

NO: R131

COUNCIL DATE: June 27, 2011

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## REGULAR COUNCIL

TO: **Mayor & Council** DATE: **June 27, 2011**

FROM: **General Manager, Planning and Development** FILE: **0450-01**

SUBJECT: **Metro Vancouver Regional Growth Strategy Dispute Resolution Process  
Related to Coquitlam Objections**

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## RECOMMENDATION

The Planning and Development Department recommends that Council receive this report as information.

## BACKGROUND

On January 21, 2011, the proposed Metro Vancouver Regional Growth Strategy Bylaw, "Metro Vancouver 2040: Shaping Our Future" (the "RGS"), was referred to local governments, including the City of Surrey, for ratification. By legislation, all affected local governments must accept the RGS before it can be adopted by the Metro Vancouver Board. Of the 25 affected local governments, only the City of Coquitlam has not accepted the RGS. As a result of the Coquitlam action, the Minister of Community, Sport and Cultural Development has directed that a non-binding dispute resolution process be initiated according to Section 859 of the *Local Government Act* to resolve Coquitlam's objections. This process has begun, with initial meetings having been held on June 14 and 16, 2011. Council has decided that the City of Surrey will be a participant in the process to ensure that the City's interests are protected. A facilitator was appointed to assist in the process. The facilitator is Jamie Chicanot, who has experience in facilitating similar Regional Growth Strategy disputes in British Columbia.

## DISCUSSION

### Coquitlam's Objections and Proposals

The City of Coquitlam has set out its objections to the draft RGS, and has proposed six amendments to RGS to resolve its objections. A brief, dated June 1, 2011, outlining Coquitlam's objections and its proposals, is attached as Appendix I to this report. These proposals can be summarized as follows:

- ***Proposal #1 – RGS Land Use Designation Changes***

Coquitlam proposes that within the Urban Containment Boundary, local governments should be able to amend the RGS land use designations from "Industrial" to "Mixed Employment" and from "Industrial" or "Mixed Employment" to "General Urban". Such amendments can be "vetoed" by a 2/3 majority vote by the Metro Vancouver Board but would otherwise be

deemed as accepted by the Board. In the current draft RGS; such amendments must be forwarded to the MV Board for approval on the basis of a 50%+1 affirmative vote by the Metro Vancouver Board.

Coquitlam's proposal therefore shifts the balance of power on RGS land use designation changes towards the local municipal government, effectively lowering the threshold for Metro approval from 50%+1 to 34%.

- ***Proposal #2 – Five Year Board Vote on the RGS***

Coquitlam proposes that on the fifth anniversary date following the approval of the RGS by the Metro Board that the RGS include a requirement that the MV Board be obligated to vote on whether the RGS should remain unchanged or whether it should be amended. Coquitlam has recommended that a 2/3 majority vote of the Board would be required to affirm the RGS; failing this, the Regional Planning Committee of Metro Vancouver would receive proposals from local governments and from the general public and would then make recommendations to the Metro Board for amendments to the RGS, within one year. During this one-year process, the existing RGS would remain in effect.

It is noted that current legislation (Section 869(2) of the *Local Government Act*) directs that:

*"At least once every 5 years, a regional district that has adopted a regional growth strategy must consider whether the regional growth strategy must be reviewed for possible amendment".*

Coquitlam's proposal enshrines this review requirement in the RGS itself, and reduces the "threshold" for triggering such a review from the current 50%+1 vote to 33%.

- ***Proposal #3 – Performance Measures related to RGS Administration***

Coquitlam proposes that a series of additional performance measures be added to the RGS, and reported annually to the Metro Vancouver Board. These measures deal with the costs (in time, staff and money) associated with administering the RGS and with the numbers of amendment applications considered, approved and rejected.

- ***Proposal #4 – Dispute Resolution Process***

Coquitlam proposes a dispute resolution process, similar to that as set out in legislation related to disputes over the acceptance of an RGS or a Regional Context Statement, be applied to all local government appeals of Metro Vancouver Board RGS amendment decisions. The final outcome of such disputes (after other options are exhausted) would be an arbitration decision by a third party arbitrator assigned by the Province.

- ***Proposal #5 – Consistent Definitions and Land Use Designations***

Coquitlam proposes that Metro Vancouver staff work with the member local governments to develop consistent definitions and the consistent application of RGS land use designations across all municipalities. Coquitlam holds the view that variations between municipalities over what is included in land use designations, such as Industrial and Recreation – Conservation, undermines the integrity of the RGS.

- **Proposal #6 – Define "Regional Significance"**

Coquitlam proposes that Metro Vancouver work with its member local governments to define "regional significance" for the purposes of delineating the spheres of authority between local and regional decision-making over land use.

The City of Coquitlam outlined its proposals for amending the RGS at the June 14, 2011 dispute resolution meeting. At the next meeting on June 16, 2011, Metro Vancouver by way of its Intergovernmental Affairs Committee asked a series of clarifying questions of the Coquitlam representatives and began to respond to Coquitlam's proposals.

