or voting or appointed to office does not make the oath or affirmation within the time limit established by subsection (1), the person is disqualified from holding office until the next general local election.

Resignation from Office (section 121)

In order for a member of council to effectively resign, a written resignation must be submitted to the council at a council meeting or to the corporate officer at any time. The resignation takes effect from the date specified in the resignation or, if no date is specified, the date of delivery of it. Once delivered, a resignation may not be revoked.

Council As the Governing Body of the Municipality (section 114)

Council consists of the Mayor and the councillors. It is a continuing body and may complete any proceedings started but not completed before a change in its membership, such as after a general election.

Only the Council can exercise the powers, duties and functions of a municipality, unless the Charter or another Act provides otherwise. This is subject to delegation under section 154, discussed in the next section. Council is acting as the governing body of the municipality when exercising or performing its powers, duties and functions.

The Council has all the necessary power to do anything incidental or conducive to the exercise or performance of its powers, duties and functions. In other words, if the Charter confers a power but does not spell out all of the activities that are part of the exercise of the power, this section fills in the blanks.

Delegation of Authority (section 154)

Council may delegate its powers, duties and functions by bylaw, except the following:

- the making of a bylaw
- a power or duty exercisable only by bylaw
- a power or duty established by the Charter or another Act or regulation that the council may give its approval or consent to, recommendations on, or acceptance of an action, decision or other matter
- a power or duty established by an Act or regulation that council hear an appeal or reconsider an action, decision or other matter
- a power or duty to terminate the appointment of an officer
- the power to impose a remedial action under Division 12 of Part 3 (e.g. unsightly premises)

The delegation under subsection (1) may be to

- a council member or council committee
- an officer or employee of the municipality
- another body established by council

with these exceptions:

- the power or duty to appoint or suspend an officer may only be delegated to the CAO
- council's powers, duties and functions cannot be delegated to a corporation

Delegation of Hearings and Other Proceedings (section 155)

The delegation rules in subsection 155(2) do not apply to hearings where council is required by statute to hear an appeal or to reconsider an action, decision or other matter. They do apply to council hearings that are required by law or authorized by an enactment.

The rules also apply to council proceedings in which a person is entitled under the Charter to make representations to council.

The delegation by council to conduct hearings or proceedings

- may be made by bylaw or resolution
- may be general or specific in application to a class of hearings or proceedings
- may be made by bylaw or resolution
- must be delegated only to one or more council members (municipal officers and employees and other persons are excluded)
- only the members delegated to hold the hearing or proceeding may be delegated to make the decision resulting from it
- if the decision making power is not delegated, council must not make the decision until the delegate reports to council on the views expressed at the hearing or proceeding
- council may revoke a delegation or change it in relation to a specific hearing or proceeding, i.e. council may delegate that hearing to another member

Reconsideration (section 156)

Council may establish, by bylaw, a right to have a delegate's decision reviewed by council. In that case, it must, by bylaw, establish procedures for reconsideration, including how a person may apply for it. The delegate must advise the person of this right.

Procedure Bylaw (section 124)

Council must adopt a bylaw establishing the general procedures to be followed by council and committees in conducting their business.

There must be rules of procedure for both bodies, including how resolutions and bylaws are dealt with.

There must be provisions for minute taking and certification; advance public notice; identifying public posting places; designating an acting mayor (see s. 130); and the first regular council meeting date.

This bylaw cannot be amended, or repealed and substituted without prior public notice (see also section 94) describing the proposed changes in general terms.

Council Meeting Days (sections 124(2)(g) & 125(1))

The first meeting of the newly elected Council must take place on a day established in the procedure bylaw that must fall during the first 10 days of December after the general election.

Disqualification for Failure to Attend (section 125(5))

If a council member is absent from council meetings, except because of illness or injury or with the leave of council, for a period of 60 consecutive days or 4 consecutive regularly scheduled council meetings, whichever is the longer period, the member is disqualified from holding office until the next general local election.

Special Council Meetings (section 126)

As defined in section 125(4), a special council meeting is not a regular or adjourned meeting. It may be called at the discretion of the mayor, or by 2 or more council members giving the mayor a written request.

After a request by council, if the mayor makes no arrangements within 24 hours for a meeting within the next 7 days, or if the mayor and acting mayor are absent or unable to act, the members may call the meeting themselves. In that case, either the members calling the meeting or the corporate officer must sign the notice of the meeting.

Notice of Council Meetings (section 127)

A schedule of the time, date and place of regular council meetings must be made available to the public and notice of the availability of the schedule must be given once a year (see section 94).

