# A City of Neighbourhoods:
## Report of the 2004 Vancouver Electoral Reform Commission

**Thomas R. Berger, O.C., Q.C., Commissioner**

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**LETTER TO THE MAYOR AND COUNCIL**

VANCOUVER ELECTORAL
REFORM COMMISSION

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Mayor and Council
City Hall
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**Re: Vancouver Electoral Reform Commission**
**(Commission on Neighbourhood Constituencies and Local Democracy)**

Your Worship:

City Council appointed me to consider the merits of moving from our present at-large system to a ward system or some combination of the two.

My recommendation is that we move to wards.

I base this recommendation mainly on the neighbourhood meetings I have held and on the arguments advanced at the meetings, but I also base it on numerous submissions received in writing, by letters, fax and e-mail, as well as my own review of the studies carried out by academic experts and what we have learned from the experience of other cities.

Vancouver had a ward system from 1886 to 1936.[1] Since that time we have used the at-large system. Today ours is the only major city in Canada that elects its City Council at large.

I believe a ward system will allow citizens to cast an informed ballot, it will ensure representation of neighbourhoods and ongoing accountability to neighbourhoods between elections and it will open up the electoral process to independent candidates. It would mean

[1] There was an interregnum from 1920 to 1923 when Vancouver conducted an experiment with the single transferable ballot, a form of proportional representation.

fairer representation for the East Side. The 14 wards that I propose would also maintain Council at a manageable and effective size.

The preponderance of citizens who spoke at our neighbourhood meetings favoured the ward system.[2] But the call for wards was made virtually city-wide, and the arguments advanced in support were sound.

There were some who stoutly defended the at-large system. But virtually no one defended the current ballot, whereby each elector has ten votes and must choose ten from as many as 50 candidates. The result is that Vancouverites do not know most of the candidates and are driven to vote for a party slate. With a ward system, the ballot will be simplified: the voter can choose from a limited number of candidates running in the local ward.

The main argument for retaining the at-large system is that Councillors elected from wards would not consider the interests of the city as a whole but would be preoccupied by neighbourhood issues, that neighbourhood interests would trump city-wide interests.

We all know something about these neighbourhood concerns, whether they are confined to one or two neighbourhoods or arise in a number of areas: missing women in the Downtown Eastside, slot machines at Hastings Park, the fate of the Woodward's building, safety on the streets, big box stores, redevelopment of major sites, affordable housing, rapid transit, and so on. These are neighbourhood issues but they have implications for the city as a whole.

The point of view of the neighbourhood will sometimes prevail; sometimes the city-wide point of view will prevail. There will always be a healthy tension between the two. The important thing is that the neighbourhood – and the neighbourhood perspective - should be represented on City Council.

Would this turn City Council into a menagerie of champions of warring causes? I don't think so.

To start with Vancouverites, and those they elect to office, are not only residents of particular neighbourhoods, they are also citizens of Vancouver.

Then there is the contribution of the political parties to a city-wide perspective. They come to the electorate, as Neale Adams said at our Hycroft meeting, with "an idea of the city, a vision for the city." Under a ward system, the political parties will not have the stranglehold on civic politics that they now enjoy, but they will nevertheless continue to be a force, each contending for a coherent, city-wide point of view.

It is also true that every Canadian city of comparable size to Vancouver has a ward system. The evidence is that they have managed to strike a balance between local and city-wide points of view.

Wards will address the inequality of representation between the East Side and West Side of the city. Disparities in income and education, family status (for instance, Vancouver's 19,000 female single-parent families are concentrated on the East Side), facility in the use of English, and so on, have led to disparities in voter turnout. As a result, our City Councillors

[2] We conducted an extensive survey, with a similar outcome: of 1091 respondents, 50 per cent favoured wards, 29 per cent a partial ward system and 20 per cent the at-large system.

have largely been chosen by (and to a large extent from among) West Side residents. This is not a truly democratic arrangement.

Although it is not possible to predict all the consequences of electoral change, I believe that the move to a ward system would open up our two main political parties, the Coalition of Progressive Electors (COPE) and the Non-Partisan Association (NPA) and (at the last election) two minor parties, the Green Party and vcaTEAM. A ward system would make it more likely that parties would hold nominating conventions in each ward (that would, of course, be for the parties to determine), giving local candidates an opportunity to seek nominations at the neighbourhood level.

Given that COPE and NPA are running city-wide election campaigns costing a million dollars and more, wards would make a local campaign financially feasible for independents who do not belong to COPE, the NPA, or any other party. We have not elected an independent candidate to Council since 1988.

Political parties altogether dominate political life at the federal and provincial level, and perhaps necessarily so. At the municipal level, the political parties will continue to be an essential element of civic politics. However, I have heard a widely expressed sentiment, and I agree, that we should try to find a place for independents. I am satisfied that a ward system will offer an opportunity for independent voices that does not now exist under the at-large system, which gives an overwhelming advantage to the political parties.

I am recommending 14 wards, and increasing the size of City Council by four. We started out in 1886 with a Council of ten, elected by 499 men and women of the fledgling city. Today, with 14 wards, each Councillor would represent an average of 29,000 eligible voters (and each with an average population of 39,000 residents).

I have drawn boundaries for the wards, which I believe are within an acceptable range of variance as far as the number of eligible voters is concerned. The boundaries take into account the factors that the Council asked me to consider, i.e., community self-identification; demographic, socio-economic and ethnic composition; community service delivery; parks, community centres and other recreational resources and services; commercial and other economic relationships; and schools. The configuration of the 14 wards is based on the idea that neighbourhood boundaries should be observed as far as possible.

The Mayor would, of course, continue to be elected by a city-wide vote.

When we vote every three years we vote not only for City Council but also for nine members of the School Board and seven members of the Park Board. City Council has no authority to convert the school board to a ward system. That is entirely a matter for the Minister of Education.

As for the Park Board, I do not recommend converting it to wards. It has seven members elected at large; it serves as an advocate for parks and its budget is authorized by City Council. During the 50 years from 1886 to 1936 when we had wards, the Park Board was still

elected at large. There was no groundswell of support at the neighbourhood meetings for converting the Park Board to wards. I do not think we should do so. [3]

City Council has authority to adopt a "mixed" or "partial ward" system, with some Councillors elected from wards and some at large. No major city in Canada uses this system, though it is in use in some cities in the US. The trouble with the mixed system is that if we have a Council of 14, electing half of them at large and the other half from wards, the wards would have to be something like double the size I am proposing. Even if the ratio were two-to-one in favour of Councillors from wards, as opposed to Councillors elected at large, the wards would be too large. Unless therefore we increase, to the point of doubling, the size of our City Council, we would under a mixed system be left with wards that are too large in the sense that they would not truly represent the city's neighbourhoods but instead more or less arbitrary subdivisions of the city.

The partial ward system also presents the possibility of a two-tiered council, half elected at large and half from wards. This gave rise to the idea, espoused by former Mayor Art Phillips, that the Councillors elected at large would (together with the Mayor) be Vancouver's delegates to the Greater Vancouver Regional District (GVRD). This would give them duties of their own to match the ward duties of ward Councillors.

I believe, however, that City Council should retain the authority to appoint its delegates to the GVRD, as all the other member municipalities of the GVRD do. The question whether delegates to the GVRD should be elected is a policy question of the first importance. If direct election were the method adopted generally for selecting GVRD representatives, it would be a major step towards converting the GVRD into a 'mega-city' government encompassing the Lower Mainland, supplanting in large measure the integral role of its member municipalities.

The most obvious concern with the mixed or partial-ward system is that it retains most of the features of the at-large system that I find objectionable. For instance, it would still require an unwieldy ballot (though probably less unwieldy than today's), and it would still tend to favour, with respect to the election of the at-large Councillors, the West Side of the city, giving disproportionate representation to the areas of the city where voting turnout is highest.

My report is not, of course, the last word on electoral reform in Vancouver.[4] In this, I adopt the view expressed by May Brown, speaking at the Unitarian Church, who said, "We should see how a ward system works, and then consider changes."

There were proposals made at the neighbourhood meetings for various forms of proportional representation, or PR, and I have included in my report a discussion of these proposals. Proposals for PR are not, of course, currently on Council's menu, since under the *Vancouver Charter* the City has no authority to bring them in. Each PR system requires, at the least, the use of ballots that the *Charter* does not recognize as valid.

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[3] This entails, out of an abundance of caution, a technical amendment to the *Vancouver Charter*, which I have outlined at Chapter IX, section H.

[4] Others have gone down this road in the past. In 1979, the Eckhardt Commission looked into the issue of wards in Vancouver; in 1988, the MacKay Commission recommended ward boundaries for the city. I have indicated where I have made use of these reports.

Some form of proportional representation might have a place in Vancouver's future, but its implications will have to be thought through carefully. One form of PR that enjoyed strong support at our meetings is that of the single transferable vote (STV), a system that is this year being implemented in some cities in New Zealand, and was at one time (from the 1920s to the 1930s) in use in most major Western Canadian cities, including in Vancouver from 1920 to 1923.[5]

It may be that STV would lead to more proportional outcomes than either the at large or the ward system. Its advantages, however, are balanced by the fact that it works only in either at-large systems or in multi-member wards of much greater size (with each perhaps consisting of one-quarter of the city) than I am proposing; it therefore sacrifices neighbourhood representation for improvements in proportionality and to achieve fewer wasted votes. But the advantages of STV, like those of other PR systems, are felt principally on election day. At the municipal level PR does little to improve the way our democracy functions *between* elections, one of the main concerns expressed by Vancouverites at the neighbourhood meetings.

Although I am not advocating any of the proposed PR systems, I believe that the City should have the freedom to design such a system. I have discussed the possibilities of PR in Chapter VIII of my report so that if Council wishes at some future time to consider PR, it will not be necessary to repeat the work that I have done. I therefore recommend that City Council should seek the necessary amendments to the *Vancouver Charter* to enable the City to adopt some form of proportional representation. If Council were to agree that STV is the fairest system of PR, ward boundaries could be altered accordingly, though the wards would necessarily have to be fewer and larger unless the size of Council were to be increased substantially.

At the provincial level, the Assembly on Electoral Reform is currently weighing the usefulness of various forms of PR. Some have suggested that we should 'wait and see' what that body recommends.

But I do not believe that consideration of proportional representation in Vancouver should be deferred until the work of the Citizens' Assembly is completed. If the Assembly's recommended system (whatever it turns out to be) is endorsed by the provincial electorate and if it is implemented by the provincial government, it will not come into force until 2009. If the Assembly cannot agree on a recommendation, or if their recommendation is rejected at a referendum, or if the provincial government fails to implement it, waiting will have been in vain. Besides, proportional systems that work well in large legislative bodies may be quite unsuitable at the municipal level.

If the *Charter* is amended, the City can, if it should choose to do so, craft a specifically municipal version of PR.

The Council asked me to look into campaign contributions. This too is not on Council's current menu, since the provisions of the *Vancouver Charter* relating to campaign contributions can only be altered by provincial legislation. As the *Charter,* stands it provides for disclosure of contributions for purposes of election campaigns. Expenses incurred from January 1 of each

[5] But the form adopted in Vancouver in this period was STV in an at-large system, whereas the most appealing contemporary models of STV use multi-member wards.

election year must be reported. Political parties are entitled to retain any surplus. I recommend that where debt is incurred to pay election expenses, there should be a requirement that until the debt is fully retired, all contributions must be reported.

I have also recommended that Council seek amendments to the *Vancouver Charter* and other legislation to repeal the provisions allowing non-resident property owners to vote; to authorize randomized ballots; to implement a program for the distribution of candidate profile statements; to impose restrictions on campaign contributions and campaign spending; and to issue tax credits for municipal campaign and political contributions.

On the main issue, based on the arguments advanced at the neighbourhood meetings and using my own best judgement, I come down in favour of wards.

The City has a tradition of holding referendums on changes to its electoral system. I think we should continue to observe that tradition. But the requirement of a 60 per cent majority for such a change cannot be justified. It was used three times in the 1980s to stymie the city's votes for wards. When the choice is, as I propose, between wards and the at-large system, a 60 per cent threshold would mean that the at-large system could be retained as our electoral system with only 41 per cent of the voters' support, an undemocratic result by any standard. The 50 per cent plus one threshold is appropriate.

I recommend a stand-alone referendum, to be held in October 2004 if it is to occur in time for a ward system to be instituted for the next civic election. The question should be straight up: Are you in favour of changing to the ward system? Yes or No.

All of these issues are discussed in my report, which accompanies this letter.

Yours truly,

Thomas R. Berger
**Commissioner,**
**Vancouver Electoral Reform Commission**

**ACKNOWLEDGEMENTS**

I wish to acknowledge the assistance of Craig Jones, who served as my Commission Counsel, and Jeannie Bates, who served as Assistant to the Commissioner. Craig not only provided advice on the *Vancouver Charter* and the other legal issues that arose, but he also reviewed the myriad of electoral systems discussed here. As well, he was invaluable in helping me to draft the report.

Jeannie got the Commission up and running, arranging for surveys, meetings, communications (with media and community groups), liaising with City Hall staff, and doing all things necessary for our Commission to complete its work within the span of just a few months. Without Jeannie, we could not have got the job done.

Reut Ariel, Kate Devlin and Warren Smith, articled students at Bull, Housser & Tupper, provided legal and historical research, as well as editorial assistance, on a volunteer basis.

I would also like to thank Syd Baxter, Vancouver's City Clerk, and his deputy, Marg Coulson, for their cooperation and assistance throughout, and especially for acquainting us with the details of the City's government and electoral machinery.

In developing the ward boundaries, we had the great advantage of working with and utilizing the expertise of City Hall staff, and in particular Paul Raynor, Senior Housing Planner (Housing Centre - Community Services); Paul Nowlan, Planner II (Planning Department - Community Services); Dan Campbell, Graphics Planner (Support Services - Community Services) and Jonathan Mark, Manager, GIS (Corporate IT - Corporate Services). Their work made it possible for us to design a system of neighbourhood constituencies that, I believe, truly reflects the criteria laid down by Council.

The Communications team at City Hall including Catherine Clement (Director of Communications), Nancy Eng and Hamish Wilson (Communications Coordinators), and Elaine Ayers (Graphic Designer) worked closely with us to develop and implement the Commission's communications strategy and keep our website up to date. We also relied from time to time on the helpful staff of the City Solicitor's Office and the Vancouver Archives.

Each public meeting was videotaped by Chris Bouris, whose patience, efficiency, and unobtrusiveness permitted the webcasting of the Commission's entire public record. The minutes of each meeting were ably recorded by Rae Ratslef, Jana Anderson, and Carrie Peacock, of Raincoast Ventures.

# I. INTRODUCTION

## A. The Commission's Mandate

Electoral reform has been a recurring issue in our city for a century. City Council appointed this commission to consider it once again and gave me a broad mandate. According to the resolutions passed by City Council on July 29 and October 7, 2003 (reproduced at Appendix 1), the main features of the Commission's mandate are:

> To conduct hearings, receive submissions and report to Council on the merits of the current at-large system, the 'neighbourhood constituency' or 'ward' system and other alternative systems of civic elections;
>
> To consider the optimum number of neighbourhood constituencies, propose boundaries, measures to adapt the election of Park Board Commissioners and the appointment of GVRD representatives to any new method of electing City Council;
>
> To consider other measures with a view to the improvement of civic democracy that might be implemented by City Council or by the Legislature through changes to the *Vancouver Charter*, including the issue of campaign contributions.

Council asked the Commission to develop a consultative process to obtain "the broadest possible consensus" for the Commission's proposals, and at the same time to provide a fair opportunity for "every neighbourhood and community" to be heard. The Commission has heard from every neighbourhood and community and has crafted proposals based on the arguments made by the citizenry.

This is my report and these are my proposals.

## B. The Ward and At-Large Systems in Vancouver's History

Vancouver's first City Council adopted the ward system in 1886, and retained it, with an interregnum from 1920 to 1923, for the next 50 years. In 1936, Vancouver adopted the at-large system, and we have conducted all of our civic elections ever since on that basis.

The City of Vancouver was established through legislative charter on April 6, 1886. The new city was less than half its present size and did not include the then undeveloped areas of Point Grey and South Vancouver.[6] It had perhaps a few thousand residents, no electricity, no bank, and very soon, hardly any buildings – a fire destroyed most of the town in June of that year.

The 1886 *Vancouver Incorporation Act*[7] provided that 10 Councillors (then called Aldermen) and a Mayor were to be elected at large. Four hundred and ninety-nine votes were cast in the first municipal election, held on May 3rd of that same year. The right to run for the position of Mayor or Alderman was restricted to men who owned property worth $1,000, although both men and women could vote.

In the third by-law passed by the first Council, they established, as they were authorized to do under the *Act*, a system of five wards, each electing two Aldermen. Subsequent changes to the *Vancouver Incorporation Act* provided that the City could not return to an at-large system without the consent of 60 per cent of qualified voters in a referendum.[8]

Council remained free to enlarge or reduce the number of wards and to change ward boundaries or numbers. In 1904, they increased the number of wards to six, still with two members each. So the size of City Council stood at 12. In 1911, the expansion of the city's boundaries to include the present neighbourhoods of Cedar Cottage, Kensington and Riley Park led to the addition of two more wards, for a total of 16 Councillors. Multi-member wards were abandoned in 1916, and Council returned to eight members, one representing each of the city's wards.

From 1920 until 1923, Vancouver experimented with a form of proportional representation known as the single transferable vote. But proportional representation was abandoned in 1923 and wards restored.

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[6] In 1886 Vancouver encompassed the downtown peninsula, the West Side to Alma Road, the East Side as far as Nanaimo Street, and was bordered by 16th Avenue to the south. In 1911, the boundaries were extended east to Boundary Road, and south to 25th and 29th Avenues in parts of the eastern half of the city.

[7] S.B.C. 1886, c.22, 49 Vict.

[8] *Vancouver Incorporation Act* S.B.C. 1900 c.54, s.3.

In 1928, the Legislature passed an Act amalgamating the municipalities of South Vancouver and Point Grey into the City of Vancouver.[9] In the subsequent election of 1929, the expanded city was divided into 12 wards.

In December 1935, a referendum was held on the following question:

> Are you in favour of abolishing the ward system and electing the Aldermen at large?[10]

The campaign leading up to the vote spurred little debate (the press and both major political organizations – the Non Partisan Association (NPA) and the Co-operative Commonwealth Federation (CCF) – favoured the reform); the turnout was 19 per cent.[11] The measure was approved with 69 per cent support and, in 1936, the Legislature again amended the *Vancouver Incorporation Act* to provide that "the city shall be one ward and the Council shall be nominated and elected from the city at large."[12] At the same time, the size of Council was reduced from 12 to its pre-amalgamation size of eight.[13] The at-large system has been the system in use since the 1936 election.

Although in 1935 the adoption of the at-large system was not contentious, it became so in the years following World War II, and has been the subject of much controversy in recent decades.

By 1968, a campaign for wards was under way, prompted by the emergence of two new political forces: The Electors Action Movement (TEAM) and the Committee of Progressive Electors (COPE).[14] This led to a series of referendums.

In 1973, the voters rejected a change to wards in a referendum by 58.9 per cent.

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[9] *Greater Vancouver Act*, R.S.B.C. 1928, c.17.
[10] *Vancouver Incorporation Act, 1921, Amendment Act*, 1935 S.B.C. 1935 c.92. A second question asked whether the voters were in favour of reducing the size of Council to eight.
[11] A full account of this period can be found in Andrea B. Smith, "The CCF, NPA, and Civic Change: Provincial Forces Behind Vancouver Politics 1930-1940" (Spring 1982) 53 BC Studies 45.
[12] *Vancouver Incorporation Act, 1921, Amendment Act,* 1936 S.B.C. 1936 c.68 s.3.
[13] *Ibid.*, s.4.
[14] COPE's name has since been changed from the Committee of Progressive Electors to the Coalition of Progressive Electors.

The ward issue arose again in 1977 when a group called the Area Representation Electors' Alliance (AREA) began to campaign for a change, and even drew up proposed ward boundaries. The following year, Council authorized a referendum to be conducted during that November's election, asking the electorate to choose between a full ward system or the existing at-large arrangement.

This was the first of three referendums in the following decade, in all of which the citizens of Vancouver voted for wards.

The vote in the 1978 referendum was narrow: 51.7 per cent favoured a move to the ward system. The outgoing Council decided to leave implementation to the incoming Council, which in turn decided to appoint a commission to consider the matter.

In 1979, Council established the Vancouver Governmental Review Commission, chaired by Judge L.S. Eckhardt (the "Eckhardt Commission"), which made a number of recommendations regarding Vancouver's municipal government. The Commission's main plan was to expand Council to 15 members and divide Vancouver into five wards, with the boundaries following the (then) five provincial electoral districts. In each ward, two Councillors would be elected by the electors in the ward. A third Councillor would be elected from the city at large. That is to say, each voter would choose two Councillors from a list of names from the ward. That ballot would be unique to the ward. Then, voters would be presented with six 'at large' ballots; one for the Mayor and one each for the five ward Councillors elected at large. These latter ballots would be the same throughout the entire city.

Similarly, the School Board and the Park Board were to be expanded to 10 trustees and commissioners respectively, two from each ward but with one of them, again, elected from the city at large. The Mayor, the Park Board Chair and the School Board Chair were to be separately elected by the city at large. This quite complicated arrangement would have replaced Vancouver's present four ballots (Mayor, Council, School Board, Park Board) with no less than 21 ballots. Council did not act on the Eckhardt Commission's recommendations.

The 1980 election produced a Council on which the majority (mainly COPE and independent members) favoured a full ward system. In 1982, Council established a committee of Council which held a series of public meetings across the city and generated a report recommending a

move to a ward system. Council endorsed a move to 10 single-member wards. The resulting referendum favoured wards by 57 per cent, and in 1983, Council sent a set of proposed ward boundaries to Victoria with a request for the necessary *Charter* amendments. The provincial government of the day insisted upon a formal requirement that any change be approved by a 60 per cent majority in a referendum.

In 1987, the *Vancouver Charter (Amendment)* S.B.C. 1987, c.52 was enacted, amending section 137 of the *Vancouver Charter* and granting Council the ability to move to a ward system by by-law. The amendment, however, also provided that, before passing such a by-law, Council must first hold a referendum on the matter and garner the support of at least 60 per cent of the voters.

Council established an Electoral Boundaries Commission in 1988, chaired by Douglas MacKay (the "MacKay Commission"), which held hearings and recommended boundaries for 10 wards. The referendum held the same year produced a 56 per cent majority in favour of wards, still short of the 60 per cent majority now required by the *Charter*.

In 1993, the *Local Elections Reform Act,* S.B.C. 1993, c. 54, amended the *Vancouver Charter* to provide Council with the authority to move to a ward system directly by by-law, with the consent of the Lieutenant Governor in Council. No referendum would be necessary to authorize the change.

In November 1995, Council passed a motion to schedule another referendum on wards at the time of the 1996 election. In the same motion, Council itself added the requirement of a 60 per cent majority as a condition for any change to occur.

By now the municipal and provincial roles in the 60 per cent debate had been reversed, and the provincial government was opposed to such a requirement. The Legislature countermanded City Council by passing an amendment indicating that 50 per cent plus one would be sufficient in such a referendum.[15] Council's response was to draft a confusing multi-

[15] The *Municipal Affairs and Housing Statutes Amendment Act, 1996,* S.B.C. 1996 c.16, amended the *Municipalities Enabling and Validating Act (No.2),* S.B.C. 1990, c.61, adding a section providing that, if, in conjunction with the 1996 Vancouver municipal election, the City held a referendum on the establishment of a ward system, the question would be deemed to receive a majority vote if more than 50 per cent of the votes were in favour of the question.

question referendum that produced a 59 per cent majority in favour of retaining the at-large system, with a 54 per cent margin favouring wards if the existing system were to be changed.

The debate has remained with us. Wards have remained a feature of COPE's electoral platform. In 2002, COPE candidates were elected to a majority on City Council. In July 2003, Council established this Commission and gave it the mandate I described at the outset of my report.

## II. THE COMMISSION'S WORK

### A. Staff

The Commission engaged a professional staff of two: Jeannie Bates acted as Assistant to the Commissioner, and Craig Jones of the law firm of Bull, Housser & Tupper served as Commission Counsel. The Commission also drew extensively upon the staff and facilities at City Hall, in particular the City's Electoral Officer and his staff, the Geographic Information System (GIS) staff and the Communications Department staff.

### B. Modus Operandi

The Commission held neighbourhood meetings so that Vancouverites could state their views and advance arguments in support of those views. There were two types of neighbourhood meetings: initial 'overview' presentations, and 'town hall' style neighbourhood meetings. The Commission also established other avenues of communication to invite feedback and submissions from the public.

#### (1) Overview Presentations

There were two public overview meetings at Simon Fraser University Harbour Centre. The purpose of these meetings was to provide background and context to the issues, and gain some initial proposals which might be considered and debated by Vancouverites at the neighbourhood meetings to follow.

At the first overview meeting on December 2, 2003, former Mayors Philip Owen, Mike Harcourt and Art Phillips presented their views on the merits of each of the 'at-large', 'ward' and 'mixed' or 'partial ward' systems. Each of these senior statesmen of civic government holds a different preference: Owen favours the at-large system, Harcourt the ward system and Phillips the mixed or partial ward system.

The Commission held a second overview meeting on January 21, 2004. Professor Paul Tennant of the University of British Columbia, Professor Kennedy Stewart of Simon Fraser University and Professor Patrick Smith of Simon Fraser University discussed Vancouver's electoral

history, and shared their views regarding the merits of the various electoral systems and which system might best suit Vancouver.

### (2) Other Avenues of Public Participation in the Commission's Work

The Commission invited written submissions by mail, fax, e-mail and through the Commission's website. Scores of submissions were received this way, ranging from brief e-mail questions or comments to very well-developed, essay-length arguments. The Commission responded to each inquiry in as much depth as was necessary. In addition, several written submissions were received by the Commission at the neighbourhood meetings themselves.

On the Commission's website as well as in newspaper inserts in the *Vancouver Courier* (in English) and in *Ming Pao* (in Chinese), the Commission undertook a survey: it laid out the various models, the arguments for and against those models and then asked for opinions.[16]

In both newspapers, we asked people to read the arguments provided on the merits of each system, and to send in their views. The results of the survey (there were 1,091 respondents)are set out in Appendix 2. But it should be said that on the key issue, wards, a majority were in favour: 50 per cent for wards, 29 per cent for partial wards, and 20 per cent for at-large.

### (3) The Neighbourhood Meetings

I was asked by Council "to develop a consultative process, aimed at obtaining the broadest possible consensus, and to ensure that every neighbourhood and community in the city has a fair opportunity to be heard."

[16] The idea of a random telephone survey was rejected, as it did not seem to offer citizens a chance to reflect before responding. In fact, Ipsos-Reid made public in November 2003 a random survey it had carried out. The question was: "As you may know, Vancouver is considering implementing a ward system for electing City Councillors in the next municipal election. Do you think this is a good idea, a bad idea, or do you not know enough to say?"
Sixty-one per cent of those called had no opinion. Twenty-nine per cent thought it was a good idea, and nine per cent thought it was a bad idea. Given the large number of persons who did not believe they could give an informed opinion, I place little stock in the results of this survey.

So I held 17 neighbourhood meetings, at the following places on the following dates:

| | |
|---|---|
| January 28, 2004 | General Wolfe Elementary School, 4251 Ontario St. |
| February 2, 2004 | Kiwassa Neighbourhood House, 2425 Oxford St. |
| February 9, 2004 | St. James Community Square, 3214 West 10th Ave. |
| February 11, 2004 | UBC Point Grey Campus Buchanan Building, 1866 Main Mall |
| February 17, 2004 | Vancouver Public Library Downtown, 350 West Georgia St. |
| February 21, 2004 | St. Mary's Kerrisdale, 2490 West 37th Ave. |
| February 23, 2004 | Renfrew Park Community Centre, 2929 East 22nd Ave. |
| February 29, 2004 | Oakridge Auditorium, 650 West 41st Ave. |
| March 1, 2004 | St. Philip's Church Hall, 3737 West 27th Ave. |
| March 3, 2004 | Carnegie Centre, 401 Main St. |
| March 9, 2004 | Killarney Community Centre, 6260 Killarney St. |
| March 15, 2004 | Hycroft, 1489 McRae Ave. |
| March 22, 2004 | False Creek Housing Co-op, Sitka Square Enclave 6 |
| March 24, 2004 | Unitarian Church of Vancouver, 949 West 49th Ave. |
| March 31, 2004 | St. John's United Church, West End, 1401 Comox St. |
| April 6, 2004 | Sunset Community Centre, 404 East 51st. Ave. |
| April 13, 2004 | Kensington Community Centre, 5175 Dumfries St. |

The overview meetings and the neighbourhood meetings were well attended. Over 1,000 people came to the meetings, and approximately 250 spoke.

At two of our public meetings (Oakridge and Carnegie Centre), we had translation for Chinese speaking citizens. We had a translator available for Hindi and Punjabi at the Sunset meeting, though as it turned out, she was not required.

I spoke to a meeting of seniors at Brock House on March 15 and to members of the Downtown Vancouver Association on March 31. At both meetings, the citizens present were invited to offer their views, and some of them have been quoted in what follows.

The MacKay Commission established by City Council to consider ward boundaries in 1988 held four public meetings, at City Hall and at Trout Lake, Killarney and Kerrisdale community

centres. Likely because the meetings held by that earlier commission were dealing with ward boundaries, not the issue of wards itself, attendance was disappointing. The meetings were well advertised, but only the meeting at City Hall had more than three speakers. Sixteen presentations were made in all to the MacKay Commission; so I cannot complain.

Citizens spoke for themselves at the neighbourhood meetings, but organizations were represented as well. At some meetings, the COPE position was urged. At St. John's in the West End, the Green Party was prominent. At St. Philips in Dunbar, it was the Board of Trade. At Sunset, it was the NPA. At Kensington, Fair Elections Vancouver presented their case.

In fact, each meeting had a dynamic of its own. Discussion evolved as the evening proceeded. Sometimes a particular topic would engage those present. At St. Philips, various schemes for a partial ward system were advanced. At Kensington, several proponents of proportional representation took the floor.

Some citizens who could not get out to the meetings in their neighbourhood came to another meeting and spoke there. Hence, for instance, speakers from Mt. Pleasant might turn up at Kensington. A few citizens chose to attend – and in some cases speak at – more than one meeting, adding to thoughts they had earlier expressed.

Was there a consensus? Those who spoke predominantly favoured wards. There were, however, defenders of the at-large system and some who urged a partial ward system. As well, there was some discussion from time to time of proportional representation.

But, I was not conducting a poll.[17] Instead, my job was to listen to the concerns expressed by citizens who came out to the meetings, the arguments they advanced and the remedies they proposed. And, of course, to consider the views of the citizens who took the trouble to make written submissions by mail, by fax and e-mail, and through our website.

[17] The Commission received three petitions. One, from the Coalition for Civic Democracy with 585 signatures from Chinese- and English-speaking citizens, called for a referendum. We received a second petition with 58 signatures urging the immediate implementation of a full ward system, that is, without a referendum. A third petition, with online registration and hand signatures, contained 674 names in favour of a full ward system for both Council and the Park Board. But, I don't think my job was simply to count names.

Every person who wished to be heard was encouraged to speak. No time limits were imposed on any speaker.

I learned something at every meeting.

### (4) Other Meetings

When the opportunity arose, we also met with people who had experience in other cities. I met with City Councillors and City Staff in San Francisco and with Peter Steinbrueck, a member of the Seattle City Council when he visited Vancouver. The Assistant to the Commissioner met with a Councillor and staff in Toronto and with Bill McCarley, former City Manager of Los Angeles, on his visit to Vancouver.[18]

We met with Jack Blaney, Chair of the Assembly, and members of the Assembly's staff. Through the Assembly's good offices, we met with experts on electoral system design from New Zealand and England. The Assembly staff, and especially Dr. Ken Carty, the Assembly's Director of Research, provided background materials and references on an ongoing basis.

