Inside Policy Summary

- Traffic fine sharing would increase funding to municipalities substantially (p.5)
- Findings of Council of Deputy Ministers of Transportation on viability of medium and small airports (p.8)
- Liquor policy changes affecting local government (p.9)
- Aggregate Advisory Panel report posted (p.9)
- WCB regulations for new environmental Tobacco Smoke regulations (p.9)
- Meetings continue on airport crash/fire regulation (CAR 308) (p.10)
- Implementation of streamside protection regulation (p.10)
- WCB regulations for firefighters to be reviewed (p.10)
- Major policy issues related to treaty settlement land (p.13)
- Information on local government consultation with First Nations circulated (p.13)
- Emerging issues for local government in international trade agreements (p.14)
- Three important legal decisions reviewed: drainage and ditches; taxation of Band owned lands; and abuse of office (p.18-19)
- UBCM Task Force on Senior Government support for Urban Transportation set its approach (p.23)

Features related to new provincial government:

- Local government connection (p.5)
- Traffic fine revenue sharing (p.5)
- Building blocks of new Ministry of Community, Aboriginal and Women's Services (p.6)
- CivicNet resources on government structure and appointments (p.6)
- Attorney General now responsible for treaty negotiations (p.12)

New Government Has Strong Roots and Bold Agenda for Local Government

On May 16th, BC elected a Provincial Government that has strong roots in the local government system and an agenda that has a local government stream.

O

f the 77 BC Liberals elected, 22 have local government experience (see article on page 5). Among these are the Premier Gordon Campbell, the first UBCM Past President that has achieved that office. Joining him is an other UBCM Past President (Gillian Trumper), a former FCM President (John Les) 5 former members of the UBCM Executive, 14 former mayors, 7 former councillors and a former electoral area di- rector. In this issue we focus on some timely and topical articles related to the transition to the new government and its policies.

The New Era platform sets an ambitious agenda that includes within the 90-day agenda a new Community Charter that would make Crown Corporations subject to local zoning and land use by-laws. It would also out law “offloading” costs onto municipal government and give local government greater authority and better planning tools. The New Era elements of perhaps most interest to local government have been identified and sum- marized (p.7). Paired with that summary are eight key elements of the new Premier’s address to the 2000 convention (p.7). Below is an article on the roots of the Charter. Another of the New Era commitments is to return 75% of traffic fine revenue to municipalities. Preliminary analysis of the poten- tial increased funding to municipalities has been explained and it could mean a four-fold increase today’s level (p.5). UBCM has also been working hard to keep track of government re- structuring and recent appointments and reporting to members. We have so far produced three sets of changes and it contains continually updated materials (p.6). While some previous Min- istries have split apart (most notably Health and Environment) “Municipal Affairs” became the plat- form for additions of all or parts of 4 other Ministries and a variety of other agencies. A graphical il-

Community Charter

Honourable Ted Neubling

As reported in a recent (June 17) UBCM “In The House” circular the Table Officers met with the Honourable Ted Neubling, Minister of State for Community Charter. At that meeting we were advised that the Community Charter would be introduced in the summer legislative ses- sion that may be called to- ward the end of July. One of the options under consider- ation is to introduce the legislation, followed by a period for stakeholder review, with the Charter being finalized and coming into effect in March 2002.

The Community Charter is a priority of the Premier and is included in the 90 day agenda. The Pre- mier’s interest can be traced back to his days as Vancouver Mayor and UBCM Executive member. While at the City, he took the lead in the development and presentation of the “Bill of Rights”. He also took the lead in development of the 1991 UBCM policy paper “Local Government and Constitu- tions”.

In 1995 he introduced a Private Member Bill (M222) entitled the Community Charter.

UBCM representatives will continue meeting again with Minister Neubling on the 2001 Community Charter.

Infrastructure a Priority after Government Transition

UBCM has flagged early infrastructure announce- ments as a priority for the incoming Provincial Gov- ernment in written communica- tions with the new Ministers and in its first meeting with Minister George Abbott. The Ta- ble Officers were advised at that meeting that the sheer volume of applica- tions, gaps in information in some submissions and audit requirements were slowing down the evaluation process. With respect to “green” infrastructure (primarily sewer and water) a fast track process should yield an initial batch of deci- sions in the summer with more decisions later in the fall.

At their last meeting, the Executive dealt with a related piece of policy on allocation of funds. The infrastructure program has two guidelines:

- at least 75% for local government green infrastructure (25% for other infrastructure);
- up to 20% projects nominated by provincial or federal co-owners with the balance – 80% or more available for local government.

Continued on page 20
President's Message

Over the past few months I have had three priorities that I hoped to accomplish prior to the next Executive meeting in July.

First and foremost, I wanted to get out and meet you, the UBCM membership, in your own areas. I managed to attend all five Area Association meetings even though two of these overlapped. It was a very rewarding experience and I thank all of you that made my visits such a pleasure. It was great to see your areas and to hear your individual concerns and be able to put them into the context of where you live.

Charters will have a high regard of Canadian Municipalities annual meeting. This was a great opportunity to meet with you for a second time and to meet with our counterparts from across the country. I was able to speak to Minister David Anderson, for example, about issues that concern us all and to assure him that he will place action high on his priority list. In all, I was able to meet with many dozens of our members. And I must say, with no disrespect intended to the FCM, that our UBCM conventions are far better organized and more user friendly. We should be proud of that as an organization and be thankful for the capable staff that we have.

My second priority has been the planning and new implementation of our UBCM transition plans for working with a new Provincial Government. I have made it very clear that infrastructure announcements are a high priority with our members and in situations I meet with the new Community Charter soon so that we can get on with the appropriate consultation with our members prior to its implementation by government. The Charter will have a high role in our considerations over the next few months as we move toward our Convention. I would refer you to the articles elsewhere in this newsletter on these matters.

I managed to set up meetings with both George Abbott, our Minister, and Ted Neepilingual, Minister of State for the Charter, on June 14th. The Table Office and our Executive had two hours of very productive discussion. We then had a conference call with the rest of the Executive to share our information. The highlights were the Charter and process for the introduction of the Charter, consultation with UBCM, the assurance that nothing will change with Regional Districts over the next two years and the knowledge that Growth Strategies will continue to be developed. More details will be distributed by Member Release.

My third priority has been to initiate new MOLs with the federal departments of Environment, Indian Affairs and Fisheries and new Protocols on Consultation and Cooperation with other province-wide associations; such as Environmental Protection, Health, Education, Policing and labour. The Executive and staff have been a great help in bringing these agreements to fruition.

Your UBCM Convention registration material will be arriving in the very near future. This is going to be one of our most exciting conventions yet with a new government in place and the very positive energy to move forward on many fronts. I look forward to having you join me at the Convention September 24th to 26th in Vancouver. We have a great program planned and have serious commitment from government to have a strong presence for you to meet with. I look forward to seeing you there.

UBCM Current Accomplishments

At the end of June, UBCM wraps up its current fiscal and reporting period. We are in the process of reflecting on the past year's accomplishments and preparing the Annual Report to be circulated in advance and presented at the September Convention. In advance of the formal report, here is a sample of activities that will be included:

- Launch of first year of the multi-year infrastructure funding program - local government priorities
- Organized the UBCM Convention that had the highest ever recorded attendance - over 1,900 people
- Prone and continuing focus of UBCM is its role in policy development and implementation through participation in provincial policy development processes and making presentations. Some highlights for this past year included:
  - Development of appliance policies for the 2000 Convention
  - Provided input to the Provincial Aggregate Review Panel
  - Urged relief from the provincial government in response to rising natural gas prices
  - Reaffirmed our support for local government in the past year

UBCM launches a Web-based data system for Surveys

In order to provide its members with current information, UBCM, in partnership with iCompass Technologies, has developed a web-based survey collection and report generation system. This system will allow each member to directly update their local government's data. The information has been summarized by type of local government (City, Town, Village, District and Regional District). The respective local government can then download the individual or comparative information they prefer. Each local government's information is password protected and controlled by yourselves. UBCM will notify you when updates are required, however you can update your information whenever you prefer. If you lose your password, contact UBCM and we will reset one for you. Visit UBCM's CiviCen website at www.civicen.gov.bc.ca and click the survey icon to view.

The system has been successfully tested and the first survey currently being completed is for the "Engineering Fees and Charges Survey." It is UBCM's intent in the next year to have all of its surveys on this web based system for the collection of data.

We look forward to your comments and suggestions during this technological improvement process. Our goal is to provide our members with the most current information by using an electronic process that is the least time consuming for our members.

UBCM Tax Notice Service 2001

This year UBCM printed tax notices for 16 member municipalities. We processed 8,732 folios. The tax service started printing notices on May 10th and completed printing on May 24th.

UBCM Tax Notice Service 2001

Comprehensive Development Plans
Strategic Financial Plans
Tax Policy/Fiscal Policy
Retreat Facilitator

Service Contract
Project Management
Restructure Studies
Interim Management

P.O. Box 786, Nelson B.C., V1L 5S9
Phone: (250) 825-9586 Fax: (250) 825-9615
e-mail: garyw@netidea.com

GARY WILLIAMS AND ASSOCIATES

UBCM Launches a Web-based Data System for Surveys

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## BC Reps to FCM Board

At the recent Federation of Canadian Municipalities conference in Banff the following BC representatives will serve on the National Board of Directors for 2001-2002:

- Mayor Michael Coleman, Duncan
- Councillor Clifford Deszell, Prince George
- Councillor Kirk Duff, Castlegar
- Councillor Judy Higinbotham, Surrey
- Councillor Mel Kositsky, Township of Langley
- Councillor Joanne Monaghan, District of Kitimat
- Councillor George Puil, Vancouver
- Second Vice-President Patricia Wallace, Union of BC Municipalities
- Mayor Steve Wallace, Quesnel

A special congratulations to Councillor Joanne Monaghan for all her hard work this past year as FCM President. Councillor Monaghan will remain on the FCM’s Executive Committee as Past President.

## BC/FCM Travel Fund

### Financial Statement

<table>
<thead>
<tr>
<th>May 1, 2000- April 30, 2001</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUE:</strong></td>
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<tr>
<td>Opening Balance May 1, 2000</td>
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<tr>
<td>FCM 2001 dues (confirmed)</td>
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<tr>
<td>Opening Balance May 1, 2000</td>
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<tr>
<td>Interest earned to April 30, 2001</td>
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<tr>
<td><strong>EXPENDITURES:</strong></td>
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<tr>
<td>Members expenses</td>
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<tr>
<td>FCM Administration Fee (4%)</td>
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<tr>
<td>UBCM Administration Fee*</td>
</tr>
<tr>
<td>(41,727.32)</td>
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<tr>
<td>Closing balance</td>
</tr>
<tr>
<td>* UBCM does not deduct an administration charge</td>
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</table>

## UBCM Health Committee Meets with Health Association Board

On June 15th, the UBCM Health Committee met with the full Board of the Health Association of BC (HABC). This meeting follows two previous meetings between the Committee and the HABC Executive Committee, which have been very useful in establishing a working relationship between the organizations on areas of shared interest and concern.

