



NEWLY ELECTED OFFICIALS: LOCAL GOVERNMENT LAW

**Nelson, BC
February 16th, 2012
Presented by: Sam Dabner**



INTRODUCTION

□ Fulton & Company Bio



□ Sam Bio





INTRODUCTION

- Purpose: To acquaint newly elected officials with the legislation that empowers them to make decisions



AGENDA

1. **CONSTITUTIONAL SOURCE OF POWERS**
2. **COMMUNITY CHARTER AND LOCAL GOVERNMENT ACT**
3. **REQUIREMENTS OF COUNCIL**
4. **LEGISLATIVE/QUASI-JUDICIAL/ADMINISTRATIVE ROLES OF COUNCIL**
5. **STATUTORY FUNCTIONS / FUNDAMENTAL POWERS**
6. **NATURAL JUSTICE / PROCEDURAL FAIRNESS**
7. **BYLAWS VS. RESOLUTIONS**
8. **DELEGATION OF AUTHORITY**
9. **PUBLIC HEARINGS**



CONSTITUTIONAL SOURCE OF POWERS

- Federal Constitution divides law making powers between Feds and Provinces/Territories
- Province then delegates certain authorities to Local Governments



CONSTITUTIONAL SOURCE OF POWERS

Relationship with Provincial laws

10 (1) A provision of a municipal bylaw has no effect if it is inconsistent with a Provincial enactment.

(2) For the purposes of subsection (1), unless otherwise provided, a municipal bylaw is not inconsistent with another enactment if a person who complies with the bylaw does not, by this, contravene the other enactment.



COMMUNITY CHARTER AND LOCAL GOVERNMENT ACT

- ❑ Complex interplay between these pieces of legislation
- ❑ Community Charter deals primarily with Municipalities
- ❑ LGA deals primarily with Regional Districts
- ❑ However, each applies to both in certain areas



COMMUNITY CHARTER AND LOCAL GOVERNMENT ACT

- Community Charter key concepts:
 - Broad Municipal Powers
 - Broad Interpretation



REQUIREMENTS OF COUNCIL

- Council is one continuing body that speaks with one voice
- Certain decisions do require all of council to vote



LEGISLATIVE / QUASI-JUDICIAL / ADMINISTRATIVE ROLES

- Legislative
- Quasi-Judicial
- Administrative



STATUTORY FUNCTIONS / FUNDAMENTAL POWERS

- Essential functions of a local government:
 - to exercise powers/authority; and
 - to provide services



STATUTORY FUNCTIONS / FUNDAMENTAL POWERS

- Specific, distinct powers to:
 - Regulate
 - Prohibit
 - Impose Requirements



NATURAL JUSTICE / PROCEDURAL FAIRNESS

- Duty to act fairly
- Improper purposes
- Discrimination
- Bad Faith



BYLAWS VS. RESOLUTIONS

- Council may only exercise its authority by way of resolution or bylaw
- Certain powers must be exercised only by bylaw



DELEGATION OF AUTHORITY

- Section 154 of the *Community Charter* authorizes a council, by bylaw, to delegate its powers, duties and functions to a council member or committee, an officer or employee or to another body established by council



PUBLIC HEARINGS

- ❑ Pre-conditions
- ❑ Notice Requirements
- ❑ Failure to Receive Notice
- ❑ Opening Statements and Procedure
- ❑ “Interest” in a hearing
- ❑ Council’s opinions & questions
- ❑ Adjourning
- ❑ After the Public Hearing



END OF PRESENTATION