### **Current Status and Next Steps**

At this time, discussions related to Coquitlam's proposals are ongoing. Two additional meetings are being scheduled, in an effort to reach consensus and resolution of the Coquitlam objections. A report on the progress of the dispute resolution process is to be forwarded to the Minister by the facilitator before June 30, 2011. The Minister will then decide whether the non-binding dispute resolution process will continue or whether the matter should be referred to binding arbitration to resolve the dispute.

If the non-binding dispute resolution process results in amendments to the draft RGS that are accepted by the Metro Vancouver Board, the amended RGS will be submitted to all affected local governments for ratification. In this ratification process, a local government may choose to accept or reject any changes to the RGS that arise out of the non-binding dispute resolution process; however, a local government may not reject those parts of the RGS that it had previously accepted.

If the dispute between Coquitlam and Metro Vancouver is settled through binding arbitration, there is no further ratification vote by affected local governments; rather, the final form of the RGS will be imposed by the arbitration decision.

### **CONCLUSION**

A non-binding dispute resolution process to resolve the City of Coquitlam's objections to the draft Metro Vancouver RGS has begun. Coquitlam has proposed six amendments to the RGS to resolve its objections. Discussions on these proposals are ongoing. Surrey staff will continue to attend the dispute resolution meetings and will provide further reports to Council on progress.

*Original signed by*  
Jean Lamontagne  
General Manager,  
Planning and Development

DL:saw

Attachment:

Appendix I City of Coquitlam Regional Growth Strategy Brief, dated June 1, 2011

**City of Coquitlam**  
**Regional Growth Strategy Brief**  
**June 1, 2011**

## **Regional Growth Strategy Context**

The City of Coquitlam is strongly supportive of regional planning in the Greater Vancouver area. The City has a long history of working with other lower mainland municipalities to achieve consensus and fairness in regional matters. We too believe that an effective, consistent, and well thought out regional plan will benefit our metropolitan area so long as that plan is fairly arrived at and values the inputs and needs of all its constituents. Despite any suggestions otherwise, Coquitlam is committed to advancing the long term livability and sustainability of the region.

The key goals of the proposed Regional Growth Strategy are well aligned to those goals Coquitlam has itself identified as crucial for our region. Specifically, Coquitlam supports the current urban containment boundary, has been a leader in ensuring efficient urban density is focused around transit, and endorses appropriate steps to secure a long term employment land base for the economic vitality of the region.

Our non-acceptance of the proposed Regional Growth Strategy was not in any way a rejection of regional planning, but is driven by our concern over how this regional plan has been developed, the inconsistencies in the plan around achieving its stated goals, the additional bureaucracy and the lack of direct political accountability inherent in the new regional planning structure.

## **Background**

Preparation of a new regional plan to replace the current Livable Region Strategic Plan (LRSP) has gone through a lengthy and sometimes difficult process. In the later stages of that process, a regional working group was formed to undertake a highly intensive and compressed review process in an attempt to resolve the outstanding issues and concerns with the proposed Regional Growth Strategy.

Coquitlam's General Manager Planning and Development played a key role in this process, along with other senior municipal planners and Metro Vancouver staff, in striving to reach an appropriate balance between regional and municipal planning authority in the draft Regional Growth Strategy, and endeavouring to deal with concerns from local governments, including the issues raised by Coquitlam.

The January 14, 2011 version of the Regional Growth Strategy is the latest in a series of drafts (February 20, 2009, November 13, 2009, September 3, 2010 and November 12, 2010) prepared and distributed by Metro Vancouver. The City reviewed and provided written comments to Metro Vancouver on each of these earlier drafts, with the exception of the November 12, 2010 version. The City's responses, with attached documentation, to Metro Vancouver are dated April 8, May 21 and June 3, 2009 in respect of the February 20, 2009 draft, May 18, 2010 in respect of the November 13, 2009 draft, and October 20, 2010 in respect of the September 3, 2010 draft.

## City of Coquitlam's Five Objections

Coquitlam identified five areas of objection to the proposed Metro Vancouver Regional Growth Strategy in its March 22, 2011 letter to Metro Vancouver. The letter cited a number of specific provisions, sections, subsections and maps of the Regional Growth Strategy that, in the City's opinion, substantiated each of the five objections.

As noted in Coquitlam's March 22, 2011 letter, the City's objections are based on long-standing concerns that Council has repeatedly expressed about earlier drafts of the Regional Growth Strategy as noted above that, in the unanimous opinion of Council, had not been adequately addressed by Metro Vancouver in the latest draft.

Coquitlam's March 22nd letter also included the request that a facilitator be appointed by the Province as provided for in Section 856 of the *Local Government Act* (the "LGA") to monitor and support discussions between Metro Vancouver and Coquitlam to address the City's objections to the proposed Regional Growth Strategy. The City requested a non-binding resolution process because it allows consensus building at the political level in a non-adversarial manner. This is in fact supported at the highest level by the Regional Growth Strategy itself, which includes in its Metro Vancouver Sustainability Framework (Figure 1, p. 2) the following:

- METRO VANCOUVER ROLE AND MISSION: Serve the region and attain excellence in meeting these responsibilities. Plan for the future by developing and using an integrated system of plans. Facilitate collaboration with local governments and citizens.
- VALUES: Integrity is our foundation. Passion for our work and pride in our accomplishments are our drivers. Respect for the public and compassion in our relationships are our guideposts.
- SUSTAINABILITY IMPERATIVES: Have regard for local and global consequences and long-terms impacts. Recognize and reflect the interconnectedness and interdependence of systems. Be collaborative.