There were other meetings as well, more or less formal. We met with the Park Board Commissioners and Park Board senior staff; we also met with the Community Engagement Subcommittee of the Vancouver City Planning Commission. We were invited to attend several other events, and time permitted us to attend each. Commission Counsel participated in a panel discussion on local electoral reform at the NPA's Community Forum. Commission Counsel and the Assistant to the Commissioner also attended the final "Think City: Think Democracy" community forum. The Assistant to the Commissioner spoke at the annual general meeting of the Dunbar Residents' Association on November 24, 2003.

### (5) The Commission's Website and Television Programs

City Hall provided the Commission with its own website, linked to the City's main page. On this site, we posted information about the Commission and its work, the location of meetings, and so on. We also solicited input both in the form of e-mail submissions and an electronic survey.

[18] The travel for meetings in San Francisco and Toronto was not undertaken at the City of Vancouver's expense.

A link to a full video record of each neighbourhood meeting (as well as the two overview presentations) was posted on the Commission's website, so that any citizen so inclined could see and hear the arguments being made.

Early on, staff from GVTV, the City's and GVRD's weekly cable program, produced two documentary shorts on electoral reform in Vancouver, entitled "Electoral History" and "Comparing Systems." These were shown at the beginning of the neighbourhood meetings as a way of introducing those present to the subject, and were also available for viewing through the Commission’s website. These programs were also shown on local community cablevision.

## III. THE WARD AND AT-LARGE SYSTEMS

### A. Introduction

The debate at the neighbourhood meetings revolved around dissatisfaction with the present at-large system and the merits or otherwise of wards: a full ward system, a partial ward system or some variant of proportional representation, the arguments in favour, the arguments against.

At our first meeting (General Wolfe School), representatives of COPE made its case for wards. Anita Zaenker, president of COPE, presented a submission signed by Mayor Larry Campbell. At our 15th (St. John's, West End) and 16th (Sunset) neighbourhood meetings, NPA Councillor Sam Sullivan presented the case for the at-large system.

Sandwiched between these presentations were the views expressed by the citizens of Vancouver.

### B. Vancouver's City Government

In what follows, I set out the arguments advanced on all sides and indicate why they have led me to propose a ward system for Vancouver.

It will be apparent that my recommendations are informed by views I have reached about certain aspects of our city government, such as the size of Council, the relationship between Council and the City's professional staff, the role of the Greater Vancouver Regional District (GVRD), and so on. In order to put my recommendations on the ward and at-large systems – as well as the mixed or partial ward system and alternatives based on proportional representation – in perspective, I want first to review the way in which Vancouver's city government operates.

The City of Vancouver is a municipal corporation that derives its powers from its incorporating provincial statute, the *Vancouver Charter*.[19] The *Charter* describes the powers of the City, and how those powers are to be exercised by the city government.

[19] S.B.C. 1953 c. 55, as amended.

### (1) City Council

Vancouver's 'legislative branch', if you will, is the City Council, composed of 10 Councillors plus the Mayor.

The Mayor and the 10 Councillors are elected from the city at large. The Mayor and Councillors serve for three years. Council meets in the Council Chamber at City Hall to pass resolutions and by-laws for the City. There are three subordinate boards over which Council has budgetary control: the Park Board (also elected from the city at large), the Library Board, and the Police Board.

These requirements are set out in the *Vancouver Charter*. Council may, by by-law, increase the size of Council; however, it may not reduce it to a number lower than ten, and if it increases the number of Councillors, it may not then reduce it without the approval of the electors through a referendum.[20]

There are two other legislative bodies that I should mention here. Vancouver sends six delegates to sit on the Board of the GVRD, a body tasked with operating important services throughout the Lower Mainland. The Mayor traditionally holds one of these places; the other five are selected by Council from among the members of Council. Vancouver also sends three representatives to TransLink, the Lower Mainland's regional transit authority. These representatives are appointed by the GVRD from its board and include the Mayor.

The Mayor, who is a member of Council and its Chair, is also Chair of the Police Board.

We are, of course, concerned here principally with how we elect the members of the legislative branch, the Council. However, when we are considering the governance of the city, we must also consider how Vancouver puts its policies into practice; in other words, who actually runs the day-to-day operations of the city?

The answer is not simple. Vancouver's Council members are directly involved in governance more than those in many other cities. Because we have a relatively small Council, it is possible for all Councillors to sit in 'committees of the whole', so that important areas of

[20] *Vancouver Charter*, s. 137.

responsibility are not delegated to small, powerful committees or 'ministries', if you will, within Council. Vancouver's three official standing committees, the Planning and Environment Committee, the Traffic and Transportation Committee and the City Services and Budgets Committee are committees of the whole: all Councillors sit on these committees and all may vote on their business.

### (2) The City Manager System

But Vancouver is also run, to a great extent, by the City's professional staff. In the 1950s, the City commissioned an American consulting firm, the Public Administration Service of Chicago, to review the City's administration and recommend means of improvement. As a result, in July 1956, the City replaced its Council committee administration system with an appointed Board of Administration, based on the City Manager model of municipal government.[21]

In Vancouver, the City Manager is the principal executive figure. The position is filled by City Council appointment, and the City Manager is responsible to Council for the execution of Council's decisions and the work of City departments. The City Manager has some discretion in overseeing the City budget, and makes recommendations to City Council regarding policies and directions. The City Manager, or a designate, attends each Council meeting, and is frequently called upon to report on the operations of various departments of the City.

The City Manager, assisted by a small staff, is ultimately responsible for the work of all departments, and has close liaison with three other boards over which Council has budgetary control (Library Board, Park Board, and Police Board).

The City Manager position is not a political appointment. The present City Manager, Judy Rogers, was appointed in 1999, having previously served for some years as Deputy City Manager and Assistant City Manager.

Council appoints, in addition to the City Manager, only three other employees: the Director of Finance, the City Clerk and the City Treasurer. These positions too are filled by professional

[21] Paul Tennant, "Vancouver Politics and the Civic Party System" (Unpublished, March, 1979) (On file with the Vancouver Electoral Reform Commission) at p. 8.

civil servants and are not political appointments. All other appointments of the City Management Team, except those made by statutory boards, are made by the City Manager.

Council has a small support staff, but again with no political appointees among them. Only the Mayor's three Executive Assistants are considered to be political appointments – i.e. persons who are expected to come and go with a change in the Mayoralty.

The picture I am painting of our municipal government is one of a small, professional, centralized and relatively powerful professional staff that works closely with Council but is, politically speaking, at arm's length from the City's elected representatives. This is coupled with a relatively small Council in which every Councillor can participate in virtually every decision made.

I set this out for two reasons. First, because in our debate over what is the best electoral system, we frequently overlook the fact that much of our City government is professional and quite unaffected by whether Councillors are elected from wards or at large.

Second, I think that Vancouver's model – with its emphasis on a professional civil service and a strong, experienced non-political executive branch – is an effective one. It was striking that, at the neighbourhood meetings, while there was much talk of reform of Council (or at least of the electoral system), the professional civil service at City Hall was almost always spoken of in positive terms.

I emphasize all this by way of introduction because, although we are not considering any reform with respect to the executive branch of our city government, I am conscious that changes to Council may have an impact on the environment in which our municipal officers operate. I am of the opinion that, to the extent that Vancouver is widely recognized as a liveable city, it is – putting the mountains and the water to one side – very much attributable to our professional civil service and the way in which it works with a small, hands-on Council. Having recognized this as an important characteristic of Vancouver's government, I am reluctant to recommend changes that will disturb it: principally, I have tried through my recommendations to avoid a wholesale expansion of Council or any steps that will tend to politicize the public service or undermine the efficacy of the City Manager system.

## C. Defences of the At-large system

### (1) 'If it Ain't Broke'

Perhaps the most widespread view in favour of retaining the present system was that voiced by Wayne Hortrick (Hycroft)[22], who questioned whether there is anything fundamentally wrong with the way the at-large system works in Vancouver. He thought not: "If it ain't broke, don't fix it." Bruce Alexander (False Creek) expressed his satisfaction with the present system in the same way, asking: "Why are we fixing what isn't broken?"

Michael Klassen (Kensington) said, "Vancouver works with its existing style of government. Why are we attempting to change it?" This was echoed by others. Donald Kydd wrote in an e-mail to the Commission:

> I feel that the system we have now has served us well for many years and helped make this city to be one of the best places to live.

### (2) The City-Wide Perspective

Supporters of the at-large system argue that it results in the election of City Councillors with a city-wide vision. This was, aside from the more general assertion that the present system was working well, the most forcefully advanced endorsement of the present system.

Sometimes, the city-wide perspective was advanced as a positive argument, as when Dan Lee (Oakridge), a former Councillor, said that Councillors elected at large may be better able to deal with city-wide issues and make more balanced decisions on them. Mike Lambert (Killarney) said the at-large system has provided responsible government. Each Councillor has "a perspective relating to the good of the entire city."

The same view was also advanced in the negative, with the suggestion that ward Councillors would necessarily be parochial and the ward system divisive. Glenn Urqhart (Killarney) said that he "sees Vancouver as one community, not a series of communities cobbled together." Don McIntyre (Renfrew-Collingwood) put it this way: "I want to vote for someone whose vision is wider than the Downtown Eastside or Kerrisdale."

[22] This is neighbourhood meeting where the person spoke.

Peter Cherniavsky (Unitarian Church) said he "likes Vancouver the way it is." Vancouver should not, he said, be "divided into little fiefdoms."

Doreen Braverman (Hycroft) was against wards because in her view ward Councillors "would not think of the greater good." Olive Skene Johnson (St. John's, West End) used the same expression as Ms. Braverman: wards, both believed, would "balkanize the city." This thought was expressed in a similar way by Mitsy Montgomery (Kensington), who was concerned that under a ward system, the city would be "ghettoized."

### (3) Ten Votes, Not One

In the at-large system, a citizen has 10 votes, not one. Edward Sem (Oakridge) said he "did not want to give up the right to vote for 10 Councillors." This was echoed in the brief submitted by the Vancouver Board of Trade, which said a move to wards would "partially disenfranchise voters."

Having more than one vote has another advantage that was suggested: it allows voters to pick and choose several candidates from different parties, should they so choose, and split their vote among them. Vancouverites can, in a sense, design the make-up of their own ideal Council, and vote accordingly.

This point was made by David Quinton in an e-mail to the Commission, where he said that "the current at-large system…has in the past allowed me to vote for both George Puil and Harry Rankin. I like that kind of choice."

### (4) Ten Councillors for Each Voter

Hand-in-hand with the right to vote for all 10 Councillors, of course, is the right of a voter to approach any one of the 10 with complaints or concerns.

Mike Lambert (Killarney) said, "You can talk to any Councillor because they're all elected by all of us." Another former Councillor, Don Lee (Oakridge), said that residents could appeal to any Councillor for help rather than just their ward Councillor.

Wayne Hortrick (Hycroft) said that he "likes the idea that I can call up all 10 Councillors."

### (5) Non-Geographic Constituencies

It was also argued that the at-large system recognized that some constituencies are not confined to wards, and indeed are not tied to geography. Sharon Van Volkingburgh made this point when she e-mailed the Commission: "I live, work and attend church in three different areas of the city….There are many more kinds of communities in the city than geographically defined communities."

Jerry Leroux, (Carnegie Centre), himself a disabled person, spoke in favour of the at-large system, pointing out that "we have two disabled persons on City Council." He wondered whether this particular minority would be well served in a ward system.

## D. Criticisms of the At-Large System

### (1) Block Voting

Vancouver's present at-large system uses the electoral system known as block voting. It might also be described as first 10 past the post. Each voter casts 10 votes for candidates from a list of dozens; the 10 candidates with the highest number of votes are declared the winners.

Douglas J. Amy, in his highly-regarded textbook on electoral systems,[23] sets against the two advantages of at-large block voting in municipal systems – promoting city-wide representation over local parochial interests and avoiding problems of gerrymandering when ward boundaries are drawn – a list of disadvantages: poor geographic representation, more expensive campaigns, and self-defeating votes by electors.[24] Amy also asserts that the representation of racial, ethnic, or political minorities fares less well under the at-large system than with any other possible system. Many of these themes were taken up by speakers at our neighbourhood meetings, and in submissions to the Commission made in writing. But Vancouver's citizens also identified other concerns with the at-large system that are rather more practical but no less important, such as the size and complexity of the ballot.

[23] Douglas J. Amy, *Behind the Ballot Box: A Citizen's Guide to Voting Systems* (Westport, CT: Praeger, 2000). This book was adopted last year as a standard reference on electoral systems by the Assembly on Electoral Reform.
[24] *Ibid*. at pp. 57-60.

### (2) The Ballot

Under the at-large system, every citizen can vote for 10 candidates on the ballot. But the ballot contains a multitude of names. At the 2002 election, 46 names appeared on the ballot for City Council, 10 to be elected. In 1999, the figure was 42; in 2000, it was 57.
We also vote at large, at the same time, every three years, for nine school trustees and seven park commissioners.

When you add the numbers on all three ballots for City Council, School Board and Park Board, you get a total number of candidates, in 1996 - 168; in 1999 - 94; in 2002 - 118. This is not including the ballot for Mayor, which will also have, at the least, several more names. As T.J. Roberts complained in an e-mail to the Commission, "the ballot looks more like a telephone book." This ballot is, however, a necessary feature of the at-large system, and a problem that has become exacerbated as the city has grown.[25]

Complaints about the ballot are universal. Very few people stepped forward to defend it.

Shane Simpson (VPL Downtown) described the ballot as "daunting." Pat Dodge (St. Mary's, Kerrisdale) said the ballot "is not voter-friendly." Gail Brown (VPL Downtown) found the ballot "totally exasperating." Sam Filipoff (St. James, Kitsilano) said the ballot is "unmanageable." Fred Musen (Oakridge) described the ballot as "insanity."

The complaints are not simply that there are many names and therefore, it is difficult to locate a favoured candidate on the ballot. Rather, the complaints are based on the fact that since voters have no way of knowing something – in fact anything at all – about each candidate, they are not able to cast an informed vote. This point was made many times.

Mary Sutherland (Kensington) pointed out that in the 2002 election, there were (on these ballots) 27 to be elected out of 118. "Most people have a life," she said; "we don't have time to rate them. It's unfair. People can't make an educated choice."

David Harris wrote:

[25] When Vancouver moved to the at-large system, the ballot was not as challenging as it is today. In the 1938 elections for the 1939-40 term, there were only 35 candidates in total, for Park Commissioners, School Trustees and Aldermen. There were also five candidates for Mayor.

> In city elections, you are presented with about 100 candidates, most of whom you have never heard of.

Dorret Hansen (Unitarian Church) referred to "this bewildering multitude of names." Paul Tetrault (Killarney) asked: "Who are all these people?" George Spiegelman, (St. Philips, Dunbar) said "you don't have a chance of knowing who is running." Penny Cochrane (Hycroft) said that "it is impossible to know the candidates." Guy Pocklington (Kiwassa) said the same thing: "it is impossible for a voter to know all the candidates."

These complaints about the ballot, though expressed in colourful language, are not whimsical. Even Councillor Peter Ladner, who spoke at Sunset, said he found the ballot "always frustrated [him] before [he] got into politics." It is not to demean or disparage the voters to say that they have trouble with the ballot. Alayne Keogh (St. James, Kitsilano) urged that wards (with only four or five candidates running in the neighbourhood) would enable voters "to vote responsibly, not alphabetically." [26]

Francis Wasserlain (Kiwassa) asked the Commission to look at it from a candidate's point of view: "Not only is it impossible for a voter to get to know all the candidates, it is impossible for a candidate to get to know all the voters." Doug Warkenton (Unitarian Church) speaking as a former candidate, said "it is impossible to connect with half a million people." Ron Plowright (Kensington) asked "How can a candidate cover the whole city?"

May Brown (Unitarian Church) described the ballot as "discouraging" to many people because "they don't really know who they are voting for." This was borne out by Muggs Sigurgeirson (Carnegie Centre) who said that she had been involved for many years in helping to get people in the Downtown Eastside out to vote who had never voted. She had some success in federal and provincial elections, but in the civic election of 2002 when she got people to the polls and they were confronted with the ballot and its multitude of names, they couldn't cope. She said she was saddened "to get them in there and to have them defeated by the ballot." They "didn't know what to do."

[26] Ms. Keogh's observation recognizes that long ballots also favour, in a slight but discernible fashion, candidates whose names begin with A, B, C, etc, since voters are inclined to choose candidates at the top of the list. This can be overcome by randomizing the ballot, which I discuss in more detail in Chapter IX.F.(2).

It is fundamental in a democracy that citizens have a right, not only to a vote, but also to sufficient information to make an informed choice. The Supreme Court of Canada has said:

> Elections are fair and equitable only if all citizens are reasonably informed of all the possible choices...[27]

Citizens said that they wanted to make informed decisions, but simply could not. Jennifer Gray-Grant (Killarney) said, "I make a real effort to be informed, yet I am faced with dozens of people [on the ballot] with valid perspectives." Tim Crossin (Kiwassa) said that any voter, confronted with the multitude of names, simply cannot make an informed judgment.[28]

David Gardner (St. James, Kitsilano) argued that voters are compelled to vote without information on any candidate – all they have are names and party affiliations. So there is a tendency to vote the party slate, since each candidate's party affiliation appears on the ballot. This is perceived as contributing to the dominance of the political parties in Vancouver's at-large system.

Donald Burton (Hycroft) pointed to "the difficulty of getting to know who is running for council." He described civic elections as a "lottery." He added: "since you know two or three only, you choose the party slate."

I think that it is fundamental to a democratic system that voters cast an informed ballot, and that it undermines the democratic system to require voters to cast an uninformed ballot, forcing the voters to rely on party slates if they are to avoid pure guesswork.

No other city in Canada, or even North America, as far as I can tell, requires its electors to grapple with a ballot like Vancouver's.

Seattle has an at-large system, with nine Councillors. They serve for four years, with staggered elections every two years. In Seattle, however, there is not a single city-wide

[27] *Libman v. Quebec*, [1997] 3 S.C.R. 569 at para. 47.
[28] In our survey we had 1091 respondents, 94 per cent of whom voted in the last civic election. Twenty-two per cent said that the most important factor in deciding how to vote was the candidate's personal characteristics and background, 12 per cent said party affiliation and 61 per cent said a combination of both.

election for all council seats. Instead, there is a ballot for each seat (Seat #1, Seat #2 and so on). Each Councillor runs for a particular seat; challengers seek a particular seat, they don't all run in a bunch. So the ballot resembles a ward ballot, except that each voter casts nine votes, one for each candidate of his choice for each seat. Of course, voters must still know all the candidates in all the seats to cast an informed ballot for their choice in each seat. It does not seem to me a great improvement on our ballot.

Councillor Sam Sullivan (St. John's, West End and Sunset) made a valiant defence of the ballot, arguing that "it has been in use for 70 years." A great disadvantage of the ward system, he said, is that "you trade in 10 votes and get one back."

If, however, the voters have no realistic way of knowing who they are voting for, except by party affiliation, they are not casting an informed ballot.

In my view, the critique of the present ballot is unanswerable.

### (3) Lack of Neighbourhood Representation and Accountability in the At-Large System

Councillor Peter Ladner, speaking at Sunset, urged that it is necessary, before changing systems, to "decide what the problem is that we are trying to solve." I think the complaint about the ballot has to be addressed. But the issue of representation lies at the heart of the problem as seen by the majority of the citizens who spoke at our neighbourhood meetings.[29]

Ward advocates focus on a lack of "neighbourhood representation" as the principal flaw of the at-large system. It is not, however, simply a matter of knowing the candidates on the ballot on election day. It is also the fact that the candidate who wins will be someone chosen by the neighbourhood to represent the neighbourhood. Moreover, there will be continuing accountability and access, since, as ward advocates see it, the benefits of the ward system accrue, not only on election day, but also in the period between elections, where we live for most of the time.

[29] In our survey 713 of 1,091 respondents strongly or somewhat agreed that issues of concern to their neighbourhood are taken seriously by Council. But 654 of 1,091 respondents agreed, strongly or somewhat, that Council takes more seriously issues in other neighbourhoods than theirs.

### *(a) Neighbourhood Representation*

The complaints about the ballot were allied to the argument about wards. If you have wards, the candidates in each ward will be only a few who ought to be well known to the voters in the ward. At the very least, the voter who seeks to be informed about the individuals who are running for local office will be able to find out enough about each of them to cast an informed ballot.

Julie Boyle (Oakridge) said that with the ward system "you have somebody you know in your riding."

Margaret Mitchell (False Creek) urged that a ward system would "help to rationalize and simplify our voting system." The local Councillor would know the ward, yet council would represent all parts of the city.

George Stephenson (St. John's, West End) contended that "City Council has not been responsive to neighbourhoods." Kelly Quinn (St. Philips, Dunbar) said that "neighbourhoods need to have a voice." Sharon Saunders (Killarney) said, "we lack a community champion. We need a City Councillor who comes from our neighbourhood and understands our issues."

Putting it another way, in answer to the charge of parochialism, Gail Brown (VPL Downtown) answered the argument about parochialism by saying, "Hello! Yes, I want you to be parochial."

### *(b) Neighbourhood Accountability and Access*

John Price (Killarney) said wards would bring accountability to neighbourhoods: "Right now Councillors are accountable to City Hall, not to the communities where we live." Robert Ostrom (Brock House) described the issues as "allegiance and accountability."

Shane Simpson (VPL Downtown) said that, in a ward system, when voting on local issues, "Councillors would not be able to hide in the crowd." There is a sense, as articulated by COPE's Anita Zaenker, that City Councillors are more accountable when they answer to their own neighbours, that the ward system "would bring politics closer to home."

Tom Holmes (Killarney) said, "If I have a problem I can [in a ward system] go to see my local Councillor." Ann Jarrell (False Creek) said, "[under the at-large system] you don't have a designated Councillor to go to about local issues." The ward system, she argued, "would mean groups could go to someone they know."

David Chudnovsky (Kensington) supported wards. He said that under the present system "responsibility for community issues is a matter of inclination, not responsibility." He said that with wards "we can go to somebody who is responsible."

Muggs Sigurgeirson (Carnegie Centre) argued for wards "if we're going to make politics accessible to everyone." Wards, she claimed, would give us "consistent access to political powers."

Wards may give people a greater sense of identification with their council. Stuart Rush (St. James, Kitsilano) spoke for many, in saying "No one at City Hall represents me." Colin Gray (St. Philips, Dunbar) said that the at-large system "disconnects local people from their City Councillors." Fionna Bayley (St. John's, West End) said, "I don't feel connected to City Council."

This disconnection has practical ramifications as well. Bob Sarti (Carnegie Centre) said that now "we have to chase down 10 Councillors; it would be easier if we could concentrate our efforts." Jennifer Gray-Grant (Killarney) asked, "Who do you write to – all of them?"

The frontline staff at City Hall are asked by citizens, "Who is the Councillor representing my neighbourhood?" and are told, "There isn't one." When they are then told, "But you can take your complaint up with any one of them," this is not seen as an altogether satisfactory response.

John Calvert, (Kiwassa) spoke of his frustration with the at-large system and rejected the notion that all 10 Councillors are at a citizen's beck and call. He said: "There's an accountability gap there. If everybody's responsible, nobody's responsible." Councillor Peter Ladner, though coming down on the side of the at-large system, was not at all sure about the merits of approaching all 10 Councillors with an issue. He said that a complaint may be spread among all 10 of them, which can result in either "total non-response" or at the other extreme

"five or six Councillors piling on, all trying to help at once, which is a waste of our time." In either case, this feature of the at-large system is an inefficient method of bringing local issues to the attention of City Council.

Helen Spiegelman (St. Philips, Dunbar) said that she was concerned about "the 999 days between elections."

Fionna Bayley (St. John's, West End) argued that "the will of the people must resonate with City Council throughout their term in office."

I should stress that access to Councillors was not seen simply as a means for the airing of grievances. In contrast to the experience of the Eckhardt Commission in 1979, it is not individual complaints that today animate the call for wards[30] but rather a concern for, and an increasing awareness of, neighbourhood issues.

The call for wards is not to fix potholes, but to deal with local causes – slot machines, the fate of the Woodward's property, rapid transit, affordable housing, homelessness, safety on the streets, redevelopment of major sites, and so on – issues which do not bear evenly on all neighbourhoods, but in which particular neighbourhoods have a stake. Simone Blais (General Wolfe) tied together the two ideas of community accountability and the efficiency of representation when she said that:

> Wards would be more economical. Problems are now allowed to grow until they cost us millions of dollars. An example is the missing women from the Downtown Eastside. If we had a ward system, the problem would not have been allowed to grow - the ward Councillor would be aware of the problem in its infancy and would work with other Councillors to do something before it gets out of hand.

### (4) East Side, West Side

The call for wards, though it was the predominant view at most of the neighbourhood meetings, was most intensely expressed on the East Side.

[30] The Eckhardt Commission in 1979 dismissed many of the complaints it heard as simply the "anxieties, frustrations, and alienating aspects of modern urban existence." L.S. Eckhardt. et al., *Report of the Governmental Review Commission*, (City of Vancouver, November, 1979) at p. 9.

In Vancouver, it is sometimes said, there are two cities: the East Side and the West Side. There is of course no formal dividing line. Cambie Street is a convenient one because it extends into the downtown peninsula; Ontario Street is where streets prefixed 'West' become renamed 'East'. Some, from politicians to real estate agents, might draw the line at a slightly different longitude, but it is generally accepted that it lies somewhere between Cambie and Main, and has not shifted greatly since amalgamation in 1929.

The recent report by the City of Vancouver's Social Planning Department, Community Services Group summarizing the data from the 2001 Census, illustrates the differences between the East Side and West Side of the city.[31]

Young families (as indicated by the number of children under the age of six) are concentrated on the East Side of the City;[32] so are Vancouverites over 65 years of age.[33] In 2001 the City had 19,120 female single parent families; they are concentrated on the East Side.[34]

On the West Side, family incomes are on average higher: almost all neighbourhoods with a census family income above the city median of $51,268 are on the West Side. The percentage of low income families for the whole of the city is 21.4 per cent, but 90 per cent of those families are on the East Side.[35]

The highest proportion of government transfer payments is on the East Side, especially the Downtown Eastside.[36] The highest unemployment rates are concentrated in the Downtown Eastside and inner city neighbourhoods.[37]

The aboriginal population is concentrated in the north east corner of the city.[38] The Musqueam Lands are on the West Side, but First Nations there represent only 530 persons out of a total aboriginal population of 10,445.

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[31] City of Vancouver, *Social Indicators – City of Vancouver – 2001 Census* (Vancouver, City of Vancouver, 2003).
[32] *Ibid*., pp. 8-9.
[33] *Ibid*., pp. 13-14.
[34] *Ibid*., p. 62. The corresponding figure for male single parent families was 3,700; male single parent families were also – though not as heavily - concentrated on the East Side. p. 63.
[35] *Ibid*., p. 58.
[36] *Ibid*., p.53.
[37] *Ibid*., p.50.
[38] *Ibid*., p. 18.

Vancouverites with a university education (about 30 per cent of those 20 and older) are concentrated on the West Side. Those (nine percent of those 20 and older) with less than a grade nine education are concentrated on the East Side.[39]

The total immigrant population in 2001 was 247,640 or 46 per cent of the city's population (the total of recent immigrants in 2001 was 52,860). These are mainly on the East Side.[40]

Immigrants from Mainland China (by far the largest immigrant group) are largely resident on the East Side, while immigrants from Hong Kong are more evenly distributed and immigrants from Taiwan are largely resident on the West Side.[41]

Immigrants from India, the second largest group, are mainly on the East Side. The same is true of immigrants from Philippines, Korea, Vietnam, and Latin America.[42]

The outcome is that, as of 2001, we had 43,195 persons without minimal knowledge of English (or French),[43] and they are concentrated on the East Side. Of course, many of these immigrants are not yet citizens and therefore not entitled to vote today, but like those who came before, they are on track to become citizens.

I do not wish to leave any reader with a negative impression of life on the East Side; any person familiar with the neighbourhoods there would be struck by their vitality and character. But we are talking about statistics, which invite us to see patterns. And the statistics do speak of two cities, one with older families, higher education, less unemployment, and higher incomes; the other with more single parent families, young families generally, more pensioners, more (and more recent) immigrants, and so on.
This has had consequences for the governance of the city.

[39] *Ibid*., p.45.
[40] *Ibid*., p. 22.
[41] *Ibid*., pp. 25-27.
[42] *Ibid*., pp. 32-41.
[43] *Ibid*., p. 34-5. These persons were identified in the census data as those who were not able to conduct a conversation in either official language.

Mel Lehan (St. James, Kitsilano) said it is a given that "the well-off will vote in greater numbers." So, there have been consistently larger voter turnouts on the West Side than the on East Side.

Professor Paul Tennant writes that this disparity in turnout began as a matter of social class:

> From amalgamation until 1936 the difference between east-side and west-side (a distinction which roughly equates with that between working class and middle class) voting turnout had declined to almost nothing. After 1937 the difference increased to the point that the west-side turnout usually exceeded east-side turnout by 20 to 30 percentage points. Second, cohesive group voting (for the NPA) became more concentrated in the higher turnout, west-side, middle class area of the city. East-side voters tended to vote more randomly and to favour candidates at the beginning of the alphabetical list on the ballot – a fact which the NPA itself in its declining years came to derive advantage from.[44]

This pattern continues today. Information gathered by the City's GIS Team reveals that, even in the 2002 elections (where it is generally said that East Siders came out to vote in unprecedented numbers) roughly 25 per cent more eligible voters turned out to vote in West Side neighbourhoods than in those on the East Side.[45]

It is generally accepted that the majority of City Councillors have been from the West Side.[46] Don Berg (Kiwassa) said, "We support a ward system. No question about it. Our part of Strathcona has never had representation." Ian Mass (Killarney) calculated that, of 350 persons elected to public office in Vancouver in the last 30 years, only two, Clarence Hansen (Park Board Commissioner) and Alan Wong (School Trustee) came from the neighbourhood known as Victoria-Fraserview/Killarney (Victoria to Boundary, 41st to Fraser River).

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[44] Tennant, *supra* note 21 at p. 6. Professor Tennant was writing in 1979; the Electors Action Movement (TEAM) dominated City Hall in the 1970s. The NPA may have been declining at that time, but it soon returned to its one-time vigour.

[45] On the West Side, 39.2 per cent of eligible voters turned out; on the East Side, 31.5.

[46] Nobody disputed this suggestion (which was accepted as given by the authors of the Eckhardt Report) at any meeting, and it is certainly true of recent Councils. However, it is difficult to quantify with certainty, as prior to 1990, the requirement that candidates provide their residential address upon nomination was not widely observed, and many provided the addresses of offices, or of the City Hall, instead.

This phenomenon is not peculiar to Vancouver. In fact it is an accepted outcome of the at-large system. As Professor Amy puts it:

> Experts have found that it is common for many or most of the city Councillors elected at large to live in one area of the city – typically a middle-class white area.[47]

But what is more important is that the Councillors are *chosen* by the West Side. Mary Filleul, in an e-mail to the Commission, said that "[f]or too long the west side has had a stranglehold on political life in the city of Vancouver."

Seen in this light, the objection that "trading 10 votes" (in the at-large system) "for one" (in a ward) represents, as the Vancouver Board of Trade said, a "partial disenfranchisement" of voters, is rebutted by the observation that under the present system, most voters who are outside the southwest area of the city are already disenfranchised. In the ordinary course it simply doesn't matter for whom they cast their 10 votes.

