

REPORT OF
THE TASK FORCE ON
DIRECT DEMOCRACY

DISTRICT OF NORTH VANCOUVER

February 1999

DIRECT DEMOCRACY

OUR GUIDING PRINCIPLES

- **District residents are willing and able to participate fully in the decision making process on issues that most affect them.**
- **District residents should have full access to information on District affairs, and the conduct of District business should be open and transparent, with a well-developed District-wide communication system.**
- **Council should always recognize that it is accountable to District residents.**
- **“Direct democracy” will encourage citizen input into District policy, and enable residents to participate more actively in District affairs.**
- **“Direct democracy” will raise the level of public awareness and encourage debate of key civic issues.**
- **Council can exercise the leadership necessary to become a model of effective “direct democracy” for other municipalities and jurisdictions.**

DIRECT DEMOCRACY

WHAT WE RECOMMEND

**THAT COUNCIL DRAFT A DIRECT DEMOCRACY BYLAW
ENABLING CITIZEN-INITIATED REFERENDA, COVERING ALL
REGULAR DISTRICT AFFAIRS**

- **That the bylaw enable the amendment and repeal of an existing bylaw, and the initiation of a new bylaw.**
- **That the bylaw enable citizens to initiate a referendum by a petition supported by 5% of eligible voters.**
- **That Council and District staff, on behalf of all District residents, exercise the leadership required for effective and speedy referendum processes.**
- **That Council continue to encourage citizen participation with community associations, other community groups, and residents.**

WHY THESE RECOMMENDATIONS?

BECAUSE...

- **A direct democracy bylaw gives residents and Council an effective and orderly way of addressing contentious issues.**
- **A direct democracy bylaw strengthens the hand of Council by providing additional credibility in dealing with senior governments and non-elected bodies.**
- **A direct democracy bylaw shows that Council has faith in its residents. Thus, Council in turn earns increased respect from District residents.**

“Direct democracy”, as recommended here, does not mean government by referendum. Almost all District decisions would continue to be made as they are now, by elected officials, with the usual consultative processes. Few issues would be important and contentious enough to prompt referenda.

DIRECT DEMOCRACY

REPORT OF THE TASK FORCE

The previous pages draw attention to the highlights of the Report of the Task Force on Direct Democracy – District of North Vancouver. Our complete report follows.

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REPORT OF THE TASK FORCE ON DIRECT DEMOCRACY DISTRICT OF NORTH VANCOUVER

February 1999

1. TERMS OF REFERENCE

The issue of “direct democracy” first came to the formal attention of Council through a report presented to Council on October 21, 1997.

- 1.1. At a November 3, 1997 meeting, a resolution was adopted by District Council to establish a Direct Democracy Task Force with the mandate “to advise Council on the possible implementation of a Municipal Constitution (“Direct Democracy”) under the authority of the Municipal Act”.
- 1.2. For purposes of the Task Force, “direct democracy” was defined by Council as “a process to enable electors to petition Council for an amendment, alteration or repeal of a proposed by-law; to initiate a petition for a new enactment; and to initiate a petition for a change to an existing bylaw”. Successful petitions would result in citizen-initiated referenda.
- 1.3. The Task Force held its first meeting on May 27, 1998, with the preliminary intention of meeting the original target date for completion of the work of the Task Force by November 1998. We agreed to meet on a weekly basis, whenever possible, to accelerate the pace of our work. On November 2, 1998 our mandate was extended to January 15, 1999 to allow us to complete our tasks.
- 1.4. We had a first working draft of our report by September 2, 1998.
- 1.5. Despite our rather narrow formal Terms of Reference, we generally agreed that, to accomplish the tasks set out for us, we would have to engage in wide-ranging discussions of “direct democracy” and other forms of active citizen participation in municipal life.

