

## MOTION

### 10. Strengthening Representative Democratic Practices in the City of Vancouver

At the Council meeting on March 10, 2020, Council referred the following motion to the Standing Committee on Policy and Strategic Priorities meeting on March 11, 2020, in order to hear from speakers.

Moved by: Councillor Hardwick

#### WHEREAS

1. “*Trust in government has been identified as one of the most important foundations upon which the legitimacy and sustainability of political systems are built. Trust is essential for social cohesion and well-being as it affects governments’ ability to govern and enables them to act without having to resort to coercion.*” (Government at a Glance 2013 - OECD);<sup>1</sup>
2. In British Columbia, legislation empowers, guides, limits, and affects local governments. The *Community Charter* and the *Local Government Act* define the core authority of local governments and guide decision-making, with the City of Vancouver served by its own legislation, namely, the *Vancouver Charter* which sets out the key local government powers and responsibilities of the City of Vancouver along with the corresponding powers and responsibilities of the City’s elected officials;
3. Although the Province’s *Community Charter* does not specifically apply to the City of Vancouver, save for those sections noted in section 2.1 (2) of the *Vancouver Charter*, the *Community Charter* does outline commonly understood principles of municipal governance, and states, under section 1, that “Municipalities and their councils are recognized as an order of government within their jurisdiction that;
  - (a) is democratically elected, autonomous, responsible and accountable,
  - (b) is established and continued by the will of the residents of their communities, and;
  - (c) provides for the municipal purposes of their communities.”;
4. Geographically, the City of Vancouver is located on the western half of the Burrard Peninsula and nominally bounded to the north by English Bay and

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<sup>1</sup> *Government at a Glance* is published every two years by the OECD. It provides indicators that compare the political and institutional frameworks of government across OECD countries. [https://www.oecd-ilibrary.org/governance/government-at-a-glance\\_22214399](https://www.oecd-ilibrary.org/governance/government-at-a-glance_22214399)

- Burrard Inlet, to the south by the Fraser River, to the west by the Strait of Georgia, and to the east by Boundary Road,<sup>2</sup>
5. Municipal councils in British Columbia typically have full discretion to set policies, adopt bylaws, and establish direction for their communities, in accordance with legislation and other legal rules, and they do so within the established principles and traditions of representative democracy and consistent with the Canadian democratic tradition;<sup>3</sup>
  6. In a representative democracy, all eligible citizens have the right to participate, either directly or indirectly, in making the decisions that affect them, most commonly by voting in an election and/or by making their views known to their elected officials on issues of importance to them and their community, for example, at Public Hearings of Council;<sup>4</sup>
  7. As a representative democracy under the laws and traditions of Canada, the fundamental principles of representative democracy apply to the City of Vancouver, its elected Council, and the various legislative processes conducted by Council and the City on behalf of the city's constituents and within the City's jurisdictional and physical boundaries;
  8. To be effective stewards of the City and best represent constituents, members of a City Council must receive and consider feedback representing a wide range of views obtained through a variety of means and processes. Specifically:
    - in person (e.g. at public hearings and from delegations to Council)

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<sup>2</sup> As the largest city in British Columbia, and the eighth largest municipality in Canada, Vancouver covers 114 square kilometres (44 square miles) of land area with a population of 631,486 (2016 census). The City of Vancouver is distinct from the Greater Vancouver metropolitan area which includes the City of Vancouver as well as neighbouring municipalities such as Burnaby, Richmond, and Surrey. City of Vancouver — corporation and boundaries: [http://www.bclaws.ca/civix/document/id/complete/statreg/vanch\\_01#section6](http://www.bclaws.ca/civix/document/id/complete/statreg/vanch_01#section6).

<sup>3</sup> The City of Vancouver, as with other municipalities in British Columbia, is empowered to control land use and development within the city through a variety of processes and tools, and is also responsible for providing essential municipal infrastructure and services including drinking water, roads, fire protection, and sewage collection and treatment. <https://www2.gov.bc.ca/gov/content/governments/local-governments/facts-framework/systems/municipalities?keyword=municipal>

<sup>4</sup> Sections 22 through 24 of the *Vancouver Charter*, under Division 5 (*Electors*), specifies the eligibility criteria for “resident electors” (i.e., those who live in the city) and “non-resident property electors” (i.e., the registered owner of real property in the city) to vote in a City of Vancouver election, all of whom must be, among other requirements and restrictions, 18 years of age or older on the day of registration or on the general voting day for the election, a Canadian citizen, and a resident of British Columbia for at least 6 months immediately before the day of registration or on the general voting day for the election.