It is sometimes said, as Sam Fillipoff (St. James, Kitsilano) suggested, that there has not been an equitable distribution of services and resources between West and East: he said that all the inner city schools are on the East Side, there is three times the park acreage on the West Side, and the major transportation corridors are on the East Side. Isabel Minty (Sunset) said that "anyone who thinks that green spaces, safe streets, small schools are even-handed across the city is misleading themselves." In an e-mail to the Commission, long-time East Side resident Gale Tyler wrote:

> The discrepancy between East and West is alarming and unfair. I have watched the West Side of Vancouver get much more than its share of care, attention and resources compared to East Vancouver. Numbers of parks, community centres and green belts are much more plentiful on the West Side.

The question of resource allocation is not a straightforward one. The Eckhardt Commission in 1979 obtained a report from the Superintendent of Parks and Recreation, which showed that, though on a per capita basis there was at that time more park space on the West Side than

[47] Amy, *supra* note 23 at p. 59.

the East (mainly because of Stanley Park), there were nevertheless more recreational facilities maintained by the City on the East Side. The Superintendent noted that "Over the past five years the capital expenditures have been almost twice as much on the east side compared to the west." The Eckhardt Commission added that "the City Engineer submitted a report revealing the entirely equitable distribution of engineering-related services and maintenance throughout the City", and concluded that the idea "that the west side is favoured" was a "myth."[48] No person in the course of our neighbourhood meetings was able to point to any objective indication that resources were being allocated in favour of the West Side; indeed, it appears that many of the facilities planned for the 2010 Olympics are to be built on the East Side.

Vancouver consists of two coastal peninsulas; in such circumstances, some imbalances, such as a majority of transportation corridors in the East, beaches in the West, and so on, are inevitable products of geography, not a question of municipal resource allocation. It may also be said that the physical layout of Vancouver, including the allocation of green spaces, boulevards and the like (most frequently cited as an indication of inequity), stems in large part from the fact that during the initial growth period throughout the region, present-day Vancouver was in fact a number of different municipalities, each with its own set of priorities.

At any rate, the question of resource allocation is a vexing issue that is not for me to decide. Suffice it to say that there is a perception among some East Siders that they may have been slighted in the distribution of the city's wealth.

But the truth about the allocation of resources, even if it could be determined, is not the issue. What is relevant for my purposes is that East Siders have not been as well represented on City Council as West Siders. And it has been West Siders who have largely chosen who is to represent both East and West on City Council.

Well, it is said, this is because the East Side has not turned out to vote. Chris Richmond (False Creek) favoured wards because of "the tremendous imbalance in participation between the

[48] Eckhardt Commission Report, *supra* note 30 at p. 13.

east side and the west side." On the other hand, Nicola Hall (UBC), asked "Isn't it unfair to criticize the West Side for higher voter turnout when everyone has the same right to vote?"

But my observations are certainly not meant as a criticism of West Siders' higher rates of voting; I wish simply to register this as a fact, and acknowledge that this results in a West Sider's vote having greater relative weight than that of a resident of the East Side.

But nor is it an adequate response to cast blame on the residents of those areas with lower voter turnout. At all elections, federal, provincial and civic, the more affluent and better-educated voters turn out in greater numbers.

It is not difficult to divine the reasons why this might be so. The affluent and well educated have a greater chance of informing themselves on civic issues and participating in political affairs. People without a complete command of English may be diffident about involvement in civic government. Single mothers may simply not be able to get to the polls. A member of the working poor might hold down two or three jobs. Shift workers might simply need the sleep.

And these persons tend to be concentrated on the East Side.

Of course, it can be argued that these disadvantages do not make it impossible for any individual to vote. This is true, but irrelevant. In economic terms, each of these factors increases the 'cost' of voting. Those affected by them will be less likely to vote, even if they perceive the benefits of democracy as no less valuable than people do who can conveniently get to the polls.

When voting rates are skewed geographically in a way that conforms to patterns of income, education, family status, and language, I do not think it is right to associate under-representation with apathy. I think it is self-evident that it is attributable to reasons such as those I have described, which are structural and systemic. It is not fair to give a person a lesser voice in government because of these conditions, and it is not unreasonable to expect a system of government to provide a measure of equality for all its citizens.

The degree of civic engagement by East Siders at election time may not match that of West Siders, but their interest in being represented at City Hall, their stake in civic governance, surely cannot be less.

In a ward system, the fact of lower turnout on the East Side would not deprive those voters of the opportunity to elect candidates of their choice. This is precisely what we have done in allocating to Vancouver seats in the Provincial Legislature and in the House of Commons. It is paradoxical that for decades Vancouver's East Side residents have been better represented in the Parliament of Canada than on their own City Council.

It may be said that wards allocated to both sides of the city would exacerbate the division between East and West. But that division, based on social, economic and ethnic considerations, is a fact that exists independently of the city's electoral system. Those social, economic and ethnic realities are not going to change soon; they need to be recognized and, where it is fair and reasonable to do so, accommodated.

### (5) Political Parties and Independent Candidates

According to Professor Paul Tennant, writing in 1979, "Civic political parties, in one form or another, have been a crucial element in Vancouver politics almost since the present city was created (by amalgamation with South Vancouver and Point Grey) in 1929."[49]

This remains true today.

A vigorous political culture has emerged in Vancouver in the at-large era. Two parties have recently vied for control of the City, with Council either overwhelmingly in the hands of one or the other.[50] No third party or independent candidate has been elected to Council since 1988.

[49] Tennant, *supra* note 21.

[50] I am aware the NPA claims that it is not a political party. But, as Professor Tennant says, it conforms to the "academic definition of a party by being a permanent organization contesting elections with the intent of gaining control of public offices" (*ibid* at p. 4). Moreover, it has sought to hold the political battlefield against all challengers. Its contests with TEAM and COPE bear all the earmarks of political contests.

The NPA has in good measure dominated Vancouver's civic politics since 1937. But from time to time challengers have arisen. In the 1930s, it was the CCF. TEAM acquired a majority on Council in the 1970s before it fragmented; COPE, the NPA's current challenger, has had success from time to time, and did of course win eight of 10 council seats in 2002.

The at-large block voting system has been a major factor in establishing the dominance of the parties. Professor Paul Tennant says that the at-large system "works to the advantage of the largest cohesive voting group, allowing it to take all, or nearly all, of the positions even if the group itself is a minority among actual voters."[51]

The Institute for Democracy and Electoral Assistance (IDEA)[52] notes that this is a characteristic inherent in block vote systems:

> The Block Vote…stress[es] the role of parties and strengthen[s] those parties which demonstrate most coherence and organizational ability…[W]hen voters cast all their votes for the candidates of a single party, which is often the case, the system tends to exaggerate all the disadvantages of FPTP [First Past The Post], in particular its disproportionality. In Mauritius in 1982 and 1995, for example, the former opposition won every seat in the legislature with only 64 per cent and 65 per cent of the vote respectively. This created severe difficulties for the effective functioning of a parliamentary system based on concepts of government and opposition.

Vancouver might share little in common with Mauritius, but our electoral system has produced similar results. In 1996, the NPA, with 51.1 per cent of the Council vote, won all 10 seats, while COPE, with 28.7 per cent, won none. In 1999, the NPA, with 45.3 per cent of the vote, won eight seats, while COPE-Green with 28.1 per cent (COPE 18.4 per cent, Green 9.7 per cent), only two seats. Steve LeBel wrote in an e-mail to the Commission:

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[51] *Ibid.* at p. 3.

[52] IDEA is an intergovernmental agency based in Stockholm, Sweden. It currently has 21 member countries, including Canada. IDEA's main role is to assist countries and other organizations such as the United Nations and the Organization of American States to choose and refine electoral systems for emerging democracies. Its *Handbook on Electoral System Design* is widely regarded as a comprehensive and impartial survey of the various electoral systems in use in the world today, and their relative strengths and weaknesses. It can be accessed free online at: www.idea.int.

> Our present system has led to too many city councils that are virtual one-party governments, because one party managed to turn out a slightly higher percentage of its supporters on election day; the result has often been a council with no effective opposition, and virtually no representation for the 45 per cent or so of the electors who did not vote for the winning party.

The pattern was reversed in 2002, but hardly more proportionally. That year, COPE, with 43.1 per cent of the vote, won 8 of the 10 seats. The NPA's 32.2 per cent netted them two; and the Greens and vcaTEAM, with 11.1 per cent and 6.5 per cent respectively, were unrepresented. And no independents have succeeded in any of these elections.

But citizens who spoke at our neighbourhood meetings expressed a real concern with the dominance of the two main parties. Not only did many observe that smaller parties were excluded, but also that, in a system that so handsomely rewards high levels of city-wide organization, independents cannot get elected.[53]

A city-wide campaign is inevitably beyond the means of independent candidates. The NPA spent $800,000 in the 2002 civic election; COPE spent $1.1 million. No independent candidate running city-wide can match this type of expenditure. Patricia Hodge, a former Councillor from Kingston City Council in Ontario, shared her experience with the Commission via e-mail. She said:

> The ward system enables a much broader range of candidate since it is less costly to run a campaign in a ward. (I had successful election campaigns with an expenditure of about $400 plus a lot of personal door-knocking.)

So a candidate not chosen by one of the political organizations will not, except in the rarest circumstances, be elected. This system crowds out minority voices, and may also tend to crowd out ethnic minorities from the political process as well.[54]

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[53] In our survey 930 of 1,091 respondents said it is important that an electoral system promote opportunities for independent candidates.

[54] Single member constituencies, although generally not the most representative of minority groups, are still considered to be an improvement over the at-large block system. Anecdotal support for this can be found in the fact that, in the two most recent provincial elections, in 1996 and 2001, MLA's from Vancouver's 10 electoral districts have included 25 per cent ethnic minorities (i.e. Canadians of

It will be said that COPE and the NPA choose slates representing the diversity of the city, including minorities. Councillor Sam Sullivan (Sunset) did not dispute the dominant role of the political parties, justifying their slates on the grounds that "one of their jobs is to ensure the minimum quality of candidates." But this is a judgement which can safely be left to the electorate.

I do not here mean to denigrate either the parties or the party system. Though it will be apparent that I believe it is important to open up the political process to independents, I also believe that political parties have become a necessary and useful feature of the civic political landscape.

Politics is simply the development of organizations of like-minded persons. Political parties consist of civic-minded individuals seeking to reach consensus on a program. It is not sinister to hold strong beliefs that you share with the people you represent, whether on the East Side or the West Side, or the city as a whole, or to frame political debate so as to discuss issues that generate real combustion.

Political parties serve many useful purposes: they provide avenues of communication with voters; they provide forums for the discussion and development of policies outside of formal legislative debate; they provide information to the voter regarding the inclinations and policy positions of any particular candidate; and they allow an extra measure of accountability to the electorate.

Wards would open up the political process.

Of course the political parties will still have their own candidates, running on the party label, at the neighbourhood level. COPE and the NPA might hold nominating conventions in the wards (it would be up to them). And independent candidates well known in the neighbourhoods, champions of particular causes, will have a chance, campaigning at the neighbourhood level, to win. A local campaign in a ward need not depend on expensive city-wide TV or newspaper advertising.

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South Asian and Chinese descent combined) and 30 per cent women. Our present City Council, elected under the at-large block voting system, achieves 9 per cent and 18 per cent, respectively.

Ward boundaries, crafted with the city's neighbourhoods in mind, would make it more likely that the voters would know, or at least know something about the record and the reputation of their local candidates, whether they run under the banner of one of the political parties or as independents. Moreover, they would, if elected, be expected to be knowledgeable about local issues, represent the views of the ward, and be accountable to ward electors if they did not.

Neale Adams (Hycroft) opposed wards because he felt they would weaken the two political parties which, he said, "come to the electorate with an idea of the city, a vision for the city." He argued that under a ward system "you won't have the dramatic shifts that characterize the at-large system." He pointed out that under the at-large system "you can throw the rascals out."

As I have said, I do not wish to diminish the importance of parties in the political life of the city. My concern is simply that the parties should not control the gateway to a seat on City Council.

In fact, parties under a ward system would play an even more important role on one level; to the extent that they are city-wide in scope (and at present all our parties are), they would provide a mechanism for the discussion and development of policies with a view to the welfare of the city as a whole. The parties' vision would not be restricted to a single ward. Parties are therefore a bulwark against the parochialism that some believe would follow a move to wards. The Councillors the parties elect will come to Council with their own local perspectives, but also with their parties' city-wide perspectives, and ensure that those perspectives are represented at City Hall.

One final word on the topic of parties: It is sometimes suggested that COPE favours wards because it believes that it will benefit from the change, and that members of the NPA favour at large because it believes they will benefit from continuing the status quo. This may be so, but I do not think any one can be sure whether wards operate to any party's electoral advantage. It was the CCF (forerunner of the NDP) in the 1930s that introduced party politics to Vancouver's civic elections. But the CCF did not elect anyone to Council under the ward system. It was not until Vancouver switched to the at-large system in 1936 that the CCF

elected three Councillors. Wards will improve representation for East Side voters. What party or parties (or independents) they might support is another question.

### (6) Electoral Systems and Economic Development

The Vancouver Economic Development Commission carried out a survey of 23 cities across Canada and throughout the United States, and submitted a summary of its findings. The Economic Development Commission concluded:

> The overwhelming consensus is that economic development is not impacted by the electoral system or changes to it, be it at large, wards or a combination of the two.

The Economic Development Commission's findings are similar to the findings of a study conducted in the United States on the spending patterns of municipalities through changes to electoral system design, which concluded that:

> The research reported here, employing an interrupted time-series design for 22 cities over an 11-year period, generally confirms that changes in city government structure have almost no impact on changes in taxing and spending levels. We also discovered no consistent reallocation of expenditures among functional categories following changes in municipal structure.[55]

All of which indicates that cries of alarm about the impact that representation of neighbourhoods would have on economic progress seem to be without any real justification.

## E. Wards

I have come down in favour of wards because they enable citizens to cast an informed vote, they provide for neighbourhood representation and accountability (both during and between elections), and they will address the problem of under-representation faced by residents of the East Side of the city. I also believe that they will open up the political parties, permitting a more representative candidate selection process, and that they will improve opportunities for smaller parties and independent candidates.

[55] David R. Morgan & John P. Pelissero, "Urban Policy: Does Political Structure Matter?" (December 1980) 74 *Am. Pol. Sci. Rev*. 999.

I should say at the outset that I do not think it is at all certain that wards would increase voter turnout. In fact, Vancouver had a turnout of 50 per cent in the election of November 2002 and then 50 per cent again on the Olympic referendum in 2003. It is personalities and issues that bring the voters out. Turnouts at the municipal level are lower than in provincial and federal elections. It may be that voters believe that the issues at the higher levels of government are intrinsically more important; or that the higher levels of government have legislative authority to enact a broader range of policies affecting their lives. And for reasons I discuss elsewhere, I do not believe that voter turnout is the *sine qua non* of a healthy democracy.

The main argument against wards is that the Councillors will be parochial, devoted only to the interests of their neighbourhoods. I do not believe this is right.

Councillors, like the citizens they represent in the wards, will have a perspective on civic affairs that is not limited to their own backyard. Helen Spiegelman (St. Philips, Dunbar) put it well: "we are citizens of our neighbourhoods and also fellow citizens of Vancouver."

It is an impoverished view of politics, in my opinion, to assume that constituency politicians have no concern for the greater good. I think anyone would agree that the men and women we elect to Parliament and the provincial Legislative Assembly consider the good of the country or province, not simply the interests of their own constituents. This is the result of a sense of community that exists at many levels. We are all Canadians, British Columbians, Vancouverites and members of a neighbourhood. Although the existence of constituency representation may from time to time shift the emphasis of our representatives' loyalties, it could hardly be said to brush them aside.

I have said that each ward will have its own ward Councillor; there was occasionally a concern expressed that, in some cases, this might actually restrict access to Council. As Steve Lytton (Carnegie Centre) put it, "your ward representative may not be sympathetic to your cause." Can supporters of that cause turn to another Councillor?

Of course, under the ward system, citizens will not be restricted in their access to Council, or forced to deal only with their ward Councillor. This is simply not how ward systems work. Edmonton's City Clerk described that City's functioning in this way:

> Residents' access to Councillors is not limited to the Councillor for a particular ward; under any system, any resident of the City may contact any Councillor about any issue.[56]

Wards will mean that Councillors are more conscious of neighbourhood issues but it will not reduce the Council to a menagerie of warring Councillors, any more than it has done so at the federal or provincial level. I have already mentioned that the political parties, though nominating single candidates in the wards or the constituencies, would not be likely to surrender the ideas that brought their members together in the first place.

But wards will, I hope, make a difference. There is a local dimension as well as a city-wide dimension to many neighbourhood issues. Sometimes there will be a healthy tension between the city and the neighbourhood. And each ward neighbourhood constituency will have a Councillor accountable to the neighbourhood.

David Harris (St. James, Kitsilano) wrote:

> I have heard all the arguments against, particularly the one of ward Councillors being too local in their thinking. I think it could work like a minority government, where smaller interests have influence – often the best form of government.

This is simply to say that the interests of the neighbourhoods are important. They will not always prevail, any more than they do in other cities with wards.

Then there is the experience elsewhere in Canada. Vancouver is the only major city in Canada that elects its City Council at large. All other cities in Canada of comparable population to Vancouver have wards. The experience of these cities shows that the spectre of City Councils consumed by local feuding has not been realized.

Toronto and Montréal have wards, but they do not provide an altogether useful comparison. In 1994, Toronto had 16 single-member wards; in 1997, the megacity was formed with 28 two-member wards. Today, Toronto has a population of 2,481,494 and 44 Councillors, who have

[56] City of Edmonton, Office of the City Clerk, *Ward Boundary Review*, (City of Edmonton, October, 2002), Section 1, p. 3.

been since the year 2000 once again elected from single-member wards. Montréal was amalgamated with its suburbs in 2001 with a new ward structure. Montréal has a population of 1,837,072 and 72 Councillors. These are mega-cities established by amalgamation with their suburbs. Their Councils resemble mini-legislatures.

No one has urged that the size of our City Council be expanded to rival Toronto or Montréal. So that means we should look at the experience of cities in Canada properly comparable to Vancouver.

The appropriate comparison is with cities of similar population to Vancouver's population of 550,000.[57] Calgary (population 870,000) has 14 single-member wards. Winnipeg (619,000) has 15 single-member wards. Hamilton (490,000) has 15 single-member wards. Mississauga (613,000) has nine single-member wards. Ottawa (774,000) has 21 single-member wards. Edmonton (666,000) has six wards, electing two Councillors each. Only Edmonton has multi-member wards. In the cities with single-member wards, each ward Councillor represents anywhere from 32,000 people (Hamilton) to 62,000 (Calgary).

The issue of wards is a live one on the Pacific coast. In the US, cities of comparable size to Vancouver can be found with at large, wards and mixed or partial ward systems. Seattle (population 563,400) has an at-large system of nine Councillors.[58] San Francisco (776,000) has a ward system consisting of 11 Councillors. In a 1996 referendum, San Francisco moved from an at-large system to wards. In a 2003 referendum, Seattle, with an at-large system, decided against moving to wards.[59] Portland (529,000) has an at-large Council consisting of six members. This, however, is an anomaly; it is what is called in the US a commission form of government comprising the Mayor, four Commissioners who administer the city's departments, and the Auditor. These six elected officials serve as the City Council and as the

[57] Vancouver's population according to the 2001 census was 545,671.
[58] The US system is not the same as the Canadian system, so it is not easy to compare them. The US cities follow the presidential system. In the US, the Mayor is not on the Council, whereas in Canada the Mayor presides at Council meetings. In the US, the Mayor appears at Council meetings once a year to give the state of the city speech. All by-laws are exclusively for the Council. The Mayor makes all appointments to the executive branch.
[59] In Seattle, the City Council in 2002 established an Advisory Panel to consider whether that city, which has had an at-large system for many years, should move from at-large to wards. The panel held two public meetings. The panel, in its report, declared that "advocates for change in the electoral system failed to make the case for change." In a referendum in 2003, wards were defeated 54 per cent to 46 per cent.

city's legislative body. Elected positions include Mayor, Public Utilities, Public Affairs, Public Works, Public Safety and City Auditor.

The pattern in the US as a whole, however, is predominantly wards.

As the Edmonton City Clerk's Ward Boundary Review report said in 2002, "The single member ward system is by far the most common among the North American cities surveyed."[60]

> *Recommendation 1: That the at-large system of electing Vancouver City Councillors should be abolished, and Councillors should be elected from wards.*

[60] Edmonton Report, *supra* note 56, at p. 3.

## IV. PARK BOARD

### A. Introduction

Vancouver is justifiably proud of its public parks, its community facilities, its green spaces, and the over 140,000 trees that line its streets. The success of the City in this respect is often attributed to its Park Board, an elected entity unique in North America. In every other city, the duties carried out by the Board would be assigned to a department of the city government, in the same way as would be, for instance, engineering. The Park Board may be an anomaly, but it is an anomaly that has been with us for a century.

City Council asked me to consider measures to adapt the election of Park Board Commissioners to any new method of electing City Council. This means, if the Council goes to wards, should the Park Board go to wards?

I have been unable, in the course of the neighbourhood meetings and through my study of the written submissions, to discern any measurable discontent with the method of election of the Park Board, or any pattern of complaints regarding its failure to adequately represent communities. At the neighbourhood meetings, there was no real call for wards except for City Council.

This may be in part because the Park Board has itself taken the idea of neighbourhood representation to heart. In order to ensure that no part of the city's parks and recreation system is overlooked, the members of the Board divide, through consensus, the city into what might be called 'virtual wards' – areas of responsibility assigned to each Park Commissioner, who will look after several of the city's designated neighbourhoods (not necessarily contiguous ones), hold public meetings at community centres, and so on.

Moreover, the Board as it presently operates is, by any standard, a bargain for the City. Park Commissioners receive $1,000 a month; the Chair receives $1,200 a month. There are presently seven Park Commissioners. They have been historically, and remain today, advocates for parks.[61]

[61] This is not to suggest that the Board deals only with parks. In fact, it is charged with the oversight and maintenance of numerous public facilities such as community centres, sports facilities, marinas, beaches, and golf courses.

## B. The Board Should be Elected At Large

I think the Park Board should continue to be elected at large.

The Park Board has always been elected at large, even during our first 50 years, when Vancouver used the ward system to elect City Council.

Aside from what I see as the positive benefits of retaining the at-large election of Commissioners, the alternative, a ward system, presents in the case of the Park Board thorny and, in the end, unnecessary problems.

If the Park Board goes to wards, how many? The Eckhardt Commission in 1979 recommended that the membership of the Park Board be increased from seven to 11, five from wards and five plus the chair elected at large. If the wards are to be coterminous with Council wards (and markedly different boundaries would produce confusion), then, if my recommendation for 14 Council wards is accepted, that would mean doubling the size of the Park Board to 14, as COPE proposed. But with 14 Councillors, there is an even number. We have always, for obvious reasons, sought to achieve an uneven number. With seven Park Board members, we have an uneven number, as the chair is elected from among them.

Peter Marcus (St. James, Kitsilano) squared the circle by urging seven wards with two City Councillors each and one Park Commissioner. But this would mean bigger wards, whereas I think that, if we are to go to wards, they should be representative of neighbourhoods. We could, as COPE proposed in the alternative, retain a Park Board of seven members and have each of them represent two wards; however, this would still make each combined ward unnecessarily unwieldy. I cannot see how this would improve on the present system whereby the Commissioners choose their neighbourhoods by consensus, but remain at large.

Moreover, at present the Board enjoys an autonomy from Council that permits it to speak as a unified voice in advocacy for parks. It is not difficult to imagine that this dynamic might change if each ward had both a Council member and a Park Commissioner elected together.

The Park Board is an anomaly; best not to remove it from its quite special place in the civic firmament.

I have not forgotten what I said about the ballot in recommending wards for the election of City Council. If the Park Board remains elected at large, voters would still be presented with a lengthy Park Board ballot. There were, in 1996, 1999 and 2002 respectively, 26, 22 and 33 names on the ballot for Park Board. Not as confusing a ballot as that for Council, to be sure, but formidable nonetheless. Of course, the triennial ballot confronts us also with the need to elect nine school trustees at large. There were, in the three most recent elections, 27, 19 and 23 names on the ballot for school trustees. There is at present no way of escaping entirely from the at-large ballot.

Given my concern about the at-large ballot, why do I endorse wards for Council and not for the Park Board?

The at-large ballot for Council it is only one factor that weighs in favour of moving Council to wards. But the ballot is not the only problem with electing Council at large. In the case of the Park Board, the ballot is not as long as that for Council. But more importantly, the argument lying at the heart of the wards question, relating to neighbourhood representation and accountability, is not compelling as it is in the case of Council.

So, although some might oppose the at-large election of the Park Board, I can say that, apart from COPE's submission and a handful of other submissions (the latter less than visceral in their opposition to the at-large election of the Board[62]), the argument simply hasn't been made.[63]

I conclude that, at present, prudence dictates that the Park Board Commissioners should be elected, as they are now, from the city at large.

*Recommendation 2: That the Park Board continue to be elected at large.*

[62] Larry Kuehn, in an e-mail to the Commission, offered an argument for wards and then wrote: "I think that the ward system should apply to school trustees and the parks board as well. Again, diverse community interests will generally be better represented with a full ward system."
[63] We did receive a last-minute petition, endorsed by hand and via e-mail by 674 persons, urging that a ward system extend to the Park Board. But I can put no real stock in such a device. I was interested in arguments, not lists of names, and the petition offered no argument to overcome those in favour of maintaining the Park Board at large.

## V. WARDS: HOW WILL THEY WORK?

### A. Residence of Ward Councillors

The Eckhardt Commission in 1979 recommended that Councillors should be required to live in their wards. [64]

This view was echoed by several speakers at the neighbourhood meetings. William Lim (General Wolfe) advocated wards, but argued that Councillors should be required to live in their wards, indeed suggesting a ward system would be a "farce" if Councillors lived elsewhere.

At present, City Council cannot require residence in the wards, and I do not recommend that Council seek an amendment to the *Vancouver Charter* to change this.[65]

The key is that electors in the wards will choose who is to represent their ward. Residence in the ward is a factor they will consider. It may turn out to be a greater factor than it may be in provincial or federal elections. But it should also be remembered that wards are geographically smaller than federal or provincial constituencies and, moreover, their boundaries are, however carefully drawn, at least somewhat arbitrary. A strong candidate with a long history of community activity in a particular ward might find him- or herself on the wrong side of the boundary line. Should that deprive voters in the ward from selecting that person? Should the candidate have to move? And what if the boundary shifts a few years down the road, and the candidate is once again on the wrong side of the line?

I might add that there are always concerns that the process of reviewing electoral boundaries can become politicized. In San Francisco, where Councillors are required to live in their wards, the City Council is responsible for boundary revision, and it may be argued that the boundaries are adjusted (or, as the case might be, not adjusted) to accommodate a strong incumbent or to disadvantage a strong challenger. To avoid this in Canada we have turned the task of boundary review over to independent commissions federally and provincially. I recommend the same for Vancouver at Chapter VI.G. below.

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[64] Eckhardt Commission Report, *supra* note 30, Vol. II, p. 20.
[65] See the discussion in Chapter IX.G. below.

*Recommendation 3: That Councillors in a ward system should not be required to live in their respective wards.*

## B. A New Oath of Office

Among the proposals submitted by the Vancouver Board of Trade was the idea that Councillors elected from wards should "take an oath officially committing them to pursue the best interests of the city as a whole." The Board found that such an oath "positively affected cities operating with a ward system."

It may seem like a small thing, almost an afterthought. But I consider it to be of sufficient importance to place it near the beginning of my recommendations.

A Councillor in a ward system must, of course, represent the ward's constituents, and attend to their particular needs. But city government should be more than a free market of competing neighbourhoods, and it is appropriate that a dedication to the common purpose be made explicit.

As the Vancouver Board of Trade's comparative survey discovered, other North American cities with ward systems have chosen to require that Councillors take an oath of office which includes a commitment to the service of the city as a whole. The Code of Conduct for the City Councillors of London, Ontario, imposes a "duty to work together for goodwill and the common good."

I think this is a useful idea. Although such an oath might have no legal importance, I believe that solemn promises are not without practical weight.

At present, the *Vancouver Charter* does not set out the particulars of the oath of office sworn by Councillors.[66] By regulation, the present oath of office is as follows (in the form of a solemn affirmation):

> I, .....[*name of person elected or appointed*]....., do solemnly affirm that:

[66] *Vancouver Charter* S.B.C. 1953, c. 55 (as amended) s. 140.

> I am qualified to hold the office of Councillor for the City of Vancouver to which I have been elected;
>
> I have not, by myself or any other person, knowingly contravened the *Vancouver Charter* respecting vote buying or intimidation in relation to my election to the office;
>
> I will faithfully perform the duties of my office, and will not allow any private interest to influence my conduct in public matters;
>
> as required by the *Vancouver Charter*, I will disclose any direct or indirect pecuniary interest I have in a matter and will not participate in the discussion of the matter and will not vote in respect of the matter.[67]

This is an oath dealing with private and pecuniary interest. It says nothing about working for the good of the city. I recommend that, whether we stay with the at-large or move to wards, the oath should include a promise "to work together for goodwill and the common good."

> *Recommendation 4: That Councillors swear an oath or solemn affirmation that they will "work together for goodwill and the common good."*

## C. The Costs of Civic Administration

City Council's mandate to my Commission says that any ward system should be structured to avoid "undue increase in the cost of civic administration."

### (1) Councillors' Salaries

Tseng Lee (Carnegie Centre) said, "I can't afford 12, 14 or 16 Councillors."

The great majority who spoke on this question, however, were quite prepared to pay for the extra Councillors that wards might require. John Calvert (Kiwassa) said, "The number of Council members is not adequate. If [we] want to have effective democratic representation,

[67] B.C. Reg. 380/93, am. B.C. Reg. 365/2003.

we need more than [ten Councillors]." Moreover "the Council members need more support and more resources…that's a cost that is worth paying."

Since I am recommending 14 wards, there will be, if Council adopts my recommendations, four more Councillors and therefore the salaries of four more Councillors.

To put the discussion of Councillors' salaries in perspective, it is useful to begin by noting that the City's operating budget now approaches $700 million; the capital budget stands at $125 million.

Council compensation was established in 1995 by an independent community review panel and is adjusted annually on January 1 of each year to reflect the average wage of a person employed full-time in the Vancouver area. Receipted expenses, up to a maximum of 10 per cent of the annual salary are allowable by by-law, and are reimbursed, inclusive of optional fixed car allowance. The current salary of the Mayor is $115,616.54 per year; Councillors are paid $50,932.39 per year. The Deputy Mayor is paid an additional $2,119.63 per month served. All of this salary is taxable.

By way of comparison, in Edmonton the Mayor's salary is $111,803, and Councillors' is $58,405. One-third of their salary is tax-tree. There is as well a six per cent fringe benefit for retirement, a $400 per month vehicle allowance, and severance of two weeks' salary for each year served, to a maximum of six months' salary. In Seattle, each City Councillor is paid $96,000 (US).

My point is only that our Councillors are hardly overpaid by any comparative standard. I do not consider it to be within my mandate to decide what Councillors should be paid. However, it is within my mandate to make my recommendations with due regard to their impact on the public purse. The salaries of the four additional Councillors should not prove burdensome.

At present, a Councillor might or might not consider the position to be 'full time.' If the ward system works as I envision it, truly opening lines of communication between citizens and Council, the job of Councillor would more closely approximate a full-time endeavour. As Councillors in a ward system become accustomed to what I am anticipating will be more

demands upon their time, I would not be surprised if it were to be considered appropriate to increase their salaries to reflect the level of professional commitment required.

### (2) Staff

In 1996, the City Clerk of Vancouver surveyed other cities in North America with a view to determining their comparative costs of maintaining their City Councils. Direct comparison was difficult, given the differences in bookkeeping and the varied structure of Councils. It was apparent that ward systems were not necessarily more expensive than at-large systems, though Vancouver, with its at-large council, was among the least expensive. The principal variable, according to the City Clerk's limited survey, was the number of staff provided to each Councillor. The discussions I have had with officials from other cities bear this out. Vancouver's Council is, comparatively speaking, a lean operation.

