

Subject: The new Community Charter.

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A MESSAGE FROM ERNIE CRIST

> Great is the distance between the Community Charter Gordon Campbell promised when he was Leader of the Opposition and what he has delivered as Leader of the Province.

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> Gordon Campbell promised to make municipalities more independent and self sufficient, with less provincial interference in municipal decision making including prohibition of downloading. However, the Charter, if anything, is more restrictive. The principle of no downloading has evolved to become "no reduction of specified revenue transfers without consulting UBCM representatives".

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> Despite the principled statement of a need to consult on matters of mutual interests, only the Union of BC Municipalities or the Provincial Government itself - not the affected municipality - has the right to enforce consultation. This prompted Frank Leonard, president of the UBCM to note "Once again, you have rejected every amendment proposal we have put forward".

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> A big ado was made about giving municipalities natural person's power. This common law phrase describes a corporate ability to enter into contracts as if the corporation were an individual. But, states a legal opinion "it is difficult to predict how this will dramatically increase the powers of a municipality beyond what is currently authorized under the Local Government Act". "Indeed corporate powers could be interpreted more restrictively than is currently the case under the local Government Act" .

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> On the matter of "Regulating, Prohibit and Impose Requirements" in some cases municipal powers are even more restrictive than is currently the case, including the common law, and their exercise will be encumbered by more statutory conditions precedent. "Additional restrictions and requirements will result in more grounds for attacking a municipal bylaw under the new Charter".

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> Concurrent jurisdiction in the Charter means that provincial approval continues to be required for a number of matters including public health. New requirements for provincial regulation, approval or agreement will apply to building standards, natural environment protection and wildlife animals. This leaves the determination of a number of fundamental power matters to the provincial government.

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> The only concurrent aspect of the authority will be that a municipality may initiate the process and propose a bylaw. Some matters will require approval that previously could be regulated independently. Municipal procedures are commonly criticized for being unduly restrictive and time consuming. Despite this, many requirements for ministerial approval or specific authority continue in the new Charter. Further, notice procedures, hearing opportunities, elector approvals (formerly counter petition opportunities) public hearings, and assent of the electors continue as requirements under the Charter for many of the same matters.

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> Also Councils must provide reasons for making policy legislative decisions related to fundamental regulatory powers. The practical application may prove to be time consuming, difficult and uncertain. The requirement reduces the status of local government to the equivalent of an administration board. That too is based on legal opinion.

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> More - there is no general priority clause in the Local Government Act (LGA) or the Community Charter that would override the provincial acts. As an example of promises yet to be fulfilled in respect to taxation, any Charter or LGA requirement for all provincial Crown corporations to pay full property tax would need a concurrent amendment to the Hydro and Power Authority Act. Translation, we not only do not have the power to tax according to our needs but we stand to lose the powers we already have.

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> All in all, the new Municipal Charter is a far cry from making life for municipalities simpler or provide greater independence. Not to speak of recognizing municipalities as

