Regional District Task Force:

Progress Report for the Union of British Columbia Municipalities 2009 Convention

Introduction

This paper is a progress report on the work of the Regional District Task Force ("Task Force"). It describes: the origins and purpose of the Task Force; the strengths and challenges of the Regional District system; the Task Force's work to date including key lessons learned; and an overview of the issues reviewed, including key priorities. The paper also outlines next steps for the Task Force in the coming months, including a month-long opportunity for feedback from all members of the Union of British Columbia Municipalities (UBCM) after the 2009 UBCM Convention.

Regional District Task Force: Origins & Purpose

The Regional District Task Force was created by UBCM to consider the issues and challenges facing regional districts and to identify possible solutions and strategies to address these issues and challenges. The Task Force consists of the following members who represent a range of small and large communities, electoral areas (EAs) and municipalities:

- Robert Hobson - Chair, Regional District of Central Okanagan; Councillor, City of Kelowna (Chair of Task Force)
- Al Richmond - Chair, Cariboo Regional District
- Frank Leonard - Mayor, District of Saanich
- Sharon Gaetz - Mayor, City of Chilliwack
- Susie Gimse - Director, Squamish Lillooet Regional District; Councillor, Village of Pemberton
- Hans Cunningham - Director ,Central Kootenay Regional District
- Rhona Martin - Director, Columbia Shuswap Regional District

In October 2007, the UBCM and the then Minister of Community Services discussed the issue of improving the functioning of regional districts. In turn, at the 2008 UBCM Convention, the Task Force was formally launched through a Joint Statement of Understanding between then Minister Lekstrom and then UBCM President Susan Gimse (see Appendix A). The Task Force has worked collaboratively with the support of both the Ministry of Community and Rural Development ("Ministry") and UBCM. The Task Force did not have the objective of developing a "Regional District Charter"; instead, members have come to the table to discuss tangible and practical solutions to difficult challenges facing regional districts.

BC's Regional District System: Strengths & Challenges

The Task Force recognizes that regional districts (RDs) are an integral part of BC's local government landscape through which effective *governance* and *service delivery* are provided. More specifically, RDs serve three key purposes: (1) they act as regional governments to regions (by providing key regional services to, and undertaking activities on behalf of, their member jurisdictions); (2) they provide a political and administrative framework for joint/inter-local government service delivery; and (3) they act as local governments for electoral areas.

A fundamental attribute of RD system is its federated nature. This enables RDs to focus on integration and the joint delivery of services through partnerships among its members, thereby allowing RDs to adapt and customize service delivery to fit an amazing variety of different needs and geographic scales. The Task Force also understands, however, that because of its federated nature, there will always be different perspectives and some tension in regional districts, no matter what enhancements are made.

Although developed over 40 years ago, the RD system continues be seen as a unique and effective governance model because it can: provide for inexpensive rural government; achieve economies of scale in service delivery; provide an effective framework for inter-municipal cooperation; and adapt to different areas of the province. Also, over the years, a number of reviews of RD issues (such as the RD review in 1999 and the Task Force on Community Opportunities in 2006) have been undertaken, and a significant amount of legislative change has taken place to ensure that the system continues to function well.

However, the Task Force also recognizes that RDs continue to face some specific, sometimes complex, challenges. For instance, in some regions, it may be difficult to establish services that are the most efficient or distribute costs most fairly (e.g. lack of regional services; disputes over who participates in sub-regional services). Changing demographics over the past 40 years also affect RDs (e.g. causing or exacerbating urban/rural fringe issues and putting pressures on RD structures; increasing demands on electoral area directors). As well, frictions among governments – whether municipal, regional or provincial – can turn healthy debate over different perspectives into a barrier to effective functioning at some board tables.

Regional District Task Force: Work to Date & Lessons Learned

The Task Force began by identifying practical issues relating to both the effective *governance* of RDs, and the effective *delivery of services* within and by RDs. To date, the Task Force has been actively exploring, researching and analyzing a variety of issues under the headings of: electoral area governance; municipal-rural fringe; and Provincial-RD relationships. The Task Force has produced issue papers on specific topics, and has met six times over the course of the year to discuss issues in depth.

On July 28, 2009, the Task Force held a one-day consultation workshop, where it heard from municipal and EA directors from all 27 regional districts, as well as many regional CAOs. This session let the Task Force check-in with RD representatives about its work to date, and allowed participants to share their experiences and consider how the Task Force's proposals may contribute to tangible improvement within their regions and communities (see Appendix B).

Guided by the Joint Statement of Understanding, the Task Force has learned the following general lessons as a result of all its work thus far:

- As a whole, the regional district system works well and does not require major modifications or radical solutions. However, there is a need for:
    - greater awareness and understanding (and therefore use) of the range of tools currently available to RDs; and
    - some new tools and approaches, and some refinement of existing tools, to address specific challenges.

- The strength and the challenge of RDs is the variety of perspectives/interests that need to be considered (e.g. citizen, RD board, municipal, electoral area, Provincial). Although each of these groups has different interests, they also share common interests and can find common ground, depending on the issue and the region.
- BC is a province with great diversity -- different areas with varying needs and aspirations require different services and methods of delivery. RD issues and challenges are interconnected and are part of a system, yet they often grow from complex, individual circumstances. So, sometimes province-wide solutions will be effective; in many cases, however, providing a range or menu of approaches/tools may be more effective and consistent with the history and nature of the RD system.
- Given the diversity of challenges in each of the 27 RDs, each tool /approach need not be applicable in every RD for it to be worthwhile. Some tools/approaches will only be relevant in addressing certain issues in some regions (e.g. some RDs face issues related to EA governance and therefore, require tools that can address such governance challenges, while others may require a different set of tools to overcome service delivery challenges).
- Not all challenges facing RDs are the same. For example, the topic of Provincial/RD relationships covers issues that span across a wide range of ministries, engage a range of vital economic interests, and affects some local governments more intensively than others. As a result, a variety of approaches and processes might be needed to work through such issues and find solutions.
- New approaches and tools are only as good as their implementation, and for implementation to be successful, it has to recognize and adapt to the different experience in different RDs.

The Task Force recognizes that it could not explore nor address every issue facing regional districts (such as, for example, First Nations relations and consultations). It also acknowledges that it could not cover the full range of issues that result from the many and varied points of interaction between regional districts and the Province.

Issues Reviewed, Potential Approaches & Key Priorities

Issues Reviewed by the Task Force

In seeking practical solutions to difficult problems, the Task Force has reviewed ten key issues and developed a number of potential approaches/tools under each. The consultation session on July 28, 2009 demonstrated broad agreement with how the Task Force characterized and described each of the issues it has reviewed.

Through internal discussions and the July 28th consultation session, the Task Force has determined that the level of interest for each issue varies (e.g. by region), with some issues having a high-level of interest and others having a low-level of interest. The following list identifies the issues reviewed by the Task Force according to its level of interest:

Interest Level	Issue Reviewed by Task Force
High	1. Regional districts and the Province: more effective land use decisions ("RD/Crown")
	2. Municipal/electoral area fringe area planning
	3. Participation in regional district partnership services
Mid	4. Incorporation and restructuring of municipalities
	5. Service review and withdrawal

	6. Appointment of alternate electoral area directors
	7. Single electoral area director
Low	8. Internal structure of regional districts
	9. The role of delegation in service delivery
	10. Appointment of municipal directors

Potential Approaches

The range of approaches developed by the Task Force to help address each of the ten issues varies, with some being new tools to add to the existing toolkit of RDs, others being tweaks to existing tools, and still others simply aiming to promote greater understanding and best practices. Appendix C provides a more in-depth look at each of the issues reviewed, including the range of approaches developed by the Task Force.