2. TASK FORCE PROCESSES

- 2.1. We quickly agreed among ourselves that our meetings should be conducted informally and that discussions should be as free-flowing as good order would permit.
- 2.2. We also agreed that we should search for consensus wherever possible, particularly on our recommendations, but that minority positions should also be respected and reported.
- 2.3. We also agreed that we did not, individually or collectively, have the specialized expertise to craft a suitable bylaw, nor was it the intention of Council that we should do so. Rather, we made the point that we should concentrate on identifying and explaining the basic elements of a “direct democracy” bylaw, with the understanding that specialists could later draft the bylaw wording to incorporate “the basic elements” we had identified.
- 2.4. We had two additional operating guidelines. The first was that we would welcome observers and visitors at our meetings (the meetings were public), but that we would not encourage active participation by observers/visitors except at the request of one or more of us on specific points. The second was that we would seek “expert advice” only after we had determined, in draft form, our own recommendations for the basic elements for a “direct democracy” bylaw.

3. THE WORK PLAN

- 3.1. We initially agreed to the following 6 stage Work Plan:
 1. Share perspectives on “direct democracy”
 2. Discuss how to achieve what we recommend to be achieved (tools for implementing objectives re “direct democracy”)
 3. Prepare preliminary proposals/recommendations
 4. Solicit “expert” opinion on our preliminary recommendations
 5. Solicit “public” input
 6. Formulate final recommendations and prepare report to Council
- 3.2. This work plan was followed in our initial work. However, in the process of implementing the work plan, we agreed that it would be appropriate for the Council, rather than the Task Force, to consult residents on this report. As a result, stage 5 of the work plan was deleted, with the notation that Council should hold at least informal public meetings on this report.

4. PREFACE TO THE RECOMMENDATIONS

4.1. The Need for Information

- 4.1.1. We recognize that the fundamental purpose of “direct democracy” is to enable citizens to participate directly in public affairs, rather than only through their elected representatives and on voting day. We conclude that full access to information, openness of the decision-making processes to all residents, and transparency on the part of Council in the conduct of District affairs are essential to healthy municipalities. Specifically, all items to be discussed by Council should be open to the public unless it is demonstrably in the public interest to do otherwise.
- 4.1.2. It is our premise that Council will encourage resident input into policy-making decisions, and we enthusiastically support such policy. We made note of opportunities District residents already have to participate in the affairs of their district. A staff report (*Current Methods of Citizen Participation and Reference Guide to Framework for Public Involvement Manual – August 4, 1998*) draws attention to the seriousness with which Councils have taken matters of public participation. However, we believe that participation in civic affairs now needs to be raised to a new level as the business of the District becomes more complex and the desire on the part of residents to participate directly in municipal affairs intensifies.

4.2. An Enabling Communications System – The Prerequisite

- 4.2.1. The fundamental prerequisite for an effective “direct democracy” bylaw is the establishment and continuous improvement of a District-wide communication system. For us, two-way communication is at the core of democracy. Information, analysis, and reasoned debate offer the only effective path to informed, efficient, public decision-making. True democracy is not only voting or conducting referenda. It is also the ability of individual citizens to obtain public information, to comment on that information, to raise new issues, to debate the issues, and – only then – to use a democratic tool (like voting) to make an official public decision.
- 4.2.2. The objective of Council should be to facilitate an open, free, informative, inclusive public debate on every important issue. For this to happen, a municipality-wide, resident-driven communications system is a prerequisite.

4.3. The Need for Structure

- 4.3.1. Notwithstanding the actions already taken by Councils to involve citizens in municipal affairs, we were unanimous in the view that the implementation of “direct democracy” initiatives would be the next logical step in efforts to increase citizen participation.

- 4.3.2. We are of the view that support for and leadership of “direct democracy” initiatives by Council are not just matters of principle. Rather, we believe that a “direct democracy” bylaw is also a practical matter. Such a bylaw would provide the necessary, official and visible structure or mechanism for direct citizen participation. It should form the official basis for the improvement of the general civic health of our municipality – and be of value to other municipalities as well.
- 4.3.3. At the same time, we do not think it prudent for the District to make it easy for individual citizens or small groups of citizens to take public actions that could be considered frivolous or strictly self-interested – and risk damaging the public good. That is why we observe that increasing citizen participation requires much more than the mere passing of a direct democracy bylaw.