At least 24 hours notice of a special meeting must be posted at both the regular council meeting place and at the public notice posting places and left for each council member at his or her directed place. The notice must include the date, time and place of the meeting, describe in general terms the purpose of the meeting and be signed by the mayor or corporate officer. Notice of a special meeting may be waived by unanimous vote of all council members

Electronic Meetings (section 128)

The procedure bylaw may authorize conducting a special council meeting by electronic or other communication facilities or the participation in that manner by a member of council or a council

committee who is unable to attend. The members are deemed to be in actual attendance at the meeting.

The following rules apply:

- the meeting must be conducted in accordance with the bylaw
- the facilities must enable the participants to hear, or watch and hear, each other
- notice of the special council meeting must specify the way in which the meeting is to be conducted and the place where the public may attend to hear the part of the proceedings that are open to the public
- except for any part of the special meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting at the specified place and a designated municipal officer must be there
- the public must be able to hear, or watch and hear, the participation of a member at the open part of a meeting participated in by that member electronically or by other means

Quorum (section 129)

The quorum is a majority of the number of council members provided for under section 118, which establishes the size of the council according to the population of the municipality.

The acts of a quorum are valid even if some members are absent or council seats are vacant.

If the number of members on a council is reduced so there are no longer enough members to provide a quorum, the minister may order that the remaining members constitute a quorum until the vacancies are filled by election, or the minister may appoint qualified persons to fill the vacancies until enough persons are elected and take office.

If conflicts of interest reduce the number of members required for a quorum or the prescribed majority required to adopt a bylaw or resolution, the municipality may apply to the Supreme Court for an order. The court may order that all or specific council members may discuss and vote on the matter, despite declared conflicts of interest (section 100) or restrictions on participation (section 101) and may make the order subject to any conditions and directions.

Voting Rules (section 123)

Motions on a bylaw or resolution or any question before council are decided by majority vote of the members, including the mayor, present at a meeting, unless another method is provided in the applicable legislation.

If a council member is present, he/she must vote on a matter. If the member is silent on a vote, the member is deemed to have and will be recorded in the minutes as having voted in the affirmative, according to subsection 123(4) of the Community Charter.

In some jurisdictions, the mayor only votes to break a tie vote of the councilors; in others, the mayor casts a vote and then also has an additional vote in order to break a tie vote. Neither is the case in British Columbia, where the mayor and each council member may cast only one vote. The mayor

should cast a vote on each question; otherwise, the mayor would be recorded in the minutes as having voted in the affirmative.

Acting Mayor (section 130)

The procedure bylaw must provide for the designation of an acting mayor in the absence or inability of the mayor to act or when the office of mayor is vacant. If both are absent from a council meeting, the members present must choose a member to preside. The acting mayor, when acting, has the same powers and duties as the mayor.

Mayor's Reconsideration (section 131)

The mayor may require the council to reconsider and vote again on a matter that was the subject of a vote. If so, the Council must reconsider the matter as soon as convenient.

Council has the same authority that it had on the original consideration of the matter and the exercise of the authority is subject to the same conditions. In other words, if a public hearing was required prior to the adoption of a bylaw, it will also be required prior to its reconsideration.

If the adoption of a bylaw or resolution is reconsidered and the adoption is then rejected, the bylaw or resolution is of no effect and is deemed to be repealed.

Note that the authority of the mayor under this section does not preclude or limit the authority of a council to move to reconsider a matter that was previously voted on.

Other rules applicable to a mayor's request for reconsideration:

- The mayor may only initiate a reconsideration under this section at the same council meeting as the vote took place or within 30 days following that meeting.
- A matter may not be reconsidered if it has the approval of the electors or the assent of the electors and was subsequently adopted by the council or if there has already been a reconsideration of the matter.

Presiding Member (section 132)

The mayor or member presiding (the PM) must preserve order and decide points of order.

If the PM's decision is challenged, the question whether to sustain the decision must be put immediately and decided without debate. The PM cannot vote on that question and, if the votes are equal, the motion is affirmed.

If the PM refuses to put the question, council must appoint a temporary PM who must put the question immediately.

Expulsion (section 133)

The presiding member (PM) may order the expulsion of a person from a meeting if the PM determines the person is acting improperly. This appears to include a council member, which was not the case under the legislation preceding the Community Charter. A peace officer may enforce this order as if it were an order of the court.

Authority to Compel Witnesses (section 134)

This authority is limited to matters related to the administration of the municipality. Council should seek legal advice and procedural guidance before embarking on this procedure.

Meetings Outside the Municipality (section 134.1)

This section was enacted as a result of a court case in relation to a meeting held by the Highlands council outside the municipality. The section applies to every sort of council or committee of council meeting and to council hearings and proceedings. External locations may be provided for by bylaw generally or by resolution in a specific case.

