

Inspector AMunicipalities - Forest 20170118

Re: Conflict of Interest

**Andrew Peat**

**From:** Andrade, Ana CSCD:EX <Ana.Andrade@gov.bc.ca>  
**Sent:** January-18-17 10:06  
**To:** 'Trusteeforest@saltspringfire.com.'  
**Cc:** 'corpadmin@saltspringfire.com'; Nicola CSCD:EX; Van Ommen, David CSCD:EX  
**Subject:** Response Email - Ref:170397 - Salt Spring Island Fire District

Board of Trustees  
20 February 2017  
Faganello, Tara CSCD:EX; Marotz,

This email is being forwarded to you on behalf of Tara Faganello, Assistant Deputy Minister, Local Government Division.

January 18, 2017

Ref: 170397

Mitch Forest  
Chair  
Salt Spring Island Fire District

Email: [Trusteeforest@saltspringfire.com](mailto:Trusteeforest@saltspringfire.com)

cc: [corpadmin@saltspringfire.com](mailto:corpadmin@saltspringfire.com)

Dear Mr. Forest:

Thank you for informing us about the nomination issue in the Salt Spring Island Fire District (SSFD) by-election. While it is unfortunate that more candidates from the community did not take up the opportunity to run in the Salt Spring Island Fire District's election, I am pleased that the Board will have quorum and that additional Trustees can be elected at the 2017 Annual General Meeting.

The *Community Charter* (Charter) sets out rules and requirements related to conflict of interest for municipal and regional district elected officials. Under the legislation, a pecuniary interest is generally defined as an interest that directly or indirectly provides a financial benefit. A non-pecuniary interest is a personal interest that is not monetary. The Charter requires a municipal or regional district elected official who may be in a potential conflict to withdraw from any discussions and voting in relation to that matter. The onus is on the member to determine if they must declare themselves as being in a conflict of interest.

While the Province of British Columbia recommends that improvement district boards follow the same practices as municipalities under the Charter (as noted in the Improvement District Trustee Manual), matters of conflict of interest for improvement districts falls under common-law. This means that a trustee could be challenged in court if the trustee has a perceived pecuniary interest (a financial gain) when voting on a particular matter. The consequence may not be disqualification (as it is under the Charter); the courts would ultimately decide on consequences.

For reasons of transparency and accountability, it may be prudent for the candidate who is a paid on-call employee of the fire district to resign from their on-call employment during their tenure as Trustee, to mitigate the potential for an actual common-law conflict of interest when discussions about budget and

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other monetary issues arise at the Board. This view takes into account court decisions that have found “volunteers” firefighters who received any remuneration to be employees of the local government.

The legislation makes clear that employees of a local government cannot hold elected office in that local government. In relation to “volunteers” who may receive some remuneration, the Province adopted a regulation addressing this issue on municipal councils and regional district boards. While the regulation does not apply to improvement districts, good practice for potential improvement district trustees would be to follow the principles underlying that regulation. At the same time, the decision ultimately resides with the candidates.

Ministry staff understand that returning officer Tom Moore is planning to discuss the potential conflict of interest issues with the candidate who is an on-call employee, and share potential options with them (i.e. resign their on-call employment for their tenure as trustee; or do not resign, with the awareness of their potential conflict and the consequences). I would also suggest that the SSFD Administrator, Andrew Peat, may also wish to discuss with all candidates the roles and responsibilities of Trustees, and expectations around matters such as potential conflicts of interest.

Thank you for writing regarding your concerns; I trust this helps to clarify matters.

Sincerely,

*Tara A. Faganello, CPA CGA BA Ec.*  
Assistant Deputy Minister  
Local Government Division  
Ministry of Community, Sport and Cultural Development

Telephone: 250-356-6575

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