

B.C. Mayors Caucus 2013:

A Legal Perspective on the Office of Mayor

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What is a Mayor?

The Oxford Dictionary says that a “mayor” is the head of a municipal corporation. In Canada, what exactly does that mean? In the index to the volume on municipal law in the basic Canadian legal encyclopedia, *Halsbury’s Laws of Canada*, for the term “Mayor”, the entry is “see Municipal Councils”. The section on “Council Heads” in Rogers, *The Law of Canadian Municipal Corporations*, the standard text on municipal law in Canada which runs to three volumes, is a mere ten pages long including all case citations; nearly half of this section is taken up with a discussion of whether a Canadian mayor has authority to refuse to sign a bylaw that the Council has passed when the statute requires such a signature before the bylaw can take effect (the answer is no). Contrast this sparing treatment of mayors with that accorded them in popular media, where they tend to be portrayed as the local equivalent of premiers and prime ministers, with the inference that they wield extensive powers at the local level. What’s the reality?

In British Columbia and in fact throughout Canada, mayors are first and foremost members of their municipal councils. By participating in debate and casting their vote in council, mayors exercise no more and no less power and influence as any other member of the council. (Here we dispose of two of the persistent myths about mayors in B.C. – that they may not engage in the debate, and that they may vote only to break a tie. The *Community Charter* requires them to vote on every motion (other than a procedural motion challenging their ruling on a point of order), and by implication entitles them to participate in debate.) The powers, duties and functions of a municipality are, according to s. 114(3) of our *Community Charter*, to be exercised and performed by its council, which is the governing body of the municipality, and not by any individual member of the council (including the mayor). Long-established case law tells us that contracts and other obligations entered into by mayors supposedly on behalf of their municipality are unenforceable against the municipality, unless they have been ratified by the entire council. Both the *Community Charter* and the *Vancouver Charter* afford a few extra powers to mayors, and place them under a few extra duties; any special mayoral capacity would have to have their origin in these statutes. There is a 1950s New Brunswick case dealing with the resignation of a mayor that suggests that some common law principles are also applicable to the office of mayor, but the common law is unlikely to add significantly to the list of substantive powers that mayors can exercise under provincial statutes. (In that case, the

common law principle that was applied was the requirement for a mayor's resignation to be formally accepted by the council before it became effective. The mayor had resigned and then withdrawn his resignation, and the rest of the councillors – who had not yet formally accepted the resignation, but instead had persuaded the mayor to reconsider and then changed their mind on whether he should resign – claimed that the initial resignation did not have to be accepted to be effective.)

Attached to this paper are all of the references to the office of mayor that the author was able to find in the statutes of B.C. and Canada. These powers can usefully be grouped in three functional categories: the management of municipal governance, the exercise of emergency and other extraordinary powers, and the observance of municipal formalities and protocol. It should be noted that the core provisions concerning the powers of the mayor, now contained in our *Community Charter*, have evolved in only minor ways from those set out in municipal enabling legislation in the 19th and 20th centuries, notwithstanding what many observers consider a steady and rather steep rise in the prominence and significance of the local level of government in the lives of Canadians.

Before considering these three categories of powers, it's interesting to briefly compare the powers of mayors under the *Community Charter* with those of the mayor of Vancouver under its *Charter*, which are also reproduced in the materials at the end of this paper. There don't seem to be any material differences between the statutory powers of the mayor of a small B.C. town and the mayor of Vancouver. In the U.S., where "strong mayor" municipal governance systems prevail, the authority of the mayor to unilaterally make staff appointments at the department head level enables them to ensure relatively smooth implementation of council directives, though they must still command a majority in council to translate their own political agendas into such directives to staff. More as a curiosity, the powers of the mayor under the Portland (Oregon) City Charter are also attached to this paper. By and large, these powers are actually duties that would seem more likely to repel than to attract candidates for the mayor's chair.