Agenda

The public business of the municipality is conducted at council meetings and may include

- hearing delegations
- receiving staff reports
- applications for matters which only council can deal with. e.g. bylaw amendments
- development permits (unless delegated to staff - the LGA, s. 920(12) indicates that the power to issue a development permit may be delegated)
- business license permits (unless delegated to staff)
- passing policy resolutions (e.g. risk management policies)
- adopting bylaws
- hiring statutory officers
- authorizing the prosecution and defence of lawsuits
- authorizing contracts (except those delegated to staff)
- authorizing certain expenditures

Some of these provisions are carryovers from the Local Government Act and before it, the Municipal Act (“previous Acts”). Others were introduced in the Community Charter.

Petitions (section 82)

A petition is deemed presented to council when filed with the corporate officer. (The title “corporate officer” may vary; the original title of “municipal clerk” has been retained in some municipalities.) The full name and residential address of the petitioner must be on the petition.

Community Opinion (section 83)

Council is not limited to the formal voting process (referenda, plebiscite or “other voting”) but may gather community opinion on any question by other means, such as sending out questionnaires or conducting interviews itself or by a polling agency.

Open Meetings (section 89)

As under the previous Acts, council meetings must be open to the public, except as permitted under section 90. Bylaws must be read and adopted in open session.

Closed Meetings (section 90)

Part of a council meeting may be closed to the public (in camera), but the subject matter is limited to the list in section 90 [see the Appendix for the text of section 90]. The discretionary list is in subsection 90(1) and the mandatory list is in subsection 90(2).

Councillors must keep the in camera process confidential as required by section 117 of the Community Charter.

If the only subject matter on the agenda for consideration at a council meeting is one or more matters listed in subsection 90(1), the entire meeting must be closed to the public.

The proceedings and minutes of in camera meetings may be withheld from public disclosure. However, once the record of a meeting has been in existence for 15 or more years, it is available for public scrutiny under subsection 12(2)(a) of the Freedom of Information and Protection of Privacy Act).

Persons Attending (section 91)

Staff members may be excluded from in camera meetings, but not Councillors. The minutes must disclose the names of all person present at a closed meeting.

Prior Requirements (section 92)

Before holding a meeting or part of a meeting that is to be closed to the public, a council must state, by resolution passed in a public meeting,

- (a) the fact that the meeting or part is to be closed, and
- (b) the basis on which the meeting or part is to be closed; i.e. that a certain subsection of section 90 applies to the subject matter.

Other Bodies (section 93)

The open and closed meeting rules, as well as section 133 regarding expulsion of persons from meetings, apply to

- council committees
- municipal commissions (s. 143)
- parcel tax roll review panel (s. 204)
- board of variance
- advisory body established by council
- a body that under the Charter or any other Act may exercise the powers of a council
- a body prescribed by legislation

Annual Report (section 98)

A council must, before June 30 each year, prepare an annual report, make it available for public inspection and have it available for the public meeting on the annual report mandated by s. 99. The council must consider submissions and questions from the public at the meeting.

Public Hearings (Part 26, Division 4, Local Government Act)

There are rules in Part 26, Division 4 of the Local Government Act, commencing with section 890, that govern public hearings. These rules and the common law rules of procedural fairness have been interpreted by judgments rendered in cases heard by the courts over the years. The rules laid down by the courts are too complex and numerous to be dealt with in any depth in a handbook. However, the following are some factors for members of council to keep in mind:

- A municipal council is required by statute to hold public hearings in certain circumstances that are set out in the Local Government Act.
- Public hearings must be held in order to determine whether to approve or reject applications for zoning bylaws and official community plans or amendments of those bylaws and plans, as well as other types of applications, such as certain types of land use permits.
- At a public hearing, the council listens to persons presenting, objecting to or in favour of an application and reviews municipal staff reports concerning the application
- The Council does not debate the merits of the application among its own members nor with members of the public during a public hearing; that is done later at a lawfully convened meeting of the Council
- Councillors may ask questions of the applicant, municipal staff and members of the public who speak to the matter, but not in the form of comment or debate regarding the merits of the application.
- A public hearing should not be confused with, or be held within, a council meeting; the rules are different and failure to comply with the public hearing rules may invalidate the actions taken at a public hearing or the decisions made by council in regard to the subject matter of the hearing.

- Council members must keep an open mind, i.e. listen to and consider all points of view and be willing to be persuaded.
- The statutory procedures must be strictly adhered to.
- Conflicts of interest and bias in regard to the application must be avoided.
- Council members must act in good faith.

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Ethics Generally

Even in this age of cynicism towards government, citizens really do expect fair treatment and ethical behaviour from the politicians elected to municipal councils. The councillors that skate on the edge of principle or discard ethics for expediency or personal gain invite disrespect and skepticism from the public.

Citizens do not expect their councils to ignore the reasonable requirements of other government legislation, such as the Workers Compensation rules, nor to ignore the municipality's own bylaws and regulations. Shortcuts chosen for expediency, rather than legal correctness, may save time and money in the short run but over the long term will cost the municipality dearly.

