



## **REPORT TO CAPITAL REGIONAL DISTRICT BOARD MEETING OF WEDNESDAY, JANUARY 10, 2018**

---

**SUBJECT**     **Regional Growth Strategy Mediation Outcome**

### **ISSUE**

To receive a report on Regional Growth Strategy (RGS) mediation outcomes, to direct revisions to the RGS document and to refer a revised RGS document to municipal councils for acceptance.

### **BACKGROUND**

On February 22, 2017 the Capital Regional District (CRD) Board received seven municipal decisions to “not accept” the 2016 RGS document. Settlement of the disputed RGS provisions is being undertaken in accordance with the *Local Government Act* (the *Act*).

The Minister of Municipal Affairs and Housing (the Minister) has specified that the non-binding mediation process must conclude by January 15, 2018. Acceptance of the RGS must be reached within 60 days of the conclusion of the mediation process.

Participants in the non-binding mediation process are: the proposing Board (the CRD), the seven municipalities who refused to accept the RGS (Central Saanich, Colwood, Esquimalt, Highlands, North Saanich, Saanich and View Royal), the three municipalities who accepted the RGS and voluntarily chose to participate (Metchosin, Sooke and Victoria), and, at the request of the CRD Board, the Juan de Fuca Electoral Area Director.

Non-binding mediation sessions were held on December 6 and 7, 2017. A synopsis of mediation outcomes is provided in Appendix A. The mediation process generated proposed solutions to all disputed RGS provisions. A track-changes version of the document incorporating the solutions is provided in Appendix B and a clean copy of the resulting recommended bylaw is provided in Appendix C. Changes shown in the revised document consist of content that was agreed to by all participants at mediation. Changes also include edits to maintain internal document consistency.

### **ALTERNATIVES**

#### *Alternative 1*

- a) Rescind first and second reading of Bylaw No. 4017 “Capital Regional District Regional Growth Strategy Bylaw No. 1, 2016” given on November 23, 2016 and give first and second reading to a revised Bylaw No. 4017 (Appendix C) that provides content revisions as agreed to by all participants at mediation.
- b) Refer the revised Regional Growth Strategy Bylaw No. 4017 to municipal councils for acceptance as per section 439 of the *Local Government Act*.

### *Alternative 2*

Advise the Minister of Municipal Affairs and Housing that the Capital Regional District Board does not agree with solutions derived through non-binding mediation and advise that settlement by “final proposal arbitration” as per section 441(2) of the *Local Government Act* is the Board’s preferred method for resolving the disputed Regional Growth Strategy provisions.

## **IMPLICATIONS**

### **RGS Implications**

Over 30 RGS provisions required resolution. Alternative 1 proposes a revised RGS document that addresses disputed matters as agreed to by participants at mediation, representing significant progress toward completion of the RGS update. Content changes relate to growth management, including population projections, terminology and mapping; water servicing; climate action; food systems, and transportation. The changes are needed to resolve the disputed provisions.

Alternative 2 does not propose any changes and triggers a binding process to resolve the dispute. Alternative 2 should only be chosen if the Board does not agree with the proposed revisions arrived at through mediation.

### **Process Implications**

Alternative 1 gives first and second reading to a revised RGS bylaw document and refers the revised bylaw document to municipalities for acceptance. Acceptance of the re-referred document is the only way to take disputed provisions “off the table”. If accepted by all municipalities, then the RGS bylaw could be adopted by the Board. As per section 439(8)(b) of the *Act*, a local government may not reject an unchanged provision it has previously accepted. Any matters not accepted through the referral *must* be resolved through a binding process.

Alternative 2 moves directly to a binding process. No matters will be taken off the table and all disputed provisions will be resolved through a binding process. Given the progress achieved at non-binding mediation, this Alternative is not recommended.

Should acceptance of any revised provision not be reached, the RGS must be settled by a binding settlement process. Under a binding settlement process, an arbitrator(s) or a peer panel has the power to determine RGS content and that content could be different than what is in the current document or what is in the proposed revisions shown in Appendices B and C.

### **Intergovernmental Implications**

All municipalities must accept the RGS before the RGS can be adopted as bylaw. Section 436 of the *Act* sets out requirements for municipal acceptance.

### **Cost Implications**

Alternative 1 seeks to resolve disputed provisions so as to avoid a binding arbitration process. No further costs would be incurred with this alternative. Alternative 2 would require that all disputed provisions be resolved through a binding arbitration process. The costs for a binding process could be upwards of \$100,000, depending on the process and the number of provisions requiring resolution. These costs would be shared proportionally between the Board and any participating local government, based on converted value of land and improvements. Staff time

and any other incidental costs, including legal services, would be in addition to the shared costs for the process.

**Next Steps and Timing Implications**

As per Provincial direction, the Board must conclude the non-binding mediation process by January 15, 2018.

Alternative 1 refers a revised RGS bylaw document for municipal acceptance, thereby fulfilling Provincial requirements. Municipal decisions to accept or not accept the changed provisions must be made within the legislated 60-day referral period.

**CONCLUSION**

Non-binding mediation generated proposed solutions to all disputed RGS provisions Board referral of the revised document and unanimous municipal acceptance would allow the RGS update to be concluded in April 2018.

**RECOMMENDATIONS**

- a) Rescind first and second reading of Bylaw No. 4017 “Capital Regional District Regional Growth Strategy Bylaw No. 1, 2016” given on November 23, 2016 and give first and second reading to a revised Bylaw No. 4017 (Appendix B) that provides content revisions as negotiated through non-binding mediation.
- b) Refer the revised Regional Growth Strategy Bylaw No. 4017 to municipal councils for acceptance as per section 439 of the *Local Government Act*.

Submitted by:	Emily Sinclair, MCIP, RPP, Planner, Regional & Strategic Planning
Concurrence:	Signe Bagh, MCIP, RPP, Senior Manager, Regional & Strategic Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ES:SB

Attachments: Appendix A Summary of RGS Mediation Outcomes  
Appendix B Track-Changes RGS Document  
Appendix C Revised 2016 RGS Bylaw No. 4017 “Capital Regional District Regional Growth Strategy Bylaw No. 1, 2016”