Job 1: Management of Municipal Governance

Most of the specific references to mayors in B.C.'s *Community Charter* are concerned with the role of the mayor in managing the municipal governance process, particularly the conduct of council meetings, and this is by far the most significant bundle of powers that are available in relation to the mayor's opportunity to implement a substantive policy agenda during their term of office. Most significantly, the mayor is "responsible for" (not merely empowered to) provide leadership to the council by recommending bylaws, resolutions and other measures that in the mayor's opinion may assist in the peace, order and good government of the municipality. In most municipalities, mayors carry out this duty, in part, by consulting with senior staff on the

contents of the agenda of each regular council meeting, and in a broader sense by participating as a council member in the setting of objectives in the annual municipal report prepared under s. 98 of the *Charter*. The power to establish standing committees and appoint their members is an important complement to this leadership role, in the sense that the mayor can both identify particular areas of municipal governance that require standing committees, and unilaterally decide which of their council colleagues will be entrusted with the matters within each committee's terms of reference. The significance of this power is heightened by the council's ability to delegate some of its powers to its committees, and thereby expedite the conduct of the council's business. This power can be used to keep the general council agenda free of matters that can be delegated to committees, including matters that may be likely to give rise to repetitive debate in council chambers or councillor "grandstanding" on matters on which a clear majority position has been established and on which further debate in full council would not be productive. Finally, the mayor is statutorily responsible for providing, on the council's behalf, general direction to municipal officers respecting policy implementation.

More minor aspects of the mayor's overall management powers include the power, unilaterally, to bring a matter back before the council for reconsideration (a power that other members of council can only exercise by persuading a majority of council members to pass a reconsideration resolution) and the power, again unilaterally, to call special council meetings (which otherwise requires initiation by two or more council members). In these two particular aspects, like some of the beasts in George Orwell's *Animal Farm*, council members who are mayors are "more equal than others". The statutory duty of presiding at council meetings is probably seen by many mayors as less of a power and more of a chore and a limit on one's ability to pursue one's own policy agenda, to the extent that many council members (and some members of the public) seem to believe that their mayor cannot preside in a fair and impartial manner while at the same time advocating particular bylaws, resolutions and other measures as they consider appropriate. However, some mayors would probably agree that presiding at meetings does afford them some minor leverage, in relation to their own civic policy objectives.

Case law on these mayoral powers is very sparse. There is a 2009 Québec Superior Court decision quashing a Council resolution that purported to require Council approval of measures the mayor wished to take in the exercise of his powers of supervision, investigation and control of municipal officials under Article 142.1 of the *Québec Municipal Code* – specifically any mayoral requests for documents that involved research or drafting by municipal staff. The Court found that the resolution made it impossible for the mayor to carry out his prescribed duties under the Code, and was therefore beyond the Council's jurisdiction.

Job 2: Extraordinary and Emergency Powers

B.C. mayors have authority to declare states of local emergency under the *Emergency Program Act*, triggering implementation of the local emergency plan and other significant consequences under the Act. They also have authority, under the *Criminal Code*, to “read the Riot Act”, a short proclamation (set out at the end of this paper for future reference if necessary) that is intended to quickly end disorderly assemblies and restore order, while enabling local peace officers to arrest those who fail to heed the mayor’s order. (Notable mayoral readings of this proclamation occurred in Vancouver during the Gastown riot of 1971, and in Parksville during the “sandcastle riot” of 1997.) Mayors also have authority to temporarily suspend municipal employees from their work, such suspensions being subject to review by the entire council at its next meeting, whereupon the council as a whole may reinstate the employee, confirm or expend their suspension, or dismiss them. The only relatively recent case dealing with such suspensions, *Smith v. Matsqui (District)* [1986] B.C.J. No. 3202, was actually a defamation claim against the mayor arising from statements he allegedly made about the suspensions on a radio program; his authority to make the suspensions in the first place was not questioned.

Job 3: Municipal Formalities and Protocol

Finally mayors are given several powers and duties related to the observance of formalities that are in some way related to local governance. Mayors can proclaim days of recognition (not necessarily in their own words, though – in 2000 the B.C. Human Rights Tribunal found that a B.C. mayor contravened the *Human Rights Code* by omitting the word “Pride” from his proclamation of Lesbian and Gay Day). Mayors can take swear affidavits and accept service of summonses against their municipality, and take the oaths of office of Chamber of Commerce officers. Mayors chair the police board in their municipality.