Keep in mind that the taxpayer's money is at stake. Under section 7 of the Community Charter, one of the purposes of a municipality is to provide for stewardship of the assets of its community. In other words, council members are the trustees of the municipality's assets and the beneficiaries of that trust are the taxpayers. Those assets are not limited to the bricks and mortar but include the tax base of the municipality.

Conflict of Interest

The Community Charter (Part 4, Divisions 6 and 7) sets out the rules, requirements and penalties (e.g. disqualification, recovery of financial gain) for conflicts of interest borne by members of council in relation to matters that they must decide in the course of their duties.

In addition to the prescribed rules and penalties, council members may be liable personally for voting for the use of money contrary to section 191 of the Charter and may be disqualified from holding office for the periods of time prescribed in section 110. There are also Criminal Code prohibitions on certain types of conduct as discussed below.

Disclosure of Conflict (section 100)

This section applies to council and committee meetings and meetings of bodies listed in section 93 (the same bodies subject to the rules for closed meetings).

This section puts the responsibility on the individual member of council to be aware of actual or potential, direct or indirect, pecuniary conflicts of interest in any matter on the agenda of a meeting and to formally and publicly declare any conflict in general terms prior to consideration of the matter by the members. After making the declaration, the member must not do anything prohibited in section 101 (see below).

Failure to make a declaration of conflict of interest when there is such a conflict does not waive or absolve the conflict or prevent disqualification from office under section 108.1.

An exception is where the member has made the declaration on the basis of legal advice on the issue of conflict of interest and the legal advice leads the member to believe there is no conflict. That is a "good faith" exception under section 101(3).

Another exception under 101(3) is that the contravention was made "inadvertently".

The exceptions set out in subsection 101(3) are repeated in sections 102, 103, 104, 105, 106, 107 and 108.

Further exceptions are found in section 104 (see below for details).

Pecuniary Interest (section 100(2)(a))

“Pecuniary interest” is not defined in the Charter. It is understood to be a member’s financial interest in a matter that Council is deciding. This interest can be direct or indirect – whether the member profits (or loses) directly or through one or more other persons, corporations or entities.

The conflict can occur through the council member’s own personal interests or activities or those of some other person to whom the council member is connected - usually a relative living in the council member’s household, but other family members’ interests may also be attributed to the council member. The courts are the final arbiters of whether these interests are a conflict of interest for the council member. Individual councillors should seek qualified independent legal advice if they are in doubt about their status.

Restrictions on Participation (section 101)

Whether or not the member has made a declaration of conflict of interest under section 100, the member must not

- remain or attend at any part of a council meeting, council committee meeting or meeting of any body referred to in section 93, during which the matter is under consideration,
- participate in any discussion of the matter at such a meeting,
- vote on a question in respect of the matter at such a meeting, or
- attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.

The penalty for breach of these rules is disqualification from office until the next general local election.

Restrictions on Inside Influence (section 102)

A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken

- at a meeting referred to in section 100 (1) [disclosure of conflict],
- by an officer or an employee of the municipality, or
- by a delegate under section 154 [delegation of council authority],

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

The penalty for breach is disqualification from office until the next general election.

Restrictions on Outside Influence (section 103)

In addition to the restriction on inside influence under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

The penalty for breach is disqualification from office until the next general election.

Exceptions to Restrictions (section 104)

Sections 100 to 103 do not apply in one or more of the following circumstances:

- the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally
- in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax
- the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members
- the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter
- the pecuniary interest is of a nature prescribed by regulation

Despite sections 100 to 103, if a council member

- has a legal right to be heard in respect of a matter or to make representations to council, and
- is restricted by one or more of those sections from exercising that right in relation to the matter,

the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

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The following rules and restrictions in relation to gifts are set out as they appear in the Charter.

Restrictions on Accepting Gifts (section 105)

- (1) A council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office.
- (2) Subsection (1) does not apply to
 - (a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,
 - (b) compensation authorized by law, or
 - (c) a lawful contribution made to a member who is a candidate for election to a local government.
- (3) A person who contravenes this section is disqualified under section 108.1 from holding local government office until the next general local election, unless the contravention was done inadvertently or because of an error in judgment made in good faith

Guide for Accepting Gifts

The following guide may be useful in determining if a gift or personal benefit is acceptable by a member of council under section 105 of the Community Charter.

Ask yourself these questions:

1. Is this gift (tangible object) or personal benefit (meaning something that can be used or consumed only by an individual and not by the municipal corporation) given to and received by you as an incident of the protocol or social obligations that normally accompany the responsibilities of a member of council?

An incident of the protocol or social obligation of office occurs when the member attends a function, event or ceremony in the capacity of an official representative of the Municipality. e.g. "sister" municipality exchanges, invitation to another government's event, such as a Provincial Minister's reception at the UBCM Conference.