Coquitlam's letter was considered by the Metro Vancouver Board at a Special Meeting on April 8, 2011. At that meeting, the Board resolved by a split vote that, rather than entering into a collaborative non-binding resolution process, it request that the Minister of Community, Sport and Cultural Development direct that the City and Metro Vancouver immediately proceed to binding arbitration in accordance with section 861 of the Act. That Board resolution was conveyed in a letter to Minister Chong in accordance with section 859(1) of the LGA.

In response to the Board's April 8<sup>th</sup> resolution, the City sent a letter to Minister Chong on April 12, 2011 reiterating Coquitlam's five objections and requesting that she select the non-binding resolution process that had been rejected by the Metro Vancouver Board.

On April 28, 2011 the City received a letter from Minister Chong directing that a non-binding dispute resolution process be undertaken and recommending the involvement of a neutral third party to facilitate discussions. The Minister further directed that, in accordance with section

859(2.1) of the Act, the process start no later than May 16, 2011 and that an update be provided to Ministry staff on progress being achieved by June 30, 2011.

Under the dispute resolution process agreed upon by Coquitlam and Metro Vancouver, the City is to provide a proposal to Metro Vancouver. This brief is the City's proposal.

**OBJECTION 1: Extent of Metro Vancouver's direct oversight and involvement in municipal land use planning and development approval processes**

The present design of the Regional Growth Strategy presents four significant concerns:

1. The existing version creates a significant increase of Metro Vancouver's power in terms of directing regional growth and dealing with future possible Regional Growth Strategy amendments.
2. The proposed Regional Growth Strategy creates a system where over time the power and authority of Metro Vancouver grows considerably without a pre-designed recourse.
3. The proposed regional plan does not require an open or rigorous review process. A review of the plan, its success and continued operation is left entirely in the control of its own authors.
4. The existing version lacks a viable dispute resolution mechanism. Thus disagreements between member municipalities and Metro Vancouver will inevitably lead to significant conflict and jeopardize the ability of the regional plan to achieve its goals.

In Coquitlam's view, the inflexible nature of the plan and the dramatic shift from the LRSP approach needs to be reviewed in terms of the long term consequences of these changes that will prevent the plan from delivering on its stated objectives. As an alternative, middle ground approach, Coquitlam believes that three changes are necessary:

- I. Greater flexibility for Urban Land Use re-designations within the Urban Containment Boundary,
- II. A member driven ratification and amendment clause, and
- III. A dispute resolution process for rejected Type 2 and Type 3 Minor Amendments.

**Concerns Previously Expressed related to the Regional Growth strategy**

Coquitlam has repeatedly expressed concern that an expanded land use regulatory role by Metro Vancouver has not received sufficient discussion by the Board and member municipal Councils nor has it been endorsed through a formal Board decision. Coquitlam had requested that Metro Vancouver schedule a Council of Councils workshop to assist the Board in addressing this fundamental question and this did not occur.

While Coquitlam acknowledges there have been a number of significant changes to the document, the current draft Regional Growth Strategy, if adopted, represents a more comprehensive and specific regional plan with a more direct role for Metro Vancouver

compared to the existing LRSP. By comparison, the much shorter LRSP, which was based on a “partnership” model among member municipalities, used a more generalized “big picture” approach to regional land use planning. Rather than parcel based land use designations and boundaries, the LRSP generally distinguishes between urban areas and the regional green zone and provides broad policy direction for these generalized areas to address high level goals of creating compact, complete communities and providing sustainable transportation choices for existing and future residents of the region.

### **Metro Vancouver Expanded Oversight and Authority**

The fundamental issue of Metro Vancouver assuming a larger role in local land use governance in the absence of a full Board debate and decision has not been fully addressed. Coquitlam Council had earlier requested (May 17, 2010 Council resolution) a formal Board review of the Regional Growth Strategy leading to a Board decision on whether Metro Vancouver collectively wishes to assume on behalf of member municipalities a more direct oversight role in land use and development decisions. While Metro Vancouver had not scheduled the previously requested Council of Councils meeting to address this matter, a Board Regional Growth Strategy workshop was held on September 24, 2010 to which individual Council members were invited. Although a number of questions were asked by the Board members present at the September 24<sup>th</sup> session, this specific issue was not raised or debated. However, at the core of the Regional Growth Strategy, this fundamental question about the scope, level of detail and affect of the new proposed regional plan needs to be considered by Councils across the region and the Metro Vancouver Board.