Finally there is the matter of the mayor being the “head and chief executive officer of the municipality” – the definitive role mentioned in the Oxford Dictionary. (Vancouver’s mayor is also the “president of the Council”). In municipalities with chief administrative officers or chief executive officers appointed at the staff level, this provision (which existed in the *Municipal Act* and *Local Government Act* as well, long before municipalities had such staff officers) can be the source of some confusion as to who is actually in charge. Again, there is very little case law that interprets this provision and fleshes out what exactly it enables a mayor to do. It’s also surprising that mayors in municipalities without staff CEOs don’t seem to lay claim to or exercise any more powers derived from this section, than mayors who share CEO powers with their most senior staff member. At present, this mayoral power has to be considered relatively symbolic, and not likely to endow mayors with power or authority of any great significance. For example, in the case of a writ of execution issued by the Supreme Court against a municipality to satisfy a judgment against it, a rather grave measure that can result in the sheriff levying a

rate on property in the municipality to satisfy the judgment if the municipal collector does not do so, it's interesting that the writ must according to s. 294 of the *Local Government Act* be served not on the head of the municipality (the mayor), but on the corporate officer (including by leaving it at the corporate officer's home, if it cannot be served at the municipal hall). There can be little doubt, though, that as "head of the municipality" the mayor is the appropriate person to call on when a foreign dignitary is in town, to represent the municipality at formal events involving other governmental officials, and to accept honours and awards that are being given to the municipality.

Hot Button Issues for Mayors in 2013: Councillor Conduct

Against the background of the statutes are arrayed the mélange of problems and issues that actually confront those performing the role of mayor in 21st century B.C. From the point of view of legal counsel and even judges, it seems that the statutes usually provide very little useful guidance for mayors to whom council members and citizens look for leadership and perhaps even inspiration when practical governance problems arise. Instead, as lawyers we must resort to common sense and a good deal of speculation as to what a court would find to be the appropriate role for a mayor to play, given certain overarching norms relating to procedural fairness and the requirement for municipal corporations to respect the limits of their jurisdiction. The examples addressed in the remainder of this paper are all concerned with a current hot button issue for mayors: the conduct of the other council members.

General Decorum in Council

Probably one of the most frustrating situations mayors face in Canadian municipalities is the lack of decorum and responsible behavior on the part of council members. We are in the era where "transparency" and the "right to know" are paramount values, where measures taken without exhaustive consultation with "stakeholders", no matter how trivial the measures may be, are automatically suspect, and where dissatisfied council members have ready access to powerful media to criticize council decisions and foment dissent in the community. More than one B.C. council elected in 2011 has been called "dysfunctional" in media reports based on observation of council meetings, and many other councils have had meetings or portions of meetings that were admittedly not their members' finest hours in government. As the head of the municipality and the person responsible for presiding at council meetings, the mayor is the official who nominally has the responsibility to ensure that council meetings are productive, and that the affairs of the municipality are properly attended to. Does the mayor have the requisite powers?

Probably, at least up to a point, but that doesn't make them easy to wield. To take an extreme example, the mayor's powers to expel from a council meeting, with police assistance if

necessary, anyone who is “acting improperly”, probably extends to the expulsion of council members in addition to members of the public. Many mayors probably wish they had a Speaker in the council chamber, like the Speaker in the House of Commons and the Legislative Assembly, to enforce decorum and eject troublesome legislators, rather than having to perform these duties themselves. The benchmark for conduct in a council meeting seems to be deteriorating as media reports show physical brawls in the Italian and Taiwanese parliaments. Legislators in this country, correcting for Canadian restraint, usually indulge only in the verbal equivalent, though ours is the province in which a municipal councillor reportedly used a pen as an offensive weapon on a colleague during a council meeting. Mayors should consider exercising the expulsion power, if disruptive conduct on the part of a councillor is preventing the council from getting through its agenda, preferably with one precautionary warning. In less extreme cases the mayor is entitled to make procedural rulings and decide points of order throughout the council meeting, subject to the council procedure bylaw and the right of council members to appeal and decide on procedural rulings by majority vote. While council procedure bylaws occupy this field to a large extent, novel issues sometimes arise in relation to which the mayor has a clear right to improvise procedurally, to ensure that the council’s business is effectively addressed during the meeting.