2. Is attendance, by means of complimentary tickets, at a performance or event by an arts organization that applies for or receives a grant from the municipality a social obligation arising out of the duties of office?

Some might argue that a councilor cannot determine whether an organization's product is "worthy" of a grant unless it can be seen. Others might point out that these events are often attended after the grant was given. Still others might say that councillors are not qualified to judge works of art or entitled to force their opinion upon the community.

Clearly, subsection 105(2) does not specifically say that free tickets and other "stuff", regarded by some as perquisites ("perks") of office, are excluded from the restrictions on accepting gifts.

3. Is the gift or personal benefit connected to the performance of my duties as an individual member of council but not to the protocol or social obligations of a member of council?

In other words, it may be given in the expectation of receiving some favour or benefit in exchange, rather than as a protocol gift or benefit given and received on behalf of the Municipality.

4. If the context in which the gift or personal benefit is given cannot be considered an occasion of protocol or other social obligation of office, would it be given to me if I were not a member of council?

This is simply another way of framing question 2, and begs the question of what the giver expects as a consequence of the gift. Theatre tickets given by groups that receive grants from the Municipality are good examples.

The consequences of the answers to the questions:

If the answer to question 1 is yes, the member may accept; if no, the member may not accept. This is the principal test of acceptance. If the gift is a tangible object, it should be turned over to the Municipality.

Questions 2, 3 and 4 illustrate what are not incidents of the protocol or social obligations of office. If the answer to 3 is yes or to 4 is no, the member cannot accept.

Point to remember: Organizations that receive grants from the Municipality should be required, as a condition of the grant, to directly acknowledge the Corporation of the Municipality as the grantor, and should not give recognition, gifts or benefits to any of the municipality's elected or appointed officials.

Note that some organizations that receive municipal grants may be able to offer gifts and benefits that provide unique insight into their organization, which other organizations that compete for the same grant money are not able to offer, putting the other organizations at a disadvantage.

In all circumstances where you feel uncertain about accepting a gift or benefit, please seek advice from a lawyer who is qualified in these matters.

Disclosure of Gifts (section 106)

- (1) This section applies if
 - (a) a member receives a gift or personal benefit referred to in section 105 (2) that exceeds \$250 in value, or
 - (b) the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds \$250.
- (2) In the circumstances described in subsection (1), the council member must file with the corporate officer, as soon as reasonably practicable, a disclosure statement indicating
 - (a) the nature of the gift or benefit,
 - (b) its source, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation,

- (c) when it was received, and
 - (d) the circumstances under which it was given and accepted.
- (3) A person who contravenes this section is disqualified under section 108.1 from holding local government office until the next general local election, unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Disclosure of Contracts (section 107)

- (1) If a municipality enters into a contract in which
- (a) a council member, or
 - (b) a person who was a council member at any time during the previous 6 months,
- has a direct or indirect pecuniary interest, this must be reported as soon as reasonably practicable at a council meeting that is open to the public.
- (2) In addition to the obligation under section 100 [disclosure of conflict], a council member or former council member must advise the corporate officer, as soon as reasonably practicable, of any contracts that must be reported under subsection (1) in relation to that person.
- (3) A person who contravenes this section is disqualified under section 108.1 from holding local government office until the next general local election, unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on Use of Insider Information (section 108)

- (1) A council member or former council member must not use information or a record that
- (a) was obtained in the performance of the member’s office, and
 - (b) is not available to the general public,
- for the purpose of gaining or furthering a direct or indirect pecuniary interest of the council member or former council member.
- (2) A person who contravenes this section is disqualified under section 108.1 from holding local government office until the next general local election, unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Payback (section 109)

The Community Charter has a payback provision for members of council who profit from financial conflicts of interest, use of improper influence and insider information or accepting gifts prohibited under Division 6 of Part 4. Under section 109, the court may order the member to pay an equivalent amount to the municipality, as well as costs to an elector who brought the application. It appears that the court may also allow the municipality to recover those costs from the member, and perhaps its own costs under subsection 109(6).

Financial Gain (section 109)

- (1) If a council member or former council member has
 - (a) contravened this Division, and
 - (b) realized financial gain in relation to that contravention,the municipality or an elector may apply to the Supreme Court for an order under this section.
- (2) Within 7 days after the petition commencing an application under this section is filed, it must be served on
 - (a) the council member or former council member, and
 - (b) in the case of an application brought by an elector, the municipality.
- (3) On an application under this section, the Supreme Court may order the council member or former council member to pay to the municipality an amount equal to all or part of the person's financial gain as specified by the court.
- (4) In the case of an application made by an elector, if the court makes an order under subsection (3), the municipality must promptly pay the elector's costs within the meaning of the Rules of Court.
- (5) The court may order that costs to be paid under subsection (4) may be recovered by the municipality from any other person as directed by the court in the same manner as a judgment of the Supreme Court.
- (6) Except as provided in subsection (4), the costs of an application are in the discretion of the court.

