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MANAGER'S REPORT NO.	14
COUNCIL MEETING	95/03/20

TO: CITY MANAGER 1995 MARCH 15

FROM: DIRECTOR PLANNING & BUILDING OUR FILE: 01.215.5

SUBJECT: **GROWTH STRATEGIES ACT DRAFT LEGISLATION**

PURPOSE: To provide an overview of the Province's *Growth Strategies Act Draft Legislation* as it generally relates to the City of Burnaby.

RECOMMENDATIONS:

1. **THAT** a copy of this report be forwarded to the Hon. Darlene Marzari, Minister of Municipal Affairs.
2. **THAT** a copy of this report be forwarded to the Burnaby M.L.A.'s.

R E P O R T

1.0 BACKGROUND

In September 1994, the Ministry released a Discussion Paper entitled *Growth Strategies for the 1990s and Beyond, Updating British Columbia's Planning System*. The paper outlined an updated approach to growth management in which regional districts would play a key role, in partnership with municipalities and the province. The approach presented was cognisant of planning systems used by other jurisdictions that have been facing growth-related challenges and was based on a series of informal advice sessions held throughout the province

At its meeting of 1994 December 9, the GVRD Board reviewed the discussion paper and endorsed the proposals in the paper subject to further discussions with the Minister on the following:

- a more appropriate and effective dispute resolution process;
- provincial cooperation in regional growth planning on a "bottom up" rather than "top down" philosophy;
- definition in the regional growth management legislation of appropriate financial tools for local government for implementation, including full cost accounting, regional development cost charges and regional equalization of financial impacts;
- recognition and establishment of regional growth planning, research and monitoring as an ongoing responsibility of regional districts; and
- that the timing of the new legislation ensure that the GVRD's Livable Region Strategy process not need to be redone from a procedural viewpoint.

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In 1995 January, the Ministry released a further document entitled, **Growth Strategies Act Draft Legislation** for review and comment. Copies of this document have previously been forwarded to Members of Council. A copy is available for viewing by members of the public in the Planning and Building Department.

This document is an extension of the previous discussion paper and incorporated comments from participants who attended a series of regional workshops on the subject. A conference on the legislation with politicians and administrators from throughout the province was held on 1995 March 2. On the basis of that and other consultations, the Minister intends to introduce the legislation at the spring sitting of the Legislature.

2.0 THE DRAFT GROWTH STRATEGIES ACT

The draft Act is based upon nine principles that were presented in the original discussion paper (see **Attachment 1**). A tenth principle that has been discussed for possible inclusion is Federal Commitment which would advocate the need for federal agency adherence to the policies underlying a regional plan notwithstanding their senior status.

A considerable amount of new information is contained in the proposed legislation. The proposed Growth Strategies Act would take the form of an amendment to the Municipal Act, adding Part 28.1 entitled "Regional Growth Strategies". Amendments would also be made to the Vancouver Charter and the Island Trust Act where necessary to provide consistency with the Regional Growth Strategies provisions.

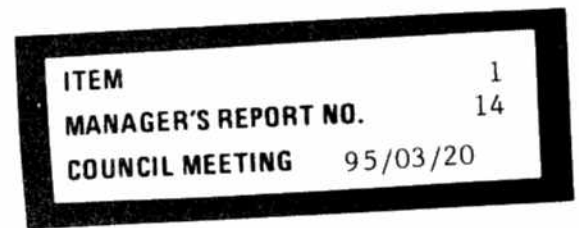
2.1 Contents of Regional Growth Strategy

The draft Act outlines the purposes of regional growth strategies and the expected contents. The descriptions are comprehensive and are to cover a period of at least 20 years. The contents of the GVRD's recently adopted Livable Region Strategy fulfil the content requirements as outlined in the draft Act.

It should be noted that voting in the GVRD on resolutions and bylaws relating to growth strategies would continue to use the weighted vote. The Act also establishes the preparation of regional growth strategies as a regional district "general service".

2.2 Dispute Resolution Process

During the time a regional growth strategy is under preparation, or before the end of a 120 day approval review period, the Act makes provision, upon request, for the appointment of a facilitator by the Minister of Municipal Affairs to facilitate negotiations and recommend non-binding resolution processes.



A more structured and formal dispute resolution process is provided for once the regional growth strategy has been adopted by the Regional Board. This process is designed to offer a choice of options for settling disputes between local government and the region on growth management issues. The major mechanisms are peer panel settlement (s.23(1)), final proposal arbitration (s.23(2)) and full arbitration (s.23(3)), with the results of the process binding on the parties involved.

If a local government does not respond within 120 days of receipt of the regional plan (in our instance by 1995 June 9,), then it is deemed that the local government has accepted the plan. If a municipality refuses to accept the regional growth strategy, then it must give specifics of the objection(s), the reasons for the objections and state alternatives that it would accept.

There are two major concerns that should be identified in relation to the dispute resolution provisions.