The Health Committee took the opportunity at this most recent meeting to discuss UBCM’s proposal to formalize this relationship by establishing a Protocol on Consultation and Cooperation between the two organizations. It is gratifying to report that the proposal was extremely favourably received by the HABC Board and there was considerable discussion about what joint activities the two organizations might usefully engage in. Following on its approval in principle to proceed in discussions with UBCM, the HABC Executive Committee will meet with the Health Committee in July to further discuss the MOU content. Respective staff from UBCM and HABC will meet prior to develop a draft document for discussion. The membership of the organization will have the opportunity to review the Protocol proposal prior to approval.

For those unfamiliar with the organization, HABC is a non-profit organization that assists its members in improving the quality and delivery of health services in the province. HABC’s members are all the provincial health authorities as well as other health organizations (e.g., hospitals, long term care facilities, private facilities, non-profit health agencies). In terms of the health authorities, all 52 are members, (i.e., 11 Regional Health Boards, 34 Community Health Councils and 7 Community Health Services Societies). Membership in the association is voluntary, and supported by dues relative to the size of their budgets.

## ICI Society Formed

The Integrated Cadastral Initiative has been formalized as a registered society. Its purpose is to facilitate the exchange of geographic data among participating municipalities. Registering the Society came at the end of a year-long “proof-of-concept” phase. The concept is to establish a “data warehouse” to which participants would contribute certain parts of their geographic data in exchange for access to all the data stored there. The principal three participating groups would be local government, provincial government agencies and utilities such as BC Gas, BC Hydro and cable companies. Start-up and ongoing operational costs would be borne by the utilities and the provincial government with no direct local government contribution. Local governments’ major contribution would be its cadastral database where it exists. Each local government will have the opportunity to become a member by completing a membership application and signing a data licensing and sharing agreement. Membership is voluntary. Local government members will help select their 5 members on a 15-person Board or Directors. Given the New Era emphasis on e-government and moving to electronic transactions this is a leading edge initiative.

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**UBCM NEWS JUNE 2001**

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**BC Reps to FCM Board**

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**BC/FCM Travel Fund**

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**UBCM Health Committee Meets with Health Association Board**

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**ICI Society Formed**
Area Associations

2001-2002 AREA ASSOCIATIONS

Association of Vancouver Island & Coastal Communities

PRESIDENT: Councillor Mary Ashley
1ST VICE-PRESIDENT: Councillor Stan Dixon
2ND VICE-PRESIDENT: Mayor George James
PAST PRESIDENT: Mayor Frank Leonard
ELECTORAL AREA REP.: Councillor Rick Hardie
DIRECTORS AT LARGE: Councillor Bill Pfeifer, Councillor Pat Foster
AVICC/CRD CONSULTANT: Mayor Frank Leonard

The 2002 Convention will be in Campbell River.

Association of Kootenay and Boundary Municipalities

PRESIDENT: Director Rick Hardie
1ST VICE-PRESIDENT: Councillor Gord DeRosa
DIRECTORS AT LARGE: Councillor Stan Lim, Councillor Bill Pfeifer, Director Bill Baird, Director Don Munro, Councillor Bev Bellina

The 2002 Convention will be in Nakusp.

Okanagan Municipal Mainline Association

PRESIDENT: Councillor Ida Makaro
1ST VICE-PRESIDENT: Councillor Ron Cannon
ELECTORAL AREA DIRECTOR: Director Steve Quinn
DIRECTORS AT LARGE: Mayor Bob Baird, Mayor Gordon Daly, Mayor Tom Shields, Mayor George Waldo, Mayor Colin Mayes, Councillor Pat Wallace

The 2002 Convention will be at Silver Star (RD of North Okanagan).

North Central Municipal Association

PRESIDENT: Councillor Jim Thom
1ST VICE-PRESIDENT: Director Ted Armstrong
REGIONAL DIRECTORS: Mayor Peter Weeber, Mayor Harry Clarke, Mayor Tom Briggs,
Director Eileen Benedict, Director Greg Sehn, Mayor Fred Jarvis,
Councillor Paddy Greene, Councillor Mary Sjostrom, Mayor Sonny Beck,
Director Eileen Benedict, Director Mary Glassford, Director Mary Glaisford,
Councillor Pat Foster, Mayor Fred Jarvis, Mayor Mary Glassford

The 2002 Convention will be in Quesnel.

Lower Mainland Municipal Association

PRESIDENT: Councillor Jim Stangier
1ST VICE-PRESIDENT: Councillor Ann Claggett
2ND VICE-PRESIDENT: Councillor Sandy McCormick
DIRECTORS AT LARGE: Councillor Barbara Der, Councillor Faye Isaac, Mayor Bob Baird, Mayor Tom Shields, Councillor Barry Feamley

The 2002 Convention will be in Harrison Hot Springs.

Survey Plans Online

BC Assessment

VIA THE INTERNET

If time is important to you or you would like to provide your clients with fast and efficient services then this product will be of interest. Since it became available in October 1998 many users have reported they are pleased with the service for the following reasons:

• Plans can now be acquired online from any location within BC.
• Plans can be conveniently saved and stored electronically.
• The cost of acquiring a survey plan is often less than traditional methods of access.
• Once acquired plans can be easily transmitted to a client via e-mail.
• Multi-page strata plans are priced by the plan rather than page.

Recent user statistics indicate this new service is meeting the needs of many clients across the Province. If you are not a current user and would like to know more about this online product please visit the BC OnLine website at the following address:

http://www.bconline.gov.bc.ca
LOCAL GOVERNMENT PREVIOUS INVOLVEMENT

The BC Liberals commitment to share 75% of traffic fine revenues could be a significant boost to local government revenues. Currently “policing” municipalities (those over 5,000) received only the $10 million and that is a $3 million reduction this year. The Executive received information at their April meeting which provides some context as to the short history of the present program for sharing traffic fine revenues. It was based on sharing projected revenues and the table below shows the “then” projections for what would have been the amounts shared with the “policing” municipalities. It also shows the actual or currently revised traffic fine revenues allocated in the three budgets since its introduction.

The information reveals a number of things. First it shows that incremental (shareable) revenues did not keep pace with the forecasts developed in the report on which the original program was based. The actual shareable revenues beginning in 2000/2001 appear as a negative amount since the then-provincial government only agreed to share additional or incremental revenues to what they had already been receiving when the program began. In fact, the actual traffic fine revenues decreased below what the province was receiving when the program began. The data provided by the Ministry is also useful to analyze the new government’s platform which promises to share 75% of revenue, particularly in light of their other commitment to eliminate photo radar. For fiscal 2001/2002 there would have been net of photo radar $66.2 million ($78.5-12.3%). At 75% this would result in $49.9 million. As a contrast, municipalities received $9.9 million.

There may be design considerations that will have to be discussed with the new government, such as:
- do we share projected or actual revenues;
- what particular type of fines are included.

Nevertheless, this is a promising and fruitful area of potential increased funding.
## Building Blocks of New Ministry of Community, Aboriginal and Women’s Services

<table>
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<th>Parts to other Ministers</th>
<th>PREVIOUS MINISTRY</th>
<th>NEW MINISTRY</th>
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<tr>
<td>Attorney General</td>
<td>Municipal Affairs</td>
<td>Community, Aboriginal, and Women’s Services</td>
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<tr>
<td>Sustainable Resource Management</td>
<td>Women’s Equality</td>
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<tr>
<td>Competition, Science &amp; Enterprise</td>
<td>Community Development, Cooperatives and Volunteers</td>
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<td>Aboriginal Affairs</td>
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<td>Multiculturalism</td>
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<td>Small Business, Tourism &amp; Culture</td>
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<td>PEP FSAC, BC 2000 Disaster Appeal Board</td>
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<td></td>
<td>Child Care, Housing Policy</td>
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### VISIT UBCM’s WEBSITE FOR NEW INFORMATION ON PROVINCIAL GOVERNMENT STRUCTURE AND APPOINTMENTS

The UBCM Net workbook brings together a unique blend of local-provincial-federal and other group contacts list plus a great resource of professional listings. This year the NWB was published without the provincial component due to the then pending provincial election.

Now we are starting to compile the provincial component of the NWB as information becomes available. Advance working copies are available on the CivicNet home page and will be updated as new information is available.

In addition, you will find on CivicNet:
- election results
- list of MLA’s
- In the House circulars describing the changes to government.
  - Ministers Named to Restructured Government (June 5)
  - Introducing Your Ministers (June 8) and more on ministry responsibilities
  - Report on UBCM’s Government Transition Activities (June 20)

### OTHER RESOURCES ON NET

- Ministers list = www.gov.bc.ca/prem/popt/exec/
- Ministers’ info (click on above site)
- Ministry Responsibilities = www.gov.bc.ca/prem/popt/summary/
- Order in Council 565 - describes, in part, which Ministers have responsibilities for administration of provincial Acts: www.qp.gov.bc.ca/oic/oic_565.htm

## Transition

The ability to organize and direct various actions to achieve a specific goal. Task Construction Management is a proven performer in providing controlled solutions to complex building projects. Our experience in public building projects combined with our Fast Track expertise guarantees successful project completion. To find out how fast tracking really means, call us now and let us show you the bottom line effect on your project.

Projects Managed by TASK:
- Vernon & District Multi Use Facility
- Vernon & District Community Theatre Complex
- Cranbrook Recreation Complex
- Nanaimo Aquatic Centre
- Trail Aquatic Centre
- Trail Memorial Arena Conversion
- North Vancouver Tennis Centre
- Port Coquitlam Recreation Centre
- Whistler Rink and Pool
- Whistler Municipal Works Yard

## Control

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- Stormwater Management
- Soil and Sediment

- Nestor Treatment and Reuse
- Water Supply and Treatment
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A New Era for Local Government

Elements of the New Era for BC ... within 90 days

These are the New Era 90 day elements that are of direct relevance to the UBCM BC Communities Agenda, 2001.