This fundamental question has become even more relevant with Metro Vancouver’s increasing interest to become involved in a wide variety of areas. One specific example is the recent Kitchen report that suggests that consideration be given to assigning complete responsibility for all decisions on water, sewer and solid waste to Metro Vancouver rather than splitting those decisions between Metro Vancouver and member municipalities as presently the case. Coquitlam staff and most if not all other member municipal staff are opposed to this change with Metro staff taking the position that a greater regional presence is warranted. Although this issue is still being reviewed by the Regional Administrators Advisory Committee, the final decision on the Regional Growth Strategy should be made with this larger context in mind.

A full and proper debate should and must consider whether a Regional District that lacks direct political accountability to the electorate should be the gatekeeper to changes affecting local decisions that have historically been decided by municipalities. The Supreme Court of Canada has recognized the unique abilities of local councillors as part of its continued call for deference to local decision makers, stating there is a:

... fundamental axiom that courts must accord proper respect to the democratic responsibilities of elected municipal officials and the rights of those who elect them. This is important to the continued healthy functioning of democracy at the municipal level. If municipalities are to be able to respond to the needs and wishes of their citizens, they must be given broad jurisdiction to make local decisions reflecting local values.

Further, history tells us that top down approaches in regional planning are undesirable. The Ministry of Community Services Regional Growth Strategy: An Explanatory Guide, revised February 2006, states:

Prior to 1983, British Columbia had a regional planning system that was hierarchical. With that system, a regional district prepared its plan and municipalities complied. This approach to regional planning was problematic and, subsequently, was abolished in 1983.

In addition, the Explanatory Guide recognizes as a fundamental principle that decisions should be made as close to the local level as possible which is consistent with the views of the Supreme Court of Canada as noted above.

One of the critical reasons that Coquitlam made the hard decision to reject the proposed Regional Growth Strategy and seek a non-binding dispute resolution process was to provide an opportunity for all municipalities in the region to take a "sober second look" before such significant powers are voluntarily transferred to Metro Vancouver. This process presents the opportunity for the member municipalities to engage in the discussion of whether they want Metro Vancouver to assume more direct oversight of land use and development decisions.

In addition to the above concerns, Coquitlam has specific issues with the degree of oversight and control being transferred to Metro Vancouver in the Regional Growth Strategy with respect to Type 2 – Minor Amendments.

Coquitlam understands and acknowledges the importance of the demarcation of the Urban Containment Boundary and is prepared to leave any changes to those boundaries to be handled as a Type 2 – Minor Amendment (s. 6.3.3). However, Coquitlam is of the view that Urban Land Use re-designations within the Urban Containment Boundary should not be within the complete control of Metro Vancouver as presently contemplated in the Type 3 – Minor Amendment process.

We recommend the following two clauses to address the issues related to balancing local issues within regional contexts and improving the flexibility of the plan to achieve its goals.

**(1) Greater Flexibility within the Urban Containment Boundary**

The Regional Growth Strategy recognizes that municipalities require some flexibility through section 6.2.7 that allows municipalities to re-designate one hectare or less sites within the Urban Containment Boundary as long as not more than two percent of the municipality's total lands are so designated.

Rather than completely transferring the decision making process for Urban Land Use re-designations within the Urban Containment Boundary from the municipalities to Metro Vancouver, Coquitlam proposes a veto system that will allow municipalities to proceed with their strongly desired changes unless Metro Vancouver strongly believes otherwise.



Coquitlam acknowledges that this flexibility needs to be limited to only those Urban Land Use re-designations that the municipality firmly believes are in the best interests of its community. As such, Coquitlam proposes that a two-thirds majority vote of Council should be required. Similarly, there must be strong Metro Vancouver belief that regional interests are being compromised for the regional veto to be applicable; as such we propose that a two-thirds weighted vote of the Metro Vancouver Board should be required to exercise the veto.

### **Proposal #1**

A new section 6.2.7 (d) be added as follows:

***6.2.7(d) the municipality may also re-designate any amount of land within the urban containment boundary from one regional Urban Land Use Designation to another regional Urban Land Use Designation if the re-designation is approved by a two-thirds affirmative vote of Council of the municipality and not vetoed by a two-thirds weighted vote of the Metro Vancouver Board.***

### **(2) Member Driven Ratification Clause**

The exiting review process set out in the draft Regional Growth Strategy is not yet well defined. While there may be an opportunity to review how well the Regional Growth Strategy has worked within five years of its adoption, as set out in section 869(2) of the *LGA*, it is not mandatory that such a review will be undertaken. Even though there will be an opportunity for municipal and public input, as set out in section 869(3) of the Act, the decision to review rests with the Metro Vancouver Board.

More importantly though, any changes will require compliance with applicable amendment procedures. If the change is governed by a Type 1 Major Amendment procedure, it will require approval by Metro Vancouver and all member municipalities in accordance with section 857. If the change is a Minor Amendment then it will be governed by either the Type 2 or 3 amendment procedures.

In order to address the concern that the Regional Growth Strategy represents too much of a shift away from the LRSP model too soon, caution suggests that a trial period would be appropriate. If the Regional Growth Strategy functions as it is hoped it will, then there should be no problem getting solid support for its continuance. If there are substantial shortcomings, the existing five year review process will be ineffective to adequately address those concerns.