4.4. The Need for an Enhanced Political Culture

- 4.4.1. Active measures to convince more citizens that public participation is in their personal interest as well as the public interest is important, and Council needs to provide evidence that more active public participation results in more citizen-sensitive action on the part of Council. The importance of Council accountability to the electorate needs to be reinforced, and citizens’ responsibility for their public actions needs to be encouraged. That is, the political culture of our District needs to be enhanced. The need is for complete openness and transparency in all municipal matters, full access to information for all, greater accountability on the part of Council to District residents, and a political will on the part of Council members to act responsively to citizen concerns. Hand-in-hand with the above, residents of the District need to be encouraged to act on their democratic right to an expanded involvement in the local decision making process.
- 4.4.2. In the political culture we envision, limits set by the Municipal Act should not be an obstacle to the practical implementation of citizen-initiated referenda results. We believe that Council should respect the choice of a majority of voters. Within the provisions of the Municipal Act and without Council members being unduly predisposed to act on the will of the majority of active residents, a citizen-initiated referendum should be considered highly persuasive if not morally binding.
- 4.4.3. We note that a substantial part of Canadian law is based on precedent, and so Council could start a tradition of consistently respecting the results of citizen-initiated referenda. Future Councils would then have a precedent to guide them.

5. RECOMMENDATIONS AND THEIR RATIONALE

Our mandate was “to advise Council on the possible implementation of a Municipal Constitution (“Direct Democracy”) under the authority of the Municipal Act”. Concerning the advisability of implementing such a Municipal Constitution, we unanimously urge a resounding “YES”. The following recommendations address specific aspects or features of a bylaw that would give life to a Municipal Constitution for the District.

5.1. **We recommend that, to supplement existing Council-initiated referendum and counter-petition processes, Council draft a “direct democracy” bylaw enabling citizen-initiated referenda.**

- 5.1.1 We appreciate that citizen-initiated referenda cannot be legally binding under the current Municipal Act. On the other hand, we intend that the results of citizen-initiated referenda will be persuasive and compelling in the deliberations and decisions of Council.
- 5.1.2 The Task Force members were divided on the urgency of implementation of such a bylaw. One view was that this recommendation should be revised to require that the bylaw “be put to referendum at the next municipal election”. The other perspective was that Council might choose to use such a bylaw initially as an informational tool, to defer its application until both Council and residents have some experience with citizen-initiated referenda, and to test all the referendum processes before full implementation of the bylaw. Since it will be the responsibility of Council to determine how it wishes to implement ‘direct democracy’, Task Force members considered it appropriate to present these two choices for Council consideration.

5.2. **We recommend that, to qualify for a citizen-initiated referendum, the prerequisite should be a petition supported by 5% of the voters on the current voters’ list.**

- 5.2.1. Our objectives are to set a challenging but attainable benchmark for triggering a citizen-initiated referendum and to ensure that the referendum process is seen as rigorous and demanding. On the one hand, we wish to encourage residents to use the referendum process for significant District decisions. On the other, we wish to discourage frivolous or expensive petitions – and the demand for some 2,500 petitioners to generate a citizen-initiated referendum should do that. As a result, and after consultation with experts, we recommend the percentage of voters identified in the Municipal Act and already in force for counter-petitions.
- 5.2.2. We appreciate that there is no scientific or mathematical way to determine a “correct” number or percentage of voters for a petition to be successful, prior to any citizen-initiated referendum. Accordingly, Council should not consider the percentage we propose to be cast in stone. Rather, for practical reasons or on the basis of the District experience

with what we anticipate to be infrequent citizen-initiated referenda, that percentage of voters required to trigger a petition could itself be increased or decreased by District citizens through referendum.

