

TO: UBCM Members
FROM: Presidents Committee
DATE: September 5, 2007
RE: **LEGISLATION TO SUPPORT CLIMATE
CHANGE ACTION PLANS AND
BUILDING GREEN COMMUNITIES**

POLICY PAPER
#3

2007 CONVENTION

1. INTRODUCTION

The Province of BC has taken bold steps to:

- be carbon neutral in its operations by 2010
- to reduce greenhouse gas emissions by 33% by 2020

Local government have also recognized they have a major role to play.

But that role will not be fully realized under the existing legislative framework.

Two things have to happen:

1. Remove barriers that stifle innovations needed to build greener communities. [Part 1 of this paper.]
2. Introduce new enabling powers that support actions on climate change and green communities. [Part 2 of this paper.]

PART 1

Roles, Innovation and Responsibility in Building Green Communities and Climate Change Action

Summary:

1. Everyone has a role to play in building green communities.
2. Building green communities means doing things differently - it's not more of the same.
3. Doing things differently means fostering innovative green solutions.
4. Everyone who has a role in developing and implementing green solutions should share in the associated risks and rewards.
5. Doing things differently means accepting risk that green solutions may occasionally fail.

6. If there is a failure, then costs (monetary or other) should be shared by the participants based on their contribution to the problem.
7. Where that cost of failure is not shared according to their contribution to the problem, but can become the full responsibility of one party i.e.: local government or architects or developers, then there will be a reluctance to embrace innovation. This is the outcome of joint and several liability.
8. To create a climate of innovation and green solutions we must remove barriers. Joint and several liability is a barrier for all participants to innovate because they don't know how much of the risk they are actually taking on.
9. To achieve the goals of building green communities, the provincial government must remove this barrier and replace joint and several liability with a system of proportionate liability.
10. A climate of innovation will occur when all participants understand their roles and responsibilities and the amount of the risk they are sharing is proportionate to their involvement in the innovation.

RECOMMENDATION # 1

That in order to remove a barrier to developing green solutions, such as green buildings and development, the Province of BC replace the system of joint and several liability with one of proportionate liability.

PART 2

Introducing New Enabling Legislation

Ideally, being a "green" member of society means that you accept responsibility for our footprint. It means being a responsible resident of planet earth. But, unfortunately that doesn't always happen and governments must intervene to achieve overall societal goals. They can use a system of rewards and regulation.

The following is a list of recommended new authorities that would allow local government to incent or reward green behaviors and where appropriate require "green" solutions.

1) Express Authority for Local Governments to Establish Carbon Neutral Reserve Funds.

This would enable the dedication of funds at the local level for capital works or operational activities that directly result in GHG reductions. Accounting guidelines could be established to ensure that the principles of such a fund are respected.

2) Provide Explicit Authority for Local Government to Charge a Carbon Fee.

Such explicit authority would allow a local government to factor in the global environmental cost of a service, not just the costs associated with its annual municipal inputs and outputs. e.g. Add a \$10 per year charge for refuse pick up to account for the per household impact of the Greenhouse Gas (GHG) emissions associated with that service, or add \$0.50 per session at a municipal pool to mitigate the impact of fossil fuel use in the heating of the building, pools and hot tubs. Note: Such fees would have to be deposited into a Carbon Neutral Reserve Fund.

3) Provide Explicit Authority for Local Government to Charge Fees and Tolls on New or Major Roadways and Bridges.

Road and bridge tolls were discussed in the Community Charter White Paper and the justification for tolls has increased with the scientific understanding of the causes of climate change. Greater London's tolling has reduced the output of GHG's and other pollutants dramatically.

4) Provide Explicit Authority for Local Government to Elect to Deposit Carbon Fees to a Statutory Province-Wide Pooled Carbon Neutral Fund.

This would enable a trust, or authority analogous to MFA, to apply the funds to local government GHG reductions in regional or area wide contexts and to receive deposits from non-municipal carbon-offset depositors such as airline passengers, freight haulers, cruise ship lines, energy generators, etc. The fund, as an accredited, legislated, independent and trustworthy steward of such deposits, could only invest in local government green infrastructure.

5) Allow Municipalities to Establish Energy Efficiency Design Requirements in Development Permit Area Guidelines.

Sections 919 and 920 of the Local Government Act authorize local government to establish Development Permit Areas. Proposed development within a DPA must meet the applicable design guidelines in order to acquire a development permit. Eligible guidelines are currently mostly limited to form and character features of the building (i.e., not details of finish, design or landscaping except in Vancouver and Whistler). Expanding the legislation to allow local governments to require energy efficiency systems and design features (e.g. solar orientation, landscape shading, operable windows, geo-exchange, natural ventilation) would reduce buildings' heating and cooling loads, and thus reduce life-cycle energy consumption.