Disqualification (Part 4, Division 7)

Under the Community Charter, the council cannot declare a member's seat vacant by resolution. Council must instead apply to the court for a declaration of disqualification. But first, council must pass a resolution authorizing the court application by a 2/3 vote of all its members. The council member who is the subject of the resolution may take part in the discussion and voting on it since the conflict of interest rules in sections 100 and 101 are not applicable to this resolution.

Circumstances (section 110)

The penalty of disqualification of a person from holding office is triggered by:

- conflict of interest under Division 6
- the person does not make the required oath or affirmation of office within the time established by section 120 (1) [oath or affirmation of office]
- the person is absent from council meetings for a period of 60 consecutive days or 4 consecutive regularly scheduled council meetings, whichever is the longer time period, unless the absence is because of illness or injury or is with the leave of the council
- the person voted on an unauthorized expenditure under section 191(3)
- the person is disqualified under section 66 (2) [who may hold elected office] of the Local Government Act, except for disqualifications under section 66(2)(h) under the Local Government Elections Campaign Financing Act.

Court Application (section 111)

If it appears to them that a person is disqualified as referred to in section 110 and is continuing to act in office, 10 or more electors of the municipality, or the municipality (authorized by resolution passed by a vote of at least 2/3 of all council members) may apply to the Supreme Court for an order under this section that the person is disqualified under section 108.1 from holding local government office until the next general local government election.

The procedures for the court application and hearing, the status of the member pending the hearing and the costs of the proceedings are provided for in sections 111 to 113.

To sum up briefly, the consequences of a member of council debating and voting on a matter in which the member has a pecuniary conflict of interest are:

- the member can be disqualified from holding office until the next election
- the member's vote can be invalidated, which could change the result if the margin was one vote (a tie vote is negative)
- the resolution or bylaw voted on could be invalidated on the basis that the member's conflict tainted the entire vote
- the member can be required to give up to the municipality any financial gain realized by the member

All of these can result in expensive litigation for both the member and the municipality.

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Unlawful Actions

Legal Limits

A municipal council must know its legal limits before taking certain actions, for example, spending money on municipal services and other matters; enacting bylaws and passing resolutions to govern the conduct of its citizens; imposing taxes, fees and charges; disposing of its assets; dismissing municipal officers; and controlling property rights.

Typically, municipal officers have a good general knowledge of the limits on a municipality's overall powers and the specific areas that the officers are responsible for. Where there is any doubt, the municipal solicitor should be consulted for advice. This is also advisable for activities that are novel, complex or contentious or where council is averse to risk.

Consequences of Illegal Acts

The consequences of a council taking any *ultra vires* (Latin for "beyond the law") action without having the necessary power to do so are serious. Such actions expose the municipality to litigation that can be very costly and often unnecessary. The Courts can declare bylaws invalid and award financial damages to persons who have incurred them because of unlawful actions by Council.

The costs can add up: in addition to paying damages, there are court costs and the fees of opposing counsel as well as the municipality's own legal fees and costs. The administrative downtime resulting from the time that must be devoted to the case must also be considered. Of course, costs and delays affect the taxpayers and other inhabitants, so the effects may be political, as well.

In some cases, an illegal act by a Council can result in a lawsuit against its individual members. For example, section 191 of the Community Charter states that a council member who votes for a bylaw or resolution authorizing the expenditure, investment or other use of money contrary to that Act is personally liable to the municipality for the amount. The money may be recovered on behalf of the municipality from the council member, who will also be disqualified from holding office.

Section 191 provides escape from this liability if a council member can prove two facts: the member relied on information supplied by a municipal officer or employee and the officer or employee providing the advice was guilty of dishonesty, gross negligence or malicious or willful misconduct in that regard. However, a recent BC Supreme Court judgment in *Orchiston v. Formosa*, allowed a "good faith" defence, similar to the legislated exception in section 101(3), but without the qualification on the nature of the actions of the persons who provided the incorrect advice.

Criminal Code

Briefly, the Criminal Code deals with bribery, corruption and influence trading on the part of public officials and is applicable to elected and appointed local government officials. The usual penalties for criminal behaviour apply - fines, imprisonment, disgrace. If you are tempted to commit any of these offences, ask yourself if it is really worth it!

Common Law Bias

Bias is non-statutory conflict of interest. Bias is a conflict that is not pecuniary but still influences the member, apart from the objective merits of the issue. However, it is not to be confused with political bias, i.e. left, right or centre politics. It may be a situation where the interests of a friend, business associate or family member or their interest influences the member to vote in a certain way, although the member or close family derives no direct financial benefit.