Key Priorities

In moving ahead, the Task Force recognizes that the following issues have resonated more than others (i.e. high level of interest), and so are considered three key priorities:

(1) *Regional District/Crown Land Use Decisions* – in some sectors land use decision making and authorities are unclear. Tensions can become heightened between jurisdictions when there are inter-related authorities or interests (e.g. the province facilitating new economic development opportunities and activities on Crown land with potential substantial effects on local government services or interests, such as watersheds). Sorting out "who does what" (e.g. clarifying and communicating who has the primary authority; sequencing decisions between provincial and local authorities) is a crucial first step in clarifying inter-related authority or interests. Lack of clarity can result in disillusionment on the part of local government and the province. It can also lead to frustration on the part of citizens and developers about the certainty, timeliness and efficiency of the process (i.e. when will they have an opportunity to be heard, when and how yes/no decisions will be made and who is responsible for what decisions). The Task Force has looked at the basis for RDs and the Province working to make more effective land use decisions. For example:
- where both provincial and local governments have an interest, *clarify* jurisdictional authority (e.g. who is responsible for what? how does the decision-making sequencing occur? how do decision-making processes affect those local and provincial governments?), and *harmonize* decision-making, as has been done in some sectors already (e.g. resorts development harmonization).

(2) *Fringe Area Planning and Governance* - in many communities, tensions around land-use and service delivery are related to the substantial change in population and service expectations that have occurred in the 40 years since RDs were created (e.g. land use decision-making for electoral areas in the face of urbanization pressures). Although some regions or sub regions have found effective ways to manage these tensions through growth strategies and service delivery arrangements, the Task Force has looked at what approaches could be taken to make urban/rural fringe area planning more effective and in turn, result in better planning outcomes and reduced conflict, while maintaining efficient and cost effective service delivery. For example:

- the development of a joint municipal – regional district "fringe area committee" to review planning and other matters within the "fringe area" would help increase the level of communication and integration between municipalities and electoral areas;
- "cross-acceptance" of fringe area land use bylaws between the municipality and the electoral areas, whether formal or informal, would help to recognize municipal interests in electoral areas and vice versa.

(3) *Facilitating Effective Service Delivery* - RDs are effective in achieving efficiencies and fairness in delivery of services, but achieving participation in partnership services can be difficult. Partnership services have both municipalities and EAs participating, either at a sub-regional or regional scale. Some regions, are not maximizing their potential at different geographic scales (i.e. there is a robust tool kit but it is not clear that the potential of existing tools is being fully used). The Task Force has looked at whether there are ways to encourage the most logical service partnerships. For example:
- explicit authority or incentives that encourage regions to develop a *strategic services plan (SSP)* would enable regional boards, a sub-regional area (i.e. an urban fringe area), or a group of EAs to collectively develop a vision for services to be delivered within that area. If SSPs were developed, participants would get additional benefits, such as: a streamlined service establishment and borrowing approvals process; more financial flexibility in managing funds within that service area; and possibly, additional powers and variation in the application of service withdrawal provisions.

Although these three issues have resonated with different "groups" more than others (i.e. those attending the July 28th session), the Task Force recognizes that the remaining seven issues are also important (such as, from the perspective of citizens). The Task Force will continue to look at all issues identified by the Task Force and raised in feedback to determine what approaches/tools will help to improve the functioning of RDs.

Next Steps

To date, the Task Force has worked hard to seek practical solutions to difficult problems facing regional districts. It has identified and reviewed a range of issues facing RDs, including identifying some key priority issues, and it has developed a number of tools/approaches that could be used to address some of these issues.

The Task Force is working towards providing a final report to both UBCM Executive and the Province by January 2010. To that end, the Task Force:

- will be seeking further feedback on the work of the Task Force from all UBCM members to ensure that the Task Force is on the right track (with the deadline for feedback being October 30, 2009);
- will be testing its range of approaches with municipal and RD administrators in the coming months to support effective implementation; and
- will be determining whether some issues, such as the "RD/Crown land use" issue, would benefit from additional work through another separate process, and what further discussion with the provincial government is needed in that regard.

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JOINT STATEMENT OF UNDERSTANDING ON THE UBCM REGIONAL DISTRICT TASK FORCE

Between the
MINISTRY OF COMMUNITY DEVELOPMENT
And the
UNION OF BRITISH COLUMBIA MUNICIPALITIES (UBCM)

WHEREAS:

Regional Districts play an important role in governance and service delivery in British Columbia regions and communities;

It is recognized that there are tensions between municipal and electoral members over land use planning, services, cost sharing and boundaries and that these tensions often impede decisions and actions benefiting the region as a whole;

It is recognized by Regional Districts, rural communities and the Province that there are unique challenges in providing governance for rural, unincorporated areas;

It is recognized that effective responses to the most critical challenges facing British Columbia -- building strong regional and local economies, managing climate change, transportation, water quality, affordable housing, and community safety and emergency preparedness-- require effective inter-local cooperation at the regional scale and collaboration between the Province and local government;

The UBCM has created a Regional District Task Force to engage in a process to articulate the challenges and problems facing Regional Districts and to identify possible solutions and strategies to address those problems;

The Regional District Task Force has identified interests in developing further understanding in three specific subject areas: electoral area governance; municipal-rural interests in areas at the fringe of municipalities; and relationships between provincial and regional district jurisdictions; and

UBCM and the Ministry of Community Development believe that a more complete understanding of challenges and opportunities will be achieved by working collaboratively and sharing their respective expertise.

THEREFORE THE PARTIES HAVE THE FOLLOWING UNDERSTANDING:

1. UBCM and the Ministry of Community Development agree on a set of principles guiding the local government system including:

   - *Respect for local autonomy of local government:* Local government is recognized as an order of government as reflected in governing legislation.

   - *Respect for provincial jurisdiction:* Local governments have responsibilities to citizens of their communities and regions and the Province has responsibilities to the citizens of BC as a whole.

   - *Accountability to citizens:* Local governments are accountable to the citizens of their regions and communities.

- *Respect for regional differences*. It is accepted that this is a diverse province and that different regions have different challenges and opportunities. One solution will not serve all regions well.

- *Respectful relations between local governments*. Relationships between all local governments should be based on respect and characterized by openness, dialogue, respect for interests and use of alternative dispute resolution tools to deal with irreconcilable differences.

- *Flexibility to provide critical services at various scales*. Regional Districts need to have the ability to deal with issues at various scales -- local; sub-regional; regional; and extra-regional -- to deal with an ever changing and complex context.

2. The UBCM and the Ministry of Community Development recognize that effective responses to the most critical challenges facing British Columbia -- building strong regional and local economies, managing climate change, transportation, water quality, affordable housing, and community safety and emergency preparedness-- require effective inter-local cooperation at the regional scale and collaboration between the Province and local government.

3. UBCM and the Ministry of Community Development will collaborate and share their respective expertise to achieve a more complete understanding of challenges and opportunities facing regional districts.

4. UBCM members will bring practical and on the ground knowledge of the subject areas of interest.

5. The Ministry will contribute understanding and expertise on the broader local government framework.

6. The Task Force will conduct an in depth analysis of the issues, challenges and opportunities facing all Regional Districts.

7. The Task Force will use a jointly agreed upon analytical framework and will focus on three specific subject areas: electoral area governance; municipal-rural interests in areas at the fringe of municipalities; and relationships between Provincial and Regional District jurisdictions.

8. The Task Force will engage UBCM members and experienced municipal and regional district administrators with practical, on the ground experience to gain a complete understanding of the regional issues.

9. The Ministry will contribute resources, provide expertise, share information respecting broader provincial interests and goals and provide a connection to other Provincial Government perspectives and programs.

SIGNED on behalf of the Ministry of Community Development

Date September 23, 2008

Honourable Blair Lekstrom
Ministry of Community Development

SIGNED on behalf of the Union of British Columbia Municipalities

Date September 23, 2008

Susan Gimse
President

Overall Observations

- There appears to have been broad agreement with the Task Force's (TF) description of each of the issues, even in cases where respondents did not agree whether the issue was a priority item or with the approaches presented.
- Overall, there were no substantive new or innovative approaches suggested by participants (i.e. in cases where participants were asked "what other approaches would you suggest should be considered by the Task Force?"). Where respondents provided ideas, such ideas were generally variations of, and related to topics the TF has been reviewing (i.e. they were in some way related to a dimension of an existing issue reviewed by the TF).
- There were a substantial number of no responses/blanks to some of the questions/approaches asked. In some cases, the responses were too few to draw any conclusive results (e.g. only 25 responses out of a possible 80). Perhaps this is attributable to the fact that some respondents felt that some of the tools presented by the TF were not applicable to their particular region (and in turn, those who did agree/respond, felt that the tool was relevant to their particular region).
- Overall, there appears to have been "benign support" of the package of tools/approaches as a whole; in other words, there were no overwhelming objections to the ideas, but there were also no "excitement".
- Generally, the interest/energy level in the room was the highest on the EA governance plenary session, and other plenary topics were often brought back to that. There RD/Crown and SSP ideas generated the most engagement/interest in the plenary topics of the afternoon.
- Generally, with two exceptions, there were no clear divisions between EA directors and municipal directors on particular issues or approaches (where there was such a division, it has been mentioned in the attached tables).