Section 38 of the *Vancouver Charter* under Division 5 (Qualifications for Office) lays out the requirements that must be met for holding office on Council or Park Board and states, among other criteria, that the person “must be an individual who is, or who will be on general voting day for the election, 18 years of age or older,” a Canadian citizen, and “must have been a resident of British Columbia, as determined in accordance with section 25 [of the Charter], for at least 6 months immediately before the relevant time.”

- on paper (e.g. letters, petitions)
  - online (e.g. emails, online petitions, social media)
9. Public Hearings are a quasi-judicial process of Council where, at the start of a public hearing, the City Clerk reads a summary of the application under consideration along with a summary of correspondence received. For example, the Clerk's opening statement variously takes the form of, "*The following correspondence has been received since referral to Public Hearing and prior to the close of the speakers list and receipt of public comments: x pieces of correspondence in support and x pieces of correspondence in opposition. This represents all correspondence up to 5:00 pm today.*";
  10. The summary of correspondence presented at Public Hearings and for other Council processes is intended to quantify and convey the level of support or opposition to a matter under consideration. Council is reliant on the quality and reliability of the summary information to ensure that the decision making process is sound and sufficiently representative in its scope;
  11. Those persons wishing to address Vancouver City Council on a matter, either as a delegation to Council or at a Public Hearing, including through written correspondence, are currently not required to indicate or state where they live in the city, what their home address may be, or whether they may in fact reside in another municipality altogether;
  12. A cursory review of the practices and procedures in place for neighbouring municipalities, such as Surrey, Burnaby, West Vancouver, and New Westminster, indicates that those persons wishing to address a Council, either in written correspondence, as a delegation, or at a Public Hearing, are required to indicate or state where they live in the city or whether they may in fact reside in another municipality or neighbourhood altogether. This information is considered to be relevant to a Council's consideration of a matter and the information is fully protected by provincial privacy regulations and requirements;
  13. The optional disclosure of residency seen in Vancouver's practices and procedures is not consistent nor in alignment with the practices and procedures seen in neighbouring municipalities where residency information is considered to be relevant to a Council's consideration of a matter;
  14. Section 566 (4) of the *Vancouver Charter* relative to Public Hearings (Division (3) - Zoning: **Amendment or repeal of zoning by-law**) specifically states that "*At the hearing all persons who deem themselves affected by the proposed by-law shall be afforded an opportunity to be*

*heard in matters contained in the proposed by-law....” The Local Government Act contains similar language in section 465 (2): “At the public hearing, all persons who believe that their interest in property is affected by the proposed bylaw must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing.”;*

15. In order to ensure that constituent and community feedback is fully, fairly, and transparently articulated and considered, it is incumbent in a representative democracy to ensure that the will of the people, as expressed by its constituents through the various feedback mechanisms and processes in place, is accurately and fairly presented;
16. The City of Vancouver has a Local Improvements Program (LIP) whereby property owners who request improvements in their local area do so through a petition process that includes a certification requirement (see: <https://vancouver.ca/streets-transportation/construction-and-improvements.aspx>). The LIP certification and authentication procedures and processes enable eligible citizens to participate directly in making decisions that affect them. Under the LIP program, a successful petition requires that at least two-thirds (2/3) of the total number of owners sign the petition and that those properties supporting the project must represent at least one-half (1/2) of the total value of the properties affected. These are the minimum requirements as per Section 509 of the *Vancouver Charter*;
17. The personal information required by the LIP petition process is collected under the authority of, and used for the purpose of, administering the local improvement process under the *Vancouver Charter*. The Local Improvement Office provides access to a petition to any affected property owner upon request. For privacy reasons, a petition is not released to anyone else except as authorized under the *Freedom of Information and Protection of Privacy Act*;
18. The City of Vancouver has a variety of tools to certify and/or verify the residency status of persons who register to appear as a delegation at Council, speak at a Public Hearing, sign a petition, or submit their thoughts and views through various written forms of correspondence. These tools include the City’s list of resident and non-resident property electors, property tax information, permits and permit applications, and other information sources that the City and relevant City staff have legitimate routine access to (in accordance with all legislated privacy provisions).
19. The certification and authentication procedures and processes in place for the City’s LIP program offer a standard and provide a model for transparently enabling eligible citizens to participate directly in making decisions that affect them and/or their neighbourhood. It stands in contrast

to the non-transparent, optional standard currently applied by the City for those wishing to address Council, either in written form, as a delegation to Council, or by speaking at a Public Hearing; and