In San Francisco, with wards, each Councillor has two staff. By way of comparison, our City Council of 10 shares one receptionist, four secretaries and one policy researcher.

In Seattle, each Councillor has three staff and the nine Councillors share a pool of 14 policy researchers.

I am not suggesting anything turns on these figures. But we are perhaps too well-used to abusing our politicians at all levels of government, and it is important to step back from time to time and recognize that they do important work and generally do so out of a genuine commitment to public service. They deserve the means to enable them to do the job.

As I have said, I expect that under a ward system, Councillors will have even more to do than they have at present. I want to encourage Council to consider at least a modest increase in staffing if we go to wards.

Any increase in staff should be, as now, strictly for purposes of dealing with city matters. Staff should continue to be part of the City Hall bureaucracy and under no obligation to type political letters or carry out political tasks.

*Recommendation 5: Council should consider an increase in the staff support provided to Council. Staff should continue to provide strictly professional, and not political, assistance to Councillors.*

### (3) Ward Offices

There was only an occasional call at the neighbourhood meetings for local ward offices. I am not convinced they would be useful. Unlike Toronto, or other cities where ward Councillors may have community offices, Vancouver is geographically compact. City Hall is centrally located, and within fairly easy reach of most citizens. Telephones and the Internet make communication easier still. Bulletin boards and handbills are no longer the main method of communicating community news: e-mail lists have made it possible for a Councillor to communicate with great numbers of constituents or groups at once.

But there will, of course, be times when a ward Councillor should have meetings with constituents. These meetings do not require ward offices. I have held neighbourhood meetings all over the city - many of them in community centres - of which we have 23 throughout Vancouver. That is where the people are, and these centres have facilities for holding local meetings of various sizes. I think that ward Councillors can make use of their local community centres.

Ron Stromberg (St. Mary's, Kerrisdale) felt that since City Council meetings regularly commence in the afternoon, local residents "could meet with their ward Councillor in the evening." I agree. I think such meetings could conveniently be held in the community centres.

There is another reason of equal importance: Don Currie (VPL Downtown), though favouring wards, argued against local ward offices and staff, on the grounds it could lead to an undue advantage for incumbents. I agree.

*Recommendation 6: There should be no public funding provided in the ward system for local ward offices or staff.*

## VI. WARDS AND WARD BOUNDARIES

For all these reasons: to enable electors to cast an informed ballot, to ensure representation of neighbourhoods, to open up the electoral process to independents at the neighbourhood level, and to ensure continuing accountability, I recommend wards. And I recommend 14 wards.

### A. The Size of Council

As I said earlier, I consider that the design of Vancouver's electoral system is constrained by an important factor that is often overlooked: the size of Council.

Many electors at the neighbourhood meetings spoke in favour of a larger number of wards than I am recommending. Colin Gray, (St. Philips, Dunbar), urged 20 wards.[68]

Ian McRae (Carnegie Centre) argued that, as Vancouver has 23 neighbourhoods, "we should have 23 Councillors." But I think that such a larger number would alter the way in which the City is governed.

For the reasons I gave earlier in discussing the characteristics of Vancouver's present city government, and in particular the effective interplay between a small, elected Council on the one hand, and a professional, non-political executive branch on the other, I want to keep the size of Council connected to its present size. At present, all Council members belong to all standing committees. I think this would still be possible with a Council of 14 members.

The provincial government's new *Community Charter* (now in force) requires municipalities with a population over 50,000 to have eight Councillors in the 2005 municipal election.[69]

At present, Vancouver, with a population of 550,000 has 11 members on the City Council (ten Councillors and the Mayor). The next largest B.C. cities - Surrey (population 347,825),

[68] Mr. Gray also discussed a partial ward system of 15/5.
[69] S.B.C. 2003 c. 26, s. 118.

Burnaby, (193,954), Kelowna, (96,288), and Victoria, (74,125) - each have nine members on their Council.

Vancouver, in 1886, started out with 10 Councillors (five wards, each electing two). We had 16 Councillors from 1912 to 1920 and we had 12 from 1929 to 1936. Retrenchment during the Depression cut us back to eight. We moved to 10 in 1958. I think an increase to 14 is entirely justifiable.

> *Recommendation 7: That the size of City Council be expanded to 14 Councillors from 10.*

**B. Two-Member Wards**

I have rejected the idea of two-member or multi-member wards because the predominant view expressed at the neighbourhood meetings is that Vancouverites want their neighbourhoods to be represented at City Council.

I therefore think that two-member wards would be a mistake. It would mean fewer and larger wards.

Karen Litzcke (Sunset) would prefer two Councillors for each ward so that a citizen would have someone else to go to. The Edmonton Ward Boundary Review report shows that very few cities have two-member wards, and that the trend is towards single-member wards, even where they have two.[70] This is exemplified by the 2000 move of Toronto from two-member wards to single-member wards.[71]

But this does not mean that citizens are "stuck with" their Councillor in a ward system. As the Edmonton report confirms, citizens are free "to contact any Councillor about any issue."[72]

[70] Edmonton Report, *supra* note 56, p. 3.
[71] Hugh Mellon, "Reforming the Electoral System of Metropolitan Toronto: Doing Away with Dual Representation," 36 *Canadian Public Administration* 38.
[72] Edmonton Report, *supra* note 56, p. 3.

## C. The Size of Wards

The Eckhardt Commission in 1979 recommended five three-member wards to coincide with the five provincial electoral districts as they existed at that time. The MacKay Commission in 1988 proposed 10 single-member wards.

So how many wards, and what size?

Wards are described in the 1993 amendments to the *Vancouver Charter* as "neighbourhood constituencies." Council's mandate provides:

In developing its recommendations, the Commission will take the following factors into account:

a) The size of City Council and the Park Board should improve community access to civic representation while avoiding undue increase in the cost of civic administration;

b) The variation in the number of eligible voters per neighbourhood constituency must be within acceptable limits;

c) The boundaries of the neighbourhood constituencies should be designed to ensure as much as possible that each of the diverse components of our City sees itself represented on City Council and the Park Board. To that end, the boundaries should reflect the natural community structure of the city, with due regard to such considerations as:

- Community self-identification;
- Demographic, socio-economic and ethnic composition;
- Community service delivery;
- Parks, community centres, and other recreational resources and services;
- Commercial and other economic relationships;
- Schools.

In Canada, Mississauga has nine Councillors; Hamilton has 15 Councillors; Winnipeg has 15; Edmonton has 12; Calgary has 14; and Ottawa has 21. In these cities, the size of the

population in each ward runs from 32,867 (Hamilton) and 36,862 (Ottawa) to 62,779 (Calgary) and 68,100 (Mississauga).

I prefer to see wards in Vancouver somewhere towards the lower end of that spectrum.

I believe that if we are to go to wards, we should have a larger Council to ensure the population in each ward is under 40,000. This figure, roughly the size of a medium-sized town, appears to represent a manageable constituency.

Ten wards, given Vancouver's population of 550,000, would yield a figure of 55,000 per ward. Twelve wards would give us 45,416; 14 wards would give us 38,000; and 16 would give us 34,062. If we are to keep the population of wards beneath 40,000, this means that Vancouver should have at least 14 wards.

The City of Vancouver maintains a sophisticated computer application that links maps of the City with information from a variety of sources. This geographical information system (GIS) can overlay, for instance, census data with locations of schools or city services. The GIS software, and more particularly its operators, provided an invaluable service in modelling various scenarios.[73]

The MacKay Commission in 1988 considered whether provincial constituency boundaries should be adopted for the City's wards. The Commission said: "While the areas recommended in the interim report of the Fisher Commission (which redistributed provincial constituencies) perform well in terms of population parity, the boundaries and groupings of areas do not perform well in terms of neighbourhood integrity."

I considered the boundaries currently established for Vancouver's 10 provincial legislative constituencies. But it should be kept in mind that the criteria employed under the *Electoral Boundaries Commission Act*[74] for determining boundaries are not the same as those set out by Council for neighbourhood constituencies in Council's resolution of July 29, 2003 (Appendix 1). Moreover, there is no guarantee that future redistribution of provincial constituencies will

[73] In the course of the 1988 MacKay Commission, developing alternative ward boundaries was done laboriously by hand. With GIS technology, we were able to compare the effect, for instance, of shifting boundaries upon the projected population of eligible voters within minutes, rather than hours or days.
[74] R.S.B.C. 1996 c. 107 s. 9.

leave the number of provincial constituencies matching the number of neighbourhood constituencies.

Jon Ellis (Kensington) said "If we are to have wards, it is paramount that wards reflect existing, organic historic neighbourhoods."

Anthony Norfolk (Kensington) speaking with regard to his own neighbourhood of Mount Pleasant, said, "Please don't break us up."

The Council's mandate required me to look at a range of factors that develop a sense of neighbourhood. Among these is the question of "demographic, socio-economic and ethnic composition."

Tseng Lee, president of Strathcona Ratepayers, (Carnegie Centre) argued against wards based on ethnic boundaries. He said this would mean "more power for the Chinese, the Italians, the Indo-Canadians", and would be likely to generate conflict.

But ethnic considerations have to be taken into account, according to Council's mandate.

Don Lee, a former Councillor (Oakridge), though favouring the at-large system, said:

> At present, about 30 per cent of Vancouver's population is of Chinese descent. Between 1982 and 1986, we had one Chinese Canadian City Councillor; between 1988 and 1993, also one; between 1993 and 2002, two; between 2002 and 2005, one. Mathematically speaking, the Vancouver Chinese Community has representation in Council but not as high as the proportion of the population.

The same can be said for the city's Indo-Canadian minority.

The City Council did not, however, insist upon ethnically-defined wards. Such would, in any event, be impossible. The presence and location of ethnic minorities is simply a factor to bear in mind in focusing on neighbourhoods. As Don Lee (Oakridge) pointed out, Vancouverites of Chinese descent, by far our largest ethnic minority, are not congregated exclusively in a single neighbourhood. He said that, "unlike the first half of the 20th Century, ethnic Chinese

are no longer residing in one or two localized areas in Vancouver." They would, nevertheless, be an important presence in wards mainly on the East Side.
In the same way, Indo-Canadians, concentrated in southeast Vancouver, would be a powerful presence there.

> *Recommendation 8: That for the purposes of Council elections, Vancouver should be divided into 14 wards, each electing a single Councillor.*

## D. The Process of Selecting the Boundaries

The process of boundary design was essentially in two parts. Having decided that Council would likely have to be expanded from its present size in order to have wards small enough to permit neighbourhood representation, I asked the GIS Team at City Hall to come up with proposals for 10, 12, 14, and 16 wards.

The basic criteria at this initial stage were threefold:

- Respect local area and other community boundaries
- Keep total eligible voters within +/- 10 per cent of the average (26,000 to 32,000)[75]
- Anticipate planned population growth

After several iterations of the various sizes were designed and set out on maps, we entered the second stage, working with the GIS Team and the computer system in real-time, mixing and matching from among the maps. Our goal was, where possible, to make the maps more closely coincide with neighbourhoods, and to ensure that Council's other criteria were respected. It was a struggle each time as it became apparent that, in the interests of a

[75] The provincial *Electoral Boundaries Commission Act* R.S.B.C. 1996 c. 107 s. 9 requires that constituencies do not deviate more than 25 per cent from the average size except in exceptional circumstances. The Supreme Court of Canada, in *Re: Electoral Boundaries (Sask.)* [1991] 2 S.C.R. 158 had said with respect to provincial boundaries that 25 per cent variance was a constitutionally permissible spread, but the ideal would approach 10 per cent. We took this latter figure as something of a "gold standard" by which to test our own boundary design.

reasonable equality of representation in terms of the numbers of eligible voters,[76] we would have to diverge from established – or at least recognized – neighbourhood boundaries.

The results of any such process will never be perfect. Nevertheless, I am pleased with the degree to which the boundaries we have arrived at meet our objectives in designing a workable system of wards. In many cases, one neighbourhood has been combined with another to form one ward. In only one instance has it been necessary to split a neighbourhood between two wards. This I had to do in the case of Kitsilano, owing to the intractability of melding 14 wards with neighbourhoods whose populations had to be more or less equal.

In fact, adjustments were made for the same reasons to other neighbourhood boundaries. At the point of division between some wards, blocks and sometimes more than a few blocks were moved out of their neighbourhood into another ward. Of course, there will be arguments about the true boundaries of neighbourhoods. But I believe it is only Kitsilano where I had to split a recognized neighbourhood more or less down the middle. Even so, the dividing line at Vine Street is where, to the west, you have predominantly single-family dwellings, and to the east, apartments. So there is some logic in combining the former with Point Grey, and the latter with Fairview.

I have decided to give these proposed wards names based on their constituent neighbourhoods. It seemed to me that an electoral system based upon neighbourhood representation should not impose upon those neighbourhoods impersonal numbers. I hope I will be forgiven for the fact that, in the interests of brevity, I have omitted the names of some neighbourhoods in describing their ward names.

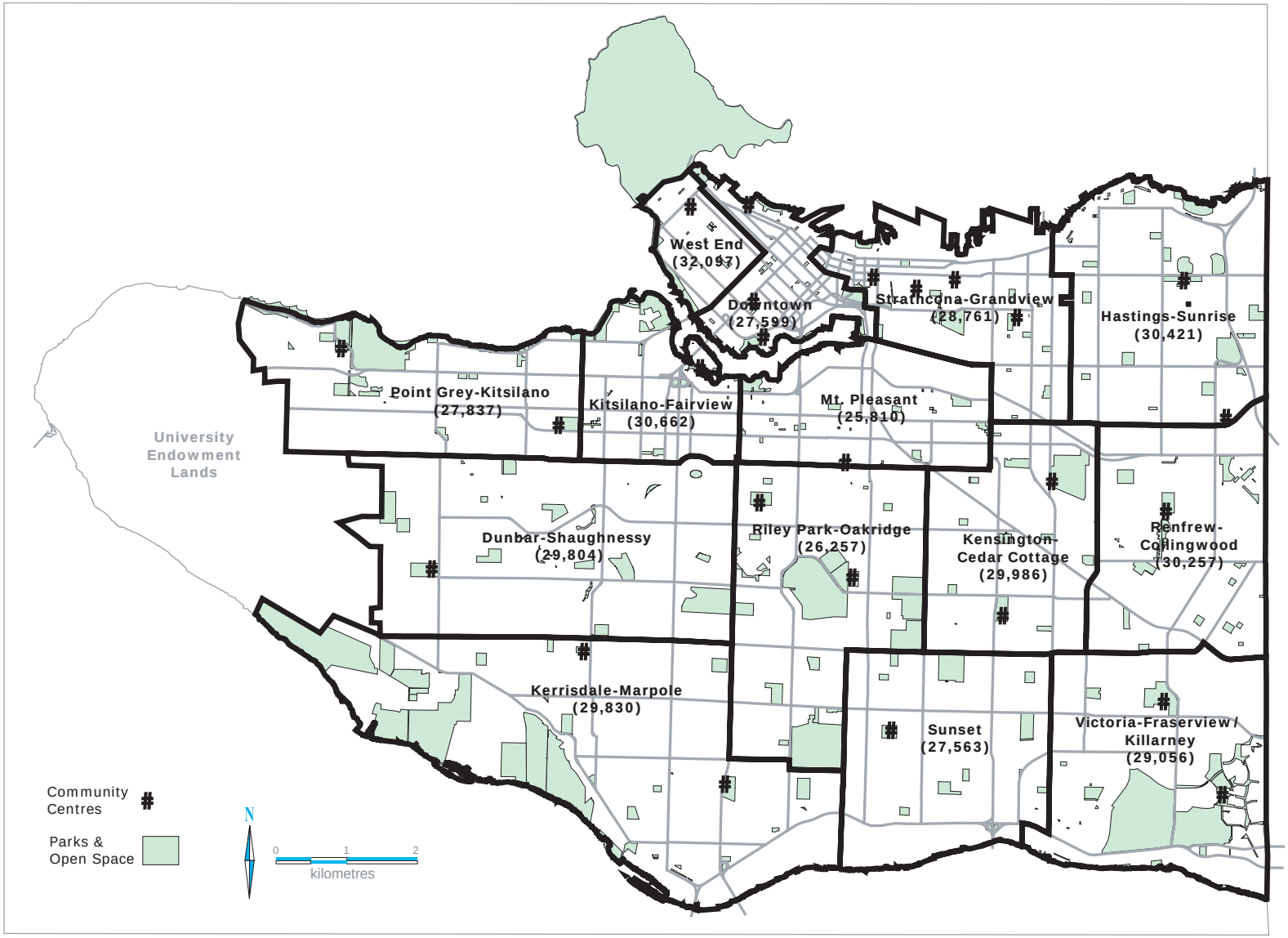
> *Recommendation 9: That the boundaries for the wards be established according to the map accompanying this Report.*

[76] The members of the City's GIS Team were able to predict the number of eligible voters in each city block by overlaying census data with the two main criteria for eligibility – citizenship and age of majority - and adjusting for projected change since the census, future growth of particular areas, etc. Because no data exists with respect to length of residence in Vancouver, this was not factored in as a limiting factor. However, to the very small extent that this is likely to reduce the numbers of eligible voters, it might be expected to do so more or less evenly across the city and thus would not impact on the design of the boundaries. A fuller explanation of the data used in our calculations is provided in Appendix 6 to this Report.

## E. Map of the Proposed Wards

The map on the following page shows the ward boundaries developed by the Commission.

A description of each ward follows in the next section.




# Proposed Ward Boundaries and Ward Names (Eligible Voters)

## F. Description of the Proposed Wards

Starting with the West End, and moving in a clockwise direction, the notes below provide a rationale for the boundaries I have chosen, particularly where those boundaries diverge from the local planning area boundaries.

West End

- East of Denman, the northern boundary is south of Alberni St. residential development north of Alberni St. is similar to Coal Harbour. West of Denman St., the northern boundary remains on Georgia St. to avoid isolating the residents along that portion of Georgia.
- Primarily a high density multi-family area.
- Total eligible voters is above average due to low anticipated population growth.

Downtown

- Includes Yaletown, the central office district, and high density multi-family areas.
- Eastern boundary is located so as to place the Downtown Eastside communities together with the proposed Strathcona-Grandview ward to the east.
- Total eligible voters is below average due to high anticipated population growth in Coal Harbour and Downtown South/Yaletown.

Strathcona/Grandview

- Includes all Downtown Eastside communities: Gastown, Victory Square, Chinatown, Strathcona, and Oppenheimer.
- Eastern boundary is at Lakewood Dr., which is close to the divide between two-family and single-family zoning.
- Primarily a multi-family area. Includes industrial areas north of Terminal Ave, along Clark Dr., Powell St., and the Vancouver Port.
- Total eligible voters is close to the average with moderate growth anticipated in Chinatown and Gastown.

Hastings-Sunrise

- Includes the apartment area north of Hastings and east of Nanaimo. This area was part of the Hastings-Sunrise Community Vision process, and is to some extent isolated from the rest of Grandview-Woodland.
- Primarily a single-family area. Includes Hastings Park and the industrial areas along the Burrard Waterfront and Boundary Road.
- Total eligible voters is above average with low anticipated population growth.

Renfrew-Collingwood

- No change from local area boundary.
- Primarily a single-family area, with multi-family at Collingwood Village. Includes industrial area along Grandview Hwy.
- Total eligible voters is above average with low anticipated population growth.

Kensington-Cedar Cottage

- No change from local area boundary.
- Primarily a single-family area.
- Total eligible voters is above average with low anticipated population growth.

Victoria-Fraserview / Killarney

- Western boundary (Victoria Dr.) divides Victoria-Fraserview. Includes the residential area south of Marine Dr. between Argyle St. and Victoria Dr., which is part of the Fraserlands development.
- Primarily a single-family area, with multi-family in Champlain Heights and Fraserlands. Includes Everett Crowley Park and Fraserview Golf Course.
- Total eligible voters is close to average, with population growth expected in East Fraserlands (East of Kerr, between Marine Way and the Fraser River).

Sunset

- Includes all of Sunset and part of Victoria-Fraserview to balance the number of eligible voters.
- Indo-Canadian community (Punjabi being the predominant mother tongue) is contained within the boundaries.

- Primarily a single-family area. Includes the industrial area south of Marine Dr.
- Total eligible voters is below average with low anticipated population growth.

Riley Park-Oakridge

- Includes all of Riley Park and South Cambie, and Oakridge local area between Oak St. and Ontario St.
- Primarily a single-family area, with some multi-family development around Oakridge Centre. Includes institutional uses (hospitals, RCMP, and Langara College), Queen Elizabeth Park, and Langara Golf Course.
- Total eligible voters is below average with anticipated population growth in areas identified for future residential development (e.g. at 41st and Oak St., Oakridge Centre, RCMP site).

Kerrisdale-Marpole

- Includes the western portion of Oakridge local area and all of Kerrisdale, Marpole, Southlands, and the Musqueam Lands. Area along Fraser River, south of Marine Dr., is kept together in the same ward.
- Primarily a single-family area, with multi-family in south Marpole and near 41st and West Boulevard. Includes industrial area along Fraser River, and a number of golf courses.
- Total eligible voters is close to average with low anticipated population growth.

Dunbar-Shaughnessy

- Bounded by 16th Ave., Oak St., 41st Ave., and the UEL. Includes all of Arbutus Ridge and Shaughnessy, and the Dunbar community north of 41st Ave.
- Primarily a single-family area, with multi-family near 41st Ave. and West Boulevard, and along Arbutus St. between King Edward and 33rd.
- Total eligible voters is close to average with low anticipated population growth.

Point Grey-Kitsilano

- Includes the Point Grey local area and the portion of the Kitsilano local area between Alma St. and Vine St. The division of Kitsilano at Vine St. generally separates lower

and higher density residential areas. However, north of 4th Ave., the multi-family area extends two blocks west to Larch St.

- Primarily a single-family area, with multiple conversion dwellings between Alma and Vine. Includes Jericho Park and the Department of National Defence site on 4th Ave.
- Total eligible voters is slightly below average with low anticipated population growth. However, moderate growth is possible with redevelopment of institutional sites along 4th Ave.

Kitsilano-Fairview

- Bounded by Vine St., 16th Ave., and Oak St.
- Primarily a medium density multi-family area, with multiple conversion dwellings at Kits Point and near Arbutus and 12th. Includes Kitsilano Park, Vanier Park, Granville Island, and the Burrard Slopes industrial area (Burrard to Fir, 1st to 6th).
- Total eligible voters is slightly above average with moderate anticipated population growth.

Mount Pleasant

- Includes the Mount Pleasant local planning area, and part of Fairview between Oak St. and Cambie. The boundary was extended west to Oak St. to increase the number of eligible voters in the ward.
- Primarily medium-density, multi-family area, with a couple of two-family / multiple conversion dwelling areas south of Broadway. Includes the Vancouver General Hospital, City Square, City Hall, the Mount Pleasant industrial area, and the industrial area along Great Northern Way.
- Total eligible voters is below average with higher anticipated population growth in the Southeast False Creek area. This area is being planned as a sustainable community, and will also accommodate athletes participating in the 2010 Olympic and Paralympic Winter Games.

## G. Future Revision of Ward Boundaries

To make the boundaries useful in the coming years, I asked the GIS Team at City Hall to factor into their mapping system areas of known or anticipated population growth since the

last census. By overlaying data from building permits and development applications, they were able to come up with figures that compensate for growth since the 2001 census, and also provide some reasonable expectations regarding growth areas over the next several years. Because it does not seem practical to revisit the boundaries I have drawn any time soon, I believe it is important they prove durable until they receive formal review.

Of course, no matter how carefully drawn, any ward boundaries will need to be changed to accommodate the patterns of growth in a dynamic city. Communities themselves are organic - growing, shrinking, merging or splitting over time.

The Vancouver Board of Trade, in its brief, dealt with this subject: "Ward boundaries should be established and then reviewed and adjusted every 10 years by an independent body using Statistics Canada census data."

I agree. I propose that an independent commission should review ward boundaries at least after each 10-year federal census. Don Currie (VPL Downtown) argued for a mechanism for revision of boundaries more often, if necessary, than at each census, "in case the population explodes in a particular area." The 1988 Boundaries Commission recommended that the review process be undertaken every five years.[77] If demographic changes in the City occur even more swiftly than I anticipate, and produce inequities in representation, the boundaries can be revised more frequently. But the boundaries set out in this report, though drawn in 2004, should suffice, if adopted, from 2005 to 2011.

> *Recommendation 10: That Council should establish an independent commission to review ward boundaries following each 10-year federal census.*

[77] Douglas MacKay et al., *Report of the City of Vancouver Electoral Boundaries Commission* (City of Vancouver, August, 1988), Vol II, p. 9.

## VII. PROPOSALS FOR A "MIXED" OR "PARTIAL WARD" SYSTEM

### A. A Good Canadian Compromise?

In a partial ward or mixed system some Councillors are elected at large and some are elected from wards.[78] The mixed system is said to be a compromise, one that balances local and city-wide interests.

At the public meetings a number of people spoke out in favour of adopting such a system. Hans Behm (St. John's, West End) urged "a judicious mix of the two." Nicola Hall (UBC) thinks the mixed system is good as it satisfies the need to consider both city-wide and local issues.

Art Phillips, who served two terms as Vancouver Mayor in the 1970s favours the mixed system. So also does the Vancouver Board of Trade. Richard Walpole (St. Mary's, Kerrisdale) urged a mixed system, opting, for six and four from wards and at-large respectively.

The meeting at St. Philips, Dunbar produced a number of suggestions: Donna Cook proposed nine Councillors elected from wards and three at large, Colin Gray 15 and 5. Julia Marcus did not urge a particular number, but said the split should be 2/3 to 1/3.

I was at first drawn to these proposals; a mixed system seemed like a good Canadian compromise. But further thought has persuaded me that it is not a good idea.

### B. The Experience in Other Cities

The partial ward or mixed system is not used in any major cities in Canada. It is, however used in many cities throughout the US. [79]

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[78] In this part, I am addressing the 'mixed' or 'partial ward' system that is anticipated in the *Vancouver Charter* – that is to say, a mixture of single-member wards and at-large Councillors elected through first-past-the-post block voting. Many systems of proportional representation (such as the single transferable vote in multi-member constituencies and the mixed member proportional systems) are also technically 'partial ward' or 'mixed' systems. But it is not open to the Council under the *Charter* to implement them; I discuss these systems in Chapter VIII below.

[79] There is at least one mixed system in B.C. When the small communities of Winfield, Oyama, Okanagan Centre and Carr's Landing, all north of Kelowna, were amalgamated into the municipality of Lake Country in 1995, it was provided that each of the four towns would elect a Councillor, and that there would be two Councillors elected, like the Mayor, at large. According to former Mayor Bob Mccoubrey it works well. Lake Country is not, however, comparable in size to Vancouver.

There are mixed systems in Boston, Nashville, Oakland, Jacksonville and Atlanta - all cities comparable in size to Vancouver. Boston has a population of 589,000, with 13 Councillors, 9 elected by wards and 4 at large. In Oakland, which has a population of 400,000, the figures are 9/8/1, for Atlanta (416,500) the figures are 15/12/3, for Nashville (545,500) the figures are 40/35/05, for Jacksonville (735,000) the figures are 9/5/4, for Indianapolis (782,000), 25/21/4; and for Kansas City (450,000) 12/6/6.

### C. Arguments for "Partial Wards" or "Mixed" Proposals

The Eckhardt Commission in 1979 recommended a mixed system: five wards, electing from each ward, two by the ward and a third city-wide. In this proposal, the five at-large Councillors would still each have been "assigned" to a ward. In other words, although their election would be at-large, it was still intended that their focus be on a particular constituency.[80]

Dr. Robert Clark, professor emeritus of economics at UBC, (and a member of the 1979 Eckhardt Commission) favours having six Councillors selected from wards and six Councillors elected at-large, in addition to the Mayor, who would be elected at-large. He believes it is preferable to have the two categories of Councillors treated equally in terms of salaries, terms of appointment, and service on committees.

Ned Pottinger presented the Vancouver Board of Trade's brief at the St. Philips, Dunbar meeting. He urged that "a combination of ward representation with at-large Councillors could offer a workable compromise, if the at-large Councillors were also tasked with representing the city on GVRD." He proposed 12 Councillors, seven from wards and five from at-large, the latter to be the City's delegates to the GVRD.

The Vancouver Board of Trade said this would be "a method of indirectly electing Vancouver's GVRD representatives…rather than having them appointed by City Council."

[80] Eckhardt Commission Report, *supra* note 30 pp. 18 and 40.

Tying the partial wards system to the election of GVRD officials was a nearly universal feature of such proposals.[81] Variations on the theme were endorsed by Gail Brown (VPL Downtown) and Anthony Norfolk (Kensington).

Underlying it all was an assumption that local democracy would be improved, as Vern Halverson (St. Mary's, Kerrisdale) argued, if our representatives to GVRD were elected directly by the voters of Vancouver. Others disagreed. Terrence Gill (St. Mary's, Kerrisdale) said that he "didn't see the need for separate elections for GVRD." Given the particular issues that GVRD faces, Mr. Gill said individual "skill sets" would have be taken into account.

Indeed, the mixed system was most often advanced as a way of giving Councillors elected at large specific responsibilities, since they would not have localized ward responsibilities. It is a cure, however, worse than the disease.

## D. Arguments Against the Partial Ward or Mixed System

For all its initial intuitive appeal as a compromise, there are problems with the mixed or partial ward system that, in the present context, simply cannot be overcome.

### (1) Two Classes of Councillor or Two Classes of Voter?

One oft-heard complaint about the mixed system is, that it would produce a two-tiered Council.

Kelly Quinn (St. Philips, Dunbar) objected to the partial wards proposal saying it would create two types of Councillors. Many others made the same point. Margaret Mitchell (False Creek) argued that at-large Councillors would have enhanced status and clout. She described the idea as "undemocratic and elitist."

[81] Occasionally it was suggested the at-large Councillors should have other special duties in lieu of neighbourhood liaison. George Chow (Oakridge), urged six and four: six councillors from wards, four at-large, each of the latter with particular responsibility for public safety, transportation and environment, economic development and taxation policies and housing and cultural affairs. This would of course make the at-large members akin to cabinet or executive members. It would resemble Portland's commission form of municipal government (but in Portland there are no wards).

The dynamics of such a system are of course impossible to predict. If at-large Councillors had greater responsibilities (i.e. if they were GVRD representatives, or held particular executive portfolios), they might be perceived as the 'senior' Councillors. Certainly under such circumstances they would be more powerful than the ward Councillors, who might be relegated to roles not unlike those of backbenchers in the provincial or federal legislatures.

These objections need to be taken into account, and would cause more or less concern depending on the designated roles of the ward and at-large Councillors, and how they might evolve over time.[82]

What is of more concern to me is that, regardless of the duties assigned to the at-large Councillors, they will be elected, as all Councillors are now, disproportionately from the high turnout areas of Vancouver. If one of our objectives is to even the playing field between the East Side and the West Side of the city, then retaining at-large Councillors will in equal measure retain the phenomenon that they will be selected, overwhelmingly, by voters on the West Side. The West Side of the city would, in effect, elect the at-large Councillors as well as their own ward Councillors. This problem is only exacerbated if the at-large Councillors wield more effective power on Council or in other bodies, such as the GVRD.

The concern, in other words, is not only that we will create two classes of Councillor, but also that we will retain two classes of voter.

### (2) Election of Councillors to GVRD

Art Phillips's proposal, in common with most 'partial ward' plans such as that endorsed by the Vancouver Board of Trade, is linked to the composition of the City's delegation to the GVRD.

Currently, the Mayor and five Councillors appointed by the Council are Vancouver's delegates to GVRD and the Mayor and two Councillors are Vancouver's appointees to TransLink.