Instead, Coquitlam believes that there should be a ratification clause that triggers improvements to the Strategy if so desired by the member municipalities. Coquitlam suggests that the Regional Growth Strategy requires ongoing support to remain in force. A ratification of the Regional Growth Strategy to continue onwards or alternatively require periodic updates to maintain its currency, is recommended at each five year anniversary, unless a two-thirds weighted vote of the Metro Vancouver Board representing two-thirds of the member municipalities determine it remain in its current form.

Section 137(1)(c) of the *Community Charter* explicitly recognizes that bylaws may include provisions such that on a future date specified in the bylaw, the bylaw will be automatically amended or repealed. As such, there is a statutory recognition of ratification clauses. Section 794(5) of the *LGA* grants Regional Districts the same powers.

To this end, Coquitlam proposes that a Ratification clause be included in the Regional Growth Strategy which provides for continuation of the regional plan where there is sufficient support and more flexible amendment procedures to help the Strategy adapt to changing conditions.

## **Proposal #2**

Coquitlam suggests that in Section F – Implementation of the Regional Growth Strategy the following be added:

### ***6.16 Ratification of the Regional Growth Strategy***

***In addition to the obligation for a review every five years under section 869(2) of the Local Government Act, this Regional Growth Strategy requires Board ratification by a two thirds weighted vote on the fifth anniversary date of its adoption and on each subsequent five year anniversary. Should the Regional Growth Strategy fail to achieve this ratification, the Strategy will be referred to the Regional Planning Committee for a one year review and update process. The Strategy remains in force throughout this period.***

### ***6.17 Review of the Regional Growth Strategy***

***The Regional Planning Committee will commence a review and update of the Regional Growth Strategy, as per section 6.16 above, where member municipalities can propose specific amendments to the Regional Planning Committee. The Committee, after reviewing all submissions, will recommend amendments to the Board.***

***Recommended amendments to the Regional Growth Strategy will be processed as per sections 6.3 and 6.4 in one year of referral to the Board.***

***Should the Regional Growth Strategy not be amended in one year by the Board, any member municipality with objections regarding the proposed amendments of the Regional Growth Strategy can trigger a dispute resolution process.***

Coquitlam further proposes that guidelines be further developed for how the section 869(2) review process will be undertaken and these guidelines be enshrined in an Implementation Agreement between Metro Vancouver and the local governments, with an opportunity for broad public input on the guidelines prior to the agreement being finalized. It is proposed that this Implementation Agreement be finalized within the next year.

This is in line with Subsection 6.15 – Guidelines in Section F – Implementation of the draft Regional Growth Strategy, which states that, “The Metro Vancouver Board may periodically prepare guidelines to assist in the implementation of the Regional Growth Strategy, including but not limited to, guidelines for the preparation of the Regional Context Statements, for amendment of a Regional Context Statement and / or Regional Growth Strategy, and, for establishing Frequent Transit Development Areas.” (p.64)

The Act in fact contemplates and allows for this process, specifically in section 868.2, which states in part that “...a local government may enter into agreements respecting the coordination of activities relating to the implementation of a regional growth strategy”.

These proposals enhance the respect for democratic processes to deal with local issues and increase the flexibility of the plan. Issue (4) above dealing with the dispute resolution process will be discussed under Objection 3.

**OBJECTION 2: Lack of details regarding the legal, administrative and financial cost implications for Metro Vancouver and member municipalities arising from implementation of the Regional Growth Strategy, including expansion of Metro Vancouver’s role in land use planning**

Coquitlam has had longstanding concerns about the costs of implementing and administering the proposed Regional Growth Strategy, especially given the expanded role proposed for Metro Vancouver in land use planning matters. These concerns were expressed directly to Metro Vancouver at a meeting with the City’s Land Use and Economic Development Standing Committee on October 4, 2010 to discuss the Regional Growth Strategy.

In response to this particular issue, Metro Vancouver responded in a letter to Mayor and Council dated October 15, 2010 that the work involved would be handled by existing Metro Vancouver staff and within existing programs and that no increase in consulting budget is anticipated.

With respect to the municipal staff implications of the Regional Growth Strategy, Metro Vancouver’s Chief Administration Officer stated, “So while the municipal Regional Context Statements are expected to be broader and deeper in content than those produced in response to the Livable Region Strategic Plan, I do not expect this to translate into additional staff requirements at either the regional or local municipal level.”

The experience of Coquitlam in just the last few weeks since it formally objected to the Regional Growth Strategy has shown that there are, in fact, considerable demands on staff, legal and other resources associated with the Regional Growth Strategy process, along with substantial costs. The City views its experience as an example of what other (particularly smaller) municipalities will eventually face if they attempt to seek changes to the Regional Growth Strategy, dispute an element of the Regional Growth Strategy or enter into any other process associated with the Regional Growth Strategy where there is not sufficient support from Metro Vancouver to do so.

Metro Vancouver has also not been at all clear on what the costs to itself will be of implementing and managing the Regional Growth Strategy. Will all of Metro Vancouver Policy and Planning Department staff time be taken up with the Regional Growth Strategy or only

some of it and, if so, how much? Is there other important regional policy and planning work that will not get done or be delayed because of the resources devoted to dealing with the Regional Growth Strategy?