Responses to Specific Issues / Approaches

- Generally, in terms of topic areas, the most discussion took place in relation to the Electoral Area Governance topics and the least discussion took place in relation to Fringe Area Planning and Servicing topics (the former was held in the morning and the latter in the afternoon).
- The qualitative results from the feedback suggest a slightly different set of priorities. As such, they should be interpreted with some caution (i.e. they alone should not be used as a basis with which to pursue/not pursue future policy directions). For instance, we know the approaches/tool presented are of limited applicability in only some areas of the Province, however, all respondents were asked to respond to the approaches. This may have skewed results as some respondents may have little or no interest in the proposed approach (e.g. there are only a handful of instances where the multi-director model may be applicable, yet all participants in the session were asked to comment on it).
- Based on a numerical evaluation only (i.e. not taking into account comments or the general feelings of the day), of the issues that the respondents thought were a priority item, the following were found to be the issues of high, mid and low priority:

- o High-priority :
    1. RD/Crown
    2. Fringe area planning
    3. Participation in RD services

- o Mid-priority:
    1. Incorporation and Restructuring
    2. Service review and withdrawal
    3. Appointment of EA alternate directors
    4. Single EA director

- o Low-priority:
    1. Internal Structure
    2. Role of Delegation
    3. Appointment of municipal directors

- With regard to specific approaches presented by the TF, based on the quantitative analysis, the comments from the day and the plenary feedback, the most discussion took place in relation to the multi-director model and the EA body approaches. In addition, there was substantive support during the plenary sessions for the Strategic Services Plan (SSP) model (which is an option under the Participation in RD Services topic).

Broad Conclusions from the Day

- The "every RD is unique / one size does not fit all" theme was clearly supported.
- There was general scepticism about the idea that the Province will change its behaviour on the Crown land planning / RD relationship topic.
- There is broad support, at least in concept, for any ideas which put RDs into a strategic planning role – whether RGS, or the new SSP idea.
- An underlying lack of (public) understanding of / respect for RDs remains strong.
- Anything that hinted at the Province making decisions, instead of the RD's themselves, was not supported.
- Two particular issues were raised in the day that may need to be managed (i.e. they are likely to arise again)
    1. *First Nations* – raised as an issue throughout the day (overlapped many of the issues discussed). There were a number of comments in relation to consultation with FN (e.g. more information needed).
    2. *Reference to RD Charter* – raised as an issue during the day.

Appendix C – Summary Issue Papers of Topics Reviewed by the Regional District Task Force

Attached are issue papers prepared by the Task Force on each of the following topics:

1. Regional districts and the Province: more effective land use decisions ("RD/Crown")
2. Municipal/electoral area fringe area planning
3. Participation in regional district partnership services
4. Incorporation and restructuring of municipalities
5. Service review and withdrawal
6. Appointment of alternate electoral area directors
7. Single electoral area director
8. Internal structure of regional districts
9. The role of delegation in service delivery
10. Appointment of municipal directors

Topic 1: Regional Districts and the Province: More effective land use decisions

1. ISSUE

How can regional districts and the province work to make more effective land use decisions?

2. BACKGROUND/CONTEXT

Regional district (RD) and provincial land use/development authorities form an intricate framework of legislation, planning and approvals. Many different provincial ministries and agencies and local governments make decisions about Crown land and private land in rural areas. Within this framework, Provincial responsibilities include, for example, land allocation and resource management for Crown lands with the authority for selling licenses and tenures, and land use permitting. Corresponding provincial obligations for example, include conducting environmental assessments and First Nation consultation. Under the land use framework, local government responsibilities include guiding detailed land use, zoning and servicing—most often for private land. Local government obligations include, for example, quasi-judicial public hearings before local governments make land use planning or zoning decisions or consulting with authorities such as the provincial government and neighbouring local governments that may be affected by an Official Community Plan.

In some sectors, respective land use responsibilities are clear (e.g. mines; independent power production; Crown forests). In some other sectors, both local and provincial governments have land use decision-making responsibility (e.g. agricultural land). In still others, both jurisdictions have significant interests in the outcome of activities on certain lands or the impact of decisions about those lands.   For example, when Crown land is substantially affected by RD authority (e.g. resorts) or when activities on Crown lands occur largely under provincial authority but may substantially affect local government services (e.g. watersheds), inter-related authority or interests result. Sorting out "who does what" (e.g. clarifying who has primary authority; sequencing decisions between provincial and local authorities) is a crucial first step. Are there other actions in addition to sorting out "who does what" that could increase clarity and harmonization, thereby increasing decision-making effectiveness and reducing the potential for provincial-local government conflict?

On the ground, there are a number of examples where the province and local governments have acted to clarify and harmonize their actions for land use projects. Resorts harmonization, pilot projects for managing the aggregate resource, Regional Growth Strategy interagency committees for various RDs, and RD-specific MOUs (i.e. Regional District of Central Okanagan) are examples (see Appendix A for more details on these examples).

Key characteristics that can be drawn from the examples include:

- the mechanisms recognize that both the provincial government and local governments have a legitimate interest/role in the particular land use process – acknowledge and respect for jurisdictions;
- the mechanisms put into practice (typically implicitly) principles such as cooperation, local government autonomy, and provincial responsibility for the province as a whole. These are principles like those agreed to by the province and local government in the *Community Charter* and the *Local Government Act*;

- the importance of a clear understanding of "who does what" in the process (i.e. which jurisdiction has what decision-making role and how that decision-making is sequenced) – working towards harmonization of decision making;
- the mechanisms are specific – in other words, they have been developed out of the particular needs, circumstances and interests engaged in each particular sector or region and they try to solve problems in context (e.g. speed up approvals and clarify responsibilities in order to facilitate a particular type of economic development);
- the mechanisms are based upon the Provincial government and local governments attempting to resolve conflict through consultation, negotiation, facilitation and other forms of dispute resolution – fostering cooperative approaches on matters of mutual interest; and
- the mechanisms support community, region and provincial interests, and build on their existing strengths.

3. OBSERVATIONS

In particular sectors, the need for clarifying "who does what", harmonizing decision-making and coordinating governmental activities is increasing. Changing values, more competing interests for the same land, and an unclear line between "urban" and "rural" areas are important factors. The province has an interest in facilitating new economic development opportunities, and activities on Crown land play a key role. The province also needs to ensure that it balances economic development interests with long term sustainability and environmental values. Local governments want the employment and fiscal benefits of local and regional economic development, but they also hear most directly the concerns about possible local and regional social and environmental impacts.

In some sectors, decision-making authorities have been clearly delineated, however jurisdictional responsibility has not always been well communicated.   The lack of clear communication results in disillusionment on the part of local governments and the province. It can also lead to frustration on the part of citizens and developers about certainty, timeliness and efficiency of the process (i.e. when they will have opportunity to be heard, when and how yes/no decisions will be made, and who is responsible for which decisions). Communicating BC's land use framework to developers, citizens, and provincial and local jurisdictions is even more imperative within areas where both local and provincial governments have a decision-making role or other interest.

Where there are both provincial and local government land use interests, a harmonized approach to decision making is the best option. When such land use decision making is not harmonized, regions may end up making tough land use decisions – feeling caught between local sentiments and provincial decisions or interests. The province may feel that the interests of citizens of the whole province are being thwarted by narrow local interests or processes. Local government-provincial conflict may result.

The keys to more effective land use decisions where both provincial and local governments have an interest are to increase clarity of jurisdictional authority (as the initial step), as well as to clarify process, and harmonize decision-making. At the same time, even with the necessary commitment from both the province and local governments to such approaches, there would be no guarantee of outcomes in particular sectors.

