

CAPITAL REGIONAL DISTRICT
Regional Planning Services Department

Staff Report to the Regional Planning Committee
Meeting of Wednesday June 18, 2003

SUBJECT:

RGS Final Proposal Arbitration – Status Update

BACKGROUND:

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| Feb. 27, 2002 | The Regional District Board gave first and second reading to the Regional Growth Strategy, Bylaw No. 2952. The Board passed a resolution to hold a public hearing on the bylaw, and to submit the bylaw to member municipalities, neighbouring regional district(s), and the Minister of Community, Aboriginal and Women’s Services. |
| April 3, 2002 | The public hearing on Bylaw No. 2952 is held. |
| April 5, 2002 | The Regional Growth Strategy is formally submitted to the member municipalities, the CVRD and the Minister. |
| July 23, 2002 | Correspondence from the District of North Saanich received by the Regional Board Chair and Directors indicating the District Council’s refusal of the RGS. |
| Oct. 31, 2002 | Conclusion of statutory referral process, following two extensions of the deadline by the province to permit resolution of outstanding issues. |
| Nov. 28, 2002 | Letter sent by Regional Board Chair, Christopher Causton, to Minister George Abbott to notify him (in accordance with Section 859 of the Local Government Act) of the conclusion of the RGS referral period, and that the District of North Saanich and the Town of Sidney Councils had not accepted the RGS bylaw. |
| Dec. 18, 2002 | Correspondence from the Town of Sidney is received by the Regional Board Chair and Directors requesting the Board revise the Regional Growth Strategy to address the concerns of municipalities, particularly with regard to implementation and review. |
| Mar. 5, 2003 | Legal opinion received from “Staples, McDannold, Stewart” regarding the Council resolution submitted to the Board by the Town of Sidney. |
| April 23, 2003 | Regional Board approves the process and wording of the submission for final proposal arbitration to resolve the outstanding issues on the RGS. |

DISCUSSION:

The purpose of this report is to provide members of the Committee and Board with an update of the process for resolving the outstanding issues associated with the regional growth strategy.

The regional growth strategy did not obtain the necessary unanimous acceptance from the member municipalities following the conclusion of the statutory referral process. The District of North Saanich and the Town of Sidney councils did not accept the RGS bylaw. As such, the RGS was subject to the dispute resolution requirements of the provincial growth strategy legislation contained within the Local Government Act (especially sections 860 & 861).

After considering the advantages and disadvantages of various options, the parties to the dispute decided to use final proposal arbitration to resolve the outstanding issues. This option was considered the most effective and expedient approach to use to resolve the issue under dispute.

The dispute is now limited to one issue. Initially the District of North Saanich expressed concern regarding the potential cost of the RGS implementation initiatives. The Town of Sidney indicated a number of concerns regarding the scope of the RGS, cost of implementation, and specific requirements and wording of the document. The municipalities have worked together to reduce the scope of the dispute to one issue: the last part of section I-1 of the RGS which requires, "...every five years after adoption, or more frequently at the Board's direction, a substantial review and update of the Regional Growth Strategy." The two municipalities felt this wording exceeded the requirements of the legislation.

The wording of the submission for final proposal arbitration was accepted by the Board at its regular meeting of April 23, 2003. The wording responds to the concerns raised by the municipalities by generalising the requirement to "...*consider whether* the regional growth strategy should be reviewed for possible revision and amendment."

The Settlement Process for Regional Growth Strategies

The provincial legislation dictates a very detailed set of requirements for settling the RGS where unanimous approval and adoption is not obtained.

The provincial legislation contains the following requirement in Section 862(1) of the Local Government Act: "Lists of persons who may act...as an arbitrator under Section 861(2)...are to be prepared by the minister in consultation with representatives of the Union of British Columbia Municipalities." The Ministry of Community, Aboriginal and Women's Services (MCAWS) are responsible for establishing the roster of eligible arbitrators and obtaining the approval of the UBCM.

The RGS legislation came into effect in September 1995 and the corresponding regulation came into effect in 1998. The Ministry was fully aware that the CRD would be entering into the dispute resolution process by November 2002. The Provincial ministry staff person responsible for dispute resolution notified CRD staff at the end of April 2003 that the required roster had not

yet been compiled.

According to the province, the arbitration process may not proceed until they have developed the roster and had it approved by UBCM. According to provincial staff as of June 9, 2003, the roster was compiled but has not yet been approved by UBCM.

It was also mentioned by the provincial staff contact that the Minister must approve the choices made by UBCM, although the reference to this approval requirement is not clear in the legislation. Rather, the legislation states that the parties to the dispute must notify the minister of *their* choice made from the roster. *(CRD staff are seeking clarification on that issue, and have requested that a provincial staff representative attend the next meeting of the Regional Planning Committee to answer any questions on the process.)*

As a result of the provincial delay in producing the roster and fulfilling their end of the requirements, the CRD and the municipalities are unable to move forward on the arbitration process. No action can take place at the local government level until the Ministry completes their process requirements.

RECOMMENDATIONS:

That the Regional Planning Committee recommend to the Board that the Chair contact the Minister of Community, Aboriginal and Women's Services to request that the RGS settlement process requirement for the Capital regional RGS be expedited, and further, that the Minister give consideration to streamlining and simplifying the settlement procedures for regional growth strategies and the regional context statements.

FINANCIAL IMPACT OF THE RECOMMENDATION:

N/A

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Regional Planning Services

Mark Hornell, MCIP
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EXECUTIVE DIRECTOR'S COMMENTS:

W.M. Jordan, Executive Director