Metro Vancouver may not have the answers now, but Coquitlam believes that public accountability and transparency requires that this information be tracked over time and made available for review and future consideration. There is a way to do this, as set out below.

Section G of the draft Regional Growth Strategy contains the Performance Measures that are proposed to be part of an annual report by Metro Vancouver on progress in meeting the goals of the Regional Growth Strategy. (pp. 66 – 67). As well, Section G notes that “this measuring and monitoring will also allow for the informed future update of the Regional Growth Strategy as required”. Although the Regional Growth Strategy does not say so, this annual reporting is not voluntary. It is required per section 869(1) of the Act.

All of the performance measures in the draft Regional Growth Strategy are externally focussed on the five goals. There is no reporting on internal performance, which Coquitlam believes is critical given the broad scope and complexity of the Regional Growth Strategy and Metro Vancouver’s proposed significantly increased role in land use planning. Coquitlam therefore proposes that the annual Performance Measures report be expanded to include quantitative information on the full costs to Metro Vancouver, along with certain other data, associated with all aspects of implementing, managing, monitoring and amending the Regional Growth Strategy in the coming years.

In other words, in addition to Metro Vancouver measuring effectiveness in achieving its goals, it should also be measuring administrative efficiency to ensure appropriate use is being made of taxpayer funded resources. The added performance measures would help ensure that the following objective in the Metro Vancouver Sustainability Framework (Figure 1, p. 2) of the draft Regional Growth Strategy is achieved:

- METRO VANCOUVER ROLE AND MISSION: Serve the region and attain excellence in meeting these responsibilities. Plan for the future by developing and using an integrated system of plans. Facilitate collaboration with local governments and citizens.

Furthermore, there should be an opportunity for the Council of each member municipality to provide input on the annual Performance Measures report, including requesting a presentation by Metro Vancouver staff if so desired.

### **Proposal #3**

Coquitlam proposes that in addition to the five goals and accompanying strategies listed in Section G of the Regional Growth Strategy (p. 66), that a separate and distinct performance measurable be added at the end:

### **Serve the Region**

**Strategy: Ensure that efficient use is made of Metro Vancouver's resources in meeting the above Regional Growth Strategy Goals**

- 1. Spending on implementing, managing, monitoring and amending the Regional Growth Strategy, including staff, consulting, legal and all other resources.**
- 2. Number of staff (full-time equivalent) devoted to implementing, managing, monitoring and amending the Regional Growth Strategy.**
- 3. Number of approved amendments to the Regional Growth Strategy by type.**
- 4. Number of rejected amendments to the Regional Growth Strategy by type.**
- 5. Comparison of spending and number of staff as related to Items 1 and 2 above post- and pre-adoption of the Regional Growth Strategy.**

**The annual Performance Measures report will be circulated by Metro Vancouver to each member municipality. If requested by a member municipality, Metro Vancouver will make a presentation to the Council of the municipality on the report, answer any questions that may arise and report this input to the Board.**

### **OBJECTION 3: Lack of clarity concerning the proposed dispute resolution processes**

During the Regional Growth Strategy process Coquitlam expressed concerns related to the lack of a pre-established dispute resolution process. Our concern was that without a detailed dispute resolution process established within the Regional Growth Strategy, those municipalities who disagree with a decision of the Board will have no other recourse then to enter into a long, expensive and legal confrontation. This is contrary to the preferred and established practices of the region to utilize dialogue and consensus prior to arbitration. These concerns were expressed several times throughout the Regional Growth Strategy process including direct expression to Metro Vancouver's Chief Administration Officer when he met with the City's Land Use and Economic Development Standing Committee on October 4, 2010 to discuss the Regional Growth Strategy.

The proposed Regional Growth Strategy does not include a process for resolving disputes between Metro Vancouver and the local governments where there are differences in interpretation of any part of the Regional Growth Strategy once it is adopted. As currently proposed in the Regional Growth Strategy, the Board would be the final and only arbitrator, leaving a local government with no recourse but to mount a legal challenge if it was dissatisfied with a Board decision. A change in the voting proposed structure required to reject a local government proposal – as outlined in other sections of this proposal - will alleviate many but not all of the potential disputes likely to be experienced in the future.

Indeed, the experience of Coquitlam over the last few weeks serves to emphasize that disputes will occur and that these disputes - in the face of a clearly defined resolution process – can be expensive, distracting and adversarial. One particular recent incident in the preliminary stages of this dispute where the City of Coquitlam was directed to request Metro Vancouver Board meeting audio tapes through the Freedom of Information (FOI) channel rather than being freely provided between two public organizations, illustrates how these processes can become strained and ineffective in the absence of a clearly defined dispute resolution process.

A pre-established resolution process will avoid the failings of designing the process on an ad-hoc basis. Coquitlam believes that a collaborative process to resolving differences on land use planning matters is preferred. There is a way to do this, as set out below.

Coquitlam proposes that the Regional Growth Strategy include a process for resolving disputes that is similar to that in the regional growth strategy legislation for the regional plan and context statements, beginning with a facilitated non-binding dispute resolution process open to the public and moving only to binding arbitration as a last resort.