4. APPROACHES

Clarify -- increase understanding of the jurisdiction and linkages between provincial and local government land use decision-making. Improving the understanding of provincial and local land use authority on a sector by sector or regional basis would include highlighting and clearly communicating matters such as:

- the reality that both regional districts and the province often have legitimate interests in land use matters;
- who is responsible for what (clarity of jurisdictional responsibility);
- how the decision-making sequencing occurs;
- where both local and provincial governments have interests;
- how the decision-making processes affects those areas; and
- the outcome of a decision-making process being conveyed to relevant stakeholders.

Harmonize -- apply a principled framework to guide harmonization and cooperation on provincial and local government land use decisions. *Community Charter* and *Local Government Act* principles agreed to by the province and local governments have provided the basis for building shared understanding and effective decisions on various matters (see Appendix B for examples of such principles). The key challenge is how to draw down these overarching local government and provincial relations principles and translate them into tangible experiences in particular sectors where both provincial and local governments have interests and the need for cooperation is real. For example, this could mean:

- building a commitment among provincial Ministries and among local governments on the value of using these principles as the basis for "principles of engagement" for provincial-local government land use issues; and
- using such principles of engagement as a framework to develop agreements and other model approaches (e.g. MOUs) based on the CC/LGA principles to provide a coordinated and harmonized approach to land use decision-making in specific regions, communities or sectors.

APPENDIX A - Best Practices: RD/Crown Interface on Land Use

A. Sectoral Approach:

➢ Aggregate Extraction: Fraser Valley RD Pilot Project

A pilot project between Fraser Valley Regional District (FVRD) and the Province is exploring improved coordination of processes, though long term planning, with a mutual understanding of the nature and interplay of provincial and local interests and processes. The pilot includes:

- Joint identification of areas where aggregate extraction will be allowable, prohibited or allowed with conditions, in both the rural and urban context.
- Long-term planning for aggregate extraction in the region, consistent with the Regional Growth Strategy, official community plans and local planning bylaws.
- Collaboration between Ministry of Energy and Mines and FVRD in the creation of local bylaws relating to aggregate extraction.

- Recommendations to the Province for a redistribution of revenue to local communities so the benefit flows to the area where the burden is experienced.
- Recognition of First Nations interests in region wide land use planning relating to aggregate extraction.

The pilot project stresses collaboration between local governments and the Province in planning, as well as joint efforts to find a model to compensate affected localities. This pilot project is an opportunity to test a new model of RD/Crown cooperation in relation to a particular sector and develop new processes to open up communication between the Province, Regional District, First Nations and industry stakeholders that will foster improved understanding, cooperation and communication to better manage the interests of the Province, First Nations, industry and communities. Lessons learned from this project can inform the joint management of aggregate extraction throughout the province as well as inform other sectors where an improved Crown/RD interface may be needed.

➢ Harmonized Resorts Approval Process

In 2004, the Province and the Union of British Columbia Municipalities (UBCM) entered into a Memorandum of Understanding resulting in a study of the approval processes for resort development in the Province. The Advisory Group's report, *The Harmonization Process, All-Season Resorts,* recommended a principled approach to resort approvals that was based on the cooperation of key participants in the three streams of approval processes to adopt a joint timeframe with staged, coordinated approvals. The provincial participant would be the lead agency and the approvals would be broken into five stages. Each of the decision making participants and the resort proponent would participate at each stage.

One of the key findings of the Harmonization of Resort Approval Processes was that officials at the provincial and local level do not fully understand each others review processes and procedures. Since the publication of the Report, coordinated processes have been tested in two resort approval scenarios: Juliet Creek and Squamish at Garibaldi. Both processes are quite different, indicating that there is no "cookie cutter" approach; however, in both cases, it was demonstrated that improved coordination can result when officials became aware of other system participants' issues and timeframes. In turn, coordinated processes allow the public to better connect and understand the concurrent sets of approval processes. This results in greater understanding of project impacts and allows a venue for earlier discussion of community impacts and concerns.

B. **Region-wide approach**

➢ Land Use Memorandum of Understanding (MOU) between the Regional District of Central Okanagan and the Province (Ministry of Agriculture and Lands)

Considerable growth and urbanization in the Regional District of Central Okanagan (RDCO) has put significant demands on the remaining land base. In 2006, RDCO and the Integrated Land Management Bureau of the Ministry of Agriculture and Lands (ILMB) entered into an MOU respecting a number of land use matters where both the Province and the Regional District have interests in the land. The MOU covers matters relating to Crown land disposition, referrals, sharing of cadastral information, regional park establishment and land use planning. The ILMB is the provincial agency responsible for disposition of Crown land parcel for development or

regional park uses. The process entered into with RDCO recognizes the local interests in the disposition of Crown land in these circumstances and is an attempt to implement a coordinated and co-operative, forward-looking approach to region wide planning for disposition and use of crown land parcels for development.

Under the MOU, RDCO and the ILMB jointly consider the optimum future use of crown land parcels within the RDCO including consideration of regional park requirements and other residential, commercial and community services that might be needed. The intention is to use this joint process to meet the future needs of local communities in RDCO by allocating or protecting Crown land in a socially, environmentally, and economically responsible manner.

This example takes a geographic region and attempts to look at one sector (crown land allocation and disposition) from a high level, forward looking planning perspective. This avoids the situation of Crown land parcels being considered on a one-off basis as requests for development are brought forward. It also provides for a higher level of integration of the regional district in the Crown land allocation process. As has been highlighted in the foregoing examples, First Nations interests also factor into the process. The MOU is up for renewal at the end of 2009.

C.   Multi local government/multi provincial implementation agreement for a geographical area/project

Implementation agreements are an important tool associated with a regional growth strategy. The Vancouver Island Highway Implementation Agreement provides one example of an implementation agreement being used to address challenges of the interdependent land use system and help provincial and local governments to work effectively together. This agreement was executed in 1998 between:

- The Ministry of Municipal Affairs;
- The Ministry of Transportation and Highways;
- The Regional District of Nanaimo;
- The City of Nanaimo;
- The City of Parksville; and
- The Town of Qualicum Beach.

The purpose of the Agreement is to define the specific commitments of each party to achieving and maintaining the shared vision, goals and objectives for the Regional District of Nanaimo portion of the Vancouver Island Highway Corridor.

The shared vision for the Vancouver Island Highway Corridor is as follows: *In accordance with, and as required by, all laws, by-laws, orders and regulations, the Regional District of Nanaimo portion of the Vancouver Island Highway will over the long term effectively deliver the efficient and safe movement of people and goods along a highway corridor having limited access, that presents a welcoming and attractive gateway to corridor travelers and is maintained predominantly in a natural, green, "parklike" state.*

The full agreement can be viewed at: http://www.rdn.bc.ca/cms/wpattachments/wpID481atID417.pdf

Mutual/cooperative relations – (e.g.)

- the provincial government respects municipal authority and municipalities respect provincial authority (CC);
- cooperative relations between the Provincial government and regional districts are to be fostered in order to efficiently and effectively meet the needs of the citizens of British Columbia (LGA);
- the independence of regional districts is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally (LGA).

Community differences – (e.g.)

- the Provincial government recognizes that different regional districts and their communities have different needs and circumstances and so may require different approaches (LGA).

Local government autonomy – (e.g.)

- regional districts are an independent, responsible and accountable order of government within their jurisdiction (LGA);
- the provincial government recognizes that municipalities require authority to determine the public interest of their communities, within a legislative framework that supports balance and certainty in relation to the differing interests of their communities (CC).

Consultation – (e.g.)

- notice and consultation is needed for Provincial government actions that directly affect regional district interests (LGA).

Harmonization- (e.g.)

- the citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government work towards harmonization of Provincial and municipal enactments, policies and programs (CC).

Conflict resolution – (e.g.)

- the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution (CC).

Topic 2: Municipal / Electoral Area Fringe Area Planning

1. ISSUE

What approaches could be taken to make fringe area planning more effective and, in turn, result in better planning outcomes, reduced conflict, and efficient and cost effective service delivery?

2. BACKGROUND / CONTEXT

For the purposes of this discussion, fringe areas are areas at the edge of/overlapping the jurisdictional boundary between municipal and regional district (electoral area (EA)) land use authority. Under the *Local Government Act* (*Act*), municipalities and regional districts (for EAs) are empowered to develop community plans (e.g. OCP), zoning and other planning tools. For the most part, the legislative authorities and requirements are the same for both municipalities and regional districts, although for adopted regional growth strategies (RGS), municipalities are required to adopt a regional context statement, and EA plans must be consistent.

