

Raymond Stevens
20 Fitzwilliam St.
Carrara, Qld 4211
6th February 2006

Mr Robert Needham
Commissioner
Crime & Misconduct Commission
GPO Box 3123
Brisbane Qld 4001

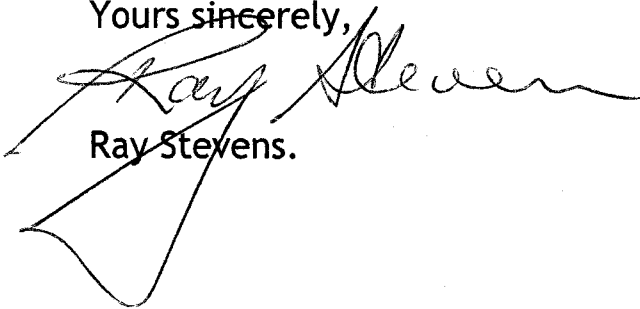
Dear Sir,

I enclose my formal submission to the commission for your consideration in relation to the discussion paper circulated by the CMC on matters relating to Local Government Elections. I am currently the Executive Assistant to Mayor Ron Clarke at the Gold Coast City Council and I did appear before the Commission in relation to allegations made by a failed candidate at the by-election held in early 2005.

It is however, my local government election experience that has prompted my submission gained through election campaigns in 1988, 1991 as a councillor and 1994, 1995 and 1997 as a Mayoral candidate for Albert Shire Council and Gold Coast City Council. I do believe that I am well qualified through these campaigns to offer a useful insight to the realities of local government campaigning and I am most pleased to share my experience and knowledge gained through those campaigns with the Commission.

I hope they are of relevance and assistance to you and I am available through the Gold Coast City Council offices if there are matters that you would like to pursue or discuss. A better system for local government elections is an outcome that the community would undoubtedly benefit by and if I can be a party to that outcome then I would be greatly pleased.

Yours sincerely,



Ray Stevens.

Local Government Election Submission to the CMC

I submit the following comments in relation to the circulated discussion paper by the CMC on Local Government Elections in Queensland. My comments are drawn from long term experience and are given in the hope that a practical and reasonable outcome will be achieved in amending any legislation to provide a better system for the conduct of council elections and the requirements that are placed on elected members of councils after those elections have been decided. I have predicated my assertions on three basic principles that I believe must be adhered to so that the ideals and freedoms of a democratic local government process can remain independent and truly representative. Firstly, the voting public must be clearly and unequivocally informed as to the credentials and ideology of the candidate for whom they wish to vote. Secondly, there must be one standard set of rules for local governments across Queensland regardless of size or growth, which enforces and recognises the basic role of local government of representing their constituency on local issues. Thirdly, any amended legislation must reinforce equitably and consistently the electoral process of disclosure regardless of the independent or party political status of candidates in local government elections.

Local government is the institution created by State governments for the orderly and proper conduct of public benefit activities to better and more knowledgably service the interests of the local communities that they represent. To this end, every four years in Queensland, elections are held to elect members of the local community in prescribed areas that the public feel are best qualified to represent their interests for the ensuing four years.

The disparity and divergence of the types of local governments in Queensland make it very difficult for a one size fits all doctrine to adequately address the complex and convoluted demands of a fair, equitable and reflective electoral process that satisfies all requirements for all local authorities.

Large and rapidly growing local authorities are particularly susceptible to unhappy local constituencies because of the difficulty of the inevitable public office quest of dealing with change.

As a result, the electoral process to put in place representatives who are capable and suitably qualified to run the affairs of the local government area may be unduly influenced by pressure or minority groups. These may include disgruntled residents, State and Federal political aspirants using local government as a platform or anti-growth agitators who have unfair access to greater media coverage by virtue of negative issues, which the media, by its very nature, is keen to promote.

Conversely, other groups that have a vested interest, such as the development industry, may also try to exert undue influence to counter balance the election of negative representatives or, in the worst-case scenario, promote decision-making bias to suit their own ends.

It must be remembered in any consideration of an equitable process for conducting quadrennial elections that elected representatives under the Local Government Act in Queensland are only a part of the decision making body acting on recommendations provided by independent council officers under the total jurisdiction of the chief executive officer. Their ability to manipulate or promulgate certain outcomes for individual councillors or their supporters is decidedly limited by their inability to have input to the recommendation process under the Local Government Act. They are virtually limited to saying yes or no to an officer recommendation and are then, if necessary, subject to justification of their decision in the case of development applications through the Planning and Environment court.