[82] Most descriptions of the mixed system as it is used in the US do not seem to recognize this 'problem'. Moreover, in New Zealand it is sometimes said that in its national elections, where some members are elected from ridings and others at-large from party lists, the perception is reversed; the 'at-large' Councillors are sometimes seen to be inferior to those who have the support of local constituents, and in fact some have set up 'constituency offices' to compensate for this disadvantage. But the unique feature proposed here is that candidates elected at-large would in fact be elected to *two* offices, Councillor and GVRD delegate.

The Greater Vancouver Regional District is a regional government. It is responsible for and provides services for air and water quality, regional development, regional parks, sewerage, recycling and garbage, housing and labour relations.

It is governed by a Board of Directors of 35 elected officials appointed by municipal councils. Vancouver appoints six directors.

Equally important is the Greater Vancouver Transportation Authority (TransLink). It is a separate board appointed by the GVRD board. It consists of 15 elected officials including the Mayors of Vancouver, Richmond, Burnaby, Langley City, Coquitlam, Pitt Meadows, Surrey, City of North Vancouver and New Westminster and two Councillors from Vancouver and one from Surrey. The provincial government has the right to appoint three MLAs to TransLink.

I think that, as long as Lower Mainland councils appoint the directors of GVRD, enabling each council to choose the policies each municipality seeks to advance at GVRD, Vancouver should not disable itself from so doing by electing its GVRD representatives at-large.

I think it should be open to Council to choose its delegation, to ensure a consistent and coherent policy on major issues before the GVRD. The Council majority might choose to select a delegation supportive of a single policy, or reflecting a number of views. The Council might decide to appoint only those favouring a particular policy, or might choose to send Councillors representing both sides of the question. But which course to take should be Council's prerogative.

It should not be forgotten that GVRD directors are all elected officials. This is what makes them eligible for appointment. All should remain eligible.

In a partial ward system, a minority party on Council might elect all the City's at-large Councillors thus electing the City's representatives to GVRD, and might be in a position thereby to frustrate a policy position of the majority party, perhaps one on which the majority party had campaigned and been elected.

Such a partial ward system, linked to GVRD, could hamstring a Council majority. The Council majority could instruct their delegates to vote in a certain way, but the delegation would not

be bound to do so. The only solution is for Council, if it wishes, to select those who agree with its policy.

Council should be free, as a body, to determine how it wishes to exercise its influence at GVRD.

The Vancouver Board of Trade's submission supports the partial ward system as "a method of indirectly electing Vancouver's GVRD representatives." But the proposal amounts to direct election of Vancouver's GVRD representatives.

It seems to me that the question whether we should elect the directors of GVRD is one of the first importance. Perhaps we should, perhaps not. It is, however, a question that I think we should leave for another day.

If GVRD reform is to come, it should come to the region as a whole. It would require legislation, a matter of policy for consideration by the members of the GVRD and the provincial government.

Toronto and Montréal are mega-cities, having amalgamated with surrounding municipalities which had their own city halls, elected officials, administration, by-laws, etc. This accounts for their large City Councils. If we were to have direct elections to GVRD, (i.e., if direct elections were adopted as a matter of law throughout the region) GVRD would begin to resemble the mega-cities that we see in Toronto and Montréal.

If direct election to the GVRD were to take place throughout the region, and not through election by municipal councils, it would tend to sever the link between the municipal councils and the GVRD and would undermine the integral relationship that each municipality has with GVRD.

### (3) Partial Wards and Neighbourhood Representation

There is a further difficulty that I have with the mixed system. It presupposes a ward system, and at the same time a parallel at-large system. But any at-large component of such a Council must come at the expense of neighbourhood representation. This is where an important

constraint comes into play: to what size should Council be permitted to grow in the effort to improve the system of its election?

The Board of Trade advocates seven wards and five at-large Councillors. The Board says that each Councillor would represent 80,000 persons. I think that is too many to provide effective representation. The range, in cities of comparable size in Canada, is 32,867 (Hamilton) to 62,779 (Calgary). I think the wards should be half the size proposed by the Board of Trade.

But this means, if I am right in thinking we need 14 wards, that if we adopt the mixed system, adding five at-large Councillors elected to represent the city at GVRD, it brings the size of Council to 19. Then you add the Mayor, which gives you an even number, so you have to delete one ward or add an extra at-large Councillor in order to arrive at an uneven number to avoid tie votes. In any event, assuming you have a base of wards of the size that I urge, you wind up with a Council approaching twice its present size.

As I have said, I do not believe Council should be expanded much beyond its present size.

To do so would be to alter the decision-making dynamic of the body, and potentially replace the effective 'committee of the whole' model with one in which important decisions are relegated to smaller committees or cabinet-like positions.

### E. Conclusion on Mixed or Partial Ward Proposals

Setting aside my concerns regarding the incorporation of Vancouver's GVRD representatives into many of the partial wards proposals, my objections to this system are more fundamental. As Don Brown put it in an e-mail to the Commission, a mixed system would retain "most of the vices of the present at-large system."

I am recommending a move from the at-large system to wards because I think that, from the point of view of civic democracy, the latter is superior to the former. It does not make sense to me in the interests of compromise to retain all the disadvantages of the inferior system (even if in attenuated form) while adopting wards that in my opinion would be too large to be representative of neighbourhoods. The only possible advantage in retaining at-large Councillors would lie in the idea that they present a city-wide view. I have already explained

why I think this advantage is exaggerated, or rather why the concomitant view, that ward Councillors are entirely parochial, is hardly sustainable.

To the extent that the city-wide view of the at-large members in a partial system has the value its proponents suggest, that value is in my opinion outweighed by the severe disadvantages that the mixed system would retain: wards that are too large to be representative in any meaningful sense, the possibility of a two-tiered council, and the continuing under-representation of East Siders in the at-large seats.

> *Recommendation 11 : That Council should not adopt a partial ward or mixed system in which some Councillors are elected at-large and some from wards and that GVRD and TransLink representatives continue to be selected in the current manner.*

## VIII. PROPORTIONAL REPRESENTATION – THE FUTURE OF CIVIC DEMOCRACY?

### A. Introduction

The mandate given to my Commission is to "report to Council on the merits of the current at-large system, the ward system and other alternative systems."

It is important for citizens to understand that the City Council is limited in its options by the *Vancouver Charter*. The mixed or partial ward system obviously falls under the heading of "other alternative systems," and the *Vancouver Charter* confers on the Council authority to bring in such a system. The expression "other alternative systems" also includes systems of proportional representation (PR) which cannot be implemented without an amendment to the *Charter.*[83]

Although the vast majority of speakers at our neighbourhood meetings focused their comments on the at-large system, the ward system, or a combination of the two, there were quite a few speakers who urged that none of these systems – at least to the extent that they employ "first past the post" voting – would be best for Vancouver. In accordance with the Commission's mandate, I have considered submissions on several alternatives to the three 'first-past-the-post' systems (at-large, wards, and mixed or partial wards) set out in the *Charter*.

I think it was prescient on Council's part to permit me to consider proposals for PR, even if they cannot presently be implemented, since electoral reform is in the air. It seems best to discuss the merits of PR at some length right now, rather than going through it all again at some future time. In the future, Council may determine that wards are a first step towards a more sophisticated form of civic election. If so, the work I have done now in comparing the merits of the ward system with the main forms of proportional representation might assist in the direction of future reform.

What is the basis for the call for proportional representation? Korky Day (St. John's, West End) put the case succinctly on behalf of the Green Party:

[83] See the discussion at note 129 *infra* and accompanying text.

> The NPA wants the at-large system because it will give it unearned majorities most of the time. COPE wants a ward system because it believes that it will get unearned majorities of seats on Council. The Green Party wants proportional representation so it can have an earned minority of seats on Council.

As the name implies, the purpose of proportional representation is to ensure that Parliament, the Legislature or City Council, as the case may be, represents the diversity of choices of the electorate itself.

In its simplest forms, PR is geared toward the representation of political parties. For instance, in a straight list proportional system, voters would cast ballots at large not for candidates, but for parties. The seats would be distributed to the parties according to their percentage of the popular vote, and the parties would choose members from prepared lists to fill the seats. No one has proposed a straight list PR system for Vancouver's municipal elections.

### B. Systems of Proportional Representation Proposed for Vancouver

There were two main types of proportional representation proposed for Vancouver during the neighbourhood meetings and in written submissions: Mixed Member Proportional representation (MMP), a system familiar to voters around the world but unused in North America, and preferential balloting, which takes two popular forms: Instant Runoff Voting (or IRV), and the Single Transferable Vote (STV).

In addition to improving the representation on Council of smaller political parties and independents, proponents suggest that these systems can also improve other aspects of 'proportionality', such as the representation of ethnic minorities and women.[84] It was also repeatedly said, almost as an article of faith, that proportional systems the world over have higher voter turnout than we enjoy in this country. In fact they do not.[85]

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[84] I caution that it is by no means a given that representativeness - of women or other groups - can be improved through changes to the electoral system alone. For instance Canada, which uses the supposedly non-representative first-past-the-post system, has a higher proportion of women in its parliament than do many countries with either PR or semi-PR systems, including Israel, Poland, Belgium, Czech Republic, Italy, Ireland, and Japan. See Pippa Norris, "Changing Electoral Systems: Proportional, Majoritarian, and Mixed Systems" (1997) 18 Int. Pol. Sci. Rev. 297 at 310.

[85] Norris, *Ibid* at p. 309, also compared voter turnout across various systems. Canada's voter turnout with its plurality first-past-the-post federal elections achieved about the same voter turnout as the

### (1) Mixed-Member Proportional Representation

Steve Kisby, on behalf of Fair Elections Vancouver was an advocate of a 'mixed member proportional' system for Council, with the Mayor elected at large by a preferential ballot.

Mixed member proportional representation, or MMP, is a system used with many variations in national elections, perhaps most famously in Europe and Japan. In 1996 New Zealand, a country with an electoral heritage similar to our own, adopted MMP for its national elections. The City of London, England, now uses a variation of this system to elect members of its Assembly.

MMP is a system by which some (usually most) members of a legislative body are elected from constituencies or wards, and the rest are elected at large. In MMP, a citizen votes for local candidates as in a regular ward system, but also casts a second ballot for the party of the citizen's choice. Candidates are elected from each ward as usual, and the assembly's party composition is compared to the popular vote for each party on the second ballot. In a fully-proportional MMP system, those parties found to be 'under-represented' are 'topped up' from a list of candidates put forward by the parties, or, in semi-proportional models, additional seats are awarded from the lists without regard to how under-or over-represented the party is in the wards. The idea is that, in the end, the number of seats a party holds will approximately match its popular vote more closely than would a system of electing candidates entirely from constituencies.

MMP systems work best in bodies with larger numbers of representatives than the Vancouver City Council. Indeed, MMP is one of the systems currently under review by the Citizens Assembly, which is deliberating on the future of the provincial electoral system. The numbers at the provincial level are more conducive to MMP, since we currently elect 79 Members of the Legislative Assembly. MMP works less well with small bodies. As the numbers decrease, the representative advantage of MMP diminishes. Outside North America (where it is not used at all), it is rarely employed in local elections with fewer than two dozen Councillors. [86]

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mean of countries using PR or Semi-PR systems. This is not bad when one considers that many other countries in the survey have mandatory-voting laws.

[86] London's Assembly consists of 25 members; 14 are elected from constituencies each consisting of two or three boroughs, and 11 are elected at-large from party lists to ensure proportionality.

New Zealand, now that it employs a form of MMP at its national government level, still does not make it available in municipal elections.[87] There are other problems with MMP; it tends to entrench the party system, and most variations of it allow the parties to rank the order in which its candidates will be chosen from the list used to add additional members.[88] But the greatest difficulty is in foreseeing an MMP system that would work properly with a Council the size of Vancouver's. MMP would require that the City either expand Council considerably, or have only a handful of wards. This latter choice would be, as discussed earlier, quite unsatisfactory from the point of view of local representation, and would not meet the criteria for establishing wards set by Council in its mandate to my Commission.

It may well be that as MMP elections mature in London, England,[89] Canadian cities will decide to experiment with the same system in municipal elections. My own view is that MMP is not the best system for the election of municipal Councillors in a system with a small, hands-on Council such as Vancouver's, particularly where, as here, an improvement in neighbourhood representation and accountability is sought.[90]

### (2) The Single Transferable Vote in an At-Large Election

The majority of proportional representation advocates, including Professor Paul Tennant of UBC and Professor Stephen Phillips of Langara College, are in favour of an electoral system based on the Single Transferable Vote (STV); the Green Party has also endorsed this system. Some advocates of wards, such as Professor Kennedy Stewart and Professor Julian West,

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[87] Instead, under the *Local Electoral Act 2001*, New Zealand municipal elections must be either a 'first past the post' or an STV system (STV is discussed later in this Chapter).

[88] In Japan, for instance, the MMP system leads to the emergence of "zombie" politicians – those who are dismissed by the electorate in their own ridings, but are nevertheless elected to office because their parties place them near the top of their lists.
I note also in passing that the preparation of party lists does provide another opportunity to improve proportionality. As Janet Weigand (Kensington) pointed out, some systems employing party lists ensure an improved representation of women by forcing (or encouraging) parties to construct their lists to alternate candidates by gender. Like many of the advantages of proportional systems, however, the equalizing effect of such a plan would be diminished in a small body such as City Council.

[89] See footnote 86, *supra*, and accompanying text.

[90] If we consider that it is not judicious to presently expand Council beyond 14 members, for instance, and at the same time that it doesn't make sense to have less than 10 wards from the point of view of adequate representation of neighbourhoods, then under MMP only four seats would be available for the at-large 'party list' vote. This would make it unlikely for small minority parties to gain the at-large seats (one of the main goals of MMP), would make the distribution of seats difficult and no doubt highly controversial (how would one distribute the four seats among four parties who had won 40 per cent, 40 per cent, 10 per cent and 10 per cent?), and would do little to make the Council any more proportional than a system of 14 first-past-the-post wards.

suggested that wards might be only the first step towards an eventual system of proportional representation using STV.

### *(a) What is STV?*

The Single Transferable Vote is a type of proportional representation designed by an English lawyer, Thomas Hare (and endorsed by John Stuart Mill) in the 1850s. The main features of STV (also known as the "Hare System" and "Choice Voting"[91]) are that elections are conducted for several seats at once (i.e. at-large or in multi-member wards), and that voters rank their choices in order of preference.

STV has been employed in two dozen municipalities in the United States since 1915.[92]

Only one such city, Cambridge MA. still uses the system.[93] At present, no Canadian governmental body is elected by STV. The system has, however, enjoyed periods of widespread acceptance in this country, particularly in municipal elections.

### *(b) STV In Canadian Elections*

Canada has had extensive, if now somewhat distant, experience with STV at the municipal level. Indeed, in the early years of the 20th Century, reform movements led to experimentation with STV in virtually every large population centre in Western Canada. But these were experiments with at-large STV.

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[91] Historically, particularly in the early 20th Century, STV was known simply as "proportional representation", or "P.R." Because STV is only one form of proportional representation, and because the term more commonly refers today to systems based on party-list proportional representation (on the European model), this usage should be approached with caution.

[92] Other US cities that have used STV in the 20th Century include New York, NY (1937-1947), Cincinnati, OH (1925-1957), Ashtabula, OH (1915-29), Cleveland, OH (1923-31), Hamilton, OH (1927-59), Toledo, (OH) 1935-49, Sacramento, CA, Boulder, CO, Worcester, MA and five other Massachusetts cities: see T. Anderson Solgard and Paul Landskroener, "Municipal Voting System Reform: Overcoming the Legal Obstacles" (2002) 59(9) Bench & Bar of Minn. Online: http://www2.mnbar.org/benchandbar/2002/oct02/voting.htm; See also "Computerizing a Cambridge Tradition – A Report to the City of Cambridge" (Center for Voting and Democracy,1994); Katherine L. Barber, "The True Experience of Proportional Representation in American Cities" (Center for Voting and Democracy,1999). A comprehensive early account of the experience with STV in both the US and Canada is found in Joseph P. Harris, "The Practical Workings of Proportional Representation in the United States and Canada"(May 1930) *National Municipal Review Supplement* 337.

[93] School Board elections in the City of New York have also been held by STV ballot.

In Alberta, Calgary (1916-61[94]), Lethbridge (1928-29) and Edmonton (1922-28) all elected Council members by STV. In Saskatchewan, Regina (1920-23), Moose Jaw (1920-25), Saskatoon (1920-23) and North Battleford (1920-1924) likewise tried the Hare System. In Manitoba, Winnipeg (from 1920), Transcona (from c. 1941-4), St. James (from 1922) and St. Vital (from c. 1931-4) all used STV until they were merged in 1971 into the present City of Winnipeg, which uses a ward system.[95] Ottawa, the only central Canadian city to attempt to introduce STV, in 1916, was stymied when the government of Ontario refused to introduce legislation to permit the change.[96]

In British Columbia, legislation passed in 1917 permitted municipalities to decide, by referendum, to change to STV.[97] Amendments passed in 1919 provided a mechanism by which cities could switch back to the previous arrangement.[98] Brief experiments were conducted in Victoria (1920-21), Nelson (1917-19), Port Coquitlam (1917-21), Mission City (1917-21), New Westminster (1917-19) and in Vancouver itself (1920-23). South Vancouver kept STV until it was merged with Vancouver's ward system in 1929. West Vancouver held out for one more year before repealing the system in 1930,[99] and the *Municipal Proportional Representation Act* was declared "obsolete" and repealed.[100]

The University of Wisconsin's Joseph Harris, writing in 1930, described the reasons for the abandonment of STV in Canadian cities:

> While the circumstances bringing about the repeal varied somewhat in the different cities, in general, it may be said that there was opposition to [STV] because of its complexity, delay in the count, failure on the part of the citizens to understand the

[94] It appears that Calgary's first STV election was in 1917; it resulted in the election of Annie Gale, the first female municipal Councillor in the British Empire.
[95] Dennis Pilon, "The History of Voting System Reform in Canada" in H. Milner, ed., *Making Every Vote Count: Reassessing Canada's Electoral System* (Peterborough: Broadview, 1999) at 118-9. Dates given as approximate result from Pilon's inability to confirm the precise year in which STV was adopted.
[96] *Ibid*., p. 119.
[97] *Municipal Proportional Representation Act*, S.B.C. 1917 c. 51. An excellent history of the period is found in Denis Pilon, *The Drive for Proportional Representation in British Columbia* (Master's Thesis, Simon Fraser University, 1996).
[98] *Municipal Proportional Representation Act Amendment Act*, 1919, S.B.C. 1919 c. 70.
[99] Pilon, *supra* note 95 at p. 118.
[100] *Obsolete Statutes Repeal Act*, 1936 S.B.C. 1936 c. 45.

system, and perhaps most important of all, because it was felt that the system did not make any marked difference in the personnel of the council.[101]

Preferential balloting (including some multi-member constituencies using a form of STV[102]) was used in British Columbia's provincial elections in 1952-53.[103] STV was used to elect provincial legislators in multi-member electoral districts in Winnipeg (1920-55) and in Edmonton and Calgary (1924-56). Election of legislators in single-member constituencies in Manitoba and Alberta in that period was conducted by Instant Runoff Voting.[104]

*(c) How Does STV Work?*

STV is sometimes criticized as being excessively complicated. In fact, it is not difficult to vote in an STV election, but it does require a fairly complex system to translate the preferential ballots into elected candidates. Like any system, there are variations, but I set out here the way in which a municipal STV election might work.[105]

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[101] Harris, *supra* footnote 92 at p. 366. Harris's conclusions were supported by interviews conducted with political leaders and city clerks from several once-STV jurisdictions and reported in John Gall Glashan, "Proportional Representation in Canada" (April 1951) Master's Thesis filed in Library of the University of British Columbia, 1951 A8 G4 P7. Complexity (and the resulting delay) and the discovery that STV elected in most cases the same persons as would have been elected had only first preferences been counted, were the two most frequently given explanations for public indifference and support for repeal.

[102] It was not, strictly speaking, STV as that term is generally used, because the method of transferring votes was not the same.

[103] In those years, while the majority of constituencies in B.C. were single-member, the province also had three two-member constituencies, and two with three members each. W.A.C. Bennett, leader of the Social Credit Party, became Premier of B.C. in 1952 with a minority government as a result of the preferential balloting system. In that election, the Co-operative Commonwealth Federation (CCF) won more votes and more seats on the first count, but Social Credit gained more seats on the second count; the Social Credit Party's victory was the result of its being the second preference of more voters. It should be noted that the first second-choices to be counted were those of the persons who voted for the last-place candidate. Less than a year later Bennett won a majority of seats with the preferential ballot system; his government then abandoned it, returning the province in 1956 to the first-past-the-post system that remains today.

[104] Pilon, *supra* note 95 at p. 120-1.

[105] The scenario I describe here is a simplified description of a particular type of STV election using what is known as a "modified Meek's" method of counting. This is a variant of STV proposed by English mathematician Brian Meek in 1969 and later refined by three other English mathematicians, Douglas Woodall, Brian Wichmann and David Hill, who developed a calculation known as "Algorithm 123" which is used to transfer the votes and recalculate their value. The Meeks/Algorithm 123 method is generally regarded as the fairest method of conducting an STV election, and is included in the legislation for the implementation of STV in New Zealand (Schedule 1, *Local Electoral Act 2001*).

Suppose a hypothetical election in which there are four Councillors to be elected from a single constituency.[106] It is first necessary to calculate the threshold of how many votes are needed to guarantee election. The calculation is: (number of voters) / (number of positions + 1) + 1. If we have 100 voters in the constituency, then, it will take 21 votes to ensure election to one of the four positions.[107]

In our hypothetical four-candidate election, the voters would go to the polls and indicate their top four choices[108] by filling in a rank number beside the candidate's name – 1, 2, 3, 4. The voter's role is then finished; what happens next takes a bit of arithmetic.

The ballots are all reviewed, and the number of "first preferences" (i.e. the number of times a candidate receives a rank of "1") are counted. If any candidate receives greater than the threshold number of 21 votes, that candidate is declared elected. If, when all the first preferences are counted, one or more positions remain unfilled, then second preferences are counted.

At this time, each candidate who has exceeded the threshold for election will have leftover or "excess votes" – votes that exceed the 21 to guarantee election in our hypothetical race. Rather than these votes being "wasted", the "excess" is transferred down to the voters' second preference, i.e. the candidate selected by a voter as "2."[109] If, when the second preferences are tabulated, one or more positions remain unfilled, then the new "excess" votes are transferred down to the third preference of the voters, and so on. If at any time a new round of voting does not put at least one candidate over the threshold for election (thus freeing up

[106] STV only works in multi-member constituencies, with preferably at least three to be elected. Thus STV can operate municipally in an at-large system or, as discussed below, in multi-member wards).
[107] In other words, 21 is the number at which no other four candidates could all match or exceed the total votes.
[108] In point of fact, STV does not necessarily require that the number of expressed preferences equals the number of positions. STV in a four-Councillor election could accommodate voters who express only one preference, or ten.
[109] Of course the problem remains *which* 'leftover' votes are to be credited to the second choices, because the second choices of voters who all selected a single candidate as "1" may be divided among several other candidates marked "2." Where tabulation of votes is done manually, STV jurisdictions generally do this through random selection. In our hypothetical election of four Councillors and 100 voters, therefore, where 40 voters selected Candidate A as their first choice, 19 of the 40 (the "excess") would be randomly selected for reallocation to the second preference of each. In the computer era, a discount rate would be ascribed for these votes – in this example, the second preferences of each of the 40 voters would be assigned a discounted value (19/42nds or roughly .452 of a vote) and credited to the second preference of each.

a new group of "excess" ballots for transfer), then the lowest-scoring candidate is eliminated, and all the votes cast for that candidate revert to the voters' second preferences. The process is repeated until all the elected positions are filled.

This two-way system – passing a portion of "excess" votes from elected candidates to the voters' second choices while permitting voters whose first choice is not elected to cast a "second ballot" – has led to the characterization of STV as a system that minimizes "wasted" votes.

There is a consensus that this method of voting improves proportionality through the elimination of "wasted" votes, reduces "strategic" voting, and permits the development of non-geographic constituencies of interest. It also may improve the odds that an independent can be elected, and its advocates also suggest that it will improve voter turnout, though this is far less certain.[110]

The complexity of STV's counting process was, at one time, considered to be a major flaw. In the days before computers (which can tabulate the vote, once entered,[111] in seconds), it would often be days, if not weeks, after an election that the results were finally known. It is not difficult to see why over 80 years ago the *Vancouver Sun* declared that STV was "[e]xtremely fair and highly moral", but also "deadly dull."[112]

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[110] As I have earlier mentioned, assertions of improved voter turnout under PR systems are frequently made but difficult to assess (with respect to comparison of turnout in various national systems, see footnote 85 above). The October 2004 elections in New Zealand may provide some useful information regarding the impact of PR in municipal elections, because some local governments elections will be conducted through STV, and others through first-past-the-post. STV does not appear to have improved turnout in any particular North American city in which it was implemented. Moreover, I am conscious that voter turnout statistics may be an inadequate or even misleading indicator of democratic health. Although it is true that some voters might be dissuaded from voting out of cynicism or a sense of futility, others might simply determine that any of the leading candidates will do a good job. The fact that Vancouver, like other cities, has a marked increase in voter turnout when particular issues or candidates capture the imagination of the city indicates that people do realize the value of their right to vote.

[111] Data entry is another challenge. Cambridge, MA, the only STV municipality in North America, uses a system where the voter fills in ranked boxes beside the candidates' names (not unlike an electronically-read Lotto ticket), to avoid the problems of having officials read the numerals 1, 2, 3, etc. and enter them by hand into a computer. Another solution would be voting using ATM-style voting computers rather than traditional pen-and-paper ballots. These concerns may be rendered moot as emerging technology appears capable of reliably reading handwritten numbers at high speed; however such a system has yet to be tested in a real STV election.

[112] January 19, 1921, cited in Glashan, *supra* note 101 at p. 19.

### *(d) Does STV Address the Problems Identified?*

There is widespread consensus that STV is, mathematically speaking, a more proportional way of translating votes into party representation under the first-past-the-post at large system.[113] From the perspective of representativeness of minorities and other constituencies of interest, it is also generally thought to be superior to elections from single-member constituencies. [114] Many of the problems encountered with STV in the 1920s and 1930s, such as the difficulty and time involved in calculating the vote and applying the appropriate formulae, are no longer at issue in the age of computers. This has led to renewed interest in applying STV to municipal elections. In 2001, New Zealand passed legislation allowing its local governments to decide, subject to referendum, whether to adopt STV or retain first-past-the-post. Of the 18 cities and districts that conducted referendums, three, including Wellington, have endorsed a move to STV. Several other local governments in New Zealand have decided, by vote of their respective councils, to try STV.[115]

More recently, in the United Kingdom, legislation providing for STV in local elections in Scotland was introduced into the Scottish Parliament in March 2004.[116] The Sunderland Commission on local government in Wales has also recommended the adoption of STV for local elections in Wales.[117]

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[113] In one of the few articles examining the experience of STV in US municipal elections, Joseph Zimmerman writes of New York's change to first-past-the-post voting:

> Following the abandonment of STV in 1947 by New York City, the Democrats won 24 of the 25 Council seats in the 1949 election while polling only 52.5 per cent of the votes cast. Had STV been in effect, the party division would have been thirteen Democrats, six Republicans, three Liberals, and three American Labor Party members.

Joseph Zimmerman, "Alternative Local Electoral Systems" (Jan/Feb 1990) *National Civic Review* 23 at p. 31.

[114] Zimmerman describes the outcome of the 1989 New York City School Board election (using STV), in which 30.6 per cent of the seats were won by African-American candidates, and 54.2 per cent by women: *Ibid.*

[115] STV Taskforce, *Choosing Electoral Systems in Local Government in New Zealand: A Resource Document.* (May 2002). www.moh.govt.nz/moh.nsf/0/d54101e3537fcebbcc256bc0007feaa9/$FILE/STVdocument.pdf

[116] The *Local Governance (Scotland) Bill* can be found at www.scotland.gov.uk/library5/localgov/lgsb.pdf. The Scottish executive's STV Working Group's interim report was published in January 2004: www.scotland.gov.uk/library5/finance/stvreport.pdf.

[117] Wales Assembly Government. *Improving Local Democracy in Wales: Report of the Commission on Local Government Electoral Arrangements in Wales* (July 2002).

Let me emphasize that the basic type of STV still operates in an at-large system, and as such does little to ameliorate many of the problems identified by advocates of wards. To give a few examples:

Size and Complexity of Ballots: An at-large STV election would still involve an at-large ballot. complaints that it is not possible to fully research the 50 or more names necessary to make an informed choice would remain unaddressed.

Under-Representation of Neighbourhoods: An STV election under an at-large system would still provide an electoral advantage to those areas of the city that, for structural reasons, have higher voter turnout. Although some STV advocates have suggested that an improved system would increase turnout in these under-represented areas, Canada's prior experience with STV elections does not support this idea.[118] The use of STV by New Zealand's local governments will be interesting to watch in years to come.

Effect on Ability of Independents to Gain Office: Although at-large STV might permit candidates to appeal to narrow, non-geographic constituencies (such as, disabled or retired persons), any campaigning for those constituencies would still have to be conducted throughout the entire city, with associated expenses.

Lack of Community Accountability: In at-large STV, complaints that problems are ignored because responsibility for particular neighbourhood issues is diffused throughout Council would remain unaddressed.

Lack of Community Presence: At-large STV does nothing to bring Councillors closer to their constituents.

[118] The Commission has reviewed many accounts of the use of STV in Canadian elections, municipal and provincial. There is little evidence that a move from first-past-the-post has had any marked effect – positive or negative – on voter turnout in this country. See for example: Harold John Jansen, *The Single Transferable Vote in Alberta and Manitoba*, Ph.D. Thesis, University of Alberta, Spring 1998, at p. 85:

> The evidence on voter turnout suggests that the adoption of STV did not usher in a new era of improved political participation in either Manitoba or Alberta. Indeed, the overwhelming evidence in both cases is that the change in electoral system did not have any significant effect on voter turnout.

It is sometimes said that STV satisfies community representation concerns because it permits voters to select their own communities of interest.[119] These communities might be geographic, or they might be spread over the city. If a retired citizen wished to vote as a community with other retired citizens, for instance, under STV this would be possible even if such persons were spread throughout the city. Similarly, residents of a neighbourhood could decide that their priorities were geographic, and vote accordingly. STV, it is said, could accommodate communities of interest however defined: by issue, ethnicity, gender, age, political inclination, and so on.

Of course, this justification might be offered with equal force with respect to the present system of at-large "block" voting. It fails because it misses a central problem: voters do not know, at the time of election, which issues will present themselves in the following three years, so that they can consider with which constituency they wish to vote. If a problem arises with respect to development of a new site, a by-law, a policing issue, and so on, whether it is an issue in their own neighbourhood or elsewhere in the city, under an at-large STV system the voters are no better off than they are presently: they will have no particular Councillor to whom they can turn. In the same way, Councillors under STV will have no idea to whom they are responsible. Voting is anonymous, after all. Once elected, Councillors cannot know whose support carried the day, or which particular issues or interests they are expected to champion.

It is true that communities of interest are not always fixed in time and place; neither is every issue. But every voter is, and so can be every Councillor. The relationship between them in a ward system is irreducible and universally comprehended. It is in my view a system whose advantages outweigh the proportional benefits offered by at-large STV.

### *(e) Doesn't At-Large STV Work In Cambridge, Massachusetts?*

STV advocates point out that Cambridge, Massachusetts has had an at-large STV system for six decades and is apparently pleased with it.

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[119] See for instance Paul Tennant & Julian West, "The Best of All Worlds: Partisan advocates of 'wards' and 'at-large' should compromise and choose neither" (Unpublished, September, 1998) (On file with the Vancouver Electoral Reform Commission).