- Pass a Community Charter to outlaw provincial government “offloading” of costs onto municipal gov-
  ernments, and to give local governments greater au-
  tonomy and better planning tools to reduce pressure
  on property taxes.
- Ensure that Crown corporations are subject to
  local zoning and land-use by-laws.
- Establish regional transportation authorities that
  are accountable to local taxpayers and give local com-
  munities more control over their transportation needs
  and planning.
- Promote clean and renewable alternative energy
  lines to leverage rapid growth in communications
  technology.
- Protect private property rights in treaty negotia-
  tions.
- Invest in research to promote forest stewardship.
- Create a market-based stumpage system that re-
  vives local harvesting needs.
- Apply 1% of all direct forest revenues, not includ-
  ing “super stumpage”, to global marketing of BC’s
  forest practices and products.
- Create a market-based stumpage system that re-
  spects global market realities and local harvesting
  needs.
- Invest in research to promote forest stewardship.
- Protect private property rights in treaty negotia-
  tions.
- Use public assets, like roads, railways and power
  lines to leverage rapid growth in communications
  infrastructure and broadband capabilities.
- Develop a Hospital Facilities Plan, that identifies
  each health region’s key capital requirements and
  funding priorities.
- Increase training spaces and recruitment of for-
  eign-trained nurses and physicians.
- Offer to negotiate a delegated, municipal-style of
  self-government with any First Nation that wants
  to move beyond the failed Indian Act.
- Increase program funding, together with the fed-
  eral government, to solve urban challenges and
  build capacity.
- Return 75% of all traf-
  fic fine revenue to munici-
  palities, to improve com-
  munity policing and crime
  prevention.
- Enforce auxiliary police officers are properly
  trained and armed to protect their communities.
- Pressure the federal government to fulfill its con-
  tractual obligation to fully fill all RCMP vacancies.
- Fight child prostitution and youth crime with
  legislation aimed at providing greater protection to
  those at risk of exploitation and greater parental
  responsibility for children who commit property
  crimes.

These are also a number of New Era elements that
will have indirect implications for local government in
BC. These are too numerous to mention, but a further
listing of these elements can be provided as required.

Elements of the New Era for BC

These are the New Era elements that are of direct relevance to the UBCM BC Communities Agenda, 2001.

- Outlaw “offloading” of provincial government
  costs onto the backs of local property taxpayers.
- Implement a flexible, innovative program to in-
  crease the supply of affordable housing.
- Push for provincial control over the management
  and revenues of BC’s offshore fisheries to improve
  fisheries management and protect fishery jobs.
- Increase funding for the British Columbia Arts
  Council to promote and support BC arts, music, artists
  and performance venues.
- Establish a working forest land base, to provide
  greater stability for working families and to enhance
  long-term forestry management and planning.
- Pass real comprehensive ground water legislation
  to improve the quality of British Columbians’ drink-
  ing water.
- Promote clean and renewable alternative energy
  sources like wind, thermal, solar, tidal, biomass and
  fuel cell technologies.
- Work to extend high-speed, broad-band Internet
  access to every community in BC through wireless
  technology, cable, phone lines and fibre optics.
- Establish provincial health standards that ensure
  all citizens in every part of the province are entitled to
equitable, reliable, high quality health services.
- Develop a 10-year human resource plan, that prop-
  erly provides for the training, recruitment and reten-
tion of physicians, nurses, specialists and other health
  care providers in every area of the province, and that
  addresses critical skills shortages and staffing levels in
  under-serviced areas.
- Establish a Rural and Remote Health Initiative to
  ensure all families get the care they need, where they
  live, when they need it.
- Ensure that appointees to regional health boards
  are representative of their communities’ needs and
  accountable for their performance in meeting provin-
cial health standards.
- Ensure that our rural communities have the health
  and education services they need.
- Give local governments more control over their
  affairs through a new Community Charter.

Elements of the New Era for BC

These are the New Era elements that will have a direct impact on local government and/or UBCM policy.

- Give ambulance attendants better access to train-
  ing and education.
- Give foreign-trained nurses and physicians a
  chance to leverage rapid growth in communications
  technology.
- Provide a flexible, innovative program to in-
  crease the supply of affordable housing.
- Promote clean and renewable alternative energy
  lines to leverage rapid growth in communications
  technology.
- Establish regional transportation authorities that
  are accountable to local taxpayers and give local com-
  munities more control over their transportation needs
  and planning.
- Increase funding for the British Columbia Arts
  Council to promote and support BC arts, music, artists
  and performance venues.
- Establish a working forest land base, to provide
  greater stability for working families and to enhance
  long-term forestry management and planning.
- Pass real comprehensive ground water legislation
  to improve the quality of British Columbians’ drink-
  ing water.
- Promote clean and renewable alternative energy
  sources like wind, thermal, solar, tidal, biomass and
  fuel cell technologies.
- Work to extend high-speed, broad-band Internet
  access to every community in BC through wireless
  technology, cable, phone lines and fibre optics.
- Establish provincial health standards that ensure
  all citizens in every part of the province are entitled to
equitable, reliable, high quality health services.
- Develop a 10-year human resource plan, that prop-
  erly provides for the training, recruitment and reten-
tion of physicians, nurses, specialists and other health
  care providers in every area of the province, and that
  addresses critical skills shortages and staffing levels in
  under-serviced areas.
- Establish a Rural and Remote Health Initiative to
  ensure all families get the care they need, where they
  live, when they need it.
- Ensure that appointees to regional health boards
  are representative of their communities’ needs and
  accountable for their performance in meeting provin-
cial health standards.
- Ensure that our rural communities have the health
  and education services they need.
- Give local governments more control over their
  affairs through a new Community Charter.

MURDY & McALLISTER
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Since 1980 our firm has restricted its practice to acting for local government and providing advice concerning municipal law to other clients.
Victoria Airport

When visitors arrive at Victoria’s newly expanded airport, they will immediately look up in order to enjoy the view.

They won’t be looking at airplanes or clouds; instead they will be admiring the beauty of the exposed glulam trusses, which are part of the ceiling system. Renovations currently underway at the Victoria International Airport will help showcase the capital region’s natural environment, in particular, the greenery and climate for which the area is known.

“We have a landscape and climate geography here on the southern tip of Vancouver Island that we are very proud of, and we want to incorporate that natural environment into our expansion plans at our port. We want to incorporate that natural environment into the natural environment into the airport,” says Richard Paquette, President and Chief Executive Officer of the Victoria Airport Authority.

The airport expansion project was started in the summer of 2000 and is scheduled to be finished in the summer of 2002. The expansion will be completed in three phases with a number of steps within each phase. The $21 million project will include a new and enlarged baggage claim area, passenger hold rooms, Canada Customs and security clearance areas, retail services, passenger check-in facilities and a new aircraft observation lounge.

In keeping with the natural theme, the modernized airport will feature composite trusses that incorporate glulam beams as the top and bottom chords with steel webs. The Glulam beams will remain exposed within the structure and will be complemented by wood accents in various areas of the terminal.

“We feel the exposed wood of the trusses and the wood panel usage will reinforce the natural look that we are working towards,” added Paquette.

Brian Watson, President and General Manager of Western Archrib, the truss supplier for the project, said the trusses will be a structural component as well as an architectural feature of the airport.

“One of the interesting aspects of this project is that the roof was originally intended to be structural steel,” Watson said. “However, the architect (Tom Moore of Moore, Paterson Architects Inc.) decided to explore the use of engineered wood products in the roof system and ultimately specified the glulam trusses.”

Adding to the appeal of utilizing glulam beams in the trusses, was the fact that the engineered wood product can be designed and produced as a curve without adding substantially to the cost. In the case of the Victoria Airport, both the top and bottom chords will be curved.

As well as being cost effective, the use of wood is the most environmentally friendly choice. The ATHENA™ Sustainable Materials Institute assessed the environmental impact of wood, steel and concrete on a three-story office building. The wood design embodied 39 percent less energy, produced 20 percent less global warming potential, emitted 16 percent less air pollution and 70 percent less water pollution.

Once the airport renovations are complete, the airport will have an annual capacity of 1.8 to 2.0 million passengers from the current capacity of 1.2 million passengers per year.

Province Responds to 2000 UBCM Resolutions

A total of 94 resolutions were forwarded to the provincial government for consideration following the 2000 UBCM Convention. The responses were received from the provincial government just prior to the provincial election call.

Of the 94 resolutions, 6 were either of a federal nature or conveyed to the Provincial Government for their information only. Therefore these resolutions have not been included in the summary to follow. Also a number of resolutions were referred to UBCM Committees for consideration following the Convention. These resolutions are not included, as they have been conveyed separately to the appropriate ministries for consideration.

Of the remaining 88 resolutions, the previous Provincial Government indicated a willingness to consider changes proposed in 34 of the resolutions and advised that it was not willing to consider changes in 31 of the resolutions. Fourteen resolutions have already been addressed, or at least partially addressed. In addition, the Provincial Government indicated that it would be willing to undertake further study or review of 9 resolutions.

Sponsors have been mailed copies of the responses to their resolutions. Copies of the full provincial report are available upon request. The report can also be viewed on the UBCM web site (www.civicnet.gov.bc.ca).

Members are reminded that the UBCM web site is an important source of information for researching previous resolutions. Are you wondering if a specific resolution has been considered by UBCM previously? Simply log on to the UBCM website and you can search ten years worth of UBCM resolutions and determine if your issue has been considered, endorsed and how the Province responded. Simply plug in some key words and let the computer do the work. If you have any problems or enquiries please contact Marie Crawford at the UBCM office.

Another important reminder – the deadline for submission of UBCM resolutions is JUNE 30th.

AIRPORT VIABILITY

The Council of Deputy Ministers for Transportation is undertaking a study into the medium and long term viability of medium to small airports across Canada.

Regional Airport Viability after devolution

The study pointed out that roughly 40% of the airports did not break even in 1999 and did not expect to do so in 2000, and that 85% of the airports would not meet their capital budgets over the next 5 years.

Federal regulations and CAR 308

The analysis of the CAR 308 issue indicated that the cost was substantial and

Continued on page 21
LIQUOR POLICY CHANGES

The Liquor Control and Licensing Branch is proceeding with the changes proposed to provincial liquor policy. The key recommendations as they pertain to the licensing application process and the role of local government are as follows:

- Local government is to be informed of all new licence applications or changes to a licence that involve hours of service, entertainment, or person capacity.
- Local government need not provide comment to LCLB.
- New applicants for liquor primary establishments will apply for a capacity increase; e.g., 65, 125, 225, 350, and over.
- A series of templates will be developed which local government would employ in assessing licence applications.
- Applications to be categorized into differing levels of potential government i.e. low, medium, and high will allow for differing levels of public consultation by local government. For low impact applications, local government may decide not to comment; medium applications would require public notice of the application; and high impact applications would also require public notice and a determination by local government that the majority of residents within a reasonable distance support the application.
- LCLB will only override a local government’s recommendation if there are compelling public interest issues such as fairness and due process or if there are problems in the community associated with licence proliferation.

The Branch is moving from the first phase of the changes under which enforcement measures have been increased, restaurants can apply to have drinking seats, and existing liquor establishments may apply for capacity increases. Under the first phase of these changes, local governments were asked whether or not they were interested in increasing the licensed capacity of their establishments to the building/fire code level of each local government was notified as to which licensed establishments in the community were interested.

Local government under the new liquor regulations has two options. The first option is that the local government can notify the Branch that it does want to be involved in the determination of liquor issues in the community, which will leave the decision making powers on this matter with the province. The second option is that the local government can agree to review and comment on the recommendations by local liquor establishments for capacity increases and by restaurants for serving liquor without food.

