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File: 0400-50

UBCM Members
(via email)

Dear Regional District Board Chairs:

RE: Request for Support regarding the Comprehensive Review of RGS Legislation by the Provincial Government

On behalf of the Capital Regional District (CRD) Board, I am writing to request your support for the Province to engage local governments in a comprehensive review of the Regional Growth Strategy (RGS) sections of the Local Government Act.

At its June 13, 2018 meeting, the CRD Board passed the following motion:

That a letter be sent to the Minister of Municipal Affairs and Housing requesting engagement of local governments in a comprehensive review and update of Part 13 of the Local Government Act and related regulations.

On March 14, 2018, the CRD Board adopted a new RGS bylaw (Bylaw No. 4017) following an extensive and costly eight year update process. Provincial legislation presented significant process and content challenges in preparing the RGS document (see Attachment for details). Without legislation changes, future RGS updates will likely face similar challenges. Engaging local governments in a comprehensive review and update of the 20 year old RGS legislation would help mitigate future time, cost and process risks. The decades since RGS legislation was initially introduced have seen significant shifts in provincial and local government issues and community contexts – shifts which warrant re-examining the legislation. An update is considered particularly critical in light of recent court rulings which have raised questions about the effect of RGSs. It is noted that other provinces have recently updated their growth strategy legislation.

As dated RGS legislation is a matter impacting not just the CRD, but also many other Regional Districts across the Province, the CRD has raised this matter with the Minister of Municipal Affairs and has also submitted a related resolution to be considered at this year's UBCM convention.

I encourage you to contact the Minister to indicate your support for local government engagement in a review of the RGS legislation and to submit a letter of support to UBCM for the CRD's resolution.

For further discussion on this matter, I can be reached at crdchair@crd.bc.ca or 250-360-3126.

Sincerely,

Steve Price,
Board Chair, Capital Regional District

Attachment: Summary of Legislative Challenges

cc: CRD Board Directors
Robert Lapham, Chief Administrative Officer, CRD
Kevin Lorette, General Manager, Planning and Protective Services, CRD
Signe Bagh, Senior Manager, Regional and Strategic Planning, CRD

SUMMARY OF LEGISLATIVE CHALLENGES

The legislative requirements for preparing, adopting and implementing an RGS presented both process and content challenges to preparing the 2018 RGS document. The challenges are summarized in the table below.

Legislative Requirements	Process Challenges	Content Challenges
Document Preparation	The Intergovernmental Advisory Committee (IAC) gives a disproportionate role to parties (i.e., provincial and federal ministries / agencies) not bound by the RGS. This role misalignment creates a challenging participation dynamic for parties (i.e., municipalities) who are most directly affected by the RGS.	The stated purpose of an RGS suggests a broad mandate while required content is limited to prescribed matters deemed regional in nature. The required content affects matters under municipal authority (e.g., housing and transportation). It is unclear, particularly given the <i>GVRD v. Langley (Township)</i> ruling, the extent to which an RGS can include actions and policies that will achieve the stated purpose(s) of an RGS.
	The role of electoral areas in the RGS process is unclear.	
Acceptance and Adoption	The requirements for unanimous municipal acceptance are inappropriate for the stated purpose and content requirements of an RGS. The high threshold for acceptance increases the likelihood of impasses. Even constitutional amendments do not require unanimity.	Given the requirements for unanimity and adoption by bylaw, it is extremely challenging to prepare RGS content to which all can agree.
	The requirements for adoption by bylaw are inappropriate for the stated purpose and content requirements of an RGS. Adoption as a bylaw seems of limited value as there are no enforcement powers associated with the bylaw.	
	The role of the facilitator is unclear. It is challenging to appoint a facilitator once the process is underway.	

Legislative Requirements	Process Challenges	Content Challenges
Acceptance and Adoption (cont'd)	The mandated dispute resolution processes require the regional district to both coordinate and participate in the process. From a procedural fairness perspective, it is challenging to be both a party to the dispute and responsible for administering the process to resolve the dispute.	
	The role of First Nations in the RGS process is unclear. There is a requirement to consult, but no formal approval authority. This creates a challenging participation dynamic.	Although an RGS does not apply to First Nations reserve land, RGS policies may impact future First Nations development aspirations. It is unclear how an RGS could or would apply to different land development scenarios involving First Nations pending treaty outcomes.
Implementation	The legislation is unclear as to the grounds under which a regional district can refuse to accept an RCS. The lack of clarity creates an implementation challenge.	The legislation does not clearly define what constitutes a "relationship" between an Official Community Plan (OCP) and an RGS. This lack of clarity makes it challenging to determine the appropriate content of Regional Context Statement (RCS).