

# Equitable Contributions to Community Services – BC Ferries

## Taxation

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The issue I have chosen is that of Grants-in-lieu or Fees-for-Service from the British Columbia Ferry Corporation. I have set out a brief overview of this issue below, along with a package of materials relevant to the matter.\*

This particular issue has occupied me heavily in dealing with public concerns and expectations; in identifying issues and options available to Council, the Corporation and the Government; in recommending various courses of action both short-term and long-term; in building Council support and consensus; in liaising with other local government administrators and politicians; in dealing with Provincial agencies; various Unions; the A.V.I.M.; U.B.C.M.; various Ministries and Ministers; plus the local, Provincial and National media. In short, it seems to me that this one issue touches on a lot of the challenges which can be expected to be faced at some time or another by a local government C.A.O.

This issue is also important in a larger sense because, as revenues become more limited and expenditure flexibility for all local governments become more and more restricted, it will become necessary for municipalities to not only become more efficient in their operations, but more and more entrepreneurial in their approach. That will typically mean establishing a more demonstrable linkage between service levels provided and the cost to the user. The Ferry Corporation issue is a case in point.

### OVERVIEW

Nanaimo has traditionally had very large portions of valuable waterfront lands which are not revenue producing - even though the City has historically provided full services to these lands.

Both the B.C. Ferry Corporation and the Nanaimo Harbour Commission are statutorily tax exempt. The Ferry Corporation, in particular, places considerable demands upon the City: notably in the large budget and high priority areas of policing and road transportation.

After the economic downturn in the early 1980's it became increasingly necessary for Nanaimo to ensure that its taxpayers were getting value for their tax dollars.

B.C. Ferries is an anomaly amongst Provincial Crown Corporations in that it does not pay grants-in-lieu. (B.C. Rail. operates under similar policies.) In the mid 1980's a coalition of municipalities was struck (Nanaimo, West Vancouver, Delta and Richmond) to undertake a joint lobby on this issue. Nanaimo took a leadership role because of the parallel issue locally with the Nanaimo Harbour Commission; because Nanaimo is the only municipality with a major Ferry Terminal in the centre of the developed portion of the City; because it is the only municipality with two main road accesses to a major terminal; and because there are two separate B.C. Ferry operations within the City, as well as a private ferry service serving the same market and paying full taxes.

In response to the representations made by the coalition of municipalities, B.C. Ferries took the position that their hands were tied by Government policy. They also took the stand that they had absolutely no responsibility for issues beyond their property line (i.e. traffic line-ups, etc.) The municipalities were, therefore, referred directly to the Province. All direct billings to Ferries for service calls (including Fire suppression billings for fires on the Ferry docks) were simply ignored.

Over an extended period of time, various Ministries passed the policy issue back and forth to each other. Various meetings were held with various Ministers and the issue was generally taken under study. Ministers changed. No answers were forthcoming.

In 1988, after sustained prodding at all levels, the Minister responsible for Ferries stated publicly that the new policy of the Corporation, effective immediately, was to compensate municipalities for direct expenses incurred in providing service to Ferries' operations. The coalition of municipalities immediately pursued the announced policy change with the Ferry Corporation. B.C. Ferries advised that the Minister's statement should be interpreted to mean nothing more than that the old policy applied and that direct expenses (beyond sewer, water and garbage user fees) would not, in fact, be considered. Outstanding bills remained unacknowledged. More meetings with more Ministers were held and the Government continued to 'study' the issue.

Finally, faced with literally years of inaction, Nanaimo advised B.C. Ferries that municipal police forces would no longer respond. (At the time Nanaimo was providing up to eight R.C.M.P. Members on a regular basis to deal with Ferry traffic backups in the City; out of a watch strength of twelve - at the same time it had been discovered that B. C. Ferries had, in fact, contracted and was paying West Vancouver municipal police to provide direct policing services at Horseshoe Bay.) The threat to discontinue service was immediately effective and B.C. Ferries contracted traffic control in Nanaimo and elsewhere. Unfortunately the lesson learned was that the Corporation would only respond to threats.