Local governments that choose the second option need to work with their local licensed establishments which have requested a capacity increase to set the building occupancy load and ensure that the building meets all of the bylaw requirements related to the capacity increase (i.e. number of washrooms, parking, fire exits, zoning etc.) Local governments have been requested to deal with this initial request in phase one on a batch basis, either as single batch dealing with all of the requests in the community or as a number of batches based on different areas in the community. Local governments which have chosen to review the applications for increased capacity increases and drinking seats in restaurants are required to provide a resolution indicating whether or not the community supports the request. In considering this request the local government may include such issues as the traffic, noise, road access, availability of parking, policing concerns and any other matters it considers relevant from the community’s perspective. In addition, the local government has the ability to recover its costs in reviewing the requests for changes in liquor licences in the community.

There is a growing concern by the liquor industry related to the timeliness of local government approvals for capacity increases and the fees that some local governments have implemented to recover their costs. A number of concerns have been raised at the Liquor Regulation Advisory Panel on the lack of response by some local governments to industry’s request and the fees some communities have introduced to review the requests.

Environmental Tobacco Smoke Regulations: Implementation Update

Contributed by Scott McCloy, Director of Communications, Workers’ Compensation Board of BC

Following a comprehensive series of public consultations, the Workers’ Compensation Board (WCB) has amended the Environmental Tobacco Smoke regulations. The amendments extend protection from second-hand tobacco smoke to all BC workers, including those who work in the hospitality sector. All hospitality, long term care, and provincial correctional workplaces are required to comply with the amendments effective September 10, 2001. In the interim, WCB Prevention Division staff are actively working to assist hospitality employers through out BC to understand how to provide a safe workplace.

The amendments provide reasonable options to protect workers through designated smoking areas or other equally effective means. Designated smoking areas include safe, outdoor locations and separately ventilated indoor smoking rooms that workers must not enter except in an emergency, where there is a requirement to investigate for illegal activity, or until the smoke has been effectively removed.

Educational materials have been mailed to all hospitality establishments outlining what is required, along with suggestions on how to best protect workers. This, combined with on-site visits, will assist in making the transition as smooth as possible. For information purposes, the educational materials are also being sent to all municipalities in the province.

The WCB anticipates many hospitality establishments will opt to build designated smoking rooms, which will require municipal building permits. For more information on the second-hand smoke issue, please refer to the WCB’s web site at www.worksafebc.com. Questions may also be directed to the WCB office nearest you, or to the WCB’s Communications Department at (604) 276-3113 or toll-free 1-800-661-2112. The WCB’s only regulatory concern is to protect the health of workers. There is another regulatory body, the Liquor Control and Licensing Branch, which is responsible for managing liquor control. The WCB is working in cooperation with the LCLB to implement the new environmental tobacco smoke provisions.

The LCLB requirements can be viewed on the Branch’s web site at www.ag.gov.bc.ca/lclb.

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Policy Updates

Environmental Tobacco Smoke Regulations: Implementation Update

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The LCLB requirements can be viewed on the Branch’s web site at www.ag.gov.bc.ca/lclb.
Meetings were held on April 10, 2001 between Mayor Steve Wallace, as an FCM Board of Directors Member and spokesperson for the BC Airport Common Front, and the Honourable David Collelente, Minister of Transport, in Prince George to discuss the status of the proposed Crash/Fire Regulation (CAR 308). The outcome of that meeting was an understanding that Transport Canada staff would meet with a small group of local government staff to discuss possible changes to the regulation. The Transport Minister also agreed to meet with a small group of elected officials in late June before making a final decision on the regulation.

The meeting with Transport Canada staff took place on May 25, 2001 in Ottawa. Transport Canada staff indicated that there needed to be a comprehensive regulatory framework that covered all airports across Canada:

- Car 303 (large airports)
- Car 308 (medium sized airports)
- Car 302 (small airports covered by emergency plans - want written agreement with the provider of the service included as part of the plan)

They indicated that they had been directed by the Minister to develop a regulatory framework that established some basic air traffic safety standards across Canada.

The regulation was needed to meet Canadian obligations for air safety under international air traffic agreements that it had signed. It was also looking at a performance-based framework, which attempted to balance the risks of an airline accident and public expectations of air safety.

Transport Canada staff put forward some suggested changes to the regulation which would cover medium sized airports. The changes proposed to the new regulatory framework (CAR 308) by Transport Canada were the following:

- **Notification by operators 30 days in advance** concept remains;
- Not one movement of a jet per year - reasonableness regarding starting/stoppage of the service (e.g. market tests).

Under the proposed changes the type of aircraft and not the number of flights in and out of a community would trigger the application of the regulation. Transport Canada proposal accepted that there was a need to ensure that the landing of a single turbo jet as an airport or the decision by an air carrier to test a market in a community was not something that would not automatically require it to provide additional crash/fire services.

- **Provided an additional category of airport that would allow for crash/fire service to be provided to an airport without a trained first interventor being on-site.**
- **Provided that the landing of a jet service would be eliminated from three of the smaller communities identified above, but is not known what type of airplanes they will be replaced with or whether a new type of jet service will be contemplated in the future.**

The regulation may require that small to medium sized airports in the future to determine what kind of service an air carrier can provide at the airport - as jet service would substantially add to the airports costs – and this would substantially change the nature of the regional air transportation network within British Columbia.

The financing of airports remains an ongoing problem, as the federal government is not willing to accept that the federal government in a more effective and efficient manner, these problems can be dealt with by the three levels of government in its land use decisions will be based on its compliance with the setback standards. There will need to be an increased financial commitment from the provincial government in this process. There will need to be an increased financial commitment from the local government.

The new regulatory process is intended to allow the local community to establish a balance between ongoing development and the protection of fish habitat. The new system also allows for greater community control of the decision-making process and brings together federal, provincial and local government decision makers to deal with specific concerns that may arise. The process provides a forum where these problems can be dealt with by the three levels of government in a more effective and efficient manner, providing for fewer delays in determining what types of developments can go ahead.

WCB for Volunteer Firefighters

As a result of the denial of a WCB claim for a Volunteer Firefighter training at the Justice Institute, the claim was allowed by a review a matter of weeks later a committee was formed to look at WCB Fire Fighting issues, in particular those involving volunteers.

As a result of these meetings the WCB will be publishing a manual of most commonly asked questions by Fire departments along with the policies and regulations affecting them. It is hoped the manual will be distributed this summer to all departments. It was also determined that regulation 730 “Members of Fire Brigades”, which covers volunteer fire departments was quite old and did not cover what regulations were doing today. As a result the UBCM Executive has requested that WCB review regulation 730 and update it to reflect what these volunteer departments are doing.

The Committee is made up of WCB representatives, Fire Chiefs Association of BC, Volunteer Fire Fighters Association of BC, BC Professional Fire Fighters Association, the Ministry of Environment and Forests of BC, the Fire Commissioner’s Office and UBCM.
Nomination Procedures for the UBCM Executive

The ongoing administration and policy determination of the UBCM is governed by a 19-person Executive Board that is elected and appointed at the Annual Convention.

There are ELEVEN elected positions:
- President
- First Vice-President
- Second Vice-President
- Third Vice-President
- Director at Large (5 positions)
- Small Community Representative
- Electoral Area Representative

There are seven appointed positions:
- Immediate Past President
- Vancouver Representative
- GVRD Representative
- Area Association Representatives - AVICC, AKBM, OOMA, NCMA and LMMA

Nominating Committee - is appointed under provisions of the UBCM bylaws and is composed of the Immediate Past President and representatives of the five Area Associations.

The Nominating Committee is responsible for overseeing the nomination and election process.

The Nominating Process

June

Nominating Committee has circulated a Call for Nomination notice that contained the following information:
- positions open for nomination
- process for nomination
- qualifications for office
- role of Nominating Committee
- closing date for nominations (prior to Convention)
- general duties of an Executive member

It included instructions on how to access additional information on UBCM Executive responsibilities and how, preferably, to submit a nomination.

July 31

Nominations close - all candidates must have their documentation submitted.

Following that deadline, the Nominating Committee will review the credentials and prepare its report. It is not the role of the Nominating Committee to recommend any one nomination. The Committee ensures nominations are complete and are according to policies and procedures.

Mid-August

The Nominating Committee report will be distributed to all UBCM members which will include:
- names of members and positions
- photo (to size-set by Nominating Committee Chair)
- biographical information. The maximum length of such information shall be 300 words. If the information provided is in excess, the Nominating Committee Chair shall return it once for editing; if it still does not meet the maximum the Nominating Committee Chair shall edit as required.

For further information on the nomination and election process contact the Chair, UBCM Nominating Committee

Towers Perrin

Management Consultants
1100 Melville Street, Suite 1600
Vancouver, B.C. V6E 4A6
604 691-3002 Fax: 604 691-3062
Offices in Vancouver, Calgary, Toronto & Montreal

Convention Web Site

Each year a section of CivicNet is dedicated to the UBCM Annual Convention. Information on the convention will be posted to the website at the following address:

http://www.civcnet.gov.bc.ca/ubcm/convention-2001

The site includes information on the:
- Convention Theme
- President’s Message
- Convention Brochure and Registration Form
- Venues and Accommodations
- Registration and General Business Information
- Pre-Convention Sessions
- Convention Workshops and Clinic Series
- Networking Events
- Partners Programs
- Provincial Participation; and the
- Convention Program

Questions regarding the UBCM Convention can be directed to ubcm@civcnet.gov.bc.ca or Phone: 604-270-8226.

2001 UBCM Convention Registration

Registration packages for the 98th UBCM Convention (Sept. 24 – Sept. 28) in Vancouver will be mailed to members and others in early July. Take advantage of “incentive” rates until August 24.

Convention “bulletine” will be circulated from July to October to give members up-to-date details on some of the individual components of this year’s event.

Accommodations should be booked immediately. A list of hotels holding room blocks for UBCM can be obtained by calling 604-270-8226. In consideration of other delegates, please release any unused rooms as soon as possible.

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<th>Year</th>
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Municipal Marketplace Tradeshow & Exhibition

at the 98th Annual UBCM Convention September 26th and 27th, 2001

Vancouver Convention & Exhibition Centre

THE UBCM TRADESHOW & EXHIBITION is your opportunity to do business and gain exposure to local government decision-makers and purchasers. The Municipal Marketplace Tradeshow & Exhibition only happens every two years and already 90% of the 2001 booth space is sold. Book your space now before it is too late!

For exhibitor information call: Lemaire & Co. Event Management at 604-730-0535

Note to UBCM Members: This is YOUR opportunity to meet the service providers - please let us know who you would like to see on the tradeshow floor! Fax leads to UBCM: 604-270-9116.
WHERE DOES THE CONVENTION TIME GO?