20. A requirement to indicate or state where one lives in the city, or whether one may in fact reside in another municipality or neighbourhood altogether, when addressing Council does not preclude the full of that person's full participation in a civic process and nor does it mean that the information, feedback, and perspectives presented and/or received are not relevant or germane. Simply, a transparent sense of a person's interest in a matter or how it affects them personally and specifically is an important factor among many that elected officials must consider in course of a fully informed, transparent, and democratic decision making process;

THEREFORE BE IT RESOLVED THAT Vancouver City Council direct staff to review the City's current practices and procedures for gathering public feedback, and reporting same to Council, with an emphasis on identifying ways to strengthen public trust in the City's procedures and practices as a representative democracy, and for staff's review to include proposals and recommendations for the consideration of Council for establishing and/or certifying the residency of persons who seek to address Council, either as a delegation to Council, at a Public Hearing, or through written correspondence, toward greater transparency and to ensure that constituent and other feedback to Council – whether that feedback is received in person, on paper, or online – is fully, fairly, and transparently presented to Council, in accordance with the established principles of representative democracy, as well as the City's mandate under the *Vancouver Charter* to ensure that the will of the people from within the City's jurisdictional and physical boundaries, as expressed through various feedback mechanisms and processes, is accurately and fairly presented;

FURTHER THAT staff be directed to report back to Council by the end of Q2 with protocols and procedures for a certification/verification system for Council's approval, as noted above, including (but not limited to) recommendations reflective of the following certification and verification standards and objectives:

**1. In person:**

- A requirement for those addressing Council, either at a Public Hearing or as a delegation to Council, to be certified and/or verified through an appropriate mechanism while protecting individual privacy.
- A requirement for those addressing Council, either at a Public Hearing or as a delegation to Council, to transparently indicate or state their status as a resident or non-resident of the city, or of a specific neighbourhood relevant to any matter under consideration.
- A supplementary requirement/opportunity for those addressing Council, either at a Public Hearing or as a delegation to Council, to indicate or state their interest in a matter, how they may be personally affected, whether they are or plan to be a business owner or operator with an interest in a

matter, whether they have a commercial or other interest in a matter, or whether they represent a group or organization with an interest in a matter in addition to indicating or stating their status as a resident or non-resident of the city or that of a specific neighbourhood relevant to a matter under consideration.

- A requirement for those addressing Council to state whether they are in support or opposition to the issue under review, to be tabulated in a final review and the minutes of the meeting.

## 2. **On paper:**

- A requirement that all paper-based correspondence be certified and/or verified through an appropriate mechanism.
- A requirement that tabulations of received correspondence presented to Council which indicate numbers of those IN SUPPORT of or IN OPPOSITION to a matter reflect the total numbers of certified/verified signatories – for and against – to provide a fair, accurate, and transparent gauge of support and/or non-support. For example, petitions should not be presented as a single piece of correspondence, but rather should reflect the total number of certified/verified signatories.
- A requirement that correspondence by individuals or groups be examined with the intent to provide a more accurate representation of the number of people actually represented.
- A requirement that all addresses, names, and signatures on petitions be certified and/or verified, potentially by cross-referencing with the City's list of electors and/or other records, such as property and tax records accessible by the City and relevant City staff (and in accordance with all legislated privacy provisions), prior to a petition being presented to Council. Verification of petitions is already the case for the City's *Local Improvements Program* whereby property owners who request improvements in their local area do so through a petition process that includes certification (see: <https://vancouver.ca/streets-transportation/construction-and-improvements.aspx>).

## 3. **Online:**

- A requirement that all online correspondence be certified and/or verified through an appropriate mechanism such as digital identity authentication and privacy by design principles.
- A requirement that City e-forms and correspondence forms establish and/or certify the residency of persons who seek to contribute feedback to Council (e.g. <https://vancouver.ca/your-government/contact-council.aspx>).

4. **Reporting:**

- The various Council Feedback reports produced daily, weekly and monthly be updated to present a more complete, accurate and authentic representation of the input of Vancouverites.

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