It is with this background that the consideration of legislative changes that would ensure the ongoing fair, open and reflective conduct of local government elections in Queensland should be considered. These changes are to a great degree being based on the conduct of the Gold Coast City elections, an area where growth, change and resident dissatisfaction is evidently extremely high. It is appropriate to consider the four main areas canvassed in the CMC discussion paper in the light of the recently held Gold Coast City inquiry and the revelations it has exposed.

Misleading Voters

It is apparent that statements were made by particular candidates at the 2004 election that were quite clearly erroneous and were made deliberately to deceive the public about the association and support of members of the development industry to those particular candidates. Unfortunately, whether rightly or wrongly, there is a community bias against developers and the development industry that enshrines the connotation that there is something untoward or unseemly about a developer being involved with the person that will decide whether the developer makes a lot of money or not. It is therefore understandable, but not acceptable, that a person who is being supported financially by a developer would not want that fact to become public knowledge. In political voting terms, to blatantly advertise the fact that you are being financially supported by a developer cannot help but be viewed by the voting public as an unholy alliance and is, in political reality, the ultimate kiss of death. In real terms, there is nothing wrong with a developer supporting a candidate of their preference with money for their campaign. It is a fact that they are one of the few groups along with community groups and chambers of commerce that have an ongoing and vested interest to see the council function in a proper and

orderly direction. It is their right under our constitution to support a government, or their choice of a particular government member, if they believe it is in their interest to do so. Party politics did not exist when our constitution was formed.

However, the support of particular groups to particular candidates is of critical relevance when considering the issue of misleading the elector. Whether it is a developer supporting a "pro-development candidate" or a green group supporting a "greenie candidate", that association must be clearly visible to the elector. For example, it is not acceptable for a candidate to masquerade as a pro-development, business type person when in fact, they are being supported by "green" anti-development groups. It is similarly not acceptable that, if a candidate is being supported by development group interests, that those associations are not clear to the elector.

The current penalty under the Local Government Act for misleading voters is a maximum of 40 penalty units. On current rates, this equates to a maximum financial penalty of \$3,000, clearly a totally inadequate penalty given the seriousness of the consequence. If voters have been duped into voting for someone who does not represent what that person purported to represent, it should result in that person forfeiting the seat and the voters having the opportunity to vote again for a representative that is in keeping with their intentions and beliefs.

Electoral Bribery.

In a large local authority area such as the Gold Coast, the reality is that it costs quite a large amount of money to fund a campaign. With most of the 14 divisions around the 20,000 voting population, it is an expense that is beyond the means that most people would be prepared to gamble to see whether they would become elected. In effect, it places representation by the ordinary person off the street out of bounds, which is contrary to the ideals and principles of democracy and social equality in government. We cannot sustain only government by the wealthy that can afford to expend large amounts of money on their individual election campaign and voters are entitled to seek representation in local government of individuals that are not dictated to and directed by party doctrine. Bribe is defined in the Oxford dictionary as inducement (especially money) offered to procure illegal or dishonest action or decision in favour of giver. As illegal and dishonest actions by councillors' results in their removal from office, we are really concerned with the notion of financial support to become candidates forming the basis of electoral bribery. If a candidate is financially supported after they have made their own decision to become a candidate, it is obviously not electoral bribery.

We are dealing with a classic chicken and egg situation as many people would like to represent their community but are stymied by the

financial obligation required to run for office. The opportunity to run for office with financial support from interested parties should not be precluded from individuals contemplating representing their community. It only becomes a bribe when there is a return of a favour to the giver of electoral support and thus the onus of proof of a bribe will not become evident until a favour is determined by a court to be given. An unsatisfactory option to obviate the inference of voting bribery is through the process of eliminating the ability for a councillor to vote on any matter that concerns a person or entity that has donated to their campaign either financially or through voluntary physical assistance. This may lead to a situation where there is not a quorum to decide on an application and who makes the decision on the officers' recommendation in this circumstance?

Returns About Election Gifts.

We have established that it is every ones' interest to be able to accept financial support from differing sources for electoral campaigns as long as it is fully disclosed and that voters are aware of the person they are voting for and the associations of that candidate. The corollary of this premise is that the timing of the disclosures must be sequenced to give the voter ample opportunity to comprehend the association of the candidate and their support base so the voter has time to make an informed and definitive selection.