The duties, powers and functions of the Minister of Aboriginal Affairs and the Ministry of Aboriginal Affairs respecting Negotiations, Negotiations Support and Treaty Settlement and Implementation Costs, have been transferred to the Attorney General and Minister Responsible for Treaty Negotiations, the Hon. Geoff Plant. Negotiation and implementation of interim measures including treaty related measures are also the responsibility of this ministry. Philip Steenkamp remains Deputy Minister for the treaty negotiations responsibilities of the ministry.

The Ministry of Municipal Affairs is renamed the Ministry of Community, Aboriginal and Women’s Services. The duties, powers and functions of the Minister of Aboriginal Affairs and the Ministry of Aboriginal Affairs that are not transferred to another minister or ministry by order in council are transferred to the Minister of Community, Aboriginal and Women’s Services. These appear to include: Aboriginal services; the First Citizens Trust, the First Peoples’ Heritage, Language and Cultural Advisory Board; and the Native Economic Development Advisory Board.

The Liberal government’s New Era platform includes a number of positions and priorities related to First Nations. Those of particular interest to local government include:

• Fast-track treaty talks, to conclude fair treaty settlements.
• Work to expedite interim measures agreements with First Nations, to provide greater certainty during treaty talks.
• Protect private property rights in treaty negotiations.
• Give all British Columbians a say on the principles that should guide BC’s approach to treaty negotiations, through a one-time, province-wide referendum, within our first year.
• Offer to negotiate a delegated, municipal-style of self-government with any First Nation that wants to move beyond the failed Indian Act.
• Introduce a legislative framework for legally respecting aboriginal rights protected under the Constitution in the absence of treaties.
• Seek clear direction from the Supreme Court of Canada on constitutional questions about aboriginal self-government.

Where does the Convention time go?

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<th>UBCM CORPORATE BUSINESS SESSIONS</th>
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<td>Annual Meeting</td>
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<td>Nominations Reports/Candidates speeches</td>
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<td>Leader of the Official Opposition</td>
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| Resolutions | 6.00 |
| Policy Plenaries | 1.50 |
| Seminars | 4.00 |
| Provincial Keynotes | 1.75 |
| Miscellaneous | 1.00 |
| Theme Address | 1.00 |
| Clinics | 3.00 |

2001 HOURS

Resolutions Policy Plenaries Seminars Provincial Keynotes Miscellaneous Theme Address Clinics

- Resolutions
- Policy Plenaries
- Seminars
- Provincial Keynotes
- Miscellaneous
- Theme Address
- Clinics

WHERE DOES THE CONVENTION TIME GO?

There was considerable interest following last year’s convention in time available for consideration of resolutions and this is a top priority of both the Convention and Resolutions Committees. We thought delegates might be interested in the “time-budget” for a UBCM Convention. There is just over 1,000 minutes (17 hours) available during the business sessions on the Wednesday to Friday programs. Over 50% of the time goes to policy development and the mandatory corporate business sessions with the bulk for resolutions and policy papers (45%).

A quarter of the time is presently set aside for workshops or seminars and the remaining quarter a variety of other activities, most notably the featured address.
Aboriginal Updates

UBCM RESPONDS TO MAJOR POLICY ISSUES CONCERNING TREATY SETTLEMENT LAND

The UBCM Aboriginal Affairs Committee has recently considered two issues related to treaty negotiations of key importance to local governments. These issues are:

- Additions to Treaty Settlement Lands Post-Treaty
- Inclusion of Private Lands in Treaty Settlements

Director Aaron Dinwoodie, Chair of UBCM’s Aboriginal Affairs Committee has sent a letter to the then Ministry of Aboriginal Affairs explaining the interests, concerns and expectations of local governments in relation to each of these issues. Copies of these letters have been sent to all UBCM members.

With respect to private land and referencing the draft Agreement in Principle from the Stoneyumuxw First Nation made public last February, Director Dinwoodie writes:

“Recognizing that in urban areas land of any size will be difficult since Crown land is scarce, the idea of acquiring private land pre-treaty on a willing seller-willing buyer basis and then treating such settlements as modern addition of property taxes to local government, to avoid loss of tax base.

Land selection process with timely and complete local government input conducted first, to avoid haphazard selection of parcels including one that may have key significance to local government; and

Continued application of local government bylaws (i.e. remaining under existing jurisdiction) to avoid incompatible land uses and potential land use conflicts.

As the approaches described above evolve, we see an erosion of responsiveness in addressing local government interests. UBCM suggests that there is a need to revisit the province’s approach to private land and in a way that will address local government interests while recognizing the practical realities of treaty settlements in urban areas. Local governments would be prepared to provide further input as part of this review.

Additions to Treaty Settlement Land after treaties are finalized is another policy issue of vital interest to local governments. Because of this, the Aboriginal Affairs Committee has monitored provincial negotiations on this issue carefully and sought member input on local government interests last year. With respect to adding land to Treaty Settlement areas post-treaty, Director Dinwoodie tells the province that:

“The idea of adding on to TSL after a treaty was finalized is of central interest to our members because of our number one priority that treaties result in certainty on the land base. Not surprisingly then, when we have explored with local government representatives under what conditions First Nations should be able to purchase fee simple lands and convert them to settlement land, the majority have simply stated that there should be no conversion of fee simple land. In other words, First Nations may obtain additional lands in fee simple post-treaty, but no change in jurisdiction should take place. This is our first preference.

Where, because of extraordinary circumstances, it is impossible to avoid a provision in treaties that allows for addition of lands to TSL after treaty, our members have under a clear preference for the “Sechelt Model” where conversion of fee simple lands to TSL are tied to time and quantity limits, and explicit local government involvement.

In conclusion, it is our view that additions to TSL post-treaty if over-used and used without the necessary considerations should be restricted to avoid a provision in treaties that allows for addition of lands to TSL after treaty, our members have under a clear preference for the “Sechelt Model” where conversion of fee simple lands to TSL are tied to time and quantity limits, and explicit local government involvement.

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SNUNEYMUX TREATY RELATED MEASURE-PROGRESS UPDATE

On April 26 and 27, 2001, the Central Interior saw its first Community Forum, held in Prince George. Over 50 participants registered from the Lheidli T'enneh Band, the City of Prince George, the District of Mackenzie, the McLeod Lake Indian Band, the Villages of McBride and Valemount, and the Regional District of Fraser-Fort George. In addition to resources contributed by the participants, funding for the forum was provided through the Union of BC Municipalities, the Municipal Finance Authority and B.C. Hydro.

The main objective was to establish communications between First Nations and Local Governments. The forum was organized by Michael Bozozi (Lheidli T’enneh), Adele Chingee (McLeod Lake Indian Band), Kerry Pateman (City of Prince George) and Finlay Sinclair (Regional District).

A dinner in the new Exploration Place in Prince George, which was a chance for participants to informal chat and get to know one another while having a bit of fun at the new centre! The Friday workshop, held at the Native Friendship Center, provided an opportunity for participants to learn more about the various Governments and communities, and to identify common themes and issues that participants want to work together on. The tone of the evening was extremely friendly and participants appreciated the time to get to know each other better. Issues covered included: economic development, intercommunity communication, municipal services, land use, land claims negotiations, and how to

Continued on page 22

LOCAL GOVERNMENT CONSULTATION WITH FIRST NATIONS

CORRESPONDENCE from our members over the last few years, particularly since the December 1997 Supreme Court of Canada decision in the Delgamuukw case, clearly shows the increasing interest of many First Nations in local government land use decisions. This growing interest also springs from the fact that for most First Nations, the treaty process has not yet provided greater access and control over lands and resources within what they identify as their traditional territory. At the same time, some of our members have told us that they are not sure how to deal with increased interest by and expectations of some First Nations regarding their role in land use matters. Finally, recent changes to the Local Government Act create new considerations for local governments with respect to consultation with First Nations on Community Plans (OCPPs).

To respond to member requests, UBCM has sent out member an overview of First Nation-related consultation issues affecting local governments. The purpose is to provide some clarity on local government obligations and some reference points to assist in understanding this issue.

Continued on page 22

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Increasingly, what local governments do within their areas of jurisdiction is no longer merely of local interest. Major developments in the interpretation and negotiation of trade agreements in recent years have extended the reach of accords right into the local town hall.

Zoning, NAFTA, and the Metalclad Decision

On May 2, 2001, British Columbia Justice David Tysoe made a decision in the B.C. Supreme Court review of the Metalclad case. This case involved a complaint against the government of Mexico taken to a North American Free Trade Agreement (NAFTA) Tribunal by a U.S. toxic waste company—Metalclad. The NAFTA Tribunal had ruled in Metalclad’s favour and awarded US$17 million in compensation. But the B.C. Supreme Court in this case ended up being reviewed in a Vancouver court room, which might have had the most merit, are complex questions. But one statement Justice Tysoe made in his decisionstands out. Tysoe said that even “legitimate” rezoning is in jeopardy because of how the Tribunal had defined the concept of expropriation in NAFTA:

"The Tribunal gave an extremely broad definition of expropriation for the purposes of Article 1101. In addition to the more conventional notion of expropriation involving a taking of property, the Tribunal held that expropriation under the NAFTA includes covert or incidental interference with the exercise of property rights because the effect of depriving the owner, in whole or in significant part, of the use or remuneration obtainable due to the economic benefit of property."

How the WTO Committee on Services Agreements Can Affect Local Governments

The services agreement.

WTO negotiators are working to expand the General Agreement on Trade in Services (GATS) to cover all domestic services completely, including the one the City of Victoria, for example, the Supreme Court ruled that the City of Victoria did not have to pay any compensation for a "downzoning".

The WTO Negotiations on Services

At the same time the Metalclad decision was in the Courts, negotiating guidelines were being finalized to expand another international trade and investment agreement that could strongly impact local governments. In March 2001, the guidelines were finalized at the World Trade Organization negotiations on services. The net advantage of the WTO says that even "legitimate" rezoning is in jeopardy because of how the Tribunal had defined the concept of expropriation in NAFTA:

"The Tribunal gave an extremely broad definition of expropriation for the purposes of Article 1101. In addition to the more conventional notion of expropriation involving a taking of property, the Tribunal held that expropriation under the NAFTA includes covert or incidental interference with the exercise of property rights because the effect of depriving the owner, in whole or in significant part, of the use or remuneration obtainable due to the economic benefit of property."

The European Community has demonstrated a keen interest in having water delivery services supplied by foreign corporations, since it sees its companies as particularly competitive in this area. This puts the public delivery of water services potentially in question. While there is an exclusion in the agreement for services "supplied in the exercise of governmental authority", it is very restrictive and WTO members have already been interpreted "narrowly".

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Continued on page 23
Member Visits

Each year staff meet with municipalities and regional districts in their municipal halls and board offices as part of our ongoing commitment to local government. In late April UBCM staff met with staff and elected officials at ten municipal/regional district offices on Northern Vancouver Island. Take a few minutes to review the following photos taken by staff, which highlight some of the stops on the member visits to Tahsis, Gold River, Sayward, Zeballos, Alert Bay, Mount Waddington Regional District, Port McNeill, Port Hardy, Port Alice and Campbell River.
Courses and Resources

“A PERSONAL FOCUS OR COLLECTIVE FOCUS?”
By Eli Mina, P.R.P.