Ideally planning between the municipal and regional district jurisdictions would be highly integrated for the fringe areas, with regional growth strategies, other complementary planning objectives and processes, land use designations and servicing standards that would avoid such conflict. There are some examples of such collaborative planning efforts (see appendix A). Growth strategies are another mechanism by which integrated and complementary land use planning frameworks for fringe areas can be achieved.

However, most fringe areas do not have shared agreements, protocols or other collaborative planning efforts in place. Where there is inadequate fringe area planning, it can result in conflict between neighbours and poor planning outcomes. At its most extreme, conflict between regional district EA interests and municipalities can spill over into other areas of shared involvement (e.g. services), and can also result in provincial involvement (e.g. boundary extensions). This type of conflict is most evident in localities experiencing rapid growth and development pressures. Poor land use planning outcomes (sprawl, implications for infrastructure and other services, inadequate land supply for specific uses) may result.

3. OBSERVATIONS

The Province and local governments share objectives related to fringe area planning: good management of land uses according to the needs of the community; cost-efficient delivery of services; manageable infrastructure costs; and compact communities that reduce climate change impact. The complexity of fringe areas is the need to coordinate two separate local government jurisdictions to achieve these objectives.

Fringe area issues are of concern to both municipal and EA residents (and their respective elected representatives). For municipal residents, the focus is often on urban services at reasonable costs. For EA residents, the focus is often on the protection of a (relatively) rural lifestyle. The planning and development actions within each jurisdiction can impinge upon the interests of the other: new development in the EA can add to municipal concerns about "free riders" not paying an appropriate share of municipal service costs; and new

development just inside the municipal boundary can create land use impacts on the adjacent EA residents. Collaboration to develop integrated planning frameworks in fringe areas can help provide certainty to residents, and reduce conflict between the two local jurisdictions.

Fringe areas are increasingly important from a climate change perspective. The Climate Change Action Charter, with its objective of greenhouse gas reduction, includes a commitment by local governments to increase urban densities and reduce sprawl. For fringe areas, this commitment points to a need for the planning of the two jurisdictions to be integrated and complementary; plans need to be made as if the boundary line did not exist.

Challenges in integrating planning for fringe areas may also be affected by who has decision-making responsibility for land use decisions in those areas (i.e. the extent to which those decisions for the EA rest with the whole RD board). As such, discussions of fringe area planning are connected with discussions of delegation and the single EA director model.

Given the intersection between planning, servicing and jurisdiction in fringe areas, two other related issues are**:**

Boundary Extensions: Boundary extensions are initiated by municipalities, administered by the Ministry according to criteria (e.g. for consultation and electors approval), and approved by Cabinet. Often, proposals for new development (or new infrastructure services) within fringe areas can become the subject of conflict over which jurisdiction should make the decision and/or manage the development -- that is, through a boundary extension proposal. Similarly, proposals for boundary extensions can involve debate about potential future development. These situations could be avoided if an integrated planning framework is in place for managing new development and infrastructure services in conjunction with changes to the municipal boundary

Electoral Area Planning: Cost Recovery and Voting: The current default LGA provisions provide that all municipal and electoral area directors share in the costs of, and vote on, electoral area planning matters. The provisions allow for a municipality to 'opt out' of sharing in the costs of electoral area planning. If that occurs, the municipal directors do not vote on electoral area planning decisions. The provisions also allow for a municipality and regional district to enter into an agreement to partially share in the costs, and vote according to the items for which the costs are shared*.* How these provisions have been applied across the Province varies, as does consideration of how using these provisions might affect issues such as fringe area planning.

4. APPROACHES

Local governments increase the level of communication, cooperation or integration between the two jurisdictions in a fringe area, using some or all of the following tools:

 Establish a joint municipal-regional district 'fringe area committee' or "joint advisory planning commission" to review planning and other matters within the 'fringe area'.

- Develop a municipal-regional district agreement to manage fringe area planning. An agreement might define the boundaries (within and outside the municipality) of the fringe area, and describe

municipal/regional district responsibilities. An agreement could range from a consultation protocol to an agreement that provides the terms and conditions for cost sharing of planning in the defined fringe area.

- Undertake joint collaborative planning, based on the idea that each jurisdiction would make decisions only with the approval of the other jurisdiction – referred to as "cross-acceptance". Elements could include jointly developed and adopted community plans for the designated fringe area, and dispute resolution processes. This would apply many of the underlying principles of regional growth strategies to a particular locality within the regional district.

Province supports effective planning and other management of fringe areas by:

- Providing advice and support to assist municipal and regional district jurisdictions in developing an approach to managing fringe areas.
- More explicitly aligning those of its activities which are related to fringe areas (e.g. boundary extension processes).
- Furthering understanding of EA planning "opt out" provisions and their implications for fringe area planning.

APPENDIX A: Approaches to Urban Fringe Area Management in BC

Growth Management Coordination at a Regional Scale

1. Regional District of Nanaimo Urban Containment and Fringe Area Agreement
As part of the implementation of the Regional District of Nanaimo's (RDN) Regional Growth Strategy, in 1998 the signatory local governments (RDN, Nanaimo, Parksville and Qualicum Beach) signed a separate "Urban Containment and Fringe Area Management Implementation Agreement". The agreement provides a framework for implementing the urban containment policies in the RGS including providing a process for making adjustments to the urban containment boundary. It also contains policies related to managing urban fringe areas (defined as areas within the urban containment boundary that are in the jurisdiction of the RDN and are close to or contiguous with a municipal boundary). The policies include a process for how municipalities should communicate with the regional district and seek input on municipal boundary extensions.[1]
www.rdn.bc.ca/cms/wpattachments/wpID482atID418.pdf (March 25, 2009).

2. Thompson Nicola Regional District Fringe Area Planning Policy
The Thompson Nicola Regional District (TNTD) has a long established policy to refer all development applications to municipalities if they apply to fringe areas. This has been in place since the 1980s when the TNRD and the City of Kamloops established the policy to deal with applications on the edge of the City. It provides for Kamloops to comment on development applications within 5 kilometres of the municipal boundary so that the city has input on new development that could potentially place demands on city services in the future. The policy is now part of the regional growth strategy and the City's official community plan.
http://www.kamloops.ca/pdfs/kamplan/regional.pdf (March 25, 2009).

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[1] After ten years of practice, it would be important to talk to regional district and municipal staff on how the agreement has been implemented and adhered to over time. It is also important to confirm if the new District of Lantzville is now party to the agreement or not.

Electoral Area Planning in Urban Fringe Areas

3.   Peace River Regional District Draft North Peace Fringe Area OCP
Working with Smart Growth BC, the Peace River Regional District has developed a draft

"North Peace Fringe Area Official Community Plan" (draft bylaw 2009). The OCP will consolidate and update three existing bylaws to create one plan for an area that includes the community of Charlie Lake and the fringe areas surrounding both the City of Fort St. John and the District of Taylor. The plan area has the densest rural residential areas within the Regional District and a variety of other land uses including agriculture, natural resource uses, commercial and industrial enterprises, institutional and recreational uses and natural areas. The OCP creates a growth management framework for the plan area and establishes policies for the RD to work collaboratively with the two adjacent municipalities on planning decisions and land-use servicing.
http://www.peaceriverrd.bc.ca/quick_links/NPFA/documents/2nd_Draft_NPFA.pdf

(March 25, 2009).

4.   Squamish Lillooet Regional District Electoral Area C Draft OCP
The Squamish Lillooet Regional District's (SLRD) draft OCP for Electoral Area E updates the local planning framework for the Pemberton urban fringe and surrounding areas. It has been developed to be consistent with the draft regional growth strategy and is also based on a collaborative planning project that involved the Village of Pemberton, the SLRD and the Lil'wat First Nation (2007). The OCP identifies the Pemberton fringe area (lands in close proximity to the Village of Pemberton) as a special planning area that requires additional collaborative planning with the Village and the First Nation. The OCP also acknowledges that "…where the comprehensive servicing analysis demonstrates the feasibility of urban density and scale development in the Special Planning Area, the land to be developed will be included at an appropriate time within a municipality." (page 17).