Having this dispute resolution process open to the public would support several of the objectives of the Metro Vancouver Sustainability Framework (Figure 1, p. 2):

METRO VANCOUVER ROLE AND MISSION: Serve the region and attain excellence in meeting these responsibilities. Plan for the future by developing and using an integrated system of plans. Facilitate collaboration with local governments and citizens.  
VALUES: Integrity is our foundation. Passion for our work and pride in our accomplishments are our drivers. Respect for the public and compassion in our relationships are our guideposts. (emphasis added).

We strongly believe that a more open and transparent process is fundamental to resolving disputes related to the Regional Growth Strategy.

The 2003 Ontario Privacy Commission report titled "Making Municipal Government More Accountable: the Need for an Open Meetings Law in Ontario" correctly points out that the principle of open government is a linchpin of democracy because it allows citizens to scrutinize the activities of elected officials and public servants to ensure that they are acting in the public interest. Open meeting laws facilitate citizen participation in the policy and the decision-making process.

In 2007, the Supreme Court of Canada stated in *London (City) v. RSJ Holdings Inc.* that in large part deference accorded by courts to municipal governments is founded upon the democratic character of municipal decisions. The objective of holding open meetings is to imbue municipal governments with democratic legitimacy, which springs from elections and transparency in decision making.

The present requirement of the *Community Charter* that stipulates that a meeting of a council must be open to the public goes back to the 19<sup>th</sup> century and appeared as early as the *Municipal Clauses Act*, SBC 1896.

Questions of land use in the region under the RGS are of such significance that open dialogue is mandated to ensure decisions are being made in the public interest in a way that can be understood and scrutinized by the public. As such, our position is that all meetings should be open to public observation.

It is recognized that, in accordance with the *LGA*, only local governments may participate directly on the panel. However, as the Regional Growth Strategy is intended as a thirty-year

growth strategy for the entire region and was developed through a public process, we strongly believe that any considered changes to the Regional Growth Strategy occur in a similarly transparent manner.

We respect that all disputes come with associated costs. However, we submit that a dialogue and consensus based approach is economically preferable to a more confrontational program. We believe that the existing legislation was established to remove barriers to smaller municipalities. As such, we suggest a dispute resolution process that is an assessment based approach which allows equality in the opportunity to pursue a dispute by providing a more level playing field for differing-sized jurisdictions to participate.

#### **Proposal # 4**

Coquitlam therefore proposes that the following be added to Section F – Implementation of the Regional Growth Strategy (p. 61) and that the subsequent subsections be renumbered accordingly:

##### ***6.5 Dispute Resolution***

***In the event a municipality wishes to dispute a decision of the Metro Vancouver Board, that municipality may through resolution notify the Metro Vancouver Board of its intent to dispute a decision, its reasons for doing so, and suggested solutions.***

***It is agreed by all parties that any dispute will be governed by the following principles:***

- 1. Any member of the region has the right to disagree with a decision of Metro Vancouver and does so in the interests of their principles and constituents, and any such disagreements will be resolved without prejudice.***
- 2. The strength of the region is aided by our ability to respect differences and resolve them fairly and respectfully. It is recognized that disputes will arise and that all attempts to reach resolution should respect the consensus building tradition of the region and all participants.***
- 3. In the interests of good government and accountability, all dispute resolution processes should be conducted in an open and transparent manner.***

***Upon receipt of formal notification, a non-binding dispute resolution process will initially occur and the Board will call for the establishment of a "Dispute Resolution Panel". The Panel will adhere to the following process:***

- 1. Metro Vancouver and the municipality will appoint an agreed to neutral party as chair who will ensure that meetings of the participating parties are effective, productive and orderly by serving as a mediator to assist negotiations and problem solving.***

2. ***Metro Vancouver and the municipality will each select three elected officials, supported by staff resources. Alternates are not permitted.***
3. ***The municipality will provide Metro Vancouver and the Chair its proposals for resolution of its objections within 15 days of notifying the Board of its intent to dispute a board decision.***
4. ***In the interests of open and accountable government, attendance at the meetings will be open to the public to observe.***
5. ***All other member municipalities will be invited to attend as participants. Participating local governments may be represented by one elected representatives and one staff resource to participate on the panel and will have an opportunity to provide comment.***
6. ***Costs will be shared in accordance with the formula set out in section 859(5) of the Local Government Act.***
7. ***After sixty days either party may require the dispute to be settled by final proposal arbitration in accordance with section 861(2) of the Local Government Act.***

***Coquitlam also proposes that Section F - Implementation of the Regional Growth Strategy be amended to provide for the above dispute resolution process for all Type 2 and 3 Minor Amendments that are rejected by the Metro Vancouver Board.***

**OBJECTION 4: Need for greater consistency in the application and administration of land use designations across Metro Vancouver**

The proposed Regional Growth Strategy contains a number of inconsistencies in the application and the areas covered by Metro Vancouver's land use designations and mapping across the region. For example, there are variations in the designation of Industrial and Mixed Employment lands. Similarly, the designation of golf course lands also varies across the region as some are designated Conservation and Recreation in some communities and designated General Urban or Agricultural or Rural in other municipalities.