“I am the one who made this motion, so where is my name in the minutes?” says one councillor, with passion and indignation. “How come the minutes don’t show that I said ___? It’s very important that citizens know exactly how I spoke about this issue. I thought I asked you to record my comments. How dare you refuse to respect the wishes of a duly elected official?”, says another councillor, with an ominous and threatening tone.

Council members often attach a great deal of significance to what individual members say or do. In fact, under parliamentary procedure, what individual members say or do is much less significant than what council as a collective decision making body decides. This article shows you examples of shifting the focus in your meetings from personal to collective.

Who moved and seconded the motion?

There is a virtual obsession with recording names of movers and seconders of motions. Clerks take great care when doing it, to avoid being criticized for getting the wrong name in the minutes. Councillors take great pride in making or seconding a motion. If the motion is adopted, they can go back to their constituents and gloat about their success. Conversely, if the motion is defeated, they can prove that they ‘tried to get the motion through’ (by moving or seconding it), and that their efforts would have been fruitful, had it not been for other councilors voting against the motion.

The fact is that, from a procedural perspective (consistent with Robert’s Rules and other books), the above practices make no sense. Here are a few points to consider:

First, the maker of a motion, though not entitled to speak against his or her motion, is entitled to vote against it. This is reasonable, because movers are free to listen to comments and change their minds about the motion they made. If this indeed occurs, putting the mover’s name next to the motion may give the false impression that he or she voted in favour of it.

As to seconding a motion: The person who second a motion does not indicate support for it, but only agreement that the motion should be discussed. Indeed, a member may second the motion because they strongly oppose it and would like the assembly to go on record as rejecting it. With this in mind, recording the seconder’s name in the minutes can give the false impression that the individual supported the motion. It makes no sense.

Here is yet another scenario to consider: Suppose a motion was never seconded, but no one complained about it at the time. Members went ahead and discussed the motion and then voted on it. Could someone then raise a point of order about this violation and claim that the process was invalid? The answer is no. After discussion on a motion has begun, the lack of a second (or seconding) becomes immaterial. Why? Because the assembly, by its action, indicated that it wanted to discuss the motion. The collective wish is stronger than the wish of one individual.

Finally, suppose a motion is not moved nor seconded, but the chair simply reads it from a report and opens it for discussion. Is this process OK, or would the lack of a mover and seconder invalidate it? The answer is: The process is OK. The chair can assume a motion and place it on the floor. The moving and seconding steps are not essential.

The conclusion from the above discussion is NOT that you should stop moving and seconding motions, especially if people are accustomed to this formality and cherish it. However, you should seriously consider removing names of movers and seconders from the minutes. The minutes should have a collective focus, not a personal one.

In short, how a motion is introduced (whether by being moved or seconded, or being read by the chair, or by any other method) is not all that significant. The three things which are significant are the following:

• The precise wording of the motion (everyone should know what they are voting on).

• The fact that the motion is opened for discussion and amendment.

• The fact that the motion is put to a vote.

What did each individual say?

Diverse expectations exist about how much of the discussion should be recorded in the minutes of a meeting. On one extreme, you’ll find people who want detailed minutes, or a verbatim (word-for-word) record of every word uttered at the meeting. On the other hand, there are those who want nothing except the decisions made (i.e. The motions and whether and how they were adopted or defeated). Which is the right way?

The latter approach is the one advocated in Robert’s Rules. It captures the decisions made and records none of the discussion. The focus is definitely collective, and all personal comments are removed. However, for many councils this approach is inadequate. Members want to record not only the decisions made, but also the collective thought process that led to the decisions. Can this goal be achieved without recording what each person said?

Continued on page 17

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municipal:
A Personal Focus or Collective Focus?

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The answer is yes. The minutes can retain the collective focus, and the discussion can be summarized without recording individual comments (which would be a personal focus). How? Produce concise point-form summaries without mentioning any names. For example:

"A proposal to purchase IT equipment was discussed. The main points in favor of the proposal were:
1. A positive impact on ______.
2. ___________
3. _________
"

Second, this format eliminates unnecessary repetition. If the same point was made by five members, it only needs to be recorded once.

How did each individual vote?

When it comes to determining the fate of a motion, the only thing that matters is the collective outcome. To be adopted, a motion usually requires a majority vote; i.e., more votes counted in favor of the motion than against it. Under this principle, it doesn’t matter how many members voted. The only totals count when determining whether a motion is adopted or defeated.

With the above argument, there would be no need to record how each individual voted. Consequently, a collective decision making body. Responsibility and accountability for council’s decisions are collective, not personal. However...

Given that council members are elected by the general population, there can be some political significance to knowing how an individual voted on key issues. With this in mind, councils often adopt a rule which allows members to demand that the minutes show how they voted on specific motions.

It should be noted that how a councilor voted has greater significance than whether she or he moved or seconded a motion or what she or he said in the discussion. Members bring amounts to a final and definitive commitment to a course of action. Therefore, recording how a councilor voted is justified only when a personal focus can be justified.

Note the following points:

First, no names are mentioned in the minutes, and comments are attributed to individual members. The collective focus is retained.

Second, this format eliminates unnecessary repetition. If the same point was made by five members, it only needs to be recorded once.

Elie Mina MSc, P. R.P., is a professional meeting facilitator, seminar leader, book author, and registered parliamentarian. He specializes in chairing contentious meetings, demystifying and humanizing the rules of order, and leading interactive training programs. Elie can be reached at (416) 730-0377, or by e-mail at elie@elimina.com.

He is the author of "The Complete Handbook of Business Meetings," recently published by the American Management Association (AMACOM Books) as well as other training materials. Elie is a member of the Canadian Standards Association (CSA) Technical Committee on Park Model Trailers.
The facts in Bavelas v. Saanich (District) are as follows: Saanich owned property in a rural area of Saanich. On part of the property, Saanich owned a road and a marsh. The marsh was part of a natural watercourse. Upland from the Bavelas property was a Saanich road constructed before Saanich was incorporated as a district municipality. Under the road there was a culvert which discharged water and increased volumes and velocity of water onto the Bavelas property and down to the marsh. The Bavelas property was a natural watercourse along the road across the property. Upland from the Bavelas property was a natural watercourse. There was a pond on the Bavelas property. On the Bavelas property there was a drainage ditch along the road. There was a culvert which discharged water and increased volumes and velocity of water onto the Bavelas property and onto the Bavelas property. This resulted in increased volumes and velocity of water flowing on to the Bavelas property which eroded and damaged the property.

The trial judge found that the neighbours were liable for trespass. The trial judge also found the District of Saanich was liable for the damage caused by the increased volumes and velocity of the water emanating from the Saanich drainage ditches and culverts located in the road right of way.

At trial, Saanich argued that the Court of Appeal, which allowed the appeal and dismissed the action, erred in law.

The District Drainage and Ditches

On March 5, 2001, the B.C. Court of Appeal clarified the right of district municipalities to utilize ditches to drain water from highways and to discharge that water to the most convenient natural watercourse even if it causes damage to private property.

The court overturned the decision of the B.C. Court of Appeal, which had found Saanich to be liable for the damage caused by the increased volumes and velocity of water flowing onto the Bavelas property. The court ruled that the statutory immunity provided in section 596 of the Municipal Act applied to the ditch and allowed the municipality to discharge water onto the private property without liability.

Municipal Taxation of Indian owned Lands—The Coastal Shipyard's Case

The case in Bavelas v. Saanich (District) was a significant test case for the jurisdiction of municipalities to discharge water onto private property. The decision established that municipalities have the statutory authority to discharge water onto private property, even if it causes damage, without liability.

The court also ruled that the statutory immunity provided in section 596 of the Municipal Act applies to all district municipalities, even if they contribute to an unreasonable interference with the plant or mansion rights of private property as well as actual damage to the land itself. The court ruled that the statutory immunity applies to all district municipalities, even if they contribute to an unreasonable interference with the plant or mansion rights of private property as well as actual damage to the land itself.

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Court of Appeal Overturns Abuse of Office Award

Contributed by Barry Williamson, Solicitor, Lidstone, Young, Anderson

“It is a serious matter when an entire group of councillors are held to have acted dishonestly. It is also a serious matter what a court of law purports to rule that in voting in a particular way, elected municipal officials have acted improperly.”

So said the B.C. Court of Appeal in its April 25th, 2001 unanimous decision in First National Properties v. McMinn and District of Highwood. The appeal court set aside the trial court’s findings of abuse of office against the Council of the District of Highwood and in similarly strong tones also dismissed abuse of office findings against ex-mayor Robert McMinn and District Administrator and Approving Officer Bruce Woodbury. The October 1999 trial decision, in which First National was awarded $500,000 in damages, considered the very generous $10,000 in punitive damages being awarded against the mayor, had a most unsettling impact within the local government community. Elected and appointed officials alike were left wondering whether they were now to be exposed to a frightening new range of claims and liabilities. Thankfully, the Court of Appeal decision has restored the proper balance to the law on abuse of office liability, which the trial judgment had radically altered.

Facts

A very condensed version of the facts starts with First National’s attempts in the early 1990s to rezone the 1,757 acre property in Highwood to permit higher density development than provided for under the 30-acre minimum parcel size designation in the Capital Regional District zoning bylaw in effect in the District of Highwood on its December 7, 1993 incorporation. Shortly after being acclaimed as the District’s first mayor Bob McMinn, along with the District’s administrator and First National’s representatives in order that First National could outline its intentions to develop its property in accordance with the existing zoning. Following this meeting Mr. McMinn wrote to the executive director of the Nature Conservancy of Canada (the “NCC”) advising him of what First National had to say at the “off the record” meeting. At that time the NCC was attempting to purchase part of the First National property, the Gowlland Range, to preserve it as park. Mr. McMinn’s letter also included some speculation as to the actions First National might take and how those could affect First National’s development plans and the price that First National might offer for the lands. First National had previously obtained PLA from the Highways Ministry approving officer for rezoning the first of the three phases of its proposed subdivision. However, the District did not feel the plan should be considered a viable PLAP process and on January 4, 1994 First National submitted its application to Mr. Woodbury for formal approval under the Land Title Act for phase I. The Ministry of Environment, Lands and Parks then entered the picture, through its Real Estate Branch, which had previously received a copy of Mr. McMinn’s letters to the NCC. Having concluded that the NCC would be unable to successfully negotiate the acquisition of the Gowlland Range portion of First National’s lands, the Province met directly with First National’s representative, met with First National proposing that it would acquire the Gowlland Range and committing to obtain approval to subdividing the lands. First National would be left with approximately 300 acres outside the Gowlland Range to develop as it saw fit. On February 8, 1994 First National applied to the District to rezone the remainder of its lands, 5-acre lots. Its subdivision application was still active however. On February 28, 1994 Mr. Woodbury wrote to Mr. McMinn advising that he was rejecting the Phase I subdivision application. His evidence was that he expected First National to initiate a further dialogue with respect to the various offers raised in his detailed rejection letter.