Regional District Policy Approaches

5.   Regional District of Central Okanagan
The Regional District of Central Okanagan established a set of fringe area planning policies in 2007. The policies include discouraging residential development in undeveloped areas where resource management uses and values are predominant (i.e. agriculture, watershed protection, forestry). The policies also include an acknowledgement that the approval of land use development may be subject to a boundary expansion by an adjacent community that has capacity to fully service the land. This example is more based on specific land use values than on inter-jurisdictional cooperation.

Topic 3 - Participation in Regional District Services: Facilitating Productive Service Partnerships

1. ISSUE

Regional districts (RDs) are effective service providers, but achieving participation in partnership services can be difficult. Partnership services have both municipalities and EAs participating, either at a sub-regional or regional scale. Are there ways to encourage the most logical service partnerships?

2. BACKGROUND/CONTEXT

- The flexibility to customize services and scale is a hallmark of the RD system and reflects its history of being built "one service at a time" in each different region (e.g. RDs choose to provide at least 106 different <u>types</u> of partnership services – from air quality to water systems – at many different scales – i.e. different geographic areas; different participants).

- Agreement about participation in partnership services can sometimes be difficult to achieve; this can result in such services not being provided or not being provided at the most logical scale -- the scale at which the benefitting area most closely matches the service area (e.g. so that there are no "free riders" in a sub-region; so that region-wide economies of scale can be achieved)**.**

- The reasons for not achieving agreement vary (e.g. for some services, geography may make even distribution of benefits impractical; for "soft" services, the nature of benefits may be difficult to define; for others, electors and directors may differ on the balance of costs and benefits).

- Participation in RD services is based on the concept of "enlightened self-interest"; in other words, municipalities and EAs participate because they believe the service provides an appropriate match between costs and benefits when considering all factors (short and long term; direct and indirect), including factors related to the *planning*, *design* and *approval* of a service.

- In 2000, through amendments to the *Local Government Act* (LGA), the authority to establish services was significantly broadened and the design rules were made much more flexible to allow for more customization in service partnerships. Significant changes were also made in the rules for operation of services once established (e.g. service review and withdrawal provisions).

3. OBSERVATIONS

- Service partnerships can produce many benefits for participants: economies of scale, higher quality services and fairer sharing of costs. In difficult economic and fiscal times, these take on added importance. The challenge is to provide incentives to capture the benefits of partnership services while preserving local service choice and self-interest.

- In relation to service *design*, since 2000, RDs can customize services for matters such as scope of services (general v. specific); cost recovery (i.e. user fees); cost allocation (i.e. on a basis other than assessment); and voting rules and appointment of bodies in administration/operation of services. Customization enables accommodation of participants' interests, to address barriers to a logical service partnership. Yet other than cost allocation, RDs rarely use these tools; why is not known.

- In relation to service *approval*, accountability to electors is key (i.e. the reason virtually all service establishment requires some form of electors' approval, direct or indirect). Typically, RDs seek that approval

in each individual participating area, yet in some cases, this may be a barrier to a service partnership (e.g. approval is not forthcoming in one part of a logical sub-region).

- Service *planning* typically occurs at the level of individual service feasibility; there are few opportunities or incentives for assessing how an individual service fits into the "big picture" (i.e. a service vision) for the whole RD, a particular area or a particular category of services.

- In other areas of local government activity, planning has proven to be an effective means to achieving collective outcomes within defined parameters. For instance, solid waste management planning, the approval of the concept of a partnership agreement, and revitalization tax exemptions are all areas enabling a greater ability to conceptualize or plan and then streamline the resulting implementation of that concept or plan.

- Difficulties in finding agreement on partnership services can create tensions in RD board relations (e.g. some municipalities and EAs may be frustrated with the illogical scale of some partnership services, while others may be concerned about perceived "forced" participation in such services). Left unaddressed, the illogic in a partnership service can raise calls for requiring a particular type, scope or scale of service. EA and municipal participants in a 2006 UBCM Workshop identified regional strategic planning as the top way of helping to resolve tensions among board members.

4. APPROACHES

More effective use of service *design* tools – promote better understanding and use of the 2000 LGA amendments enabling significant customization of the *design* of service arrangements -- i.e. through education such as augmenting the Regional District Tool Kit; through sharing of best practices by regional districts that use customization.

More scope in obtaining electors *approval* – explore authority to obtain electors' approval other than by the "default" of an electors' vote in each individual participating area (e.g. allow for circumstances in which need not have 2/3s vote of the board to seek an overall vote – if all or some of the participants are in favour?). Or provide for the additional tool of a combined vote in EAs in certain circumstances (e.g. if a majority of those EA directors agree?).

Explicit authority for *Strategic Services Plans (SSP)* -- while some RDs engage in strategic planning, they currently do not have explicit tools to enable strategic planning of services, nor the incentive to do so. This approach would provide a tool to encourage RD boards to debate and decide "up front" their vision for their partnership services. Through an SSP, an RD could consider the partnership services that it could/does provide and their scale – not at the level of detail required for individual service feasibility, but rather more conceptually (i.e. looking at its bundle of services, generally or in specific areas, and asking whether their logical scale is regional or a particular sub-region).

In essence, a board would have the specific ability to create one or more SSPs, in consultation with electors, as its plan for some types of services or services in some areas (i.e. as being ones that, if established, should be at a particular identified scale – such as RD-wide or a sub-regional benefitting area – and meet certain other general goals and parameters). If then ultimately established consistent with such a plan, those services would get specified benefits or "trade-offs" (i.e. streamlined service establishment approval). Key design elements of SSPs are described in the Appendix.

Appendix – Key Design Elements of the *Strategic Services Plan (SSP)* Approach

- *Development of SSP*

RD would spell out its service vision for a bundle of services within a plan (e.g. a RD has a vision for improving community amenities in one specified sub-region, by building a pool, upgrading the library and providing broadband internet over the next 4 years; a RD wants to address key environmental pressures affecting the whole region, by developing a region-wide water supply and air quality service over the next 3 years**).**

The plan would be required to include a variety of conceptual information (such as, for each service in the bundle, the general nature of each service, the geographic scale/participants, general governance and financing).

- o Are there circumstances in which a SSP could be required (e.g. within a particular RD experiencing lots of service reviews? Within a particular RD for certain types of services?). If so, are there conditions or "trade-offs" that would be attached or provided?

- *Approval/Consultation of SSP*

RD board would need to agree to the SSP (what should be the voting requirements for the board -- approval by 2/3 of the board; approval by a majority with at least 2/3 of participants approving?)

RD would also need to provide a process for consultation with the public. Electors would need to approve the SSP, (e.g. area-wide Alternative Approval Process), prior to adoption of the plan.

- *Implementation of SSP*

If RD goes to establish a service outlined in its SSP in a manner that is consistent with the plan (i.e. "meets or beats" the plan) within a specified time period, then the RD would receive the following types of "trade-offs":
- o streamlined service establishment approval (the service could be established without electors' approval, as electors would have already approved the SSP);
- o streamlined approval for borrowing (borrowing for the service could occur without electors' approval if borrowing was contemplated in the SSP); and
- o possibly, the ability to opt out of service withdrawal for a set time (again, if that was contemplated in the SSP).

A formal review mechanism may need to be built into the SSP process to ensure monitoring and implementation, such as via regular reporting out to citizens.

As well, in some circumstances (e.g. services of shared local/provincial interest), there could also be the ability for the RD to seek an additional legislative power or exception from the Province (on certain terms and conditions), if there appears to be a barrier to implementing an SSP.

Topic 4 - Incorporation and Restructuring of Municipalities

1. ISSUE

Incorporation of populous electoral areas (EAs) is expected to provide the most effective and efficient way to address more complex service and governance challenges as these communities grow and develop. The question is: can more be done to encourage communities that are ready for greater self-government to incorporate?