While a conflict of this sort will not disqualify a member from holding office, it can result in a challenge to the validity of the individual's vote or an action of the council, such as a bylaw, resolution or contract, because the member's bias will be seen as tainting council's decision.

Other Forms of Bias

Bias can occur in other forms, some obvious, some subtle. Bylaw enforcement is a good example.

There will always be some people who are violators, either deliberately or through ignorance of the law. Failure to enforce bylaws against known violators soon becomes common knowledge in the community. This failure encourages disrespect for the bylaws and the municipality. A scofflaw mentality sets in and subsequent enforcement efforts are met with outrage and cries of discrimination, e.g. why me and not them? It may also expose the municipality to court proceedings.

Consistency and fairness in bylaw enforcement are the keys to good administration of bylaws. Enact a bylaw enforcement policy and examine any deviation from the policy for evidence of bias. The policy of most local governments, whether large, medium or small, is to investigate alleged infractions in response to complaints. Few, if any, municipalities have the resources to initiate investigations of every activity and property.

The granting of privileges and permits can be affected by bias and great care should be taken to administer these areas fairly and evenly. Failure to do so only increases the level of cynicism towards government already abundantly apparent in our society.

Legally, Council has the power to change the zoning of any property, as long as Council complies with statutory requirements and the rules for procedural fairness; does not discriminate; acts in good faith and impartially; and applies good planning principles. Examples of good planning principles include addressing the compatibility of different land uses, traffic and parking congestion, noise and other nuisances, and the policies of the Official Community Plan (OCP). In addition, there must be predictability in zoning. If Council becomes known for changing zoning at whim, investment in the community will be discouraged.

Top Ten List

Elected officials should know about these 10 aspects of local government law:

1. Local governments in Canada are not autonomous, self-governing bodies with inherent powers. Their very existence and all of their powers are granted to them by the provincial legislatures by legislation of various kinds. [\(see Constitutional & Local Government Framework on page 1\)](#)
2. The legislation is not merely a guide for local governments; it is a specific road map with rules, requirements and procedures that must be followed in order to get to your destination legally and successfully. [\(see pages 3, and 29\)](#)
3. The “natural person” powers of municipalities are the same powers that individuals have, e.g. to sell their land; however, in carrying out these activities local governments may have statutory rules to follow that do not apply to individuals. [\(see page 3\)](#)
4. The powers of local governments to tax, impose fees and to regulate property, persons and activities are not “natural person” powers. They must be granted by provincial legislation, exercised by bylaw only and are limited by rules that must be strictly observed. [\(see page 2\)](#)
5. Individual members of council, including the Mayor, have no decision-making powers; decisions are made democratically by a majority of the council. [\(see Council As the Governing Body of the Municipality \(section 114\) on page 9\)](#)
6. Council and regional board meetings must be held in the manner set out in the governing provincial legislation in order for the decisions made at those meetings to be considered lawful and binding. The specific rules for meetings closed to the public (in camera) must be scrupulously observed. [\(see Procedures for Council Meetings on page 11\)](#)
7. The mayor is the spokesperson for the municipality but must reflect, in speaking as such, the decisions made by council. Under BC’s laws, the mayor’s role is to lead, not decide; to persuade, not dictate. [\(see Responsibilities of Members of Council on page 6\)](#)
8. There are consequences to elected officials and to the local government if councillors do not abide by the conflict of interest rules in the Community Charter and the rules regarding non-pecuniary conflict and “bias” in the common law. [\(See Ethics and Conflict of Interest on page 19, Gifts, Contracts and Other Matters on page 23\)](#)
9. There are restrictions on accepting gifts and the subsequent consequences for a councillor’s failure to disclose them. [\(see Gifts, Contracts and Other Matters on page 23\)](#)
10. The Community Charter and the Local Government Act are not the only Acts that govern municipalities. There are many other Acts that apply. [\(see Other Enactments on page 3\)](#)

Six Suggestions

Suggestions for elected local government officials from a veteran of over 50 years spent in municipal law and administration:

1. Once elected, keep your broom in the closet until you are sure the place really needs to be swept. Things may look different when viewed from your new perspective on the inside. Take your time - observe and listen - because the cost to clean house is dear and not only financial in nature.

Good administrators know that the direction of a local government may change after an election with the infusion of new ideas from newly elected councilors. It's part of what they sign on for. They know that it is their job to adapt to change and many of them are invigorated by it. Give them a chance to show you their stuff, listen to their advice and recommendations, and only then evaluate whether they are the right persons to carry forward the new council's vision.

Clearing out the top management has more often than not destabilized the foundation beneath, unless the dismissed managers were considered toxic by the rest of the organization. In that case, you have a mountain to climb and should seek help from experienced HR advisors.