Yet Cambridge is a much different city than Vancouver. It is geographically concentrated: its 100,000 citizens live in an area of just over six square miles, an area roughly the size of the UBC Campus. Because Cambridge is the home of several universities and colleges, including Harvard and the Massachusetts Institute of Technology, a significant portion of its population consists of temporarily resident students.

Because of its small size and population, it would be unusual if Cambridge divided itself into wards; indeed the entire city is about the size of one or two wards in an average metropolitan centre. While it may be true that STV is the best way of electing representatives in an at-large system, it does not follow that at-large STV is necessarily preferable to a system in which representatives are elected from wards.

### (3) Preferential Ballots and STV In Wards

I have gone through this lengthy discussion of the use at the municipal level of PR in the form of STV in order to indicate that in an at-large election, it has many drawbacks. But I have to say that some of the problems I have identified with STV in at-large elections might be ameliorated through the employment of preferential balloting in wards.

Ward-based preferential ballot systems take two main forms.[120] First, there can be single-member wards with Instant Runoff Voting (IRV). In IRV, voters rank their candidates in order of preference. If no candidate receives a majority on the first counting of the ballot, then the candidate with the least votes is dropped and that candidate's supporters' second preferences are taken into account. If still no winner emerges, the next lowest candidate is dropped and those votes transferred, and so on. This was the system employed in British Columbia's provincial elections of 1952 and 1953 and then abandoned; in modified form, it is presently used to elect the Mayor of London, England. There are numerous difficulties with IRV; it is not a great improvement over ordinary 'first past the post' wards in terms of proportionality. Moreover, its tendency to favour 'weak' second choices over 'strong' candidates who enjoy substantial, but nevertheless less than majoritarian, support has been criticized. Of the proportional systems discussed in this section, IRV was advanced at our

[120] I refer to such systems as were discussed at the Commission's hearings or through written submissions. There are other forms, such as in "cumulative voting", a system presently permitted in Illinois (where voters can express their preference by giving a candidate more than one vote), which were not discussed but nevertheless fall under this broad category.

meetings with the least frequency and enthusiasm;[121] nevertheless, it has received considerable attention lately in the United States,[122] and on the municipal level it has gained a foothold in California.[123] The principal advantage of IRV over the other proportional systems discussed is that it does introduce some measure of proportionality into a ward system without disturbing the number or size of the wards themselves.

The second form of ward-based proportional representation would be to have several multi-member wards, with each ward electing several candidates through preferential balloting, most likely employing STV.

Such a system has been used in national elections in Ireland since its independence in 1922, with each constituency electing between three and five members to the legislature; a similar system is used to elect members of the lower house in the Australian state of Tasmania. It is also employed to elect members of Australia's national senate; voters in each state elect 12 senators using preferential balloting.

The Bill that has recently been introduced in the Scottish Parliament to facilitate STV elections uses multi-member wards, following the lead in New Zealand, where some of the 2004 local government elections will be conducted by STV in multi-member wards.

Like MMP, though, multi-member STV constituencies have built-in characteristics that present difficulties at the municipal level; in sum, with a body the size of a municipal council, the proposal, like MMP, may founder on mathematical shoals. In order to be effective, STV requires that each ward have at least three candidates, and more if the best proportionality

[121] Some written submissions, such as those by Arthur VanWart and Korky Day, proposed IRV if a full ward system were adopted, as an alternative to some form of proportional representation if Council were to be elected at-large.
[122] The interest in the United States is in part based on the fact that runoff votes (the system familiar in Canada mostly through its use in political party conventions) are already popular in that country. See for instance the commentary in "Election Day Replay Poses Avoidable Problems" (Editorial) *USA Today*, November 29, 2002.
[123] Berkeley, California voters recently endorsed IRV for all municipal positions by a margin of 72 to 28 per cent. San Francisco approved a similar measure in 2002 (with 55 per cent approval). That city's first IRV elections are to be held in 2004. Legislation has been proposed to amend the California General Law to permit IRV or other proportional systems in all municipalities to which the General Law applies.

is desired.[124] If City Council is to remain of a size that I consider to be within the optimal range (i.e. less than 20), the use of multi-member STV wards in Vancouver would mean we could have a maximum of only six wards, and fewer still if we wanted to achieve proportional results of real significance. The most comprehensive proposal for multi-member STV wards was made by Professor Stephen Phillips, chair of the Political Science Department at Langara College, who proposed either five four-member wards or four wards with five members each, with a total council size of 21, including the Mayor. Arrangements such as this would not, in my view, go far enough to satisfy the requirements of neighbourhood representation. I consider smaller wards to be desirable to address the problems raised in the course of the public consultation.

But it must be said that STV in multi-member constituencies, even ones that are larger than perhaps would be optimal, does go some distance to addressing the problems encountered with the application of STV in an at-large election. For instance, even if the city were broken into six, four or even two wards (East Side and West Side, presumably[125]), these could be designed in a way that would help to rectify the 'under-representation' of certain areas of the city, as these patterns of 'under-voting' are broad ones.[126]

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[124] Proportionality in multi-member STV wards (as in other PR systems) and local representation are necessarily at odds. The Institute For Democracy and Electoral Assistance (IDEA), in their comprehensive *Handbook of Electoral System Design*, describes the conundrum this way (*supra* note 52 at p. 91-2):

> The systems which achieve the greatest degree of proportionality will utilise very large districts, because such districts are able to ensure that even very small parties are represented in the legislature. For example, a district in which there only three members to be elected means that a party must gain at least 25 per cent+1 of the vote to be assured of winning a seat. A party which has the support of only 10 per cent of electorate would not win a seat… In a nine-seat district, by contrast, 10 per cent +1 of the vote would guarantee that a party wins at least one seat. This means not only that the results are more proportional, but that there is also more chance that small parties will be able to be elected. The problem is that as districts grow larger – both in terms of the number of seats and often, as a consequence, in their geographic size as well – so the linkage between an elected member and his or her constituency grows weaker. This can have serious consequences in societies where local factors play a strong role in politics, or where voters expect their member to maintain strong links with the electorate and act as their "delegate" in the legislature.
>
> …To sum up, when designing an electoral system, the district magnitude is in many ways the key factor in determining how the system will operate in practice, the extent of the link between voters and elected members, and the overall proportionality of election results.

[125] Dr. Julian West, a professor of mathematics at Malaspina College, directed the Commission to his website where he has designed several plausible multi-member ward systems using census data, which Dr. West suggests could be used with STV or other proportional voting systems.

[126] See for instance Tennant & West, *supra* note 119 at pp. 20-21.

Multi-member STV wards would also shorten and simplify the ballot and provide enhanced communication and accountability compared to elections at large (either with the present first-past-the-post system or preferential balloting), though, as I say, such a system would not do these things as effectively as would smaller, single-member wards.

### C. Conclusion on Proportional Representation

Some citizens decried a move to wards from the at-large system as going from the worst system in the world to the second worst system in the world (or trading "one unjust system for another"), and others would tolerate wards only as a stepping-stone to proportional representation. I believe that this claim does not take into account the importance of local representation and accountability *between* elections, and the extent to which these goals can or cannot be accommodated in proportional systems at the municipal level.

Each electoral system has its advantages and disadvantages. Recent experience in other jurisdictions has taught us that every change will have a host of unintended consequences, some positive, others not so. I am not persuaded that proportional representation, although it undoubtedly offers some positive features not present in first-past-the-post systems, is the best solution to the problems identified in the neighbourhood meetings I held at which Vancouverites spoke.

In a sense, advocates of wards and proportional representation are speaking past one another. Advocates of PR focus on designing the fairest possible system for translating votes on election day to seats on Council. They say that PR will reduce "wasted" votes, and that it will result in a Council whose makeup more closely mirrors the spectrum of views held by in the electorate. They often measure the effectiveness of systems mathematically by how well they achieve this proportionality.

There appears to be an academic consensus that a ward system will be more representative than the at-large system, but perhaps not as representative as the various forms of proportional representation.[127] But representativeness, as expressed at the time of voting, is again only one part of the democratic equation.

[127] Most of the studies in this regard have involved the affect of at-large and ward, or "district", systems on the representation of African-Americans on City Councils in the US In one such review, it was found

Despite what some PR advocates suggest, it is not possible to have the perfect electoral system, with all the advantages of both the ward and proportional systems; to have more of one requires that you have less of the other. Perhaps the most-cited authority on electoral system design is Arend Lijphart, who put it this way in 1994:

> Are there any electoral systems halfway between plurality and PR or combining some of the features of plurality with some of those of PR, which provide the advantages of both systems? … [M]y answer will be a qualified 'no'.
>
> …In the choice of an electoral system, it is unfortunately impossible to have the best of both worlds.[128]

As I have emphasized, wards offer certain advantages which have nothing to do with the outcome of the election itself, but rather are concerned with representation and accountability *between* elections.

Of the various PR-based systems that have been reviewed by the Commission, the single transferable vote (STV) might well provide the fairest system of voting. If it were employed in multi-member wards, it might also go some way towards redressing the problem of low turnout in certain areas of the city, and thus provide, overall, a fairer election outcome. However, as I have emphasized, multi-member wards are themselves problematic. I do not think we should undertake a radical expansion of the size of City Council, which would mean that an effective STV system would have only a few, quite large wards. This outcome does not satisfy what I see to be the need for neighbourhood representation and accountability which animates the movement for wards in Vancouver. It also would not permit the design of wards which would meet Council's stated criteria for representation of neighbourhoods.

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that ward systems produced remarkably proportional representation for blacks in cities where they represented more than 10 per cent of the population: Richard L. Engstrom & Michael D. McDonald, "The Election of Blacks to City Councils: Clarifying the Impact of Electoral Arrangements on Seats/Population Relationship" (June, 1981) 75 *Am. Pol. Sci. Rev.* 344.
In a study focusing on cities that moved from an at-large to a ward system, the authors conclude that "[o]ur before-and-after study demonstrates dramatically…that recent changes from at-large to single-member-district elections increase minority representation[.]": Chandler Davidson & George Korbel, "At-Large Elections and Minority-Group Representation: A Re-Examination of Historical and Contemporary Evidence" (November 1981) 43 *J. of Politics* 982.

[128] Arend Lijphart, "Trying to Have the Best of Both Worlds: Semi-Proportional and Mixed Systems" in Lijphart and Grofman, eds., *Choosing an Electoral System: Issues and Alternatives* (Westport, CT: Praeger, 1994) at p. 207.

Having considered the advantages of a ward system, and weighed them against even the most optimistic views of the advocates of proportional representation, I am not convinced that any system of the latter type would necessarily improve civic democracy (as expressed in both election results *and* the day-to-day operation of the City government) more than would a change from at large to wards.

Nevertheless, I am conscious of the fact that the implementation of my recommendations is only one step in what must be an ongoing, evolutionary process of improving civic democracy. To this end, I will propose in Chapter IX of this Report that the *Charter* should be amended so as to permit systems of proportional representation to be tried in the city should Council and Vancouverites decide to do so.

## IX. PROPOSALS TO IMPROVE CIVIC DEMOCRACY REQUIRING LEGISLATION

My proposal for wards is one that City Council can now bring into force by the enactment of a by-law under the *Vancouver Charter*.

But issues have been raised, relating to the conduct of civic elections, that, like proportional representation, can only be dealt with by Council if the Province passes the necessary legislation.

In fact, City Council has expressly asked me to look into one such issue, campaign contributions. Council has also mandated this Commission to make any additional recommendations that I think will enhance civic democracy, even if they would require provincial legislation.

I will under the heading "Amendment for Clarity in the Election of the Park Board," refer to the need to amend section 486(1) of the *Vancouver Charter* to ensure that there is no uncertainty about the Park Board continuing to be elected at large. I consider this proposed amendment to the *Charter* to be of a different character from the remainder of my recommendations under this heading. It is a technical amendment designed to remove uncertainty regarding the provisions dealing with the manner of Park Board elections.

### A. Amendment to Permit Proportional Representation and Preferential Ballots

Council may undertake only limited electoral reform on its own. It may change from the at large to the ward system or to a mixed (partial ward) system. In my opinion, the adoption of any other electoral system would require the amendment of provincial statutes, as it did when proportional representation at the municipal level was permitted in British Columbia between 1917 and 1936.[129]

[129] Some presenters at Commission hearings, and most particularly Mr. Tom Pryce-Digby of the Green Party, have argued that the *Charter* allows some forms of proportional representation without amendment. Others, such as professors Tennant, Stewart, West and Phillips, while each advocating a move toward PR, have independently concluded that amendment would be necessary. Having reviewed these submissions and received the benefit of comprehensive and detailed research and analysis regarding this issue, I cannot agree with Mr. Pryce-Digby's position. Every municipality in the English-speaking world that has adopted any form of proportional representation has done so only with explicit statutory authorization. City Council has no such authorization under the *Vancouver Charter*.

It may well be that our citizens will decide in the future that they are willing to trade off some measure of neighbourhood representation and accountability for improved proportionality in election results. If so, they might prefer larger, multi-member wards under a proportional system such as the Single Transferable Vote or even Mixed Member Proportional. Even if smaller wards are found to be essential, the City may wish to follow San Francisco and Berkeley in electing those ward Councillors through Instant Runoff Voting. All such measures would require provincial legislation to amend the *Charter*.

Colin Hay (Kensington) supported wards, but argued for "PR in the long term." On the other hand, Isabel Minty (Sunset) objected moving to wards because it would forestall PR. She favoured PR because, she said, "people like the idea that their vote counts." I see no reason, however, to hold up a move to wards in the pursuit, which may take some time, of legislation to permit Council to adopt a proportional system. I have included my discussion of PR simply to enable Council, in the fullness of time, to consider PR with my report before it, without having to reinvent the wheel.

It may well be that, when the Citizens' Assembly has done its work, and if it results in a system of PR for elections to the Legislature, a greater interest in and understanding of PR will move us toward experimenting with it on the municipal level. Such has been the very recent experience in New Zealand, where the introduction of proportional representation in national elections was followed by legislation permitting STV in local government elections, and in Scotland and Wales, which now employ proportional representation in their legislative bodies and are considering a move to STV at the local level as well.

We need not, however, wait for the Citizen's Assembly's recommendations to be implemented before considering further reform in Vancouver.[130] In my view, these should be matters over which the City Council should now have a measure of control currently not permitted by the *Charter*. If Council agrees, it should petition the provincial government to change the *Charter*[131] in order to give the City greater flexibility in designing a system that

[130] If the Citizens' Assembly makes a recommendation for reform at the provincial level, it would be put to the voters throughout B.C. in a referendum conducted during the 2005 provincial elections. If it receives the necessary support and is adopted, the Assembly's proposal would still not be implemented until 2009.

[131] And, should the Legislature decide to extend this measure of control to other cities, the *Local Government Act* as well.

best meets the needs and expectations of its citizens, as these change over time. This increasing empowerment of municipalities appears to be the emerging trend in other English-speaking common law jurisdictions.[132]

As John Price (Killarney) said, "let's see how wards work out. Then consider a mixed system. PR enters into that discussion."

The amendments I foresee should be framed sufficiently broadly to permit, at the very least, preferential voting on municipal ballots. This would provide sufficient flexibility to allow election by STV at large or in multi-member wards, and preferential balloting (IRV) in single member wards.

> *Recommendation 12: That Council seek amendment of the Vancouver Charter to permit elections to be conducted using systems of proportional representation.*

## B. Qualification of Voters

The basic requirements for voting in Vancouver's municipal elections are set out in ss. 22 through 25 of the *Vancouver Charter*.

There are currently two classes of voters permitted by the *Charter*: resident and non-resident.

In the first category, an elector must be a Canadian citizen, 18 years old, having lived for at least six months in the province and at least 30 days within Vancouver. Corporations, which had a right to vote in Vancouver from 1886 to 1974,[133] are no longer entitled to do so.[134] At the neighbourhood meetings, no one took issue with these requirements and I think they are appropriate.

There was, however, some discussion regarding the second category of voters, those whom the *Charter* calls "non-resident electors." Under section 24 of the *Charter*, a person who

[132] I have mentioned already legislation in California and Illinois permitting cities to adopt alternative systems of voting, as well as the recent developments in New Zealand and Britain.
[133] *Vancouver Charter Amendment Act 1974,* c.104, s. 3.
[134] *Vancouver Charter*, S.B.C. 1953 c. 55 (as amended), s. 22(3).

meets the qualifications to vote of a resident elector apart from residence in Vancouver (i.e. a Canadian citizen of at least 18 years of age and resident for six months in B.C.), may vote in Vancouver if the person is the registered owner of real property in Vancouver for at least 30 days before the election. Identical rules are established under the *Local Government Act* for all of B.C.'s municipalities.[135]

A person who lives, for instance, in West Vancouver, but owns property in Vancouver has, by virtue of the *Vancouver Charter* and the *Local Government Act*, two votes: one in each city. In a more extreme situation, a citizen with wider property interests would have the right to vote in many cities at once. This seems contrary to the basic idea of local government, that is, a government for the residents who qualify as electors. In my view, it is a vestige of a time when property ownership was the measure of a citizen and a condition of full electoral participation.[136]

The number of non-resident electors who actually vote in Vancouver's elections is small,[137] but nonetheless could tilt the balance in a close contest. I believe the provisions of the *Charter* allowing non-resident electors to vote is anomalous and undemocratic. I recommend that the provincial government be requested to repeal the non-resident elector provisions of the *Vancouver Charter*.

> *Recommendation 13: That Council seek repeal of non-resident elector provisions of the Vancouver Charter.*

## C. Improving the Turnout of Informed Voters

### (1) Introduction

One obvious way to improve civic democracy is to increase the level of participation of the citizenry in the democratic process. This doesn't necessarily mean simply bringing voters out

[135] *Local Government Act* R.S.B.C. 1996 c. 323, s. 51.
[136] It is true, of course, that property owners pay taxes, and this occasionally leads to objections of 'no taxation without representation. But this argument cannot be the foundation for electoral policy. There are tens of thousands of residents of Vancouver who pay taxes but cannot vote in any election – those who are not citizens, or who do not meet the six months' residency requirement in B.C., or the 30-day rule in Vancouver. The non-resident property owners disenfranchised under this proposal represent a very small number in comparison.
[137] There were 280 non-resident electors registered in the 2002 civic election.

on election day. People are engaged in civic democracy in many ways that have nothing to do with elections. Many residents, even some who do not vote (perhaps because they are not yet qualified to do so), participate in neighbourhood groups, local committees or political parties. Countless others work to bring issues to the attention of their elected representatives, or simply work with their neighbours to resolve local issues.

Still, an improvement in voter turnout is often cited as one of the main barometers of a healthy democracy. While I am not convinced that it should be regarded as the singular goal of electoral reform, it is nevertheless important to consider ways to make citizen participation in government, through the voting process, easier.

To begin with, it should be said that Vancouver's voter turnout in municipal elections has not been abysmal. Indeed, in the 2002 election, after a strong effort by City staff to publicize the event and encourage participation, voter turnout was approximately 50 per cent of registered voters. This may be seen as an unusually high turnout, or it might represent a trend towards increased interest in civic politics. The 2003 Olympic Winter Games referendum, by which voters endorsed the idea of the City hosting the 2010 Olympic Winter Games, saw a similarly high turnout, indeed one apparently unprecedented in a stand-alone City referendum in Vancouver.[138]

Occasionally, in the course of the neighbourhood meetings, it was suggested that voting should be made mandatory, as it is in Australia, or 'incentivised' through the offering of rewards or tax refunds. I do not believe that these methods are necessary or desirable.

Mandatory voting, in one form or another, is a feature of elections in over 30 democracies around the world. There is no doubt that, where it is enforced, it improves voter turnout. However, it is far less clear that it also improves the quality of citizen participation. The best that can be said of the system might be that it permits political parties, which often devote substantial resources to 'getting out the vote', to focus more of their efforts on policy concerns.

[138] By way of historical comparison, the turnout in the 1936 referendum, by which Vancouverites adopted the at-large system of voting, was 19 per cent.

Proposals for tax rebates are similarly difficult. Municipal tax credits would benefit mainly landowners. Provincial tax credits are difficult to administer and would again not benefit the city's low-income residents.

I think that a less radical, but nevertheless concerted effort should be made to improve voter turnout by the removal, where possible, of structural barriers to participation in voting and through continuing programs of education and information regarding voting opportunities.

Some of these proposals require changes to provincial legislation, but others do not. I discuss them together here for convenience.

### (2) Voter Outreach Campaigns

At each of our neighbourhood meetings, we displayed a comparative chart of voter turnouts among various North American cities. Vancouver, with its 2002 turnout of 50 per cent, fared particularly well against other cities, whether they elected their Councillors from wards, at large, or used a mixed system. It was occasionally said that our chart was somewhat misleading, as Vancouver's turnout in 2002 was higher than in previous elections, where it tended to be in the 35-40 per cent range.

This is generally attributed to the fact that there were high-profile issues to be determined in the 2002 election, such as establishing safe injection sites. It is also no doubt due to the fact that the political parties themselves spent an unprecedented amount on their campaigns, which certainly increased voter awareness.

The 2002 election, however, was also the culmination of an unprecedented campaign by the Elections Office at City Hall itself, aimed at improving voter awareness and turnout.

After a fairly disappointing turnout in the 1999 municipal election,[139] the Elections Office at City Hall redoubled its outreach efforts. Dozens of community organizations were brought in as partners in an effort to distribute electoral information and organize pre-registration. The City's outreach team held information sessions in local centres, and conducted an information campaign using mail-outs, Internet resources, and phone lines staffed in several languages.

[139] Estimated at around 37 per cent of all eligible voters in the city.

Posters, rack cards, and sample ballots were distributed to every community centre and library and some community policing centres and neighbourhood houses throughout the city.

To give one example of the extraordinary nature of these outreach efforts, volunteers went door to door during the advance registration period in the Single Room Occupancy hotels (SROs) in the Downtown Eastside (an effort coordinated with landlords and hotel managers in the area), distributing information and inviting pre-registration. The volunteers also took a form letter that gave individuals the option to be registered as voters but not have their name on the voters' list. City staff concluded that "[t]his initiative... was very well received by the individuals in the SROs, many of whom had never been approached [to vote] before."

These efforts may not be the most glamorous aspects of our electoral system design, but they may be among the most important ways of improving citizen participation in local democracy. The fact is that they are conducted largely through existing community and neighbourhood organizations, and that they benefit from the efforts of community volunteers as well as extra work undertaken by City Hall's Elections Office.

I make no particular recommendations with respect to these outreach programs, except to voice my support and admiration. It can be left to City Hall's Elections Office to consider ways in which they might be further improved in future elections. My point in singling this program out at the beginning of my discussion of ways to improve voter education and turnout is that this appears to be an area in which there is a high return on its investment. The costs and benefits of other possible improvements to civic democracy must be weighed in comparison to further investment in this area.[140]

### (3) Enumeration and Publicity

One method of improvement of access to voting is to ensure that as many eligible voters as possible are registered in advance of the election. Prior registration makes voting easier,

[140] To give an example, it was occasionally suggested that free bus service could assist in improving voter turnout on election day. There may be a marginal advantage gained by enabling people who would ordinarily walk to work or college, for instance, to move by bus that day. Free bus service might also enhance the perception of voting day as a democratic celebration, and indicate that the City is serious about bringing the franchise to the city's less wealthy voters. But, of course, free buses aren't really free; the subsidy will be borne disproportionately by transit users, the very people it is designed to assist.

enhances election day planning, and provides a mechanism for information on polling stations and times to be clearly communicated to each voter in advance of the election.

We have heard several submissions that the best way of improving registration is to return to methodical, door-to-door enumeration of voters, which Vancouver has not done since 1989.

But there is also reason to believe that door-to-door municipal enumeration is a method whose time has come and gone, and to which we cannot in a practical sense return. Increasingly, citizens live in secured apartment or condominium facilities to which enumerators cannot gain access. Even if an enumerator is able to knock on the door, it is frequently unanswered. As a result, the most recent provincial door-to-door enumeration produced a list barely more complete than one periodically updated through information obtained on election day (even with door-to-door enumeration, three quarters of voter registration information is gathered at voting places during election). The provincial election authorities have concluded, albeit reluctantly, that door-to-door enumeration is inferior to an ongoing process of continuous updating of voter information.[141] It seems scarcely likely that local enumerators would have more success.

The qualifications for voting in federal, provincial and municipal elections are all premised on the same basic requirements: achievement of the age of majority and Canadian citizenship, and the voter's place of residence. It therefore makes sense that the three levels of government should work closely together to improve registration of voters for all elections.[142]

Canada and British Columbia's Chief Electoral Officers have recently agreed to strengthen and expand their existing partnership and explore ways to avoid duplication of efforts, streamline electoral administration, and improve accessibility and services to voters. Serious efforts are under way to coordinate this activity with municipalities, so that a single, continually updated voters list will be shared. Already, programs are in place to permit registration and address changes quickly and easily online, at the same time as a B.C. voter changes the

[141] Elections B.C., *Voter Registration in B.C.* (Discussion Paper), (Victoria, 2003). Online: www.elections.bc.ca

[142] As this Report was being prepared, the provincial government introduced Bill 54, *2004: Miscellaneous Statutes Amendment Act (no. 2)*, which among other things provided for the co-ordination of the federal and provincial voters' lists (see in particular s. 6(a)).

address on their driver's licence and with the Medical Services Plan. These efforts appear to me to be the most promising method of extending registration.

But no matter how the voters' lists are improved, people will be on the move. In large cities like Vancouver, this happens with much frequency. Every effort must be made to accommodate eligible voters who are not registered at their current residence.

Voters not on the voters' list are not precluded from voting. A citizen may bring two pieces of identification to the voting station, and register on the spot. Despite suggestions that this process discourages voters by increasing the time necessary at the polling station, the evidence is that it works quite well. In the 2002 election, over 16,000 voters – more than one in 10 – registered at the polls; a further 9,000 updated their residence information in the same manner.

For the Olympics referendum in 2003, there was no voting list used, and every voter registered at the polling station, bringing two pieces of identification for that purpose. Even so, turnout for the referendum was the same as at the 2002 municipal election, approximately 50 per cent.

Of course, the turnout is routinely higher for referendums on particularly contentious or important issues, or for elections where voters are particularly engaged by issues or candidates. Another method of improving voter participation, therefore, is to encourage this engagement.

I have already discussed the City's comprehensive outreach efforts undertaken in the 2002 civic election and the 2003 Olympics referendum. In my view, it is this area that should be the focus of resources targeted at improving voter turnout. Voter education and information campaigns appear to offer the greatest return for investment of municipal resources.

> *Recommendation 14: That Council not resume door-to-door enumerations, but rather explore integration of municipal voters' lists with their federal and provincial counterparts.*

*Recommendation 15: That Council seek ways to improve the voter outreach and access programs used in the 2002 civic election and 2003 Olympics Referendum.*

### (4) Mail-In Ballots

Under Section 72 of the *Vancouver Charter*, mail-in ballots are available only to a very small group of voters:

> **72.** (2) The only electors who may vote by mail ballot are persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity.

It has been suggested that one way to improve voter participation would be to allow all, or at least more, ballots to be cast by mail rather than requiring attendance at voting stations on election day.

The first US local government to conduct an election by mail was Monterey, California in 1977. Since that time, conducting entire elections by mail, or at least permitting every voter to cast a ballot in this way, has caught on in some parts of the United States. Colorado, Florida, Kansas, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota and Washington each allow mail-in voting for at least one level of government.

Oregon is perhaps the most famous mail ballot jurisdiction in North America: it began experimenting with mail-in ballots for local elections in 1981; since that time the process has been expanded to encompass elections at all levels in the state.

In New Zealand, municipalities are permitted to choose between mail-in or in-person voting, or a combination of the two. England is also experimenting with mail-in ballots in the June 10, 2004 elections for Members of the European Parliament as well as for local governments. The pilot project is restricted to four regions of the country (North East, North West, Yorkshire and the Humber, and the East Midlands), and has produced considerable controversy.[143]

[143] See for instance BBC News: "MPs urge new anti-vote fraud move" news.bbc.co.uk/2/hi/uk_news/politics/3729769.stm

Advocates of mail-in balloting cite the fact that it is convenient for voters and inexpensive. Moreover, it offers advantages in keeping the voters' lists up-to-date. It also appears that it may increase voter turnout.[144]

However, there are criticisms to be made of over-reliance on the mail-in ballot. With mail-in ballots, there would be substantial problems with security; the mailing of ballots to voters would be at the mercy of the incomplete voters' lists: in a significant percentage of cases, therefore, the ballot would be received by a person to whom it was not addressed. Such a person might be inclined to fill it out and send it in. One could similarly imagine the lobbies of apartment towers becoming littered with improperly addressed mail-in ballots, for anyone to pick up, sign, and send in.

Perhaps the most powerful objection to general use of the mail-in ballot, but one nevertheless difficult to quantify, is that mail-in balloting diminishes voting day as a celebration of community democracy. The act of going to a voting station and casting a ballot, the presence of our fellow citizens and the countless volunteers who assist in the process, lends a certain gravity to the event. It is a feature of our civic elections that I would not like to see replaced by filling out a form and putting it in the mail. Jane Heyman wrote in an e-mail to the Commission:

> Going to the polls is an important part of the process and serves a lot of purposes besides simply getting the vote out – it connects communities, provides temporary jobs, etc.

My own view is that the present voting system should be retained. The City may wish to ask the provincial government to permit it to expand mail-in ballot opportunities to more persons who, for reasons of conscience or absence, will not be able to vote on election day.[145]

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[144] Wellington, New Zealand went from around 36 per cent voter turnout using traditional ballot boxes in 1983 and 1986 to an average of over 50 per cent in the elections since introducing mail-in balloting. At the same time, the cost of administering the elections has been cut by about one-third: City of Wellington, *How Do You Want to Elect Your Councillors? Wellington City Council's Review of Representation Arrangements* (City of Wellington, June 2003) at p. 16.

[145] At present under the *Charter*, persons who will be absent or otherwise unavailable on election day may cast ballots at a limited number of advance polling opportunities prior to the election. It might make sense to allow such persons to vote by mail instead.

However I do not think, based on what I have heard at the neighbourhood meetings, that we should move toward the Oregon system.

### (5) Internet Voting

Another emerging system for casting ballots is voting through secure Internet sites. We can now do a wide variety of important tasks online – we can buy cars and sell houses, file our tax returns, register as voters or organ donors. Why not, proponents say, vote in this way as well?

Internet voting was recently used in Markham, Ontario, a city of 158,000 registered voters, for their advance poll. The experiment appears to have had mixed results; 17 per cent of voters cast their ballot online, representing a 300 per cent increase in advance polling. It appears that the opportunity to vote online was especially attractive to persons in the 18-34 age group.[146] However, overall voter turnout in Markham declined by 1.4 per cent, and a surprising 40 per cent of those who took the trouble to register to vote online did not actually do so.[147] In the end, even the company contracted to report on the project concluded that "Internet voting should not be expected to be a replacement to traditional voting methods, rather [it] should be viewed as part of a broader multi-channel effort to improve voter participation in the democratic process."[148]

Voting online has many of the same advantages of the mail-in ballot, with perhaps the additional benefit that the persons most likely to vote this way are the 18-34 age group, who are the least likely to vote under the current system.

The main objection to mail-in ballots – that the physical coming together of voters at the polls has a value independent of the actual votes cast – applies with equal strength to Internet voting.

Internet voting also shares with mail-in ballots a central problem of security. Without a ballot or paper receipt generated and retained for purposes of recount or audit, Internet voting is not only susceptible to fraud or sabotage -- it may make it impossible even to know that it has

[146] Delvinia Interactive, Inc., *Internet Voting and Canadian e-Democracy in Practice: The Delvinia Report on Internet Voting in the 2003 Town of Markham Municipal Election* (February, 2004), p. 6.
[147] *Ibid*. at p. 22.
[148] *Ibid*. at p. 23.

occurred. The absence of voters casting ballots in person – ballots that can be, if necessary, double-checked - is worrisome. The susceptibility of such a system to either external hacking or internal corruption could well diminish the voters' faith in the fairness of elections.