2. BACKGROUND/CONTEXT

- British Columbia's incorporation process is governed by Part 2 of the *Local Government Act (LGA)*. For the purposes of this discussion, incorporation also refers to large-scale restructures (i.e. boundary extension adding a whole EA to an existing municipality).
- Municipalization is a ground-up and locally driven process involving a community-based incorporation study committee and much community discussion. Section 7 of the LGA provides that where more than 50% of residents vote in favour for incorporation, the community may become a municipality.
- In the past, municipalities existed along a spectrum of varying responsibilities and powers (e.g. the province provided a more supervisory function for village municipalities). Today, all municipalities are recognized as an order of government based on principles such as autonomy, diversity and local choice, and generally have the full menu of powers under the *Community Charter (CC)* and the *LGA* from which they choose the extent of their authorities, depending on their capacity and community needs.
- Equally important is that the broad powers of municipalities are always balanced by their responsibilities. That too is reflected in the principles of the *CC* (i.e. municipalities are recognized as democratically elected, autonomous, responsible and accountable), as well as in its provisions (i.e. all municipalities, regardless of size, must meet some minimum requirements, such as annual reporting, but are left with choice as to <u>how</u> they meet those requirements, depending on their capacity and their community needs).
- The province does not determine which specific communities should incorporate, nor does it stipulate what kinds of communities should municipalize. However, the province does identify a number of characteristics a community should have in order to be suitable for incorporation as a separate municipality. These characteristics screen in communities that will be best served as a municipality. The characteristics include:
  - Size: population, location, area, assessment base (e.g. more than 500 full-time residents)
  - Services: level of services, planning and regulation (e.g. well-developed land use planning and regulatory bylaws)
  - Socio-economic features: community involvement, economy, land ownership (e.g. strong sense of community identity)
- Creation of a municipality leads to a change in the division of responsibilities and powers between local government and the province. In particular, the jurisdiction for property taxes shifts to the municipality such that the provincial rural tax is replaced with taxes set by the municipal council. Municipalities also take on ownership, control and responsibility for local roads.
- Incorporation also leads to a transfer of functions from the regional district board to the municipal council, with the municipality able to regulate a broad range of matters, such as planning and land use management, environmental protection, public health, and other matters stipulated in the *CC.*
- Each community is uniquely affected by incorporation. Factors impeding incorporation are not universal – in one community the responsibility for roads might be the key consideration while in other communities concern over political representation will be the focus of the incorporation debate.

- In order to address the variation in community concerns, the province has worked to develop mitigation strategies and customized tools that can ameliorate the effects of incorporation.
  - **Mitigation strategies** are focussed on finding ways to "level the playing field" between municipal and unincorporated areas to encourage rural communities which are ready to incorporate, or to provide specific "in kind" assistance to new or restructured municipalities with the additional costs associated with municipal incorporation.
  - **Customized tools** are focussed on responding to the particular challenges that individual communities and regions face in developing more effective governance structures. Amendments made in 2008 to the *LGA,* provide clear authority for the province, through Letters Patent, to custom-design new or restructured municipalities. Customization has been used in previous incorporations, but the authority to develop such solutions was not as clear. This means that the concerns of local residents can now be better addressed and many of the issues that might otherwise deter citizen support for municipal incorporation can be ameliorated.
- Appendix A summarizes examples of these mitigation strategies and customized tools.

4. OBSERVATIONS

- Experience with incorporation has shown that BC's system is stable and successful especially when compared with other provinces, and internationally where restructure of local governments is frequent. Close to fifty unincorporated communities have successfully made this transition to municipal status since the inception of regional districts and there have been almost no instances of municipalities seeking "disincorporation".

- These incorporations encompass a wide range of communities and circumstances demonstrating the flexibility in the municipal model to accommodate local needs and conditions.

- The principles (such as local choice, responsibility paired with autonomy, respect for diversity) on which the local government system is based, work together and are highly integrated. These principles are the foundation of the system; as such, approaches that further some principles of the system (such as responsibility) will impact other principles of the system (such as autonomy) and could disrupt its overall balance.

- While the fundamentals are strong, improvements can always be made. Approaches are needed to find the appropriate balance for encouraging communities that are ready take on the responsibilities of greater self government to incorporate and to look at alternative governance approaches within the regional district structure for those that are not ready. But those approaches cannot undermine the fundamentals of the system (i.e. incorporation, yes – but not at all costs).

- Therefore, the area of focus needs to be managing the transitions to incorporation – to assist and reassure communities as they enter the incorporation process, and to find partnerships between the Province and communities so that customized incorporation packages can appropriately address the unique needs and concerns of individual communities.

4. APPROACHES

Greater promotion and understanding "up front" in the incorporation process of what it means for communities to be ready to incorporate -- greater effort is needed to assist communities and regional districts to understand when incorporation is appropriate. This could involve primarily education, or it could require the

Province to make more stringent use of the incorporation criteria, (i.e. communities to "enter" the incorporation process only when the criteria (size, service and socio-economic features) of a potentially viable municipality have been met.   This means that incorporation studies would only be initiated when incorporation is a viable alternative. This work could focus on:

- creating a better understanding of the relationship that exists between the criteria for incorporation and the success of a newly incorporated area.
- supporting the regional district board so that they are better able to manage incorporation issues and implications.
- assisting communities in developing an appreciation of what a municipal structure can and cannot actually deliver to the community – i.e. will this governance structure actually address a specific community's issues and needs?

A partnership approach by the Province and local governments to help to address many community specific incorporation concerns -- this approach would include the following:

- assisting communities in understanding their particular issues and the customization tools available to effectively respond to community specific issues specific issues;
- working with communities and incorporation committees to identify specific incorporation barriers and how the community's needs could be met through customization tools; and
- engaging other parties (e.g. other ministries) in order to create innovative solutions to potential barriers to incorporation.

Appendix A: Examples of Mitigation Strategies and Customized Tools	

Concern	Mitigation Strategy or Customized Tool
Roads -- Province is responsible for the maintenance and improvement of arterial highways and roads in unincorporated areas. Municipalities have ownership of roads and responsibility for maintenance and capital which can require a significant commitment of resources, especially in more rural areas.	• Ministry of Transportation and Infrastructure retains responsibility for road maintenance for five year transition period Examples of customized provisions: • Province retains responsibility for specific types of roads (i.e. dangerous goods route): Dawson Creek • Ministry of Transportation and Infrastructure agrees to cover the costs of an important bridge replacement at some point in the future (i.e. even beyond the five-year transition period): Clearwater • Ministry of Transportation and Infrastructure agrees to include small municipality in provincial road maintenance contract on a fee for service basis: Wells
Policing -- Province is responsible for all policing in unincorporated areas and municipalities below 5,000 in population. Where municipality exceeds the 5,000 population threshold, the responsibility for police costs shifts to municipality. Municipalities and EAs do not pay full costs of policing.	• Ministry of Public Safety and Solicitor General provides transitional assistance by phasing in policing cost responsibility to the municipality over time. • Recent amendments to the *Police Act* mean that unincorporated areas and municipalities below a population of 5,000 now contribute to policing costs in their area through the provincial police tax. This change has had the effect of balancing costs and services received more evenly across incorporated and non-incorporated areas.
Farm taxation -- Farm residence and farm improvements are exempt from provincial general property tax in unincorporated areas.	• Five year phase out of the exemptions of a farm house and improvements from municipal general property taxes Examples of customized provisions • Establish in Letters Patent a limit on municipal tax rates on

Concern	Mitigation Strategy or Customized Tool
In municipal areas, the farm residence is not exempt from municipal taxation and only farm improvements over $50,000 in value are exempt from municipal taxation.	farm land: Lantzville; Metchosin
Property taxation -- Municipalities set tax rates, giving them more tax room. The result may be property tax impacts on business, industrial and residential properties after incorporation.	• Establish in Letters Patent a municipal tax rate limitation scheme for a transitional period: Rossland; Vernon
Representation – Some geographic areas may be concerned about being under-represented on a municipal council permanently or in the transition to municipal status.	• In Letters Patent for a new municipality, establish a mixed ward system in order to ensure representation on council from different geographic areas • In the case of a boundary extension, provide in Letters Patent for the appointment of interim additional council members until the next general local election, to allow for the newly included area to have representation on council. • Examples: Hope; Lake Country
Local services – Local services will be provided by the municipality, however, there may be some concerns about the continuity of the delivery of such services after incorporation, as well as local community control.	• In Letters Patent, provide for appointment of management committees or advisory bodies to oversee local services transferred to the new municipality. • Example: Bowen Island
Continuity of governance – Those most familiar with provision of services to the community will be replaced by the municipal council.	• Provide in Letters Patent for appointment of an interim council upon incorporation. This ensures that regional district elected officials or improvement district trustees are not removed from their role as a result of the restructure • Example: Lillooet (included EA directors)
Improvement district services – Certain Improvement District	• Provide in Letters Patent for a delay in the transfer of the service provided by the improvement district to the