Need for Amended Process

The first relates to the automatic initiation of the dispute resolution process if a municipality does not agree to the regional strategic plan. In responding to the Livable Region Strategy, Burnaby Council advanced a preliminary residential growth target for the City with the clear understanding that:

- it represents a maximum scenario that will need to be reviewed in the context of an Official Community Plan update;
- it could only be achieved with the concurrent and priority development of Light Rapid Transit along the Broadway-Lougheed Corridor; and
- appropriate mechanisms will be available to assist those areas with higher growth to provide the needed support facilities and services.

It is obvious that all these provisos will not be met by the June 9 response deadline. As a result, the City's inability to approve the regional strategy will not relate to any one specific section of the strategy. In a previous meeting with Municipal Affairs, it was suggested that some form of response mechanism is needed to deal with the first time responses of municipalities undergoing major changes to their OCP's, that will not automatically initiate a dispute resolution process (as is now provided for), if an unqualified approval is not forthcoming. This is based on the fact that a first time endorsement is a complex subject for municipalities requiring major changes to their Official Community Plans, and the time associated with effecting such change.

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There may be a need for the province to have a phased enactment of legislation such that the dispute resolution process only takes effect once the larger policy questions associated with the implementation of the regional strategic plan (eg. location and timing of transit, financial mechanisms, etc.) have been addressed. Perhaps a 12 to 24 month period is required to resolve these major outstanding questions before the legislation is fully implemented.

Effect on Local Planning Autonomy

A second concern relates to one of the original premises surrounding the consensus agreement approach associated with the regional strategic plan. This recognized that local planning autonomy was to be protected and that consenting municipalities would enter into voluntary partnership agreements with the region. The proposed legislation indicates that municipalities with OCP's must provide regional context statements that are approved by the Board and that any issue of disagreement is subject to arbitration. As such, the autonomy of local jurisdictions will be compromised by this legislation.

The reason for this conclusion is that an arbitrator's decision arising from the dispute resolution mechanism could run contrary to the City's land use framework which in effect usurps Council's decision making power relating to land use policy. If this were in relation to a major issue in the community, it raises the question as to whether the local Council would want to continue with an OCP process. This reflects the fact that section 944 of the Municipal Act stipulates that a local government **may** adopt an official community plan, which provides an option for Council to either continue with an official community plan or not. While the draft Act does not alter this language, section 31 of the draft Act provides the Minister with the authority to require planning and zoning in areas where a regional growth strategy has been adopted. This does raise the further question as to whether a local government could "opt out" of the regional plan approval/arbitration process by electing not to have an official community plan.

Costs of Arbitration Process

The draft Act makes provision for the costs of either the non-binding or binding mediation or arbitration processes identified to be cost shared proportionally between the regional board and the local government(s) on the basis of the converted value of land and improvements in that part of each jurisdiction that is covered by the regional growth strategy. For clarification purposes, if Burnaby were involved with such an arbitration process, then the City would be liable for approximately 11 percent of the arbitration costs, based on the above formula (over and above its share of the regional district's costs for the remaining 89 percent).

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2.3 Regional Context Statements

In order to provide a link between regional growth strategies and Official Community Plans, the legislation provides for the mandatory inclusion of "regional context statements" (s. 28) within Official Community Plans that would be reviewed and signed off by the Regional Board. The regional context statement must specifically identify the relationship between an OCP and the regional plan and, if necessary, how the OCP is to be made consistent with the regional plan over time. Specific provision is being made for municipalities to include social planning policies in their Official Community Plans.

The intent is that these statements would be generally consistent with the 20 year time frame utilized by the region in their strategic plan. The objective here is to avoid each Official Community Plan or amendment having to be reviewed and signed off by a Regional Board. The municipality would then be able to update and amend its Official Community Plan as required. As long as these amendments were consistent with the regional context statement, there would not need to be further references to the Regional Board. Municipalities would have two years from the adoption of a regional growth strategy to prepare a regional context statement as part of their Official Community Plans and submit them to the Regional Board. Once accepted the municipality must resubmit a regional context statement every five years.

At the present time there is no information as to what level of detail is expected in the statements. However, a sample statement is being prepared by GVRD and Ministry staff for consideration at the next GVRD Technical Advisory Committee meeting.

Another issue relates to the time frames for the regional context statements and Official Community Plans. Section 945 (2)(a) of the Municipal Act stipulates that Official Community Plans need to address housing needs in a community for a period of at least five years. A time period for other land use types is not specified. One implication of the draft legislation is that OCP's will likely need to be more long term in nature in order for the content to comply with the required "regional context statement". While this in itself is not a major imposition in terms of good planning practices, it needs to be recognized that it forces the OCP to be more definitive in terms of possible longer term change that could cause unnecessary anxiety in some areas of the City. A shorter 10 year horizon may be a more appropriate time frame for the regional context statement.

