

MOTION

10. Local Elections: Review and Reform (Member's Motion B.6)

At the Council meeting on February 9, 2021, Council referred the following motion to the Standing Committee on Policy and Strategic Priorities meeting on February 10, 2021, in order to hear from speakers.

Submitted by: Councillor Fry

WHEREAS

1. *The Vancouver Act of Incorporation* of April 6, 1886, was enacted by the Government of the Province of British Columbia, and established the City of Vancouver and its City Council as an order of local government with a requirement for democratic elections. The first Vancouver municipal election took place in May 1886, and since that time through the *Vancouver Incorporation Act* of 1921, to amalgamation in 1929, to the *Vancouver Charter* of 1953, the rules and governance of Vancouver municipal elections have evolved to respond to legal and societal changes through many amendments over many years;
2. The B.C. government is responsible for the core local government system and its legislative framework including maintaining and changing the framework for local elections, by-elections and assent voting events. Elections in Vancouver are variously governed by provincial legislation including the *BC Election Act*¹, the *BC Local Elections Campaign Financing Act*² and *The Vancouver Charter*³, as well as the City's *Election By-law 9070*⁴ and *Code of Conduct Corporate Policy*⁵ (currently under consideration for adoption as by-law);
3. The administration of local elections and by-elections is a shared responsibility between the government of the City of Vancouver and Elections BC. Elections BC is responsible for the administration of the provincial electoral process in B.C. and the campaign financing and third party advertising rules under the *Local Elections Campaign Financing Act*;
4. Across Canada, municipalities continue to struggle with low voter turnout (average 40%), lack of diversity represented in election results⁶, disenfranchisement of youth and permanent residents, impacts of emergent digital campaign tools, political machines, and civic literacy. Vancouver has additionally struggled with "big money" under-regulated financial influence in elections;
5. Recent efforts to remedy and reform the electoral process include advocacy and resolutions from current and past Vancouver Councils, and through the Union of BC Municipalities (UBCM). These efforts have resulted in:
 - a. Amendments to the *Local Election Campaign Finance Act* (LECFA) in 2018 which resulted in a number of significant campaign finance reforms

- notably stricter limits, and the elimination of corporate and union donations; and
- b. The creation of Vancouver's Independent Election Task Force, which analyzed voting and electoral systems in Vancouver and reported in 2017 and 2019 with a number of priority recommendations and reforms, few of which have been implemented; and
 - c. Vancouver's *Report Back on the Random Order Ballot Model Used in the 2018 Vancouver Election*, suggesting improvements to the random ballot process and measures to more carefully manage and limit the number of names on ballots, considered by City Council in January of 2021;
6. Several of the remedies and reforms suggested by the IETF reports cannot be implemented by the City of Vancouver and await a response from the province. Some under consideration include:
- a. UBCM 2020 Special Resolution 3 (SR3) *Local Government Election Financing* is currently under review with the province and incorporates a number of Vancouver-led 2020 election finance reform resolutions (notably C5 and C6) calling upon the province to amend the LEFCA to:
 - i. require all elector organizations, as defined under the Local Government Act to register with Elections BC, similar to how provincial political parties are registered with Elections BC;
 - ii. require real time disclosure of in-kind support and financial contributions made to local government election candidates in election years, as well as to sitting elected officials in non-election years;
 - iii. apply contributor and contribution limits to operating accounts of elector organizations and candidates for operational purposes at all times, and to require that annual disclosure reports of contributions received in operating bank accounts, in election years and non-election years; and
 - iv. establish a pre-campaign period during which time all election advertising must include sponsorship information.
 - b. UBCM 2019 B108 *Youth Voting in Local Government Elections*, resolution to lower the voting age to 16 (still under provincial review).
 - c. UBCM 2019 B109 *Fresh Voices #LostVotes*, to allow Permanent Residents to vote (still under provincial review, and considering federal consultation).
 - d. Additional recommendations by the IETF that have not been formally submitted for consideration include
 - i. Use of "Own Funds";
 - ii. Distinction between (types of) third parties;
 - iii. Exemptions for Small Entities;
 - iv. Counting Contributions of Staff Time; and