6) Clarify Legislation to Explicitly Enable Local Governments to Use Local Service Area Charges to Finance Alternative Energy Improvements.

Developers hesitate to build in green technologies because they cannot recoup all of their up front costs immediately. A Local Service Area Charge is a potential way for the municipalities to cover these costs and then recover them by assessing an LSAC to the property owner that benefits in the long term, from the improvement. The current legislation is ambiguous on this. Using LSAC for energy efficiency features or upgrades is feasible, however, clarifying the legislation would give local governments the confidence to adopt this tool to help abate emissions.

7) Amend the BC Building Code to Require Energy and other Resource Efficient and Non-Emitting Buildings.

Amend section 53 of the Community Charter to empower each local government to adopt local energy, water or other resource preservation or conservation amendments to building regulation bylaws or, if the Province establishes a Gold Standard, adopt that standard under the building regulation process.

8) Revise Legislation to Permit Local Governments to Require an Energy Performance Rating (e.g. EnerGuide) as a Condition of a Building Permit.

As per s. 53 of the Community Charter, local governments have limited authority in the area of building regulations and permitting. Enabling local governments to require an energy performance rating such as EnerGuide would provide consumers (buyers, leaseholders) with critical information about the performance of the structure.

9) Allow Local Governments to Charge Differential Fees and Charges for Energy Efficient Buildings and Renovations.

Local governments might wish to encourage green, energy efficient designs and retrofits through the use of incentive-based fee structures. Explicitly allowing local governments to have different fees for energy efficient green buildings in their fee structures could encourage much more green building while discouraging buildings that are "energy hogs".

10) Allow Local Governments to Require Reduction of Volatile Organic Compounds Indoors.

Volatile Organic Compounds (VOCs) are emitted as gases from a variety of chemicals, including products such as paint, cleaning solutions, carpeting, furniture finishes, etc. The emission of VOCs in buildings contributes to poor indoor air quality and has been linked to the many health effects, such as the "sick building syndrome". Emissions of VOCs can be reduced through proper chemical use, ventilation and disposal practices. Reduced VOC products are also available. This would require a regulation amendment under section 9 of the Community Charter.

11) Allow Local Governments to Encourage Renewable Energy

Local Governments and related entities may wish to encourage or develop renewable energy such as solar, independent, off-grid, geothermal, wind, ground heating/cooling, high or other green power. Although they can develop their own infrastructure under natural person powers, there are regulatory barriers – local governments in respect of such renewable energy exercises should be exempt from BCUC and other oversight just as their water systems within their boundaries are exempt from such oversight. As well, legislative amendments are required to allow local governments to provide incentives or otherwise encourage private renewable energy sources whether in relation to development or otherwise.

12) Allow Local Governments to Encourage or Require On-site Waste Diversion, including Recycling, Composting or Reusing

Although municipalities have this power generally under section 8(1)(a) of the Community Charter, there is not adequate authority to use tax or other financial incentives to encourage such activities.

13) Clarify and Revise the Legislation Pertaining to Amenity Bonusing, so Local Governments Can Grant Additional Density in Exchange for Energy Efficiency-related Features.

The term "amenities" as used in s.904 of the Local Government Act is not clearly defined in the statute resulting in a lack of certainty as to whether on-site energy-related features are within the realm of what is intended in the statute. Clarifying the legislation would give local governments greater confidence to use this instrument. Although this may be partly addressed in the new Section 905.1 (Phased Development Agreements) which came into force on June 21, 2007, local governments also need the density bonus tool in the absence of phased developments.

14) Enable enforcement, on highways and private ways open to the public, of use of designated parking spaces for fuel cell/ hybrid or other such vehicles described in the parking and traffic bylaw.

Provide these as an incentive for energy efficient vehicle use.

15) Financial Measures

Require the province to match, through school tax exemptions, any local government property tax exemption for climate change or green communities.

Require the province to match any local government GHG or green communities DCC reduction or exceptions through school DCCs.

16) Allow local governments to provide assistance to business to encourage or leverage conduct that would reduce GHG emissions.

This may be possible under section 21 of the Community Charter but express authority would remove the uncertainty around the requirement to provide a municipal service on behalf of the municipality, the issue of whether the service has to have a value equal to the assistance, or whether such reductions would even constitute a municipal service.

17) Amend legislation to except local governments from paying PST on energy-generating equipment.

In 2001, the province amended the sales tax legislation to exempt electricity producing equipment from PST. However, local government was specifically excluded from this exemption. This exclusion should be removed because it affects prices for such equipment and may cause local government to decided against installing electricity-producing equipment. Such decisions would be contrary to the province's energy generation goals.