To this end, a period of not less than three days before an election for total disclosure of all election gifts and donations to all candidates in relation to election campaigning for the proceeding four year period would enable media, election rivals and voters to adequately assess the credentials and support base of all candidates to make an informed decision for whom they wish to vote. This also means that all donations and election campaign gifts must be made and declared three days prior to the election being held. This rules out any after the result type contributions that may be construed as favour generating gifts but also allows candidates every opportunity to generate support within the community almost right up to the election day. If people or entities wish to support candidates, then they should have the courage of their convictions to do so at least three days before the election date. If the voting public is fully informed about the candidate and their support base, then they are casting their vote with their eyes wide open. Donations and gifts made before an election result is known are made with no certainty of success but with more a show of support and belief. Donations and gifts made after an election result is known carry a distinct waft of garnering favouritism from successful representatives.

Conflicts of Interests of Councillors

The Act currently states that a councillor who has a MATERIAL PERSONAL INTEREST in an issue must disclose the interest to the meeting and must not be present or take part in the meeting while the issue is being considered. The difficulty in defining this action lies within the interpretation of material personal interest. If there is personal (including family and related persons) benefit or loss associated with the decision of council then that quite clearly requires identification and the abstention from the decision making process by the councillor. If a councillor derives no personal benefit or loss out of a decision by council then it is inequitable and unsustainable that the councillor should have to declare an interest and remove themselves from the decision making process. For example, the local football team may benefit from a decision that a councillor makes and that football team may help to hand out voting cards on election day. It is in their interest to support a candidate that will pursue their interest, and that is a fundamental right of the democratic process. To then have that person once elected not be part of the decision making process defeats the intent of having representatives elected that will follow the wishes of their constituency. Similarly, it is unfair that a person, who is elected with the financial support and voluntary physical support of, for example, a green group, should not be able to participate in the decision making process of an issue that is of the councillors' constituency's interest. In this same manner, development groups and/or developers have a general vested interest in council activities and are therefore entitled under a free democracy to support persons of their own volition. This should not then exclude their elected representative from the decision making process of issues that are of importance to them. There is some sort of unjustifiable perception that just because a councillor has been supported in some manner in their candidacy by a developer, then that councillor is indebted to the developer to vote only in favour of the way the developer wishes a decision by the council to be reached. In reality, once elected it is the wishes of the wider electorate that will see the councillor re-elected and every councillor who is politically aware and wishes to continue their councillor career will vote the way the wider electorate would wish them to vote, the effective working of a democracy. It is in the light of this apparent impossible unworkability and inequity in implementation, that any declaration of material interest can be made other than the current practice of a material personal interest in a matter to be resolved by council.

Other matters raised in discussion paper.

Issues that were canvassed for discussion in the paper and that have not been covered in the above synopsis include some matters that may

have favourable outcomes to the proposition that only registered political parties can accept funding for Local Government elections. This is a nonsense. To say that there should be a higher level of accountability for local government than other levels of government given that a local government is merely a child of State government constitutionally is akin to a State government saying that local governments are inherently dishonest but we (State government) are totally honourable; trust us! All levels of governments should be equally transparent, open and accountable. If local government political party candidates receive donations for their campaigns from developers through a third party source (ie the candidates registered party), what could possibly make it different to an independent candidate receiving money in determining which way, and if, the councillor will vote on the developers application? If donations are made through third party sources (trusts, political parties, solicitors etc), in the interest of equality, fairness and transparency, they should be declared and open for the public to peruse. It must be remembered that it is local government that we are legislating for and although there are a couple of very large and rapidly growing local authorities, the vast majority are extremely keen to keep the LOCAL moniker as the critical factor in determining what legislative changes should be instigated.

Conclusion

An experienced view of local government elections would conclude that there is no panacea for the perception promoted through beaten candidates, media interests unhappy with the outcome and a public extremely distrustful of the integrity of politicians, that the local government electoral process is currently flawed. Attempts at legislation to limit the ability of developers to support candidates at local government elections may unfortunately encourage a return to previous practises of insidious cash donations and improper activity. As an interest group, developers should be entitled to make contributions to furthering their interests in the same manner that anti-development interests are entitled to pursue their aims and objectives. Disclosure prior to the election is the key to a transparent, open and fair process and following the declaration of the successful candidate, the Act should put faith in the decision making capacity of the chosen elected representatives to act responsibly in consideration of the recommendations of the council officers. Any attempt at unwieldy and complex legislation to prevent involvement by interested parties in local government elections will result in covert and deceitful practices that are to be discouraged by a discerning electorate at all costs. Voters are far more intelligent than legislators give them credit for and

at the end of the day, the ballot box is the final arbiter on who has been doing a good job and who hasn't.

Signed

A handwritten signature in black ink, appearing to read "Ray Stevens". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ray Stevens
Former Mayor of Albert Shire
Former Mayor of Gold Coast City
Mayors Executive Assistant Gold Coast City