When you go to fill those empty job positions, you will find that the best people usually are not attracted (unless the money is really good and they can write their own ticket) to municipalities that fire their CAO, especially those that do so repeatedly. Repetitive dismissals often occur because of the municipality's resulting reputation for poor governance (in what is a very small world) after the first one and the subsequent shrinking of the pool of replacements to those who have to take any job. It is a vicious cycle that municipalities find they cannot escape from soon, if ever.

2. Become well informed with how local government works. Attend the in-house orientation sessions – ask the CAO for a council tour of the various operations if this has not been done as part of your in-house orientation or if you missed it.

Be sure to attend the UBCM's Elected Officials Seminars, held early in the new year after the general local election. They are meant for both newly elected and re-elected local government officials. There you will meet seasoned mayors and councillors from BC who will share their experiences and insights with you. You will hear presentations by experts in the fields of local government law, finance, ethics and governance. You will learn that governing a municipality or regional district is not a one person show; it is teamwork at its best.

3. Do your homework – come prepared to meetings, having read your agenda and reports. Recognize that there is much to learn – observe and ask questions as part of your preparation.

If you need to know more, don't go to the individual managers for information; ask the CAO. That way, the CAO will be able to ensure that all members of council are equally informed. If you avoid or end run the CAO, either deliberately or inadvertently, the CAO will be out of the loop. That does not serve the municipality well.

In order for the CAO to fulfill the statutory obligation to keep all of council informed and ensure the organization functions well, the CAO needs to be aware of council's questions and concerns. If the questions are directed to the CAO by council members, the CAO can fill in any gaps in council's knowledge and provide that information to all the members at the same time. This will enable informed discussion amongst the council members at the information session. Your questions may also reveal administrative matters that require the CAO's attention.

4. Do not speak ill of the municipality, the staff or other members of council in public; it only embarrasses all of you. Do your criticizing of staff in private and do it constructively by suggesting or asking for reasonable solutions to the perceived problem. If you disagree with a member of council, be civil and follow the parliamentary rules of conduct.
5. Seek the "balance" between the needs and desires of the entire community and those of your supporters and others seeking your help. (Councillor's duty #1 under section 115 of the Community Charter)
6. Learn the conflict of interest rules inside and out. "When in doubt, don't" – is a good rule to follow. A misstep here can sink your career and damage the municipality in many ways.

Traits of effective Mayors and Councillors

Aside from the statutory requirements, what traits should members of council have to be effective?

In addition to having integrity, intelligence and political savvy, effective Mayors and Councillors exhibit these key features of good local governance (all equally important):

- put the community's interests ahead of one's own
- take pride in and care for the reputation of the municipal corporation
- apply ethical and fair behaviour to all
- show respect for the public and other council members
- show respect for municipal staff and the administrative role of staff
- be a good steward of the municipality's assets
- ensure fair and effective bylaw administration and enforcement
- abide by provincial and federal laws affecting local government
- be aware of the legal limitations of local government
- recognize the importance of having current and relevant policies

Ideally, Council should not be both policy makers and administrators. When Councillors are involved in the daily operations of the municipality, they tend to abandon their policy role. In the result, the municipality is rudderless and lacking in timely planning for the future. As a result, the Council cannot cope effectively with the crises that are bound to occur in the lifespan of any municipality.

Councillors have a job to do and it is a very important one. Local government is said to be the closest government to the people. Municipalities and regional districts provide the most basic services: water, transportation, sewage and garbage collection, fire and police protection, recreation and planned communities. To serve the community well, Councillors must be dedicated to the community and have a vision for its future.

Your Legacy

Just remember this: you are elected to govern in the interests of the entire community, not to further your personal interests. Surely you want the community and your family to remember you for your contributions to it and not for what you took out of it.

Good health and good fortune to you and your communities!

Sincerely,

Lorena (Lori) Staples, Q.C.

Community Charter – In Camera Meetings

Closed meetings

- 90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:
- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
 - (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
 - (c) labour relations or other employee relations;
 - (d) the security of the property of the municipality;
 - (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
 - (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
 - (g) litigation or potential litigation affecting the municipality;
 - (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
 - (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act;
 - (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
 - (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [annual municipal report];
 - (m) a matter that, under another enactment, is such that the public may be excluded from the meeting;

- (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
 - (o) the consideration of whether the authority under section 91 [other persons attending closed meetings] should be exercised in relation to a council meeting.
- (2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:
- (a) a request under the Freedom of Information and Protection of Privacy Act, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;
 - (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;
 - (c) a matter that is being investigated under the Ombudsman Act of which the municipality has been notified under section 14 [ombudsman to notify authority] of that Act;
 - (d) a matter that, under another enactment, is such that the public must be excluded from the meeting.
- (3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.