As the technology of Internet voting and our experience with it matures, it may be felt that its wider use is justified and desirable. The system, however, is presently in its infancy, and I would be reluctant to incorporate it in any situation except those few circumstances where mail-in ballots are also appropriate.

### (6) Candidate Profile Statements

Despite the best efforts of candidates and parties, without adequate resources they often have difficulty getting even the most basic information to voters. One way to address this at the local level is to permit the distribution of candidate profile statements.

Again, New Zealand's new *Local Electoral Act 2001* provides a useful model. There, a candidate can submit, at the time of nomination, a 150-word statement regarding his or her party affiliation (or lack thereof), contact information, and any notable policies the candidate intends to pursue once elected to office. A photograph is also permitted.

By regulation, these statements are then provided to electors by the electoral authorities. The information can also be made available through local government websites, flyers, etc., and even at the polling stations themselves. The intention is that there will be a means for candidates, to make something about themselves known to the electorate.

Candidate profile statements are another method of loosening the grip of established parties, promoting the chances of independent candidates, informing the electorate of its options, and reducing the influence of both party and third-party spending on advertising. Although they were not central to any proposal made to the Commission, I think that the City should recommend that the Province consider them as a means of improving local democracy.[149]

[149] Of course, legislation is not required in order to permit the gathering and dissemination of candidate profile statements by the City. It would be, however, a good idea to actually mandate the basic requirements of such a system, as New Zealand has done, rather than to leave it to the City on an *ad hoc* basis.

*Recommendation 16: That Council should enact a by-law under which candidate profile statements may be collected and distributed during elections, and that Council should petition the provincial government to amend the Charter to implement such a program on the New Zealand model, with such modifications as may be considered advisable.*

## D. Campaign Financing Reform

### (1) In General

One of the most important concerns in any democratic system is the way money can be used to influence the vote. It is no longer seriously contended that the sheer amount of money spent on election campaigns is not a crucial factor in determining the outcome.[150]

In the recent decision of *Harper v. Canada*, Justice Bastarache, writing for the Supreme Court of Canada, described the purpose of controls on electoral finance. He said:

> 62 The Court's conception of electoral fairness … is consistent with the egalitarian model of elections adopted by Parliament as an essential component of our democratic society. This model … promotes an electoral process that requires the wealthy to be prevented from controlling the electoral process to the detriment of others with less economic power. The state can equalize participation in the electoral process in two ways…. First, the State can provide a voice to those who might otherwise not be heard.… Second, the State can restrict the voices which dominate the political discourse so that others may be heard as well. In Canada, electoral regulation has focussed on the latter by regulating electoral spending through comprehensive election finance provisions. These provisions seek to create a level playing field for those who wish to engage in the electoral discourse. This, in turn, enables voters to be better informed; no one voice is overwhelmed by another.[151]

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[150] See for instance Canada (Royal Commission on Electoral Reform and Party Financing), *Reforming Electoral Democracy: Final Report* (Ottawa: Minister of Supply and Services Canada, 1991) at pp. 324 and 339. This Commission, better known as the Lortie Commission, was established in 1989 to inquire into the Canadian electoral systems, and present a series of recommendations aimed at improving and preserving the democratic character of federal elections in Canada. The Lortie Commission's observations on electoral finance reform have led to strict federal government legislation in the area.

[151] *Harper v. Canada* 2004 SCC 33.

The *Vancouver Charter* imposes no limits on campaign contributions. It does, however, require disclosure of contributions made to candidates and electoral organizations for election campaign expenses. There is no obligation to disclose contributions made for other-than-election expenses, or to disclose the source of funding in repayment of some debts incurred in the campaign.

Under the *Charter,* all contributions made for payment of election expenses must be disclosed regardless of when received. The slippery area is related to debts, especially in excess of six months after due and in the absence of legal proceedings to recover them.[152]

The lack of controls, coupled with the emergence of two strong parties in the city, has led to complaints, heard often at the Commission's neighbourhood meetings, that minority parties and independent candidates simply cannot be heard above the din of the big parties' campaigns. In 2002, the NPA spent $800,000.00, COPE spent $1.1 million.

In recent years, various governments in Canada have begun to address the issue of campaign finance reform. In 2001, Manitoba's new legislation came into force. Corporations and trade unions and other organizations, including federal political parties, are prohibited from making political contributions to Manitoba's political parties. Individual contributions are limited to $3,000. As well, there are limits of $50,000 on the parties' annual advertising budgets as well as limits on third party advertising.

New federal legislation which came into force on January 1, 2004, limits contributions by trade unions and corporations. The federal legislation also provides for a measure of public financing for campaigns.

William Lim (General Wolfe and Hycroft) said that municipal elections "should be publicly financed." Syd Butler (Brock House) urged a ban on TV advertising.

Although the federal legislation limits contributions by individuals to $5,000 annually, and limits corporate and trade union contributions to $1,000, it offers public financing of $0.4375 per vote, paid on a quarterly basis, to parties gaining a minimal percentage of the vote in the

[152] *Vancouver Charter* S.B.C. 1953 c. 55 (as amended), s. 61 (5).

previous election. The parties will be eligible for reimbursement of 60 per cent of their spending.

In B.C. provincial elections, there are no limits on contributions by individuals or corporations. B.C. has a provision that a party may not spend more than $1.24 per registered voter in each electoral district, and each candidate is limited to $50,000. As well, there are limits on anonymous donations, i.e., $10,000 annually for parties and $3,000 for individual candidates.

Aside from providing funding to candidates, there are three main ways to restrict the influence of money on elections: through limits on contributions, through limits on spending, and through transparent disclosure requirements, so that voters can at least judge for themselves the extent to which the supporters of candidates and parties are influencing political agendas.

I am conscious that each method has its drawbacks. Limits on contributions are difficult to set and maintain, and potentially unfair (should someone be precluded, for instance, from donating large sums of money to a political party, perhaps through a will? How to track which contributions are made for campaigns, and which for the general revenue of the party?). Spending limits are potentially easier to track, but raise the spectre of third parties' spending increasing to eclipse that of the parties themselves.

I conclude that Vancouver should consider ways to limit the influence of money on local elections. I do not set out such a plan in detail because this has not been the focus of either the neighbourhood meetings or my own research. It is nevertheless clear to me that reform in this area is of fundamental importance, with implications province-wide.

I do, however, make the recommendations set out in the following sections dealing with disclosure requirements, contribution limits and spending limits.

### (2) Disclosure Requirements

The present disclosure requirements[153] provide for ongoing disclosure of all contributions made for the purpose of election campaigns, no matter when the contributions are made.[154] This system should of course be maintained.

But there may be a loophole in the present disclosure regime. When a party or candidate, in the course of a campaign, accumulates a debt, it is not clear whether post-campaign donations to the party – some of which may be used to retire the debt – need to be reported as "campaign contributions." Indeed, the donors may or may not intend them as such.

But the end result is that a party's effective paymasters – those who will repay the campaign debt – might not be revealed to the public.

The only adequate solution, it seems to me, is a rigorous rule: if a party goes into debt in the course of a campaign, *every contribution to that party made until the debt is fully retired* must be reported as a campaign contribution.

This rule will provide incentives for parties to avoid spending beyond their means during an election campaign and to pay off any debt quickly afterwards (reducing their perceived susceptibility to improper influence). It will avoid the problem of accounting for what moneys are contributed for what purpose, and finally it will ensure that the public can oversee the possible financial influences affecting city government, which is the fundamental purpose behind disclosure requirements.

This requires an amendment to the *Charter*.

> *Recommendation 17: That Council petition the provincial government to amend the Charter to require that, if a party goes into debt in the course of a campaign, every contribution to that party made until the debt is fully retired must be reported as a campaign contribution.*

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[153] *Vancouver Charter* ss. 55-65.

[154] All contributions for election expenses must be declared, but contributions under $50 don't have to have a name attached to them, though they must be declared.

### (3) Contribution Limits

I am concerned that at present there are no limits on individual contributions to political parties or candidates during campaigns. I am, however, reluctant to recommend, on present evidence, firm dollar limits to be placed on individual contributions. A campaign limit of $1,000 for corporations and unions and $500 for individuals seems appropriate as a starting point for discussion.

Organizations such as corporations and unions may wield disproportionate influence in a democratic process that they are forbidden from influencing directly through voting. It is therefore tempting to simply forbid them from contributing to political parties altogether.

Unfortunately, this solution would tend to place the parties at the mercy of third-party election spending - "soft money" that is difficult to track and might be immune from legislative restriction.[155]

It is better, in my view, to have a system that provides incentives for this money to be spent through the parties and candidates, subject to limits and disclosed fully to the public.

> *Recommendation 18: That Council approach the provincial government to consult with Vancouver and other interested municipalities to design a system of restrictions on campaign contributions for municipal elections.*

### (4) Spending Limits

As with contributions, in B.C.'s municipal elections there are at present no restrictions on what a party or candidate may spend.

Syd Butler, in an e-mail to the commission, wrote: "In addition to restrictions on fund-raising, there should also be limits on each candidate's spending…. The election should be won, not bought!"

[155] Although the Supreme Court of Canada recently upheld the federal restrictions on third party advertising (*Harper v. Canada*, supra note 151), the Court made it clear that each such restriction was an infringement on speech rights, and a different law might well have been struck down as not justified under the *Charter of Rights and Freedoms*.

New Zealand's new *Local Electoral Act 2001* provides a useful model for the reform of electoral spending.[156]

In addition to reporting requirements, strict spending limits are imposed. These limits vary according to the population of the local government area, ranging from $3,500 per candidate in an area with a population of less than $5,000 to $70,000 where the population equals or exceeds 250,000. Under New Zealand's system, a candidate in a ward with a population of between 40,000 and 50,000 would have a spending limit of $20-30,000 NZ.[157]

Significant penalties are attached to any breach of these provisions. There is a fine of up to $5,000 for exceeding the expense limits.

I think that spending limits along the lines of the New Zealand model are appropriate. Although the precise details of the limits should be left up to decision by Council and in the end it would be up to the provincial government, it stands to reason that there should be limits both on spending by (or on behalf of) any individual candidate, and also overall limits on spending by political parties through the city generally.

> *Recommendation 19: That Council approach the provincial government to consult with Vancouver and other interested municipalities to design a system of restrictions on campaign spending during municipal elections.*

## E. Tax Credits for Campaign Contributions

At present, contributions to provincial or federal parties can generate tax credits for the donors. This is not the case for contributions at the local level, and it was a subject raised by a number of speakers at the neighbourhood meetings.

There is no reason why citizens should be encouraged through tax deductions to engage in political activity at every level except the municipal level. While the details might take some time to work out, I believe that campaign contributions in civic contests, whether made to

[156] *Local Electoral Act 2001*, s. 111.
[157] At time of this writing, one New Zealand dollar was worth $0.85 Canadian.

political parties or to independent candidates, should be accompanied by similar incentives to those made at the federal and provincial levels.

> *Recommendation 20: That Council petition the provincial and/or federal governments to institute a program of tax credits for municipal campaign or political contributions.*

## F. Reform of Ballot Format

From time to time at the hearings, it was suggested that the ballot in Vancouver's elections should be changed. There were two aspects of the ballot that appeared to some to operate unfairly: the fact that it is printed only in English, which was seen to be to the disadvantage of minority groups, and the fact that the names on it are printed in alphabetical order, which, especially on long ballots, tends to favour candidates who are near the beginning of the list.

### (1) Multilingual Ballots

It is not certain whether multilingual ballots are permissible under the *Charter*. It is at least arguable that the *Charter*'s requirement that names be listed alphabetically[158] suggests that names on ballots must employ the Western alphabet. Several speakers at our public meetings have suggested that multilingual ballots would increase participation of minority groups in political life.

I think, however, the advantages of multilingual ballots are outweighed by the problems that might be associated with them.

Given that only citizens of Canada have a right to vote, it can be expected that the overwhelming majority of voters, immigrants and otherwise, will have acquired facility with the English language.[159] I also note that the *Charter* permits translators or readers to accompany voters to the voting booth and explain anything that cannot be read or understood

[158] See the discussion under "Randomized Ballots", below.
[159] Section 5(1)(d) of the federal *Citizenship Act* requires that the citizenship applicant possess an adequate knowledge of one of the official languages of Canada. The associated Regulations say that the applicant should be able to comprehend basic spoken statements and questions in past, present and future tenses.

by the voter.[160] This provision accommodates persons with an inadequate command of the language, as well as the visually-impaired and the illiterate.

Moreover, those who proposed multilingual ballots may have been unaware, as I was, of the extraordinary resources available to surmount the language barrier during civic elections.

In 2002, advance registration packages were printed in English, Chinese (new and traditional character versions), Vietnamese, Korean, Spanish and Punjabi, distributed to community centres, public buildings, and mailed to over 500 community organizations. The organizations were supported in distributing information and educating community groups regarding election processes. At each polling place, "how to vote" instructions are posted in English, French, Chinese, Punjabi, Spanish, Vietnamese and Korean. Presiding Election Officers (PEO's) for each voting place were provided with demographic data for the neighbourhood and asked to staff the voting place in a manner which reflected the diversity of area (including staff with languages spoken in the area).

Because of extra demand for Chinese translation, a Mandarin and Cantonese-speaking staff person was available at the main election office for all advance and main voting days, dedicated to assisting with translation issues in the polls (accessed through PEO cellphones).

In addition, Language Line Services were contracted for all voting times, providing over-the-phone translation services in over 150 languages.[161]

Weighed alongside this observation are the very difficult practical questions that would arise if multilingual ballots were to be adopted: how should names be translated, and by whom? Should a candidate have to elect in which language his or her name will appear, and who will check to ensure that the name is accurate and that impermissible information is not included? Should all candidates' names be in all languages with significant minority populations (i.e. Punjabi, Cantonese, and Tagalog)? How will alphabetization be employed on a ballot with

[160] *Vancouver Charter* s. 93.
[161] At every polling station, an officer is equipped with a cellphone and an account to Language Line, a telephone translation service that can provide interpretation from English to 150 languages, live and in real time, and back again. A non-English speaker can either simply point to a chart at the polling station where the voter's language is written in his or her native alphabet, or operators at the service can quickly determine which language the voter is using.

character sets not drawn from the Western alphabet? What will become of the size and clarity of the document itself?

These concerns might be overcome. There are other jurisdictions in North America which seem to be able to function with multilingual ballots. But I do not think there is evidence that the problem in Vancouver is of such a magnitude that it requires us to go beyond the translation or reading services described in the *Charter* and the efforts to facilitate translation already undertaken by the City's electoral officials.

### (2) Randomized Ballots

It has been observed that, particularly where there are a large number of names on the ballot, votes are cast disproportionately for those whose name appear at the top of the list. Where the list is alphabetical, as it is in Vancouver, this process favours candidates with names at the beginning of the alphabet.

Although Council can decide that ballots do not have to be alphabetical, neither can they be truly randomized. That is to say, section 78 of the *Charter* provides that ballots shall be alphabetical unless Council establishes that they will be ordered through a formal process of drawing lots. Once the lots are drawn, however, the order of names is fixed as if it had been alphabetical; those at the top of the list may still be favoured.

It makes sense to amend the *Charter* to permit (if not mandate) ballots that are truly random. This is necessary to the extent we retain at-large elections. Batches of ballots would be prepared with several different orders of candidates on them. Candidate A might be first on the list in one print run, and 10$^{th}$ in another. This way, the so-called donkey votes favouring those early on the list will be randomly distributed among all candidates and cancel one another out.

> *Recommendation 21: That Council petition the provincial government to amend the Vancouver Charter to permit randomized ballots.*

## G. Residence Requirements for Ward Councillors

If the City moves to a ward system, it is not necessary under the *Vancouver Charter* that candidates live or own property within the ward for which they run; in fact, it is not even necessary that they live in Vancouver. However, it will be necessary that such persons be nominated by persons who are resident or otherwise qualified within the ward in question.

These rules are established by statute and cannot be changed by Council.

The basic qualifications (subject to specific *dis*qualifications not here enumerated) for candidacy for Council are set out in the *Vancouver Charter*, section 38(1):

> 38. (1) A person is qualified to be nominated for office, and to be elected to and hold office, as a member of Council if at the relevant time the person meets all the following requirements:
>
> (a) the person must be an individual who is, or who will be on general voting day for the election, age 18 or older;
> (b) the person must be a Canadian citizen;
> (c) the person must have been a resident of British Columbia, as determined in accordance with section 25, for at least 6 months immediately before the relevant time;
> (d) the person must not be disqualified by this Act or any other enactment from voting in an election in British Columbia or from being nominated for, being elected to or holding the office, or be otherwise disqualified by law.

The rules dealing with nomination take into account the possibility of Council making a change to wards:

> 43. (1) A nomination for office as a member of Council must be made in writing in accordance with section 44 by 2 persons who are electors of the city.
>
> (2) In the case of a nomination for an office to be filled on a neighbourhood constituency basis, a person making the nomination must also be qualified as a

resident elector or a non-resident property elector in relation to the area of the neighbourhood constituency.

As an aside, I note that the residency requirements during Vancouver's first 50 years, when we had wards, stated that an aspiring Alderman had to satisfy basic requirements (British subject, male, 21 years of age, etc.), and had also to satisfy property ownership or leasing requirements within the ward itself, although his actual residence need only have been within two miles of the city.[162]

My view is that current provisions do not require amendment of the *Charter.* Requiring the candidates for Council to live within the ward where they seek election, while on one level intuitively satisfying, creates more problems than it solves. If a ward boundary is adjusted so that the Councillor now lives outside the ward, should the residents of that Councillor's ward be deprived of his or her representation?

It seems to me that it should be the voters in each ward who decide how important it is to them that a candidate is resident among them.

However, I do believe that a candidate should not be able to stand for election in more than one ward. The present wording of the *Vancouver Charter*, while not precisely clear, appears sufficient to prevent this.[163]

## H. Amendment for Clarity in the Election of the Park Board

### (1) Introduction

I have recommended that Council move to wards, but that the Park Board should continue to be elected at large. There is, however, a legal question arising from the wording of the *Vancouver Charter* that bears upon the question of Park Board elections. In the interests of clarity and out of an abundance of caution, the *Charter* ought to be amended.

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[162] *Vancouver Incorporation Act* S.B.C. 1886 c. 32 s. 4(3); *Vancouver Incorporation (Amendment) Act* S.B.C. 1892 c. 55 s. 1.

[163] Section 40(2) says that "At any one time a person may not be nominated for more than one elected office on Council." This presumably disqualifies a person from running as both Councillor and Mayor; it is not certain whether it would be interpreted to prevent a person running for the office of Councillor in two different districts. However, any candidate attempting to do so would likely fall between two stools.

Section 486 of the *Charter* provides:

> 486.(1) The members of the Board shall be nominated and elected at the same time and in the same manner as Councillors and, for these purposes, Part I applies. [emphasis added][164]

Section 138 of the *Charter* states in part:

> 138. (1) Unless a by-law under subsection (2) applies, every member of Council must be elected from the city at large.
>
> (2) The Council may, by by-law, provide that all or some of the Councillors be elected on a neighbourhood constituency basis.

An important issue is therefore what effect the words "in the same manner" in s. 486(1) have with respect to Council's choice of 'at large' or 'ward' systems under s. 138. If Council decides that Councillors will be elected from wards, does this section require that Park Board members must also be?

It appears that on at least three occasions, the City has received the benefit of an opinion that electoral reform would necessitate parallel changes to the Park Board: On October 19, 1939 (at a time when the legislation provided that members of the Park Board would be elected "at the same time and in the same manner as the Mayor of the City"), Corporation Counsel stated in a letter that

> [I]f the proportional representation system is adopted for the election of Mayor it will mean that the same system will automatically come into operation for the election of School Trustees and Park Commissioners.[165]

The Eckhardt Commission in 1979 reached the conclusion that the *Charter* (which by then had changed to say, as it does now, that the Park Board would be elected "at the same time and in the same manner as Councillors") required that, if Council moved to wards, the Park Board

[164] Part 1 of the *Charter* governs mechanics of elections.
[165] Vancouver Archives file: 120-B-6 file 112. Although even the proponents of the plan of the day were not entirely clear, it would appear that the "proportional representation" being proposed for the election of the Mayor was a form of "instant runoff voting," or IRV.

would automatically follow. It recommended increasing the number of Park Board members from seven to eleven to match the ward system it designed. [166]

Similarly, in its 1988 Report, the Vancouver Electoral Boundaries Commission said this at p. 10:

> The legal opinion given to the Commission is that if Council adopted a ward system for electing aldermen, based on a favourable vote in the plebiscite, the Park Board would also have to shift to a ward system.[167]

It is certainly possible to read the *Charter* in this way. However, it does not appear that it has ever been the intention of the Legislature to have the Park Board elected otherwise than at large.

### (2) Legislative History

In the 1900 and 1921 consolidations of the *Vancouver Incorporation Act*, when Councillors were elected from wards and the Mayor was elected at large, the *Act* provided that

> Park Board...members... [are] to be nominated and elected <u>at the same time and in the same manner as the Mayor of the City</u>.[emphasis added][168]

Of course, at that time, as now, the Mayor was elected at large.

In this same period, the legislation provided that Council (which was elected from wards between 1886 and 1936) could return to the at-large system with 60 per cent approval of the population by referendum.[169] The *Municipal Proportional Representation Act*,[170] in force between 1917 and 1936, permitted Vancouver to adopt the single transferable vote for election of Councillors, which Vancouver did from 1920 to 1923. In this period, then, the legislation clearly distinguished the "manner" of election of the Park Board and Council: no

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[166] Eckardt Commission Report, supra note 30 at p. 24.
[167] MacKay Commission Report *supra* note 77 at p. 10.
[168] *Vancouver Incorporation Act* S.B.C. 1900 c. 54, s. 184. This wording remained through the 1921 reconsolidation (S.B.C. 1921 c. 55, s. 265).
[169] S.B.C. 1900 c. 54, s. 3; S.B.C. 1921 c. 55, s. 6.
[170] *Municipal Proportional Representation Act*, S.B.C. 1917 c. 51.

changes to the election of Councillors could affect the Park Board, the election of whose members was tied only to that of the Mayor, who was elected then, as now, at large on a first-past-the-post basis.

The provision for election of Park Board members remained essentially unchanged until 1929, when the *Greater Vancouver Act* amalgamated the corporations of Vancouver, South Vancouver and Point Grey. That *Act* provided for an expanded Park Board, and clarified the "manner" of election:

> 16.(1) Until otherwise fixed and determined by the Council of the Greater City, the Board of Park Commissioners for the Greater City shall consist of seven members, who shall be nominated and elected at the same time as Aldermen, and in the same manner as the Mayor, of and for the Greater City. [emphasis added][171]

The 1929 *Act* contained a single provision regarding the election of the Mayor: Section 13(1) confirmed that the "Mayor of and for the Greater City shall be nominated and elected at large";[172] section 13(2) set out the Mayor's term (two years). Reading the *Act* as a whole, it appears that, in 1929, the term "in the same manner" referred to election on an at large basis.

Wards were abolished in 1936. When the revised *Charter* was introduced in 1953 it stated that

> The members of the [Park] Board shall be nominated and elected at the same time and in the same manner as the Aldermen, and shall serve for such terms as the Council may by by-law provide. The provisions of Part II relating to Aldermen, except section 49, shall, mutatis mutandis, apply to members of the Board and candidates therefor. [emphasis added][173]

The difficulty, if there is one, arises from changes made in 1987, when legislation was introduced permitting Council, for the first time since 1936, to return to the ward system

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[171] *Greater Vancouver Act* S.B.C. 1928 c. 17 s. 16. Section 2 of that Act defines "Greater City" as "the City of Vancouver as it will exist on and after the first day of January, 1929..."
[172] *Ibid.*, s. 13.
[173] *Vancouver Charter* S.B.C. 1953 c. 55. s. 486.

with a 60 per cent vote of the electorate and subsequent resolution of Council.[174] It was apparently not contemplated that this would in any way affect the requirement of the 1929 *Act* (reinforced through a century of practice), that Park Board Commissioners were elected at large. Similarly, when the 1993 amendments removed the referendum requirements, no change was made to the provision requiring the election of Park Board Commissioners "in the same manner" as Councillors.[175]

The interplay between s. 486 and s. 138, then, appears to be a relationship between a vestigal provision and a succession of amendments, the latter being made perhaps without taking full account of the former. Statutory interpretation is far from an exact science, but these passages introduce an uncertainty into the process of electoral reform. It can, however, be easily remedied.

### (3) The *Vancouver Charter* Should Be Amended

The *Vancouver Charter* provisions regarding the Park Board are vague and, viewed in historical context, perplexing. It does not appear that the Legislature ever contemplated that the Park Board would be forced to adopt a ward system, against the wishes of the citizenry and Council, if Council exercised its powers under section 138 of the *Charter* to provide that Council itself should move to wards. Yet the language of the statute might be interpreted in that way.

The *Charter* is in need of clarification. If Council favours my recommendation for a ward system for Council but agrees that election of the Park Board should be at large, it would be best to ask the Province to amend the *Charter*. The details may be left to Council; it could request an amendment so that s.486(1) would read, as it did prior to 1953, "in the same manner as the Mayor," or, to avoid the problem that arises from the vague term "same manner," the provision could explicitly provide that the Park Board would be elected at large.

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[174] *Vancouver Charter (Amendment)* SBC 1987, c.52.

[175] The interpretation of the term "in the same manner" to refer to at-large versus ward elections is bolstered by Section 30 of the *School Act* R.S.B.C. 1996 c. 412, which uses the same word in that:

> (3) The minister must, by order, establish…
>
> (b) whether trustees are to be elected
>
> (i) from the school district at large…
>
> (ii) from a number of trustee electoral areas …, or
>
> (iii) in another manner that is a combination of the methods under subparagraphs (i) and (ii)…

If Council wanted the authority to change the Park Board to wards at some point in the future, then it could request an amendment explicitly granting such a power as parallel to its authority under s.138.

Such change would be fairly characterized as a technical amendment. Because the Park Board is unique to Vancouver, the change would not, as perhaps some of my other recommendations requiring provincial legislation might, require a consideration by the provincial government of its policy regarding the regulation of municipal elections in the province generally. Moreover, such an amendment would be presented as a means of carrying out a measure (to move Council to wards) which the Legislature intended should lie within the authority of Council. To enable the Council to do so without disturbing the way we now elect the Park Board should not be thought of as raising a policy issue for the provincial government.

> *Recommendation 22: That Council petition the provincial government to amend the Charter to make it clear that the Park Board may be elected at large whether or not Council is elected from wards.*

## X. REFERENDUM

### A. Why a Referendum is Advisable

Although the *Vancouver Charter* allows Council to adopt the ward system without seeking the approval of the electorate, I have concluded that Council would be well advised not to take this step without a referendum.[176]

The NPA, Green Party, Vancouver Board of Trade, and Fair Elections Vancouver all urged that any change should be approved by the electorate in a referendum.[177]

Vancouver has a tradition of putting the issue of wards to a referendum of the electors. Although in 1886 the ward system was brought in by statute, all subsequent changes, including the change to the at-large system in 1936, have been preceded by a referendum. All subsequent reform efforts, from the campaign for proportional representation in 1939 to the wards campaigns of the 1970s and 1980s, have been premised upon change sanctioned by referendum. Professor Paul Tennant has rightly observed that we have a "plebiscitarian tradition."[178] I think there are solid reasons for maintaining this tradition.

Quite a few people urged that since Vancouverites had voted three times in favour of wards in the past 25 years, and since COPE and Mayor Campbell ran – and were elected - in 2002 on a platform pledged to bring them in, no referendum is necessary.

It has been argued that Council should go ahead without a referendum, since it would not be fair to use the present system, which favours the West Side, when the issue to be determined at the referendum would be whether to displace that very system.

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[176] The words "plebiscite" and "referendum" are generally used interchangeably. While no public vote on wards would be legally binding on Council, I am throughout using the word "referendum" since it was most often used by speakers at the hearings.

[177] Don Lee, a former City Councillor, presented a petition at the Oakridge meeting, signed by 585 people, calling for a referendum before any alteration is made in the manner in which we elect City Councillors. As well, there was on the other side a petition signed by 58 people seeking immediate implementation of wards without a referendum.

[178] Tennant, *supra* note 21 at pp. 2-3.

I concede there is something in the argument. Yet I still think there should be a referendum. Absent such a vote, the legitimacy of a ward system adopted by Council would be forever discounted – just as the imposition of the 60 per cent standard for a change to wards has called into question the legitimacy of the at-large system when three referendums in favour of wards have been passed and never implemented.

Moreover, the argument is one which rejects the legitimacy of city-wide voting on matters that affect the city as a whole. Whatever system we adopt, we will still elect the Mayor on a city-wide poll. Not a single person has suggested that the Mayor should be chosen by the Council from among their number by Councillors elected from wards. Similarly, we will still be voting city-wide on capital referendums. In other words, we cannot ignore the fact that, on some occasions, a city-wide vote is appropriate.

In any event, I think it would be a mistake to depart from tradition. If one Council can bring in wards without a referendum, the next Council can bring back at-large elections without a referendum. We would run the risk of having the City government of the day exercising arbitrary control over the very system under which they would run for re-election. This would in my opinion be undemocratic.

### B. What Should the Threshold Be?

Some have said a major change in municipal government should only occur with a 60 per cent majority. R.A. Walpole (St. Mary's, Kerrisdale) urged a 55 per cent or 60 per cent majority. This, it is said, is also traditional.

Between 1900 and 1935, the *Vancouver Incorporation Act* required a 60 per cent majority to change from wards to at large.[179] A similar requirement was imposed in the 1980's by the legislature to go back to wards from at large.[180] However, at other times, the Legislature has permitted changes to the electoral system to proceed with a simple majority. In fact, the

[179] *Vancouver Incorporation Act*, S.B.C. 1921, c. 55, s. 6.
[180] *Vancouver Charter (Amendment)* S.B.C. 1987, c.52.

referendum by which Vancouver adopted the at-large system in 1935 was conducted under legislation requiring only a simple majority in favour.[181]

The question is, which standard is appropriate here?

I do not think it is right to insist upon a 60 per cent majority. A majority of 50 per cent plus one should be sufficient to guard against the main concern I have expressed – that of future Councils arbitrarily changing the system. It should be remembered that, faced with a binary choice in a referendum between wards and the at-large system, the 60 per cent threshold requirement does more than set a high standard for wards: it sets a very low standard for at-large. That is to say, given the choice between the two systems, the at-large advocates prevail with anything above 40 per cent of the vote. This seems to me to be wholly undemocratic.

A 50 per cent plus one threshold is generally in keeping with what we do at the federal and at the provincial level. Canada has twice, in 1980 and 1995, been prepared to allow Quebec to secede on the strength of a vote of 50 per cent plus one.

B.C.'s legislation allowing the provincial government to agree to an amendment of the Constitution of Canada requires a 50 per cent plus one majority.[182] Indeed, this was the standard adopted in every province when the Charlottetown Accord was put to a referendum of the Canadian electorate in 1992. The provincial *Recall and Initiative Act* requires 50 per cent plus one for the passage of any citizen initiative;[183] 50 per cent plus one is also the threshold for referendums under the provincial *Referendum Act*.[184]

It is true that in May 2004 the provincial government introduced a requirement that any change to the Legislative Assembly's electoral system recommended by the Assembly must pass at a referendum receiving the consent of 60 per cent of B.C. voters, and a simple majority (50 per cent plus one) in at least 60 per cent of the province's electoral districts.[185]

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[181] *Vancouver Incorporation Act, 1921, Amendment Act*, *1935* S.B.C. 1935 c. 92 s.3.
[182] *Constitutional Amendment Approval Act*, R.S.B.C. 1996 c.67.
[183] *Recall and Initiative Act*, R.S.B.C. 1996 c. 398 s.15.
[184] *Referendum Act*, R.S.B.C. 1996 c. 400 s.4.
[185] *Electoral Reform Referendum Act,* S.B.C. 2004 c. 47.