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2.4 Implementation Agreements

The Act continues to make provision for "implementation agreements" for a broad range of activities related to regional growth strategy. These agreements will be the primary means for the regional district, the province and local governments to agree to actions on implementation of the plan (eg. infrastructure investments). If a local municipality chose not to amend its Official Community Plan to conform with the regional strategic plan then the prime consequence to the local municipality would likely be the holding back of infrastructure resources from the province and the region. The provision of these resources would only be forthcoming through the implementation agreements which would require the local Official Community Plan to be in conformity with the regional strategic plan.

2.5 Strategy Monitoring

After adopting a regional growth strategy, the Regional Board must establish a program to monitor implementation and must also publish an annual progress report. The strategy must be re-assessed at least every five years to determine whether amendments are required.

2.6 Financial Tools for Implementation

A major omission from the Act is legislation providing additional financial tools for implementation. This was one of the subjects raised by Burnaby (as well as many other jurisdictions) that needed to be addressed by the region and the province if the regional strategy was to be implemented on an equitable basis. The region has indicated in a review of the legislation that "the regional equalization of financial impacts of regional growth management policies is a highly complex subject that would require extensive analysis before any necessary legislation could even be drafted".

As outlined above, one of the key issues raised in the conditional response from the City of Burnaby to the GVRD Board in 1994 December concerning the Livable Region Strategic Plan was the need for specifics on this subject to be addressed.

3.0 CONCLUSION

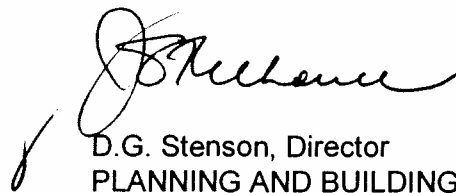
The legislation represents a best effort by the Minister to bring regional planning back to the Province that is considerate of the differing points of view presented. To the credit of the Province, the process to define the legislation has been an interactive one and open to suggested amendment.

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Clearly however, the draft legislation in its present form represents an erosion of municipal planning authority on specific issues through the imposition of the dispute resolution process. Without doubt, it has been included as a way to obtain closure on differing points of view and values. From the regional perspective, it is a critical tool to obtain municipal conformity to regional objectives. From the city perspective, it puts in doubt the question of ultimate authority for major planning decisions at the local level.

There is the need for an adjusted approval approach, that will allow Councils to continue to agree in principle with the regional growth strategy subject to the resolution of outstanding major issues associated with the strategy. In its present form, the Act allows only for either acceptance or rejection, which fails to recognize input from member municipalities that there are outstanding issues (as raised by Burnaby) that need to be satisfactorily resolved before acceptance of the plan or the initiation of a dispute resolution process can begin.

A second point relates to the omission of legislation providing additional financial tools for implementation of the regional strategy. While this may not be an impediment in the short term, it will likely be viewed as the dominant deficiency in the Act once implementation gains momentum.



D.G. Stenson, Director
PLANNING AND BUILDING

JSBldb

cc: Deputy Manager - Corporate Services
Director Finance
Director Engineering
Director Recreation & Cultural Services

The principles distilled from the advice sessions were presented in a discussion paper entitled *Growth Strategies for the 1990s and Beyond, Updating British Columbia's Planning System*. This paper was released at the UBCM convention in September, 1994.

The principles reflect what local government officials and other concerned British Columbians told us is needed to improve planning and help our communities.

1. No new institutions

We should use existing structures rather than create new super institutions or a new level of government. We have a strong local planning system that should be strengthened and extended.

2. Voluntary participation ... most of the time

Region-wide strategies should be voluntary because planning works best when there is buy-in. However, as a last resort, Cabinet should have the ability to require regional strategies for regions where extreme growth rates or community change indicate a need and the local governments are slow to react cooperatively.

3. Compatibility ... a bias toward agreement

Consistency and compatibility among local plans and region-wide strategies are essential. We're proposing an "interactive" system which gives municipal Official Community Plans (OCPs) and regional strategies equal weight. This is in keeping with our belief that decisions should be made as close to the local level as possible.

4. Dispute resolution ... as a last resort

To be effective, the planning process has to reach closure and that means differences must be resolved. Local governments should have every opportunity to negotiate collaborative solutions. However, if the process breaks down late in the game, there must be a mechanism that will result in closure.

5. Broad-based consultation ... early and often

Everyone who has to live with the outcome should have a say in the development of plans. This principle supports the early and on-going participation of community groups and interested parties.

6. Regional diversity/regional flexibility

Every region of British Columbia is different in economy, geography, objectives and issues. The system must be flexible enough to accommodate this regional diversity.

7. Provincial direction and support

The provincial government should put its cards on the table and make its expectations clear. This could be done through general goals and supplemented by provincial policy guidelines.

8. Early provincial involvement

Key provincial ministries and agencies should be involved early and continuously. This input will result in more effective regional growth strategies.

9. Provincial commitment

The Province should be guided by regional strategies. We have proposed that ministries enter into partnership agreements with local governments where provincial actions are necessary to implement regional growth strategies.