On March 4, 1994 the Province and First National met to negotiate and the Province offered to buy all of the lands for $8.5 million, accepting one 30-acre lot. Following the conclusion of the sale the Province sought rezoning of the 300 acres outside the Gowlland Range on the condition that the Gowlland Range would be deducted as park. The Province achieved its rezoning only after a protracted process of some 11 months. First National later applied to rezone its remaining 30-acre lot to the exclusion of six 30-acre lots. That application was rejected on two separate occasions.

Trial Decision

The trial judge found liability against Mayor McMinn, Mr. Woodbury and the District for abuse of office. Claims against the Province for “bad faith”, conspiracy and unjust enrichment were all dismissed. The trial court, while recognizing that there was nothing improper in Mr. McMinn’s long-held desire to see the Gowlland Range preserved as park, nevertheless concluded that Mr. McMinn and Mr. Woodbury had erred in formulating an in plan to put First National at a disadvantage in the conduct of its negotiations with the Province. This conclusion was based on four primary findings which were said to dem- onstrate the partiality of McMinn and Woodbury towards the Province:

(1) McMinn and Woodbury provided information to the Province regarding First National’s development application;

(2) They failed to process First National’s rezoning application;

(3) They provided assurances to the Province respecting increased density in the event that the Province acquired the lands; and

(4) Woodbury intentionally delayed his decision to reject the Phase 1 subdivision application.

In respect of each of the four primary findings, the Court of Appeal concluded that the trial judge had erred in finding that any of the defendants had abuse their public offices or that their acts or omissions had caused any loss to First National.

First, in relation to the provision of information to the Province, Mr. Woodbury had refused to provide information to the District and First Nation’s representative, met with First National proposing that it would acquire the Gowlland Range and committing to obtain approval to subdividing the lands. The appeal court rejected the trial judge’s findings of abuse of office. The appeal court felt that Mr. McMinn’s decision to sell the lands when it did, in light of the Province’s looming fiscal year end. But the deadline that the Province’s negotiators had imposed for concluding a deal with First National was not the fault or the making of the District, it was the fault of First National. The appeal court noted that the trial judge had failed to indicate what was being negotiated about future events, a number of which never came to pass.

As to the “failure” to process First National’s rezoning application in the month that passed between its submission to the District and First Nation’s decision to sell the lands, the Court of Appeal observed that it was First National’s decision to sell the lands, the Court of Appeal observed that it was First National’s decision to sell the lands when it did, in light of the Province’s looming fiscal year end. But the deadline that the Province’s negotiators had imposed for concluding a deal with First National was not the fault or the making of the District, it was the fault of First National. The appeal court noted that the trial judge had failed to indicate what was being negotiated about future events, a number of which never came to pass.

The “assurances” that the Province supposedly received from the District in respect of the possibility of obtaining increased

The Celtic Shipyards Case

Continued from page 18

I do not accept that Parliament intended any such thing. The learned judge came to the correct result and the appeal must be dismissed. These lands are not exempt from taxation under s.36 of the Vancouver Charter nor did Parliament intend under s.36 of the Indian Act that these lands should be exempt and therefore they are properly in the assessment rolls for the years in question.

The appeal is dismissed accordingly.

The Board appealed for leave to appeal to the Supreme Court of Canada. This application was considered by a panel composed of Chief Justice McLauchlan, Mr. Justice Iacobucci and Mr. Justice Major of the Supreme Court of Canada. The panel dismissed the Board’s application and ordered that the Board pay the costs of the Union and of the City of Vancouver. As the Supreme Court of Canada has refused to hear an appeal, Madam Justice Southin’s words are the final words on this matter.

The decision that Indian bands are not permitted on their own initiative to create or expand Indian reserves. If this case had gone the other way, it would have been possible for Indian bands to convert any land they acquired through purchase, by treaty process or otherwise to reserve lands. If they had been able to do so those lands would have been isolated from regulation and taxation by municipalities in the same manner as existing reserve lands.
Infrastrucutre a Priority

Continued from page 1

The Agreement did not deal with the interaction of these two allocation directives. For example, if there was to be an 80-20% allocation among local government and others, there is a range of possible options. At one extreme all the 75% green could be allocated to local governments and none to others but this would reduce the amount available to local governments in the “non-green” infrastructure category. The UBCM Executive has commented that in their opinion the 80% minimum local government allocations should apply to individually the green and non-green (and not to the program overall). The Management Committee has met recently to discuss and review the evaluation and ranking process and timeframe for approvals among other matters.

UBCM Accomplishments

Continued from page 2

Related Measures, consultation with First Nations
- administered and approved funding for over twenty regional Community to Community Forums
- Implementation of Protocol with Province on Local government role in the Negotiation of Interim Measures
- New legislation of interest in the past year includes:
  - Protection of Public Participation Act (SLAPP)
  - Drinking Water Protection Act
  - Province passes vicious dog legislation

In terms of legal services, UBCM provided financial support for 4 appeals of court decisions affecting local government and directly participated in Celtic Shipyard Appeal – Supreme Court of Canada held that lands were not a special reserve and therefore were subject to municipal taxation. UBCM participation on behalf of local government involved over 30 provincial committees or other bodies. Look for the full list of current accomplishments in your copy of the UBCM Annual Report to be distributed mid-August.

UBCM delivers value for money. For instance the estimated savings to local government when pension rate reform is implemented will be in the hundreds of millions of dollars.

How the Canadian Transportation Agency helps to solve (some!) ratepayer problems

Continued from page 17

mutually beneficial settlements. And this process can be completed quickly - from a few hours to a couple of days.

Since the parties at a mediation are there because they want to be part of a solution, the mediation process has an impressive track record for resolving disputes amicably. People have the flexibility to develop solutions that might not have been available under more formal processes. For instance, under a formal process the Agency or the Courts might be bound by the law to apply certain remedies that may not be the best for a particular situation.

The mediation process is confidential. In fact, parties must agree in writing to maintain confidentiality even if the mediation doesn’t work. Anything discussed during the mediation and any documents produced remain confidential. This confidentiality allows parties to express their views openly and helps to develop an honest and trusting relationship between them.

It is important to note that before the Agency provides one of its mediators to a dispute, it asks that parties have already tried to negotiate a resolution to the problem.

If you have a ratepayer who could be helped by mediation, call the Canadian Transportation Agency at 1 888-222-2592 or send an e-mail to mediation.transpo@ctcanada.gc.ca. If you have a rail line running through your constituency, keep these addresses with you and refer your callers to the Canadian Transportation Agency.
2000 Pooled Investment Dividend

On June 13, 2001 the MFA Pooled Investment Dividend was awarded to all those who used the investment pool in 2000. Once again the dividend was for $250,000 and if you want to see your share, check your next statement or look on our web site (www.mfa.bc.ca).

MFA Pooled Investment Funds

In May 2001, the MFA’s Investment Advisory Committee met with its pooled investment fund manager Phillips, Hager & North. The purpose of this meeting was to review any changes to the Investment Charter that would positively impact returns, but not increase risk to our clients.

Two changes being made will impact the Money Market Fund. The first being to extend the “allowable” average term of the fund from 30 days to 90 days. Why? The Bank of Canada rate cuts are coming to an end. This will mean that better returns can be made investing for 90 days than for 30 days. It will be left up to PH & N’s discretion to implement the transition to PH & N’s discretion to implement the transition from 30-day to 90-day investments. This transition should be done by the end of 2001.

To offset this extension in term, we asked PH & N to reduce risk by reducing the maximum allowable investments in any single R1 low credit from 10% to 5%. Performance of the three funds, after all costs, projected to December 31, 2001 is:

<table>
<thead>
<tr>
<th>Fund Type</th>
<th>To-Date</th>
<th>Annualized</th>
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</thead>
<tbody>
<tr>
<td>Money Market</td>
<td>2.32%</td>
<td>4.75%</td>
</tr>
<tr>
<td>Intermediate</td>
<td>2.90%</td>
<td>6.45%</td>
</tr>
<tr>
<td>Bond Fund</td>
<td>3.02%</td>
<td>6.72%</td>
</tr>
</tbody>
</table>

World Bank Conference

Washington, DC

The Municipal Finance Authority of BC, was represented on June 5, at a two-day World Bank Conference in Washington DC by Executive Director, Jim Craven. The Authority was one of three municipally owned and operated financial intermediaries picked worldwide as a good example to showcase to an audience of 300 from Central and South America, Eastern Europe and India.

The sponsors of the event were very pleased at the interest that MFA attracted. They were under the impression that more consulting and advising roles would come out of the presentation from a number of different parts of the developing world. A number of serious enquiries have been received already.

Western Arctic Energy Corporation

The above corporation is a consortium of aboriginals from Alaska, the Yukon and the Northwest Territories. They represent 80% of the proposed right-of-way landowners of the MacKenzie Valley Pipeline Project.

They have noted that a large number of aboriginal groups are already using the MFA investment pool Canada-wide – as well the MFA have been advisors in the formation of the First Nations Finance Authority. They would like the MFA’s consulting expertise (for fees) in the formation of an MFA-like organization which would steward the considerable monies flowing from the pipeline project. This will be discussed with the Trustees once a memorandum of understanding is developed.

We’ve Got Mail!

The new e-mail addresses (and a reminder of our direct lines) for the MFA are:

- Steve Bena  bena@mun.ca  380-0432 local 222
- Allison Boyd  allison@mun.ca  383-1181
- Jim Craven  jim@mun.ca  383-1181
- Graham Egan  graham@mun.ca  380-0432 local 230
- Marguerite Fernie  marguerite@mun.ca  380-0432 local 226
- Barb Gordon  barb@mun.ca  380-0432 local 234
- Shelley Hahn  shelleymun.ca  380-0432 local 229

Airport Viability

Continued from page 8

that many of the airports may be underestimating the impact of CAR 308 on their costs. The report points out that “There can be no doubt that regional airport transfer agreements would have been negotiated with different terms if the proposed regulation had been gazetted before many regional airports had transferred.” The review suggested that there was an underlying concern that the federal government is looking at a broad range of new regulations that could increase the cost of regional airports.

Perceived declining federal financial support

The paper pointed out that the Airport Capital Assistance Program (ACAP) was set up in 1994 to provide capital for airside safety related capital projects at regional airports. The review suggests that the funding criteria is to narrow to meet the needs of the airports and that the “funding renewal of this program appears inadequate for increasing demands on the fund.”

Other issues discussed in the report of concern to B.C. airports were:

Air Carrier Restructuring Impacts

The study suggested that the overall impacts of airport restructuring at this time had been modest, however, given that this was only the first year of restructuring it may be too early to assess all of the impacts. The report points out that some communities may have been affected by a loss in service and capacity even if airport revenues have not been overly impacted.