The *Community Charter* makes each council member responsible to “participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed”, but does not prescribe any standard of conduct for such participation. Some councils have considered using their authority under s. 120 of the *Charter* to modify the standard oath of office prescribed by provincial regulation, to address issues such as decorum in council meetings. Usually, however, issues of decorum arise after all members have already taken their oath of office, modified wording would not take effect until the following term of office, and the debate over the bylaw establishing the modified wording can itself be very divisive. In any event, the *Charter* prescribes consequences for failing to take the oath of office, but none for breaching it after it is taken, so a more robust oath of office might be of little value in ensuring decorum in council proceedings.

Breaches of Confidentiality

With the precedent-setting conviction of a municipal councillor in 2011 for a breach of the *Freedom of Information and Protection of Privacy Act* (*R. v. Skakun*, 2011 BCPC 108), committed by leaking a report obtained at a closed meeting of council to a television reporter, B.C. probably leads Canadian provinces in establishing disincentives to breaches of council confidentiality. However, as most municipal officers know to their great frustration, there are no immediate consequences in the *Community Charter* for a breach of the council confidentiality rule in s. 117 that the council can itself impose, other than a motion of censure

and the possibility of an action for damages against the council member if financial loss or damage to the municipality has resulted. The FOI conviction was only possible in the case just mentioned because the leaked information included personal information that the municipality was prohibited from disclosing to the media. Chronic disseminators of confidential information can to a degree be frozen out of council deliberations through the use of standing or select committees to which the council has (my majority vote) delegated responsibility for matters about which the councillor in question is expected to leak information; the councillor can simply be excluded from committee membership. The confidentiality rule in s. 117 applies equally to information considered in council committee meetings, and in that context the unreliable council member is in the same position as a member of the public who has been excluded from the committee meeting: they are not entitled to the information until it has been disclosed to the public generally.

Censure Motions

The use of censure motions to address councillor misconduct is something else that a mayor can consider, and initiate in appropriate cases. There is now clear judicial authority in this province for the proposition that a municipal council has inherent jurisdiction to censure the conduct of any of its members, subject to the requirement for procedural fairness in the consideration and adoption of the censure motion. The following passages appear in the B.C. Supreme Court's judgment in *Skakun v. Prince George (City)*, 2011 BCSC 1796:

Generally we acknowledge that the federal parliament and the provincial parliament are solely the repository of their own powers. They have unlimited powers and they can pass legislation made by the majority of the people sitting in parliament. They, of course, are elected representatives and we give them the most power in our system of government. A municipal council is a lesser body. It is created by statute, and for a long time the construction of those municipal statutes has been relatively strict and narrow. The powers of a municipality have been confined. But more recently the case law has suggested that where there is a gap in the legislation, then council may embark into that area, but subject to review by the court.

By my reading of the *Community Charter*, it is reasonable to imply council have an obligation to regulate a councillor's misconduct when there is a substantial falling away from the expected standard.

(Councillor Skakun was the subject of a censure motion arising from the same incident that resulted in his being charged with an offence under the privacy provisions of the FOI legislation.) The council member named in such a motion must be given an opportunity to learn

of the factual basis for censure, and to address the council on whether the motion should be passed. While the most zealous council dissidents may view censure by the rest of council as a badge of honour, electors may be less impressed with conduct that warrants such a motion by the councillor's peers, and the real effect of the motion may not be realized until the following civic election.

Conflict of Interest Declarations

Conflict of interest is another important area of councilor conduct that sometimes needs policing. The statute puts the onus on the individual councilor to declare their own conflicts of interest; no special role is given to the mayor or the council to enforce the conflict rules. However the mayor can perform an important function in ensuring that meeting agendas contain sufficient information to enable council members to consider before a meeting whether they have a conflict with respect to any item of business, and obtain advice if necessary on whether a conflict declaration is required. The mayor also has authority to speak to a council member privately ahead of time if there is a conflict issue that the member appears to be ignoring, and to bring the issue to the council member's attention when the matter in question comes up on the agenda during the council meeting, though the mayor cannot force the member to deal with it. Finally the mayor has authority, in conjunction with the chief administrative officer or corporate officer, to cause a legal opinion to be prepared for the municipality on whether a particular council member has a conflict of interest in a matter that is scheduled to come before the council, though again there is no authority to force the member to follow the legal advice that is obtained. A large percentage of conflict of interest-based court challenges concern situations where a council member had to make a conflict of interest judgment "on the fly", and most of these challenges could have been avoided with some advance attention to the issue.