In 1989, Nanaimo Council amended its user rates bylaws to provide for a special rate for both the Nanaimo Harbour Commission and the B.C. Ferry Corporation. (Recalling that Ferries' position was that it would pay sewer and water user fees, the City of Nanaimo altered its user fees for the two main non-taxable users.) The philosophy adopted in the new bylaws was to set an equivalent rate to that charged all other ratepayers; (i.e. to treat B.C. Ferries no better and no worse than anyone else). To accomplish this, the capital tax portion of the sewer and water functions was incorporated in the 'special' user fee. Bills went out and, after considerable effort on the City's part, the Harbour Commission paid the new fees. The Ferry Corporation, however, initiated a legal challenge to the City's bylaws - notwithstanding the fact that the Minister responsible for the Corporation was at the time still actively engaged in discussing the policy matter with the coalition of municipalities. The legal action against Nanaimo proceeded to a stage where it was possible to embarrass the Corporation, at which time the Minister's office was notified and no further word of legal action has been forthcoming from Ferries since.

In mid-1990, after literally years of attempts to influence Government policy through discussion, the Minister of Transportation and Highways' publicly acknowledged the validity of the coalition's general concerns and stated that "the issue was being dealt with" and "a report was to go forward to Cabinet for approval". The Minister expressed her personal support for some form of redress.

The coalition group considered that it had finally prevailed. Unfortunately, at this stage the Cabinet apparently rejected the issue - ostensibly because it views the Ferry Corporation as a part of the highway system and, therefore, considers that it should not pay grants-in-lieu, (ignoring the fact that all Highways Yards pay grants-in-lieu and B.C. Ferry operations previously run as part of the Highways system, including those in Nanaimo, all paid grants-in-lieu before becoming part of the Ferry Corporation).

In September 1990, after almost five years of effort, the coalition finally received a formal and definitive response from the Government. The Minister advised in writing that there would be no change to Government Policy on this matter.

Efforts now refocused on the Ferry Corporation itself and fees-for-service. Nanaimo Council acted independently on its previously stated intentions to withdraw locally provided and funded services if all outstanding billings to B.C. Ferries were not paid, or appropriate contractual arrangements for the provision of services were not entered into. Notice went out to the Corporation in September setting 1990-Nov-01 as the deadline for withdrawal of sewer and water service. 1991-Mar-31 was set as the date for withdrawal of Fire services. No positive response was forthcoming from the Corporation until 1990-Oct-29. Then, as a show of good faith, Nanaimo Council extended the first deadline until 1990-Nov-13. When no further proposals were reached prior to the extended deadline, water service was withdrawn. As a result, the Horseshoe Bay and Gabriola Island runs operated for a brief period with no municipal water service and with porta-potties for toilet facilities.

On 1990-Nov-23 the Corporation agreed to a proposal for a 'cooling off period' under which certain conditions were set out. A window now exists until 1991-Jan-31.

The ball is once again in the Corporation's (and the Province's) court. The Corporation continues to argue that it is tax exempt and that Nanaimo's approach amounts to a 'tax'. Nanaimo takes the position that its taxpayers are under no obligation to provide services for which they are not compensated.

As things currently stand, in the absence of a satisfactory resolution, both water and sewer service to all Ferry Corporation operations in Nanaimo will be disconnected after 1991-Jan-31. Fire Service will also be withdrawn on 1991-Mar-31.

DISCUSSION

Obviously if this issue had gone as one might have hoped, it would have been quietly resolved at a Staff level years ago - certainly before ultimatums and service curtailments (Provincial or City) were deemed necessary. This case study is offered precisely because it is not an example of administrative 'success' but exactly the opposite. It is in that vein that I propose to discuss this issue with the Board.

\* The background materials submitted with this paper may be reviewed by contacting the Administrator at the Board of Examiners.