- 5.2.3. As a matter of good faith with District residents, Council should carry out a referendum as soon as is reasonably possible after receiving a successful petition, and should act upon the results of that referendum in a timely manner.
- 5.3. **We recommend that the District’s “direct democracy” bylaw enable the amendment and repeal of an existing bylaw, and the initiation of a new bylaw.**
 - 5.3.1 This recommendation is consistent with the definition of ‘direct democracy’ as provided by Council to the Task Force(See 1.3).
- 5.4. **We recommend that the scope of citizen-initiated referenda would be all District affairs with which Council has the power to deal. Actions taken on the results of referenda must be legally permissible and consistent with the Canadian Charter of Rights and Freedoms, the BC Human Rights Code, and other applicable federal and provincial legislation.**
- 5.5. **We recommend that, after an application to the Clerk has met all the formal requirements to initiate a petition for a citizen-initiated referendum, 30 days be allotted to allow the gathering of the number of signatures required for a referendum.**
- 5.6. **We recommend that, only in the case of a public hearing process, when a petition with a minimum of 100 signatures of those on the District’s voting list is received by the Clerk, Council delay the closure of a public hearing for a period of thirty (30) days to enable the collection of signatures of the prerequisite percentage of eligible voters for a citizen-initiated referendum as per 5.2 and 5.5.**
 - 5.6.1. The approximate 10 days between Council’s 1st reading of a bylaw leading to a public hearing provides insufficient time to gather the prerequisite voter signatures. A more extended period of 30 days for the gathering of signatures of eligible voters would be more suitable.
 - 5.6.2. The 30-day delay would be in keeping with the current Council policy of delaying the close of public hearings in order to gather all relevant information.
- 5.7. **We recommend that, as in counter petition initiated referenda, “50% plus one” votes would be considered a majority.**
- 5.8. **We recommend that Council continue to encourage citizen participation in municipal affairs and in community associations.**
 - 5.8.1. In our view, Council and staff need to ensure that residents have full and reasonable access to District information if they are to be able to exercise their civic responsibilities. To truly engage citizens, it is no longer enough

for Council simply to issue formal notifications, advertise public meetings, distribute District newsletters, or use less formal means of communication.

- 5.8.2. In particular, when a referendum is triggered, Council should serve as a facilitator of public understanding and debate of the issues (distribute documentation, contact and inform community representative groups, provide announcements to the District media, arrange for community/neighbourhood information and discussion meetings with a Council member in attendance, facilitate televised debate on community TV, etc.)
- 5.8.3. We anticipate that improved communications should be achieved through a normal extension of the current Federation of North Vancouver Community Associations (FONVCA), and of existing relationships between FONVCA and the Municipal Council.
- 5.9. We recommend that Council adopt procedures which keep costs for the conduct of referenda to a minimum (without restricting referenda to municipal election times only).**
- 5.9.1. We place high value on encouraging a sense of community and personal responsibility by conducting voting in traditional ways. At the same time, we recognize it is now possible to conduct referenda in different ways and less expensively. As examples, we have been made aware of tele-vote referenda using touch tone phones; extended period voting systems whereby citizens can, over a month-long period, drop by Municipal Hall or other locations, and vote at any time; and, conducting referenda at municipal election time (but referenda should not be limited to election times).
- 5.9.2. In any event, we do not consider that citizen-initiated referenda should be set aside on the grounds that they are necessarily costly. They would constitute roughly 25 to 75 cents per resident, and residents would know the incremental cost of a referendum through the information that is part of the petition. We believe cost to be a false concern.
- 5.9.3. In the same vein, we cannot accept the view that referenda will cause undue delays in the conduct of District business. While we agree that some delay in dispatching District business will result, such delays will have more positive than negative effects. Moreover, in most instances, referenda have the effect of accelerating rather than delaying the conduct of business. Indeed, referenda require the timely tabling of all the information related to the issue at hand, and establish a clear and public framework for the conduct of major District business. We point to the current counter-petition process to support the view that referenda cause only those delays that are in the best interests of District residents.
- 5.9.4. We further note that there are no sustainable grounds to argue that referenda will increase the amount of bureaucracy involved in the conduct

of District business. On the contrary, increased citizen participation as we have proposed would have the effect of decreasing current levels of District bureaucracy.