Community Charter

[SBC 2003] CHAPTER 26

Council as governing body

114 (1) The members of a municipal council are the **mayor** and the councillors.

(2) Despite a change in its membership, the council of a municipality is a continuing body and may complete any proceedings started but not completed before the change.

(3) The powers, duties and functions of a municipality are to be exercised and performed by its council, except as otherwise provided under this or another Act, and a council, in exercising or performing its powers, duties and functions, is acting as the governing body of the municipality.

(4) A council has all necessary power to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a council or municipality by this or any other enactment.

Responsibilities of council members

115 Every council member has the following responsibilities:

- (a) to consider the well-being and interests of the municipality and its community;
- (b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
- (c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;
- (d) to carry out other duties assigned by the council;
- (e) to carry out other duties assigned under this or any other Act.

Responsibilities of mayor

116 (1) The **mayor** is the head and chief executive officer of the municipality.

(2) In addition to the mayor's responsibilities as a member of council, the **mayor** has the following responsibilities:

- (a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;
- (b) to communicate information to the council;

- (c) to preside at council meetings when in attendance;
- (d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;
- (e) to establish standing committees in accordance with section 141;
- (f) to suspend municipal officers and employees in accordance with section 151;
- (g) to reflect the will of council and to carry out other duties on behalf of the council;
- (h) to carry out other duties assigned under this or any other Act.

General voting rules

123 (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.

(2) Each council member has one vote on any question.

(3) Each council member present at the time of a vote must vote on the matter.

Calling of special council meetings

126 (1) The **mayor** may call a special council meeting in his or her discretion.

(2) Two or more council members may, in writing, request that the **mayor** call a special council meeting.

(3) Two or more council members may themselves call a special council meeting if,

(a) within 24 hours after receiving a request under subsection (2), no arrangements are made under subsection (1) for a special council meeting to be held within the next 7 days, or

(b) both the mayor and the person designated under section 130 [*designation of member to act in place of mayor*] are absent or otherwise unable to act.

(4) If a special council meeting is called under subsection (3), the council members calling the meeting or the corporate officer must sign the notice under section 127 [*notice of council meetings*] in place of the mayor.

Designation of member to act in place of **mayor**

130 (1) The council must, in accordance with its applicable procedure bylaw, provide for the designation of a councillor as the member responsible for acting in the place of the mayor when the mayor is absent or otherwise unable to act or when the office of mayor is vacant.

(2) If both the mayor and member designated under subsection (1) are absent from a council meeting, the members present must choose a member to preside.

(3) The member designated under subsection (1) or chosen under subsection (2) has the same powers and duties as the mayor in relation to the applicable matter.

Mayor may require council reconsideration of a matter

131 (1) Without limiting the authority of a council to reconsider a matter, the mayor may require the council to reconsider and vote again on a matter that was the subject of a vote.

(2) As restrictions on the authority under subsection (1),

(a) the mayor may only initiate a reconsideration under this section

(i) at the same council meeting as the vote took place, or

(ii) within the 30 days following that meeting, and

(b) a matter may not be reconsidered under this section if

(i) it has had the approval of the electors or the assent of the electors and was subsequently adopted by the council, or

(ii) there has already been a reconsideration under this section in relation to the matter.

(3) On a reconsideration under this section, the council

(a) must deal with the matter as soon as convenient, and

(b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.

(4) If the original decision was the adoption of a bylaw or resolution and that decision is rejected on reconsideration, the bylaw or resolution is of no effect and is deemed to be repealed.

Authority of presiding member

132 (1) The mayor or the member presiding at a council meeting must preserve order and decide points of order that may arise, subject to an appeal under this section.

(2) On an appeal by a council member from a decision of the presiding member under subsection (1), the question as to whether the chair is to be sustained must be immediately put by the presiding member and decided without debate.

(3) As exceptions to section 123 *[general voting rules]*,

(a) the mayor or other presiding member may not vote on a motion under subsection (2),

(b) the motion passes in the affirmative if the votes are equal, and

- (c) the mayor or other presiding member must be governed by the result.
- (4) If the mayor or presiding member refuses to put the question under subsection (2),
 - (a) the council must immediately appoint another member to preside temporarily,
 - (b) that other member must proceed in accordance with subsection (2), and
 - (c) a motion passed under this subsection is as binding as if passed under subsection (2).