There may be sound reasons for considering such a 60/60 threshold at the provincial level. Such a referendum may turn out to be one seeking approval for a radical departure from Canadian electoral tradition; there may also be important constituency concerns. Moreover, the provincial 60 per cent threshold is that at which change is *mandated*, but not necessarily required for changes to be made.[186]

These objections do not apply with the same force to changes to our municipal government. Here, the choice is between two systems currently in use throughout Canada, and indeed both of which are currently used by Vancouver voters;[187] regional and rural concerns about the apportionment of seats are not an issue in Vancouver; and under the *Vancouver Charter*, referendum results are not binding.

In such circumstances, it remains my view that it would be wrong to permit one system to prevail with only 40 per cent plus one of the votes.

New Zealand, which permits local governments to choose electoral systems through referendum, insists on only a simple majority to authorize a change. Seattle's 2003 referendum on moving from the at-large system to wards was decided on a 50 per cent plus one threshold, as was San Francisco's 1996 referendum on moving from the at-large system to wards.

There can be no argument today in favour of 60 per cent.

This requirement has forestalled change that Vancouverites have voted for in the past. If the 60 per cent marker were to be retained and achieved in a vote for wards, the champions of wards could in the future insist that there be no change from wards back to the at-large system without a 60 per cent vote. Moreover, should we in the future decide to adopt a system of proportional representation such as STV, we should not be hamstrung by the 60 per cent requirement.

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[186] The 60 per cent threshold is that which would legally require the provincial government to make the change. It may well be that, if the Assembly's initiative results in 57 per cent support in 90 per cent of the districts, the government might decide to adopt its recommendations in any event. In other words, below the 60 per cent threshold the results of the referendum are advisory only. This is the case with the municipal referendum as well: the results are not binding.

[187] That is to say, a Vancouver voter elects federal and provincial representatives through a single member plurality (i.e. ward) system, and municipally through an at-large system.

## C. Referendum Procedure

Then the question arises: should there be a stand-alone referendum or should we wait until 2005 and put the question on the ballot at the next municipal election?

I favour a stand-alone referendum. Consideration of the issue should not be diffused among a host of other issues. Moreover, if we were to wait for the 2005 election; and if wards were adopted then, implementation would be postponed until 2008; change at such a glacial rate could not hope to be responsive to the concerns that have been expressed for neighbourhood representation and accountability.

We used a stand-alone referendum to determine whether Vancouver was prepared to support the bid for the 2010 Olympic Winter Games. I think the governance of the city is as important to the city as the 2010 Olympics.

If the referendum is to be a stand-alone event, it would cost approximately $550,000. Like the Olympics vote, it could be conducted without reference to the voters' list. This would permit voters to cast their ballot anywhere in the city, on producing two pieces of identification and would permit the referendum to be conducted with less expense and with less delay than if it proceeded from the voters' list.

The referendum should be held this year.

Unlike the 1996 referendum, the question should be simple and straightforward.[188]

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[188] Given the wording of the 1996 question, it is difficult to conclude otherwise than that it was designed to produce a positive response for keeping the at-large system.
In September of 1996, the City Manager had proposed to Council that the question should be either:

> Are you in favour of changing the existing system of electing Councillors "at large" to one whereby Councillors would be elected by wards (neighbourhood constituencies)?
> Yes ( ) No ( )

Or a two part version:

> Are you in favour of changing the existing system of electing Councillors "at large"?
> Yes ( ) No ( )
> If the existing system were to change, which system of electing Councillors would you prefer?
> Ward System ( ) Mixed System ( )

The question actually approved by City Council asked the electorate whether they preferred "the existing system of electing Councillors 'at large', whereby all voters can vote for all Councillors?" or the "Ward system, whereby only the electors of the ward vote for only one member of Council." It also

In 1921, when Vancouver adopted proportional representation, the question was straightforward:

> Are you in favour of bringing the 'Municipal Proportional Representation Act' [which provided for proportional representation] into force in this municipality?

When Vancouver changed from a ward system to the at large system in 1936, the question (again dictated by the Legislature) was stark:

> Are you in favour of abolishing the ward system and electing the Aldermen at large?

In 1939, when proportional representation was again proposed in Vancouver, the question was posed in this way:

> Which do you prefer:
>
> (a) the election of the Mayor, Alderman, School Trustees and Park Commissioners by the electors at large (as at present)
>
> - or-
>
> (b) their election by a system of proportional representation?

In 1988, when the MacKay Commission prepared its report delineating ward boundaries for 10 wards, they proposed a yes or no question, by referendum, as follows:

> Are you in favour of changing the present system of electing the Mayor and Aldermen at large, to one whereby the Mayor would be elected at large and 10 Aldermen would be elected by wards? One Alderman would be elected from each of 10 wards. The boundaries of the wards are shown on this ballot and on the map displayed in the polling booth.

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permitted voters who rejected the at-large system to cast their ballot for a straight party-list proportional system or an unnamed "other" system.

If the City is to adopt a ward system, and if the Council decides to put the issue to a referendum, the question for the electors should be straightforward, as it was in 1936. The ballot should contain a map of the wards, as the ballot did in 1988. I believe the question should be:

> Are you in favour of abolishing the at-large system and electing members of City Council by a ward system, with boundaries as set out on the map on this ballot?

A simple yes or no will suffice.[189]

I recommend the referendum be held in October 2004.

> *Recommendation 23: That Council pass a by-law to conduct a referendum on the adoption of a ward system for Council, and that this referendum be held on or about October 16, 2004.*

[189] This is a referendum which does not offer the voters a third option of the mixed system or partial ward system (as for proportional representation, Council has no authority to bring in PR). The difficulty is that the *Charter* requires that questions put to the electors be framed as yes or no; attempting to present nuanced system design options to the electors through such a system is to invite a repeat of the impenetrable outcome of the 1996 referendum. Further change, of course, is not precluded, but it makes sense, each time a change is decided upon by Council, to put a single question in a yes/no format. With more than two choices, what would Council do with a three-way split, and what would the legitimacy be of a system that 'won' a referendum with less than 50 per cent support?

## XI. SUMMARY OF RECOMMENDATIONS

*Recommendation 1: That the at-large system of electing Vancouver City Councillors should be abolished, and Councillors should be elected from wards.*

*Recommendation 2: That the Park Board continue to be elected at large.*

*Recommendation 3: That Councillors in a ward system should not be required to live in their respective wards.*

*Recommendation 4: That Councillors swear an oath or solemn affirmation that they will "work together for goodwill and the common good."*

*Recommendation 5: Council should consider an increase in the staff support provided to Council. Staff should continue to provide strictly professional, and not political, assistance to Councillors.*

*Recommendation 6: There should be no public funding provided in the ward system for local ward offices or staff.*

*Recommendation 7: That the size of City Council be expanded to 14 Councillors from 10.*

*Recommendation 8: That for the purposes of Council elections, Vancouver should be divided into 14 wards, each electing a single Councillor.*

*Recommendation 9: That the boundaries for the wards be established according to the maps accompanying this Report.*

*Recommendation 10: That Council should establish an independent commission to review ward boundaries following each 10-year federal census.*

*Recommendation 11: That Council should not adopt a partial ward or mixed system in which some Councillors are elected at-large and some from wards and that GVRD and TransLink representatives continue to be selected in the current manner.*

*Recommendation 12: That Council seek amendment of the Vancouver Charter to permit elections to be conducted using systems of proportional representation.*

*Recommendation 13: That Council seek repeal of non-resident elector provisions of the Vancouver Charter.*

*Recommendation 14: That Council not resume door-to-door enumerations, but rather explore integration of municipal voters' lists with their federal and provincial counterparts.*

*Recommendation 15: That Council seek ways to improve the voter outreach and access programs used in the 2002 civic election and 2003 Olympics Referendum.*

*Recommendation 16: That Council should enact a by-law under which candidate profile statements may be collected and distributed during elections, and that Council should petition the provincial government to amend the Charter to implement such a program on the New Zealand model, with such modifications as may be considered advisable.*

*Recommendation 17: That Council petition the provincial government to amend the Charter to require that, if a party goes into debt in the course of a campaign, every contribution to that party made until the debt is fully retired must be reported as a campaign contribution.*

*Recommendation 18: That Council approach the provincial government to consult with Vancouver and other interested municipalities to design a system of restrictions on campaign contributions for municipal elections.*

*Recommendation 19: That Council approach the provincial government to consult with Vancouver and other interested municipalities to design a system of restrictions on campaign spending during municipal elections.*

*Recommendation 20: That Council petition the provincial and/or federal governments to institute a program of tax credits for municipal campaign or political contributions.*

*Recommendation 21: That Council petition the provincial government to amend the Vancouver Charter to permit randomized ballots.*

*Recommendation 22: That Council petition the provincial government to amend the Charter to make it clear that the Park Board may be elected at large whether or not Council is elected from wards.*

*Recommendation 23: That Council pass a by-law to conduct a referendum on the adoption of a ward system for Council, and that this referendum be held on or about October 16, 2004.*

## XII. EPILOGUE

The design of an electoral system is not a neat, mathematical process. Nor, I have learned, is it a completely objective exercise. We all come to the task with our own ideas of what is fair and democratic.

How we feel about the role of parties, the allocation of power between the legislative and executive branches, the role of the bureaucracy, the nature of citizen participation, the physical size of the governing body, even notions of equality, though not directly implicated in the central question of 'what electoral system is best?', nevertheless have an influence on the answer to that question.

I have made clear that my reasoning is based on the following ideas:

- Citizens deserve a meaningful opportunity to participate in the political life of Vancouver. This opportunity must extend beyond election day;

- Meaningful participation requires, with respect to the election itself, that citizens should be able to make informed decisions about for whom to vote;

- It is important that political parties retain a strong role in municipal political life; our system, however, should welcome participation by independent candidates;

- The strongest voices in our municipal democracy should not be permitted to drown out the weakest;

- Vancouver's Council operates most effectively as a relatively small body, employing its 'committee of the whole' system where appropriate; and

- The professional character of Vancouver's civil service should be carefully safe-guarded.

I believe that each of these principles is preserved or advanced through my recommendation for a ward system for Vancouver, and the other consequent recommendations I have made. Each in my view accords appropriate weight to these ideas, and I have tried to explain why I am not convinced that other possible systems do so satisfactorily.

I began this report with a series of acknowledgements, and if I might be permitted to do so I would end it with one final acknowledgement: I would like to pay tribute to the engaged citizens of Vancouver, so many of whom came to our neighbourhood meetings or made submissions by letter, fax, and e-mail, and others who took the trouble to answer the questions on our survey.

In the course of the work of this Commission, I have visited every neighbourhood in Vancouver. I have been impressed by the sheer number of residents who work in countless and uncounted ways to improve life in their neighbourhoods and in our city. They are citizens in the very best sense of the word.

Thomas R. Berger
June 8, 2004

**APPENDICES**

## Appendix 1. City Council Resolutions of July 29, 2003 and October 7, 2003

Council Meeting July 29, 2003

Establishment of Commission on Electoral Reform (File 1103)

WHEREAS the City of Vancouver is committed to expanding civic democracy;

AND WHEREAS the citizens of Vancouver have voiced strong desire for electoral reform;

AND WHEREAS Council wishes to:

A. change the method of local elections from at large to neighbourhood constituencies under section 138 of the Vancouver Charter, in time for the next general civic election; and

B. establish a Commission on Neighbourhood Constituencies and Local Democracy whose purpose and mandate is to:

1) receive input from Vancouver citizens, neighbourhoods and communities and provide advice to Council for the implementation of electoral reform that includes wards for the election of City Councillors, Parks and Recreation Commissioners and GVRD Directors for the overall improvement of the civic democratic process in our city;

2) provide a report to Council no later than May 2004 on the following:

a) The optimum even number of Neighbourhood Constituencies, for the purposes of section 138 of the Vancouver Charter, and proposed boundaries for the constituencies;

b) Any particular measures to adapt the election of the Board of Parks and Recreation Commissioners to the proposed Neighbourhood Constituencies;

c) Other measures available to City Council under the Vancouver Charter for the improvement of civic democracy; and

d) Other reforms for the improvement of civic democracy that would require amendments to the Vancouver Charter or other statutes in order to be implemented;

3) develop a consultative process, aimed at obtaining the broadest possible consensus for its proposals, and to ensure that every neighbourhood and community in the city has a fair opportunity to be heard and report to council by November 1, 2003, on the public consultation process to be followed, staffing structure and other administrative matters deemed necessary;

4) receive input from the public regarding other reforms for the improvement of civic democracy, and propose such other initiatives and processes as it considers advisable in the furtherance of those reforms.

5) in developing its recommendations the Commission will take the following factors into account:

a) The size of City Council and the Parks Board should improve community access to civic representation while avoiding undue increases in the cost of civic administration;

b) The variation in the number of eligible voters per Neighbourhood Constituency must be within acceptable limits;

c) The boundaries of the Neighbourhood Constituencies should be designed to ensure as much as possible that each of the diverse components of our City sees itself represented on City Council and the Parks Board. To that

end, the boundaries should reflect the natural community structure of the city, with due regard to such considerations as:

- community self-identification;
- demographic, socio-economic and ethnic composition;
- community service delivery;
- parks, community centres, and other recreational resources and services;
- commercial and other economic relationships;
- schools.

THEREFORE BE IT RESOLVED THAT the City Manager provide a report to Council that reflects the points above and develop a list of potential and available Commissioners by September 9, 2003; and

FURTHER THAT Council create a bipartisan Committee of Council to recommend the composition and membership of the Commission; and that Councillors Cadman, Louie and either Ladner or Sullivan be appointed to the Committee for the selection of the Commission to report on September 9, 2003.

Council Meeting October 7, 2003

Commission on Electoral Reform Mandate (File 1103)

WHEREAS Council wishes that the mandate of the Commission on Electoral Reform established by Council motion on July 29, 2003, be clear to all voters;

THEREFORE BE IT RESOLVED that Council confirms that the mandate allows the Commission to receive submissions and report to Council on the merits of the current at-large system, the ward system and other alternative systems.

AND THAT the Commission report on the issue of campaign contributions.

## Appendix 2. Results of Survey

*The Commission conducted a survey to find out from Vancouver citizens if they were satisfied with the current electoral system, or if they wanted to make a change.*

*Surveys forms were circulated through a number of different avenues. Paper copies were circulated through two community newspapers - the Vancouver Courier and Ming Pao. They were available at every neighbourhood meeting, and were distributed by the City's Department of Communications to community centres and libraries throughout Vancouver. The survey was also available on the Vancouver Electoral Reform Commission's website. The survey could be returned in person at the meetings, by mail or fax, or online.*

*The results below represent the combined totals of all survey submissions.*

| *Question 1: Did you vote in the last civic election?* | | | |
|---|---|---|---|
| | 973 | 89.18 % | YES |
| | 116 | 10.63 % | NO |
| | 2 | 0.18 % | NO ANSWER |
| | **1,091** | **100.00 %** | **TOTAL** |

| *Question 2: If you don't usually vote in municipal elections, which of the following statements applies best to you?* | | | |
|---|---|---|---|
| | 12 | 1.09 % | 1. It is difficult or inconvenient for me to get to a polling station |
| | 18 | 1.64 % | 2. I don't know enough about the issues |
| | 36 | 3.28 % | 3. I don't know enough about the candidates |
| | 28 | 2.55 % | 4. My vote doesn't matter – politicians only listen to special interest groups |
| | 3 | 0.27 % | 5. I don't care about local politics |
| | 1,000 | 91.16 % | 6. No answer - does not apply |
| | **1,097** | **100.00 %** | **TOTAL** |

| *Question 3: Would you prefer to vote through other means besides casting your ballot at a polling station?* | | | |
|---|---|---|---|
| | 479 | 43.90 % | YES |
| | 588 | 53.90 % | NO |
| | 24 | 2.20 % | NO ANSWER |
| | **1,091** | **100.00 %** | **TOTAL** |

| *Question 4: Which other method of voting, if any, would you most like to see used?* | | | |
|---|---|---|---|
| | 332 | 29.12 % | Internet online voting |
| | 84 | 7.37 % | Mail-in ballot |
| | 560 | 3.60 % | Telephone ballot |
| | 41 | 49.12 % | None: Keep system as is |
| | 123 | 10.79 % | Other/No Answer |
| | **1,140** | **100.00 %** | **TOTAL** |

| *Question 5: Do you feel that issues of concern to you and your neighbours are taken seriously by City Council?* | | | |
|---|---|---|---|
| | 149 | 13.66 % | Strongly agree |
| | 564 | 51.70 % | Somewhat agree |
| | 205 | 18.79 % | Somewhat disagree |
| | 154 | 14.12 % | Strongly Disagree |
| | 19 | 1.74 % | No Answer |
| | **1,091** | **100.00 %** | **TOTAL** |

| *Question 6: Do you feel that issues of concern to people in other neighbourhoods are taken more seriously by Council* | | | |
|---|---|---|---|
| | 270 | 25.19 % | Strongly agree |
| | 384 | 35.82 % | Somewhat agree |
| | 287 | 26.77 % | Somewhat disagree |
| | 101 | 9.42 % | Strongly Disagree |
| | 30 | 2.80 % | No Answer |
| | **1,072** | **100.00 %** | **TOTAL** |

| *Question 7: Which of the following systems would you prefer for electing Vancouver City Councillors?* | | | |
|---|---|---|---|
| | 216 | 19.74% | 1. At-large, where all Councillors are elected by the entire city. |
| | 547 | 50.00 % | 2. Ward, where each Councillor is elected by one area within the city |
| | 315 | 28.79 % | 3. Mixed system, where some Councillors are elected at large, and others are elected by wards |
| | 16 | 1.46 % | 4. No Answer |
| | **1,094** | **100.00 %** | **TOTAL** |

| *Question 8: Which factor most helps you decide how to cast your vote?* | | | |
|---|---|---|---|
| | 200 | 18.35 % | 1. Candidate's personal characteristics and background |
| | 163 | 14.95 % | 2. Candidate's party affiliation? (I.e. COPE, NPA, Independent) |
| | 654 | 60.00 % | 3. Combination of both |
| | 73 | 6.70 % | 4. Other |
| | **1,090** | **100.00 %** | **TOTAL** |

| *Question 9: Do you think it is important that an electoral system promote opportunities for independent candidates?* | | | |
|---|---|---|---|
| | 930 | 85.24 % | YES |
| | 140 | 12.83 % | NO |
| | 21 | 1.92 % | NO ANSWER |
| | **1,091** | **100.00 %** | **TOTAL** |

## Appendix 3. Formal Written Submissions

*The Commission received and reviewed formal written submissions from the following. This list does not include e-mails and letters.*

Don Berg
Charles Boylan, *Renew the City of Vancouver Electoral System*
Ken Bryman, *Accountability in a Ward System*
Peter Cherniavsky
Dr. Robert Clark
Coalition for Civic Democracy
Coalition of Progressive Electors, *Brief to the Electoral Reform Commission*
Korky Day
Michel Facon
Sam Fillipoff
David Gardner
Dave Harris
Renee Hildebrand
Steve Kisby, Fair Elections Vancouver
Don Lee
Karin Litzcke
Margaret Mitchell
Anthony Norfolk, *Community Development Plan for Mount Pleasant*
Marcello M. Pavan, *Why Approval Voting should be used with Single-Member Wards in Vancouver*
Stephen Phillips, *Towards a Fair Electoral System for Vancouver: A Proposal for Civic Electoral Reform*
Tom Pryce-Digby & Andrea Reimer, Vancouver Green Party
Robert Renger
Councillor Sam Sullivan
Think City / Think Democracy
The Vancouver Board of Trade
The Vancouver Economic Development Commission
Julian West, *Wards Now, PR Soon*

Janet Wiegand, *Women and Electoral Reform*

Andrew Yan, *The Demographic Disconnect in Vancouver's City Council: Ethnicity, Racism, and the Ward System*

## Appendix 4. Selected Sources and Literature

The following is a partial list of sources consulted by the Commission in the course of its work.


Reports

Canada (Royal Commission on Electoral Reform and Party Financing), *Reforming Electoral Democracy: Final Report* (Ottawa: Minister of Supply and Services Canada, 1991).

City of Edmonton, Office of the City Clerk, *Ward Boundary Review*, (City of Edmonton, October, 2002).

City of Vancouver, *Social Indicators – City of Vancouver – 2001 Census* (Vancouver, City of Vancouver, December, 2003).

City of Wellington, *How Do You Want to Elect Your Councillors? Wellington City Council's Review of Representation Arrangements* (City of Wellington, June, 2003).

Eckhardt. L.S. et al., *Report of the Governmental Review Commission*, (City of Vancouver, November, 1979).

MacKay, Douglas et al., *Report of the City of Vancouver Electoral Boundaries Commission* (City of Vancouver, August, 1988).

STV Taskforce, *Choosing Electoral Systems in Local Government in New Zealand: A Resource Document* (New Zealand Department of Internal Affairs, May, 2002).

Wales Assembly Government, *Improving Local Democracy in Wales: Report of the Commission on Local Government Electoral Arrangements in Wales*. (Wales, July, 2002).

Secondary Materials and Other Sources

Amy, Douglas J., *Behind the Ballot Box: A Citizen's Guide to Voting Systems* (Westport, CT: Praeger, 2000).

Barber, Katharine L., "The True Experience of Proportional Representation in American Cities" (Center for Voting and Democracy, 1999).

Boix, Carles, "Setting the Rules of the Game: The Choice of Electoral Systems in Advanced Democracies" (1999) 93 Am. Pol. Sci. Rev. 609.

Center for Voting and Democracy, "Computerizing a Cambridge Tradition – A Report to the City of Cambridge" (Center for Voting and Democracy, 1994).

City of Vancouver, *Social Indicators – City of Vancouver – 2001 Census* (Vancouver, City of Vancouver, 2003).

Davidson, Chandler & Korbel, George, "At-Large Elections and Minority-Group Representation: A Re-Examination of Historical and Contemporary Evidence" (November 1981) 43 J. of Politics., 982.

Delvinia Interactive, Inc., "Internet Voting and Canadian e-Democracy in Practice: The Delvinia Report on Internet Voting in the 2003 Town of Markham Municipal Election" (February, 2004)

Elections B.C., "Voter Registration in B.C." (Discussion Paper), (Victoria, 2003). Online: www.elections.bc.ca.

Engstrom, Richard L. & McDonald, Michael D., "The Election of Blacks to City Councils: Clarifying the Impact of Electoral Arrangements on Seats/Population Relationship" (June, 1981) 75 Am. Pol. Sci. Rev. 344.

Glashan, John Gall, "Proportional Representation in Canada" (April 1951) Master's Thesis filed in Library of the University of British Columbia, 1951 A8 G4 P7.

Harris, Joseph P, "The Practical Workings of Proportional Representation in the United States and Canada"(May 1930) National Municipal Review Supplement 337.

Institute For Democracy and Electoral Assistance (IDEA), *Handbook of Electoral System Design*, (The Institute For Democracy and Electoral Assistance, Stockholm, 1997)

Jansen, Harold John, *The Single Transferable Vote in Alberta and Manitoba*, (Ph.D. Thesis, University of Alberta, Spring 1998).

Lijphart. Arend, *Patterns of Democracy*, (Yale University Press: New Haven, 1999).

Lijphart, Arend, "Trying to Have the Best of Both Worlds: Semi-Proportional and Mixed Systems" in Lijphart and Grofman, eds., Choosing an Electoral System: Issues and Alternatives (Westport, CT: Praeger, 1994).

Lijphart, Arend and Grofman, Bernard, eds., *Choosing an Electoral System: Issues and Alternatives* (London: Praeger, 1984).

Mellon, Hugh, "Reforming the Electoral System of Metropolitan Toronto: Doing Away with Dual Representation," 36 Canadian Public Administration 38.

Milner, H. ed., *Making Every Vote Count: Reassessing Canada's Electoral System* (Peterborough: Broadview, 1999).

Morgan, David R. & Pelissero, John P, "Urban Policy: Does Political Structure Matter?" (December 1980) 74 Am. Pol. Sci. Rev. 999.

Norris, Pippa, "Changing Electoral Systems: Proportional, Majoritarian, and Mixed Systems" (1997) 18 Int. Pol. Sci. Rev. 297.

Pilon, Dennis, "Making Voting Reform Count: Evaluating Historical Voting Reform Strategies in British Columbia," paper presented at Making Votes Count Conference, Vancouver B.C. (May 13, 2000)

Pilon, Dennis, "The History of Voting System Reform in Canada" in H. Milner, ed., *Making Every Vote Count: Reassessing Canada's Electoral System* (Peterborough: Broadview, 1999).

Pilon, Dennis, *The Drive for Proportional Representation in British Columbia* (Master's Thesis, Simon Fraser University, 1996).

Smith, Andrea B., "The CCF, NPA, and Civic Change: Provincial Forces Behind Vancouver Politics 1930-1940" (Spring 1982) 53 BC Studies 45.

Solgard, Anderson & Landskroener, Paul, "Municipal Voting System Reform: Overcoming the Legal Obstacles" (2002) 59(9) Bench & Bar of Minn. Online: http://www2.mnbar.org/benchandbar/2002/oct02/voting.htm

Stewart, Kennedy, *Think Democracy: Options for Local Democratic Reform in Vancouver* (Institute of Governance Studies: Vancouver, 2003)

Tennant, Paul, "Vancouver Politics and the Civic Party System" (Unpublished, March, 1979) (On file with the Vancouver Electoral Reform Commission).

Tennant & West, "The Best of All Worlds" (Unpublished, September, 1998) (On file with the Vancouver Electoral Reform Commission).

Zimmerman, Joseph, "Alternative Local Electoral Systems" (Jan/Feb 1990) National Civic Review 23.

Statutes

*Citizenship Act,* R.S.C. 1985, c. C-29.
*Constitutional Amendment Approval Act,* R.S.B.C. 1996 c. 67.
*Election Act,* R.S.B.C. 1996, c. 106.
*Greater Vancouver Act*, S.B.C. 1928, c.17.
*Local Government Act,* R.S.B.C. 1996, c. 323.
*Municipal Affairs and Housing Statutes Amendment Act,* R.S.B.C. 1996, c.16.
*Municipal Proportional Representation Act*, S.B.C. 1917, c. 51.
*Municipal Proportional Representation Amendment Act*, S.B.C. 1919, c. 70.
*Municipalities Enabling and Validating Act (No.2),* S.B.C. 1990, c.61.
*Obsolete Statutes Repeal Act*, S.B.C. 1936, c. 45.

*Recall and Initiative Act,* R.S.B.C. 1996, c. 398.
*Referendum Act,* R.S.B.C. 1996, c. 400.
*School Act,* R.S.B.C. 1996, c. 412.
*Vancouver Charter, S*.B.C. 1953, c.55.
*Vancouver Charter Amendment Act,* S.B.C. 1974, c.104.
*Vancouver Incorporation Act*, S.B.C. 1886, c.22, 49 Vict.
*Vancouver Incorporation Act,* S.B.C. 1900, c.54.
*Vancouver Incorporation Act,* S.B.C. 1921, c. 55
*Vancouver Incorporation Amendment Act, S*.B.C. 1892, c. 55.
*Vancouver Incorporation Amendment Act*, S.B.C. 1935, c. 92.
*Vancouver Incorporation Act, 1921, Amendment Act*, S.B.C. 1936, c.68.

Regulations

*Local Government Elections Regulation,* B.C. Reg. 380/93, as am. by B.C. Reg. 365/2003.

Foreign Legislation and Bills

*Local Electoral Act 2001* (N.Z.) 2001/35
SP Bill 14, *Local Governance (Scotland) Bill*, 2004

## Appendix 5. Explanation of Data Sources for Ward Boundaries

Alternative ward boundaries were evaluated using estimates of the 2004 eligible voting population by block. These figures are based on data from the 2001 Census, adjusted using estimates of housing completed since the 2001 Census or anticipated to be complete before the end of 2004.

The base data on eligible voters came from the 2001 Census, using a "target profile" for Statistics Canada's "dissemination areas" (DAs) specially run for the Commission by Statistics Canada. DAs are the smallest areas for which any detailed Census data can be obtained and there are 1,000 within the city. This profile provided information on the number and characteristics of Vancouver residents in 2001 who were 18 years and older and who were also Canadian citizens.[190] The figures exclude those whom Statistics Canada considers to be institutional residents, accounting for 1.1 per cent of Vancouver's 2001 population of 547,000 (residents of the Musqueam Indian Reserve are included in all the figures used). In 2001, there were 388,300 eligible voters – 71 per cent of the City's population.

As the DAs are relatively large, the DA data was used in combination with 2001 population and dwelling count data for Statistics Canada's Census "blocks." Most Census blocks correspond to actual city blocks and so provide the flexibility needed to estimate eligible voter totals for the various ward boundary options. There are over 4,700 Census blocks within the city. However, the Census only provides figures on the total number of people and dwellings in each block and so the number of eligible voters by block had to be estimated. To do this, we assumed that the population of each block would have the same characteristics as that of the DA to which they belong - the population of each block was factored down by the proportion of eligible voters to total population for the DA where the block is located.[191]

[190] Target profile data had to be estimated for four DAs for which Statistics Canada could not provide data because of sampling problems. The number of eligible voters for these four areas was estimated based on data for the Census tract area to which they belonged. The identifiers for the four DAs are: 59150756 (59150220756) 00030; 59150775 (59150220775) 02030; 59150852 (59150220852) 01030; and 59153181 (59150223181) 02030.

[191] The only Census block error that we know of (where the block figures were allocated to the Aquatic Centre block) was fixed by moving the population to the correct block (east of Burrard Bridge). Some blocks were still too large and, in these cases, the blocks were split into smaller areas. In most cases, these blocks had either no residents or were split between the residential and the non-residential portions of the block. In two cases, the block population had to be split, and this was done on the basis of the number of dwelling units in each part (using 2001 BC Assessment data).

The Census figures refer to the population as of May 2001. To estimate the extent of growth since then, we used two City data files - both files are under development and have not been completely vetted, but they provide the best data we have on change. For projects completed between May 2001 and March 31, 2004, we extracted from the occupancy permit file all projects with more than two dwelling or special needs residential units. Single-family and duplex projects were excluded as many of these create no net increase in housing stock. Of the large residential developments completed over this period, almost all involve the redevelopment of non-residential land.[192] The occupancy permit file is address-based and so the units could be aggregated for each Census block. To these figures, we added the units currently under construction and anticipated to be complete before the end of 2004. This data comes from a monitoring file that is parcel-based, and the units were aggregated for each Census block. Again, projects with less than three units are excluded.

Between May 2001 and the end of March 2004, 9,800 units were added to the city's housing stock, with another 4,400 units under construction and expected to be completed before the end of the year, for a total of 14,200 units. While this does not represent a large increase for the city as a whole (a growth rate of just over 5 per cent), the units are not evenly distributed – two-thirds of the units are on the Downtown peninsula and most of these are in the Downtown local area, where the housing stock will have increased by almost 50 per cent by the end of the year.

To estimate the eligible voters added by block since the 2001 Census, we calculated the ratio of eligible voters per dwelling unit for each census tract in 2001. These ratios were then applied to the number of units added to the blocks within each census tract. This assumes that residents of the additional housing in each census tract will have the same characteristics as the residents of the area in 2001. Total population was estimated using the 2001 ratio of total population to dwelling units by census tract.

Note that these estimates are of the change associated with new construction activity, excluding the relatively small amount of net change associated with single-family and duplex development. The total population and eligible voter population will also change as the population ages and through people moving in and out of the existing housing stock.

[192] The main exception is the Quilchena Park project at West 33rd and Arbutus, and the data for this project was "netted" – the units demolished were deducted from the units completed.

The same logic was applied to calculate the additional eligible voters associated with projects currently under construction that will not be completed until after 2004. We also estimated the number of units in projects that are in the development or rezoning "pipeline", but did not calculate the eligible voters associated with the projects, as they may not proceed.