- v. Different Treatment of Independent and Party-Affiliated Candidates;
7. Priority recommendations from *The City of Vancouver Independent Election Task Force 2017*⁷ include several suggested reforms that do not require provincial legislation, and could be implemented by the City of Vancouver, notably:
- a. Using a deliberative participatory process to determine a system of Proportional Representation suited for municipal elections in Vancouver;
 - b. Amend the City of Vancouver Code of Conduct for Council officials requiring elected officials to withdraw from the decision-making process in matters submitted to City Council from corporations, unions, non-profit societies, and associations that contribute directly or indirectly to their campaigns. Require all submissions before Vancouver City Council to indicate whether the applicants (either the applying entity, or in the case of an organization, its officers) made campaign contributions and, if so, to whom. Contributors would self-identify on submissions that require a decision by City Council. The disclosure would accompany the submissions throughout the decision-making process.; and
 - c. Increase voter turnout through positive cues to improve engagement, civic literacy, and political knowledge;
8. Priority recommendations from *The City of Vancouver Independent Election Task Force 2019*⁸ include several suggested reforms that do not require provincial legislation, and could be implemented by the City of Vancouver, notably:
- a. Increase penalties and associated enforcement mechanisms to a level where this is a reliable disincentive to contravene regulations. Penalties need not be solely monetary and could include the loss of right to enter into a municipal contract (Recommendation 12);
 - b. Invest in voter engagement (Recommendation 13); and
 - c. The need for more research and a new Independent Election Task Force (Recommendations 14 and 15);
9. *The City of Vancouver Independent Election Task Force 2019* additionally recommends “Expanding the Definition of Advertising” (Recommendation 6) to include paid phone banking, paid digital campaigns, polling, and paid door-to-door canvassing.
- a. Today, sophisticated data analytics, weapons-grade communication technology⁹, artificial intelligence and machine learning, alongside under-regulated online campaign and engagement tools have created a fertile environment for a new political machine for the 21st Century.
 - b. These concepts may not have been contemplated in reforms to the LECFA in 2018, or submitted for provincial consideration but are viewed

by data and privacy experts as an emergent threat to democratic process¹⁰; and

- c. Recent investigations and revelations around Cambridge Analytica and the use of psychographic profiling and predicting techniques to identify voter behaviour and persuade the persuadables have been implicated in manipulating electoral outcomes in developing nations and more recently Trump in the United States and Brexit in the UK.¹¹
 - d. A joint investigation by BC and Canadian privacy commissioners¹² has revealed one local company, Aggregate IQ Data Services (AIQ) was responsible for privacy violations and data breaches and provided services to “several political organizations and campaigns in BC,” including “provincial party, certain candidates in the 2017 provincial election, a candidate for the leadership of a provincial party, and a municipal slate in the 2018 local elections.”¹³
10. The COVID-19 pandemic and resulting socio-economic crisis have strained the City of Vancouver’s financial and human resources, as well as means to effectively engage with Vancouver voters and non-voters alike;
11. Current City-led public outreach opportunities to improve civic literacy include the Vancouver Plan, led by PDS and operating across departments; and the “Your City Hall” (YCH) initiative, led by the City Clerk’s Office. The YCH initiative intends to take new actions aimed at reducing systemic barriers through civic engagement and outreach, to increase voter turnout and candidate diversity.

THEREFORE BE IT RESOLVED

- A. THAT Council direct staff to include as part of Your City Hall and/or another City-led undertaking, a deliberative public participatory process, to engage, consider and report back on Vancouverites preference for a system of Proportional Representation suited for municipal elections;

FURTHER THAT Council direct staff to report back on methodology and cost to establish a Citizen’s Assembly to review and recommend a preferred electoral system for Vancouver, independently or in collaboration with the above deliberative public participatory process findings;

AND FURTHER THAT timing of this work consider an opportunity for voters in the 2022 general election to provide input.

- B. THAT Council direct staff to advise amendments to the City of Vancouver Code of Conduct for Council officials, requiring elected officials to publicly declare any potential conflict related to campaign donations in decision-making process on matters submitted to City Council;

FURTHER THAT staff advise amendments to require all submissions before Vancouver City Council to indicate whether the applicants (either the applying entity, or in the case of an organization, its officers) made any political contributions to any member of council either inside or outside the local election

or campaign period and, if so, to whom; and that contributors would self-identify on submissions requiring a decision by City Council, and these disclosures would accompany the submissions throughout the decision-making process.