Expulsion from meetings

- 133** (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.
- (2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

Standing committees of council

- 141** (1) The **mayor** must establish standing committees for matters the mayor considers would be better dealt with by committee and must appoint persons to those committees.
- (2) At least half of the members of a standing committee must be council members.
- (3) Subject to subsection (2), persons who are not council members may be appointed to a standing committee.

Chief administrative officer

147 A bylaw under section 146 may establish the position of chief administrative officer of the municipality, whose powers, duties and functions include the following:

- (a) overall management of the operations of the municipality;
- (b) ensuring that the policies, programs and other directions of the council are implemented;
- (c) advising and informing the council on the operation and affairs of the municipality.

Suspension of officers and employees

- 151** (1) The **mayor** must suspend a municipal officer or employee if the mayor considers this necessary.
- (2) A suspension under subsection (1) must be reported to the council at its next meeting, and the council may
- (a) reinstate the officer or employee,
 - (b) confirm the suspension,

(c) confirm and extend the suspension, or

(d) dismiss the officer or employee.

Municipal days of recognition

157 A council may declare, or the mayor may proclaim, a day of recognition that is to be observed in the municipality.

Vancouver Charter

[SBC 1953] CHAPTER 55

Status of Mayor

207. (1) The Mayor shall be the chief executive officer of the city and the president of the Council.

(2) Notwithstanding any other provision of this Act, the Council may, from time to time, with the concurrence of the Mayor, appoint a Councillor to be Deputy Mayor of the city, and may confer upon him such of the powers and duties by this Act vested in the Mayor as the Council shall think fit.

Mayor's duties

208. The Mayor shall

(a) be vigilant and active at all times in causing the law for the government of the city to be duly enforced and obeyed;

(b) recommend to the Council such measures as he shall deem expedient;

(c) oversee and inspect the conduct of all employees of the city under the jurisdiction of the Council, and, so far as he can, cause all negligence or misconduct by any such employee to be punished;

(d) suspend from his employment, if he thinks necessary, any such employee. The Mayor shall forthwith give notice in writing of such suspension

(i) to the Director of Finance; and

(ii) to the City Clerk, who shall inform the Council at its next regular meeting.

The suspension shall continue until the Council either

(i) reinstates the employee; or

(ii) dismisses the employee.

In every case the suspension shall be without pay, unless the Council otherwise directs.

Portland (Oregon) City Charter

Chapter 2 Government

Article 4 The Mayor

Section 2-401 Duties.

The Mayor shall exercise a careful supervision over the general affairs of the City.

Section 2-402 Investigation of and Suits to Cancel Franchises.

The Mayor may, on his or her own motion, and must upon a resolution passed by the Council directing the Mayor so to do, cause to be instituted on behalf of the City such actions or proceedings as may be necessary to revoke, cancel or annul all franchises that may have been granted by the City to any person, company or corporation, which have been forfeited in whole or in part or which for any reason may be irregular and void and not binding upon the City, and the City Attorney, upon the Mayor's demand, must institute and prosecute the suits or actions required to enforce the provisions of this Section. Each Mayor taking office under this Charter shall cause a careful investigation to be made of the exact condition of all franchises theretofore granted by the City, and of the respective rights and obligations of the parties, and the performance of the same.

Section 2-403 Investigation of Offices.

The Mayor may at any time, with or without notice, investigate in person, or through one or more competent persons appointed by the Mayor for the purpose, the offices and accounts of any department of the City or of any employee, and the official acts and conduct of any official or employee in the administrative service of the City, and the money, securities and property belonging to the City in the possession or charge of such department, officer or employee. For the purpose of ascertaining facts in connection with these examinations, the Mayor shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as he or she may deem necessary, and to compel the production of books, papers, and other evidence. Willful false swearing in such investigations and examinations shall be perjury, and punishable as such. The expense of any such investigation shall be paid out of the General Fund, in the same manner as other claims against the City are paid. The result of all such examinations and investigations shall be reported to the Council, and such report be filed with the Auditor.

Section 2-404 Suspensions Pending Investigation.

The Mayor shall have power to suspend, pending an official investigation, any officer of the City except Council members or the Auditor for any official defalcation or willful neglect of duty or official misconduct.