National Airport System (NAS) Airport Rents and Structure

The report points out that the 26 largest airports in Canada belong to the National Airport System (NAS) and lease rather than own their lands. It is estimated that the rents paid to Transport Canada currently amount to roughly $210 million per annum, far in excess of Transport Canada’s current expenditures on airports. The paper points out that “both Vancouver and Victoria pay rents which are inequitable relative to their peers” and proposes that “the 18 smaller NAS airport authorities should be moved out of the NAS, and should not be required to pay rents”-this would include Prince George and Kelowna in B.C.
density were seen as little assurance in the circum-
satagnetic that the first 30 to 60 months of work that it took before the Province undertook land rezoning. Furthermore, any assurances were related to the land rezoning that was of no interest to First National.

Finally, the appeal court was impressed with Mr. Woodbury’s detailed rea-
sions for rejecting the Phase I subdivision application were given within the two
month deadline imposed by Section 85 of the Land Title Act. The Court of Appeal, added up with Mr. Woodbury on the specific concerns outlined in the February 28 rejection letter, "...the stench of corruption or dishonesty..." directly; precisely Mr. Woodbury’s expectation as well.

The trial judge’s treatment of the civil complaint was also found to have been seriously flawed. An appraisal witness who testified that the market value of the lands was $7 million, or $1.5 million less than First Na-
tional received, drew no mention in the trial judge’s reasons. Instead, the trial court had opted for an appraisal which was prepared by a consulting engineer of the owner to achieve a higher density on a rezoning of part of the lands, while the remaining 30-acre lot density. The trial judge simply referred to this as the “appropriate” appraisal to use in determining the value of McMinns’s damages. However, this conclusion flew in the face of First National’s wear-
architectural style. The trial judge committed an abuse of off-
cess in determining First National’s application to rezoning its one remain-
ing 30-acre lot. Although the only member of council who testified at trial was Mayor McMinn, the trial judge - without considering whether Council individually had committed an abuse of office - took the decision that First National’s application was served in a manner that is not supportable by law. In determining whether First National’s “motive” in favor of preserving the Gowlland lands as a mascot, the Court ruled that the trial judge’s thoughts in a particular ordinance of Council had committed an abuse of office. With no evidence as to the state of mind of any of the councilors other than Mr. McMinn it could be said that the Court, or at least a majority of its members, possessed such a “settled intention”. The Court doubted whether such an intention could, if proved, could amount to malice for the purpose of establishing abuse of pub-
local office. The most significant contribution made by the Court of Appeal in the First National decision comes from its reminder to trial judges of the exception nature of the form of the tort of abuse of public office at issue in this case. First National v. McMinn was a case of “targeted malice”, that is the actions or omissions of McMinn and Woodbury were unlawful, except for the purpose that the trial judge attributed to them; the desire to disadvantage First National in its negoti-
tions with the Province. The appeal court stressed the exceptional nature of this tort.

“...The tort of misuse of public office is an excep-
tion to the ‘general rule’, if conducted with unusually unlawful, a good mo-
tive will not exonerate the defendant, and that, if con-
duct is lawful apart from motive, a bad notice will not make him liable. The ‘general rule’ of this nature of this result alone suggests that judicial discretion is inadmissible, and when a persons’ protection or governmental policy or also involved, such caution be-
comes essential...”

The Court of Appeal, observed, as had the trial judge, that the First National lawyers had long advi-
ded that the Gowlland plan should be preserved in the Province and this was the view of the public inter-
test today. The Court of Appeal recognized that there was no previous court authority which had squared a bona fide politi-
cal belief about the public interest with the type of abuse motive that gives rise to liability for tar-
ged malice. Indeed, the Court of Appeal emphasized that the First Na-
tional decision is a “large leap” in moving by inference from Mr. McMinns’s words to support the Gowlland lands to finding he was moti-
vated to the “general rule” of this result by putting it at a disadvantage in its nego-
tiations with the Province.

In one paragraph of its judgment the Court of Appeal summarized its thoughts in a particular ordinance, which should give some comfort to elected officials and the staff who work with them:

“I have concluded, with respect, that the trial judge erred in characterizing Mr. McMinn’s “motive” in favor of preserving the Gowlland lands as a mascot. His motive is not comparable to the kind of improper or dishonest in-
tentions referred to in the authorities—a wish to injure another or to advance personal interests, for exam-
ple, or even a private purpose that is “foreign to public pol-
ic purposes for which pow-
ers are granted to municipal 
mayors and councilors. In 
stead, Mr. McMinn’s “motive” was more akin to a po-
litical belief. Courts should be and are cautious in attrib-
ts judgments, while, for ex-
pense.”

With this reassurance from the Court of Appeal in First National decision, the trial judge did not consider that only egregious misconduct will attract liability for abuse of office, but that any mis-
concealment would not become the cause for liability as threatened to the Court in a similar case if the trial judgment had been upheld.

Community to Community

Local Government Consultation With First Nations

UBCM is also seeking member input on other in-
corporations to provide a better process of developing a policy guideline to assist local gov-
ernment with implementa-
Local Government Consultation With First Nations

Continued from page 13

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Continued from page 13
International Trade Agreement

Continued from page 14

they do not see the point in submitting a complaint that saddles their countries with a significant additional administrative burden. This includes requirements to “adequately” notify all potential bidders from many different countries and to set up a WTO-prescribed process for dealing with complaints. Representations report they have no evidence there are economic benefits to adding an externally imposed structure to procurement practices that are already based on openness and transparency.

What If a Trade Panel Finds Local Governments Are Violating Agreements?

The WTO has exceptional powers to impose penalties on member governments found to be in violation of their commitments. Complaints are brought to dispute panels by WTO member governments. These panels are made up of trade experts who meet in secret, and have no rules against conflict of interest. If they find against a WTO member, that member has to suffer penalties in the form of trade sanctions year after year until it stops doing whatever prompted the complaint. The only recourse for appeal is to another WTO dispute body.

Since it was founded in 1995, there have been 231 complaints taken to the WTO, almost as many as were brought over almost fifty years under the old system that predated it. While the WTO’s dispute system is sometimes praised as a way to establish rules-based environment to foster trade, it has also been criticized as creating an overly litigious atmosphere where countries reach for an imposed rather than a negotiated settlement of trade disputes. Canada for its part has never resolved any of its conflicts with its dominant trading partners through WTO panel rulings. NAFTA works differently in that as well as handling country-to-country disputes which can result in trade sanctions, it allows foreign investors to directly sue governments for monetary compensation under a very broad definition of expropriation. NAFTA’s Chapter 11 requires governments to pay compensation if they have damaged a foreign corporation’s investment or future profits, even if they have acted in the public interest. Judicial reviews can be sought of NAFTA panel rulings, but as the Metalclad case shows, these reviews seem to have very limited scope.

It does not matter under the WTO if a local government is acting within its jurisdiction if its actions violate the commitments a national government has made under WTO agreements. The national government is required to take all “reasonable measures” to make the local government comply with the country’s WTO obligations. Justice Tysoe’s review of the Metalclad case suggests that under NAFTA, local governments acting within their legitimate authority can still find their actions subject to NAFTA investor law suits.

What Local Governments Can Do

Although both NAFTA and the GATS are existing agreements, there are opportunities to achieve changes. Canada has itself expressed concern about the broad interpretation NAFTA panels are giving to expropriation and said it wants to see this narrowed. The current GATS negotiations are opening up the agreement to change key clauses. At the Federation of Canadian Municipalities convention in Banff this May, an UBCM resolution from last year which was seeking an exemption for local governments from the GATS, was passed by the delegates. This resolution included a request that FCM staff time be dedicated to monitoring trade negotiations and alerting local governments to ways they may be affected.

UBCM Task Force on Senior Government Support for Urban Transportation

At the 2000 Convention a resolution was endorsed in part that stated:

1. The UBCM endorse the three goals for senior government support:
   - Continued provincial support for public transportation to keep pace with growth;
   - Federal tax exemption for employer provided transit benefits;
   - Direction of the equivalent of 3 cents per litre of fuel excise tax to public transportation nationally.

2. The UBCM establish a task force to coordinate local government efforts to achieve the three goals for senior government support for public transportation.

With regard to the Task Force, the UBCM Executive invited Victoria Regional Transit Commission, GVRD, BC Transit (for outside CRD/GVRD) and TransLink to make appointments to the Task Force. The membership of the Task Force is:

Mayor Colin Kotsello, BC Transit
Councillor Judy Brownoff, Greater Victoria Transit Commission
Councillor George Pull, GVRD
Mayor Barbara Sharpe, GVWD
Councillor Marvin Hunt, UBCM
Mayor Frank Leonard, UBCM

REPORT ON TASK FORCE MEETING

The Task Force met on May 31st. The Task Force agreed that the UBCM role should be to strengthen the work already being done by other groups in securing senior government support for urban transportation, to coordinate effects of individual members and to bring a “value-added” not duplicative role. The Task Force also identified some opportunities to advance the position through:

- Transport Canada review of its role in sustainable urban transportation
- Prime Minister’s caucus committee on urban issues
- National Round Table on the Environment and Economy Project
- at an FCM fall event on urban issues.

A special effort would be made to engage BC MP’s. They discussed the case for assistance based on the strategic importance of urban transportation to:

- competitiveness
- air quality
- public health
- green good reduction
- livability.

It reviewed four principles for urban transportation planning and governance:

- urban transportation as a marketplace
- linking land use, transportation and air quality
- managing both supply and demand
- “made in the region” decision-making.

At the same time it noted that the New Era platform talks about regional transportation authorities. A position with six elements was reviewed:

- federal funding equivalent to 3 cents per litre of fuel tax
- funding available if matched by provinces
- funding applicable to preparation and implementation of a plan for sustainable urban transportation
- funding ongoing, not time limited and available for both capital and non-capital needs
- equivalent program for non-urban areas
- funding to bear some relationship to how the fuel tax funds are generated.

It was agreed that the efficient way to proceed would be to divide the follow-up work among the participating agencies and the Task Force could meet again in mid-summer.

The 2001 NET•WORK•BOOK IS HERE

The 2001 Net•work•book, which was distributed in May, is a comprehensive workbook for those working in local government or who want to know who’s who in B.C. Local Government.

The book includes:
- municipal and regional government listings of elected officials and senior staff;
- federal cabinet and B.C. MPs;
- selected provincial agencies and commissions;
- other organizations that have ties to local government;
- consulting services in the professional directory section.

Considerable effort goes into the compilation of information and we appreciate the cooperation we receive from local government staff in updating the Local Government Directory section of this book.

To purchase additional copies of the Net•work•book, please contact UBCM:

Phone: 270-8226; Fax: 604-270-9116; Email: civicnet.gov.bc.ca

UBCM NEWS JUNE 2001

Yes! I want to order the updated ‘01 Net•work•book (prepayment required)

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E-mail: ubcm@civicnet.gov.bc.ca