POSTSCRIPT

We wish to note that, if we were to be bold enough to go beyond our mandate, we would make two additional recommendations to Council. First, that Council immediately request those changes to the Municipal Act that might be necessary to ensure that the results of citizen-initiated referenda would be legally binding. We are well aware that this would be a profound change from current municipal practice in our province, though already successfully implemented in Saskatchewan, for example. Our second additional recommendation would be that, as an interim measure under Section 251 (formerly Section 223) of the Municipal Act, Council also seek the authority, by Cabinet regulation, to consider the results of citizen-initiated referenda to be legally binding on the District of North Vancouver Council and residents. We put forward this recommendation because the process of amending provincial legislation is normally complex and time consuming. This recommendation would enable the District of North Vancouver, if not elsewhere in our province, the opportunity to implement 'direct democracy' without unreasonable delay.

- * Annexed to this report we include sections 87 and 88 from the Saskatchewan Urban Municipality Act, 1984, pertaining to citizen-petitioned bylaws. It is only one example pointing to the fact and experience that "direct democracy" legislation contributes positively to citizen participation over an extended period without significant additional costs, or increased bureaucracy, or undue delays in the business of municipal government.**

6. FOLLOW UP TO THIS REPORT

We recognize that our work officially comes to a formal end with the presentation of our report to Council. Nevertheless, we trust that Council will see fit to enable us to carry this process to its proper conclusion. In that spirit, we ask Council to implement the following measures.

- 6.1.1 We request Council to hold a public meeting as soon as possible after receipt of our report. This would be the first opportunity to engage larger numbers of District residents, Council members, and Task Force members in considering our report and recommendations.**
- 6.1.2 As the “direct democracy” bylaw is being drafted, we urge that members of the Task Force be given full opportunity to cross-reference the proposed wording of the bylaw with the spirit and recommendations of the Task Force Report, all the while respecting the Council processes for drafting bylaws.**
- 6.1.3 We consider it only fair and proper to urge Council to put the issue of a “direct democracy bylaw” to the test of a referendum, ensuring that the recommended public awareness initiatives which precede such a referendum are also followed. We cannot imagine a referendum bylaw being adopted or rejected without a referendum.**

**THE TASK FORCE ON DIRECT DEMOCRACY RECOMMENDS THAT THE
COUNCIL OF THE DISTRICT OF NORTH VANCOUVER RECEIVE THIS
REPORT.**

“ERIC ANDERSEN”

“DALLAS COLLIS”

“CORRIE KOST”

“REIMAR KROECHER”

“LINN TEETZEL”

“TED WHITE”

“PAT MUNROE”

“PAUL GALLAGHER”

APPENDIX A

NAME	CONSTITUENCY	NOTES
Eric Andersen	FONVCA	Appointed October 5, 1998
Maureen Bragg	FONVCA	Resigned July 13, 1998
Dallas Collis	Member-at-large	
Paul Gallagher	Member-at-large	
Corrie Kost	FONVCA	
Reimar Kroeche	Canadians for Direct Democracy	
Linn Teetzel	Political Science Educator	
Ted White, MP	Member-at-large	
Wynn Wright	FONVCA	Resigned September 9, 1998
Pat Munroe	Councillor	

Colin Stark (vice-president, Canadians for Direct Democracy) and Doug Porter attended the majority of meetings as observers.

APPENDIX B

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APPENDIX C

ACKNOWLEDGEMENTS

We wish to draw attention to the excellent technical and professional support we received from staff of the District Clerk's Office. We express our thanks to the Municipal Clerk, Dennis Back, and to Micheline Meszaros, Shana Burrows and Daina Hibbard for their work as Committee Clerks.

We acknowledge in particular the outstanding support we received from Stephen Fleming who served as de facto secretary to the Task Force throughout the period of our work. His performance of the numerous tasks associated with being the secretary of a frequently fussy volunteer Task Force was consistently of the highest order.