Section 2-405 Notification of Contract Violations.

It shall be the duty of every officer and person in the employ or service of the City, when it shall come to such officer's or person's knowledge that any contract or agreement with the City, or with any officer or department thereof, or relating to the business of any office, has been or is about to be violated, forthwith to report to the Mayor all the facts and information within such officer's or person's possession concerning such matter. A willful failure so to do shall be sufficient cause for the removal of such officer or employee. The Mayor shall give a certificate on demand to any person reporting such facts and information that such person has done so, and such certificate shall be evidence in exoneration from a charge of neglect of duty in that respect.

Emergency Program Act

[RSBC 1996] CHAPTER 111

Definitions

1 (1) In this Act:

"head of a local authority" means

(a) for a municipality, the mayor or a person designated by the municipal council to act in the capacity of mayor in the mayor's absence, and

(b) for an electoral area in a regional district, the chair of the board of the regional district, or, in the chair's absence, a vice chair;

Declaration of state of local emergency

12 (1) A local authority or, if a local authority consists of more than one person, the head of the local authority, may, at any time that the local authority or the head of the local authority, as the case may be, is satisfied that an emergency exists or is imminent in the jurisdictional area for which the local authority has responsibility, declare a state of local emergency relating to all or any part of the jurisdictional area.

Evidence Act

[RSBC 1996] CHAPTER 124

Statutory declarations

69 A gold commissioner, mayor or commissioner authorized to take affidavits, or any other person authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making it before him or her in attestation of the execution of any writing, deed or instrument, or of the truth of any fact, or of any account rendered in writing, in the following words:

I, A.B., solemnly declare that [state the facts declared to], and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under oath.

Offence Act

[RSBC 1996] CHAPTER 338

Service on a corporation or municipality

29 (2) If the defendant is a municipality or regional district, the summons may be served by delivering it

(a) in the case of the City of Vancouver, to the **mayor** or city clerk,

(b) in the case of another municipality, to the **mayor** or in accordance with section 159 [*notice to municipality*] of the *Community Charter*, and

(c) in the case of a regional district, to the chair of the regional district or in accordance with section 6.5 [*giving notice to regional districts*] of the *Local Government Act*.

Police Act

[RSBC 1996] CHAPTER 367

Chair of municipal police board

25 (1) The **mayor** of a council referred to in section 23 is the chair of the municipal police board.

(2) If the mayor is absent or unable to act, the municipal police board members present at a meeting of the municipal police board must elect from among themselves a chair to preside at the meeting.

(3) In case of a tie vote at a meeting of a municipal police board, the chair may cast the deciding vote.

Utilities Commission Act

[RSBC 1996] CHAPTER 473

Offences

106 (1) The following persons commit an offence:

(f) the **mayor** and each councillor or member of the ruling body of a municipality that fails or refuses to obey an order of the commission made under this Act;

Boards of Trade Act (R.S.C., 1985, c. B-6)

Oath of office

14. The president and vice-president of the corporation shall, before entering on the duties of their office, take and subscribe before the mayor of the city or town constituting the district, or before any justice of the peace, an oath in the following form:

I swear that I will faithfully and truly perform my duty as of the board of trade, and that I will, in all matters connected with the discharge of that duty, do all things, and only such things, as I truly and conscientiously believe to be adapted to promote the objects for which the board was constituted, according to the true intent and meaning of the same. So help me God.

Criminal Code (R.S.C., 1985, c. C-46)

Reading proclamation

67. A person who is

- (a) a justice, mayor or sheriff, or the lawful deputy of a mayor or sheriff,
- (b) a warden or deputy warden of a prison, or
- (c) the institutional head of a penitentiary, as those expressions are defined in subsection 2(1) of the *Corrections and Criminal Release Act*, or that person's deputy,

who receives notice that, at any place within the jurisdiction of the person, twelve or more persons are unlawfully and riotously assembled together shall go to that place and, after approaching as near as is safe, if the person is satisfied that a riot is in progress, shall command silence and thereupon make or cause to be made in a loud voice a proclamation in the following words or to the like effect:

Her Majesty the Queen charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business on the pain of being guilty of an offence for which, on conviction, they may be sentenced to imprisonment for life. GOD SAVE THE QUEEN.