- C. THAT Council direct staff to advise amendments to the City of Vancouver Election By-law 9070 and/or Vancouver Code of Conduct, to increase penalties and associated enforcement mechanisms (including the loss of right to enter into a municipal contract) to a level where this is a reliable disincentive to contravene regulations.
- D. THAT Council direct staff to report back with options and framework to reconvene an Independent Election Task Force in advance of, and to report back after on the 2022 Vancouver general election. Per the recommendations of the 2016-2019 IETF a reconvened task force would be composed of entirely different members and that the work of the task force would be in addition to – and not a substitute for – reports undertaken by the city election office.
- E. THAT Council direct staff to include opportunities and engagement to improve civic literacy and voter turnout as part of the Your City Hall initiative, as well as through information and dialogues conveyed through the Vancouver Plan.
- F. THAT the following resolution be submitted to LMGA for submission as a 2021 UBCM Resolution titled “Expanding definitions and responsibilities of digital campaigns”:

WHEREAS Elections BC regulates and defines online advertising as election advertising that has or would normally have a placement cost, but this does not specifically or explicitly include all digital campaigns or data collection.

AND WHEREAS Sophisticated data analytics, weapons-grade communication technology, artificial intelligence and machine learning, alongside under-regulated online campaign and engagement tools have emerged to use psychographic profiling and predicting techniques to identify voter behaviour and persuade the persuadables using a variety of online engagement methods including but not limited to news, profiles, groups, memes and shareables. The use of deceptive and coercive digital campaigns have been implicated in manipulating electoral outcomes in developing nations, and more recently the Trump campaign in the United States, Brexit in the UK (Cambridge Analytica) and in BC’s 2017 provincial and 2018 local elections (AIQ).

THEREFORE BE IT RESOLVED THAT the UBCM request the Government of British Columbia to expand the definition of advertising to cover digital political campaigns and tools, and mandate their disclosure of how and when data is being collected and used, and by whom.

FURTHER THAT Whereas clause number 9 and related footnotes be included as backgrounder to this motion.

FURTHER THAT the Mayor on behalf of council write to the Premier and

Minister of Municipal Affairs requesting the Government of British Columbia consider and implement this request as an amendment to the Local Election Campaign Finance Act.

AND FURTHER THAT council direct staff to consider and report back on implementing these recommendations into the Council Code of Conduct and/or Election By-law 9070.

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1. Election Act
https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96106_01
 2. Local Elections Campaign Finance Act
<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/14018>
 3. Vancouver Charter
https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/vanch_00
 4. Vancouver Election By-law No. 9070
<https://bylaws.vancouver.ca/9070c.PDF>
 5. Code of Conduct Corporate Policy
<https://vancouver.ca/files/cov/boards-committees-code-of-conduct.pdf>
 6. Canadian cities are still electing overwhelmingly white governments (Zhou, Vice, Oct 2018)
<https://www.vice.com/en/article/598v8k/canadian-cities-are-still-electing-overwhelming-white-governments>
 7. Independent Election Task Force Final Report (2017)
<https://council.vancouver.ca/20170124/documents/rr3AppendixA.pdf>
 8. 2019 Report Back from the Independent Election Task Force (2019)
<https://vancouver.ca/files/cov/2019-06-21-report-back-from-the-independent-election-task-force-rts-12665.pdf>
 9. Before Trump, Cambridge Analytica quietly built “psyops” for militaries (Witt/Pasternack, Fast Company, Sept 2019)
<https://www.fastcompany.com/90235437/before-trump-cambridge-analytica-parent-built-weapons-for-war>
 10. Pew Research: Many Tech Experts Say Digital Disruption Will Hurt Democracy (Feb 2020)
<https://www.pewresearch.org/internet/2020/02/21/many-tech-experts-say-digital-disruption-will-hurt-democracy/>

11. Fresh Cambridge Analytica leak 'shows global manipulation is out of control' (Cadwalladr, The Guardian, Jan 2020)
<https://www.theguardian.com/uk-news/2020/jan/04/cambridge-analytica-data-leak-global-election-manipulation>
12. *Investigation Report P19-03/PIPEDA-035913: AggregateIQ Investigation* (McEvoy/Therrien, Office of the Information & Privacy Commissioner for British Columbia / Office of the Privacy Commissioner of Canada, Nov 2019)
<https://www.oipc.bc.ca/investigation-reports/2363>
13. A B.C. company with ties to Cambridge Analytica broke Canadian law. Here's why privacy watchdogs say it's a big deal (Seucharan, Star Vancouver, Nov 2019)
<https://www.thestar.com/vancouver/2019/11/26/data-firm-aggregate-iq-broke-law-by-sharing-personal-information-with-facebook-without-user-consent-bc-investigation-finds.html>