It is recognized that these designation variations tend to reflect local context differences and have arisen at the request of various municipalities. The inconsistent application of land use designations also can be traced to the challenges of applying a fairly detailed, metro wide plan to a varied region comprised of differing communities in the absence of a definition, or at the very least clear guidelines, to provide clarity, certainty and consistency as to what is "regional significance".

With regard to specific land use designation differences across the region, revisiting and altering these variations would be extremely difficult to tackle and resolve in the context of this non-binding dispute resolution process. However, it is felt that this issue can be addressed over time by arriving at a definition of regional significance as set out in the proposal below with regard to



Objection #5. If agreement can be reached regarding the regional significance Proposal #5 below, and Proposal #6 as follows is accepted, then the City of Coquitlam's Objection #4 can be resolved.

Subsection 6.15 – Guidelines in Section F – Implementation of the draft Regional Growth Strategy states that,

"The Metro Vancouver Board may periodically prepare guidelines to assist in the implementation of the Regional Growth Strategy, including but not limited to, guidelines for the preparation of the Regional Context Statements, for amendment of a Regional Context Statement and/or Regional Growth Strategy, and, for establishing Frequent Transit Development Areas." (p. 64)

### **Proposal #5**

A new section 6.15.2 be added:

***The Metro Vancouver Board in consultation with the municipalities shall develop a framework for ensuring that future decisions on land use designations and boundary adjustments are consistently applied across the region and that this framework be adopted as a guideline within one year from the date of adoption of the Regional Growth Strategy.***

### **OBJECTION 5: Lack of a clear definition of land uses/activities which are deemed to have "regional significance"**

Coquitlam believes that a definition or test for "regional significance" as it pertains to each land use designation be developed to attain greater consistency across the region and that this also be done under Subsection 6.15 – Guidelines in Section F – Implementation of the draft Regional Growth Strategy (p.64). Greater clarity on the definition or meaning of "regional significance" would also assist in reducing potential conflicts between the region and member municipalities.

As with the land use designation differences, it is beyond the context of this dispute resolution process to attempt to prepare the definition of "regional significance" for each land use designation. However, in order to better articulate Coquitlam's concern, reference to creation of the LSRP is very instructive. As a preliminary step to the LSRP, work was done to create the *Guidelines for Identifying Green Zone Lands* that set out categories and guidelines for the inclusion of eligible Green Zone Lands in the LRSP.

Coquitlam considers it mandatory that these previous guidelines be revisited, updated and expanded to provide the regional significance criteria for determining and appropriately designating the Non-Urban Land Use Designations in the regional plan going forward. Similar regional significance guidelines for differentiating and delineating the Urban Land Use Designations is recommended as well. Articulating and capturing those concepts in guidelines will be invaluable to assist in future amendments and to ensure better consistency of the land use designations over time than currently exists.

Specifically, the City seeks agreement from Metro Vancouver that within two months of adoption of the Regional Growth Strategy that the issue of how to define “regional significance” and the attributes of the Urban Land Use and Non-Urban Land Use designations be referred by the Board to the Metro Vancouver Technical Advisory Committee for consideration and reporting back through the typical channels to the Board with its recommendations.

A recommended approach for developing these definitions and criteria could follow the path of the above mentioned LSRP guidelines for identifying green zone lands. For example, with regard to the conservation and recreation designation, these guidelines would be reviewed and updated to arrive at more specific criteria and attributes (e.g., parcel size, public ownership, degree of regional draw or use of the lands). The test then to determine if an area being considered for re-designation would be based on the degree of regional significance by meeting a specified number of the criteria and attributes for the targeted designation.

Following the completion of the guidelines, the City proposes that the Metro Vancouver Board consider incorporating the agreed-upon definitions, criteria and attributes into the Regional Growth Strategy through a Type 1 – Major Amendment process that includes a Public Hearing or a region wide Implementation Agreement.

Coquitlam further proposes that the timeframe for completion of this task be one year after the adoption of the Regional Growth Strategy.

### **Proposal #6**

A new section 6.15.3 be added:

***The Metro Vancouver Board in consultation with the municipalities shall develop regional significance criteria as guidelines for determining, differentiating and delineating land use designations and for ensuring that future decisions on land use designations and boundary adjustments are consistently applied across the region and that these guidelines be prepared within one year from the date of adoption of the Regional Growth Strategy.***

### **Summary**

In summary, Coquitlam’s proposed solutions minimize the amendments required to the current draft of the Regional Growth Strategy and are largely focussed on processes that will strengthen the Regional Growth Strategy after it is adopted, helping reduce the potential for future misunderstandings and differences of interpretations that could lead to costly and time consuming disputes between the local governments and Metro Vancouver.

Coquitlam proposed solutions represent a fair and balanced approach to satisfying its objections to the draft Regional Growth Strategy and fully in keeping with the collaborative approach that the strategy repeatedly emphasizes.

Coquitlam’s representatives look forward to meeting with Metro Vancouver’s representatives and the chair to further discuss the City’s proposed solutions.