Concern	Mitigation Strategy or Customized Tool
services may have a particular structure, delivery approach or immediacy that residents may fear could be subsumed in the new municipal structure.	municipality, for up to four years after incorporation • Examples: West Kelowna; Bowen Island
Boundary extension – Residents of the newly added area fear their community will be simply an "annex" to the existing municipality, and so they will lose identity and control.	• Rather than merely extending the boundary of the existing municipality, dissolve the old municipality and reincorporate as a new, larger corporate entity. • Examples: Lillooet; Hope
Land use planning – The municipality will likely take new approaches to land use and services, than the regional district and so a smooth transition is needed.	• Require in Letters Patent that the newly incorporated community update its official community plan in order to respond to its change in status: Lillooet • Require in Letters Patent that the municipality adopt a regional context statement: West Kelowna; Barriere; Clearwater
Connection to regional district – With the transfer of power and responsibility to the municipality, the regional district will lose service delivery responsibility and some of its revenue.	Provide in Letters Patent for: • planning for the transfer of services to the municipality to provide continuity: West Kelowna (delayed transfer of services from CORD) • enabling municipalities to continue to participate in regional district service, where necessary in order to ensure a smooth transition: Clearwater (contract for RD to provide services for 1-2 years) • creating an ongoing financial arrangement with the regional district in order to ameliorate the effects of municipalization: Clearwater (municipality to pay TNRD for services at Vavenby)

Topic 5 - Service Review and Withdrawal

1. ISSUE

Are statutory service reviews and withdrawal provisions being used appropriately? Are modifications needed to improve the statutory processes?

2. BACKGROUND/CONTEXT

Regional districts (RDs) have been able to undertake a review of services at any time. However, since 2001, a participant in a regional service has been able to request a formal <u>statutory</u> review of the terms and conditions of the service. Withdrawal from most services is now possible where the terms of participation remain unsatisfactory after a service review (with some exceptions).

Current legislation recognizes that service disputes should be managed locally and that the Provincial role should be to help parties reach agreement, not take sides. Alternative dispute resolution processes (interest-based negotiation, facilitation and mediation) are available to resolve differences and, if necessary, to negotiate fair terms for withdrawal. Arbitration, as a last resort, is also available for withdrawal from certain services.

3. OBSERVATIONS

Service reviews are appropriate where the original shared vision for a service has changed, where the scope of the service no longer reflects the objectives of all partners, or where the terms and conditions of participation are no longer equitable. Lack of an opportunity to review service arrangements can result in tension and conflict between partners that can sour intergovernmental relationships. Regular service reviews are considered good practice for RDs.

Regional districts have been reviewing services **by agreement of the parties** since 1965. However, prior to 2001, where agreement could not be reached, some participants felt trapped in what they perceived to be an unsatisfactory arrangement. This changed with the introduction of the statutory service review process.

Since 2001, there have been 21 individual statutory service review processes initiated, and one comprehensive phased service review that ultimately resulted in the review of 10 separate services, for a total of 31 service reviews. Six service withdrawals have been initiated over the same time period.   Parks and recreation (including culture in some cases) is the most frequently reviewed service. Eight service reviews and three service withdrawals have focussed on this service.

Most service review processes have reached full or partial agreement on the issues and Ministry surveys show a high level of satisfaction with various aspects of the process (in the 70-80% range). Despite this success, the Task Force has identified the following concerns with the current process in some cases:

- The reasons for initiating a service review are considered "frivolous" or inappropriate by some of the parties. For example, the review may be prompted by a disagreement over a specific service management decision rather than a desire to change the fundamentals of the service or the service establishment bylaw.

- A service review is initiated in order to highlight other points of difference between the parties rather than to address significant concerns with the specific services identified.
- There are no statutory timelines for completion of service reviews. This has the potential to leave open a service review for a significant period of time. In addition, even if agreement has been reached regarding new terms and conditions for the service, there is no obligation for the RD to implement the changes in a timely fashion.

4. APPROACHES

Added rigor around issue identification -- to address concerns over 'frivolous' or inappropriate use of service reviews, Provincial guidelines would advise on the level of detail and analysis needed to support the stated "reasons" for a service review. Clear linkages between the specific terms and conditions of the service establishment bylaw and the stated dissatisfaction would be expected.

Careful consideration of parameters around the rationale for initiating a service review would be needed to ensure fairness. What one partner sees as frivolous may be seen as significant and legitimate by another.

Timelines for the review process to be completed, with the ability to extend by agreement -- establishment of a timeframe within which a review has to be completed could reduce frustration with the length of the process, reduce costs (both financial and relationship) and keep the time spent on a review focused on solutions. The ability for parties to extend the timeframe by agreement would provide flexibility when progress is being made. This would likely require legislative change.

Topic 6 - Appointment of Alternate Electoral Area Directors

1. ISSUE

Should the process of appointing alternate electoral area (EA) directors be reconsidered?

2. BACKGROUND/CONTEXT

When the regional district (RD) system was designed, the candidate who received the second highest number of votes in an EA election was declared the alternate EA director. If the EA director was acclaimed, he/she could appoint an alternate. In 1968, legislation was amended so that EA alternates were no longer elected. Since that time, EA directors have been required to appoint an alternate. The *Local Government Act* does not currently provide direction as to what happens if an EA director does not appoint an alternate.

The alternate must have the qualifications necessary to be nominated as a director and receive the written approval of two electors in the EA. The alternate is responsible for acting in place of the director during the director's absence and has all of the authority of the director, including voting at the board table and participating fully in discussions and development reviews.

In the event that the director, through death, resignation or disqualification, is unable to continue holding office, the alternate acts as the director until the next general local government election is held. If, however, the alternate is unable or unwilling to hold office as director, then the RD must appoint a different alternate to be director for that time.

3. OBSERVATIONS

- Alternate **municipal** directors are elected by their local constituents and appointed by their council peers. Alternate **electoral area** directors are appointed by the elected director. It is unusual in democratic systems for political decisions to be taken by unelected persons.
- In the current system, alternates are accountable to the EA director who appoints them, not to the electorate. An alternate EA director is not obliged to vote in a manner consistent with the director's views, although the appointment of the alternate is at the "pleasure" of the director. There have been examples where differences in votes cast by the alternate and the EA director have caused confusion and delays in decisions.
- An elected alternate would provide for greater accountability to the electorate. However, an alternate chosen by the EA director allows the director to select a person whose views are similar to those of the director. In most cases this allows the director and alternate to speak with "one voice". An elected alternate would have more status than an appointed alternate, however, this could lead to conflicts between two elected officials.
- In the 2008 local government elections, 50% of the 161 EA directors were acclaimed. This high proportion of acclamations may suggest that electors are satisfied with the current director. However, it may also reflect a lack of interest in the job of EA director, in which case, it may be even more difficult to recruit persons to run for alternate EA director.

- The appointment process is only weakly described in legislation. The choice of an alternate is made solely by the EA director and the two electors who support the appointment.
- Directors are not obliged to appoint an alternate in a timely fashion. If an alternate has not been named, then an EA could have no representation for an extended period of time. The RD board has no authority to appoint an alternate in the event that an EA director has not appointed an EA alternate.
- Discussion of the appointment of alternate EA directors also arises in the context of additional approaches to EA governance, such as in the "Single EA Director" paper.

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4. APPROACHES

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1. **Voluntary guidelines/application process --** the RD board could create an application or review process for appointment and ask the directors to follow it voluntarily. This would increase the rigour with which the alternate is appointed and may increase the perception of democratic legitimacy. "Best practice guidelines" could be prepared for inclusion in the RD Toolkit. A guideline or best practice, for example, could recommend that a candidate for office as EA director declare who he/she would appoint as an alternate before running.

2. **Provide RDs greater authority to appoint alternates in certain circumstances --** while the main responsibility to appoint would remain with the EA director, the RD board would have a recognized 'enforcement role' for appointing under the following type of circumstances:
   - If an EA director has not appointed an alternate within a specified period of time, then the RD board can (or must) do so.
   - The RD can appoint an alternate only in the circumstances where the director has resigned and no alternate has been appointed.

3. **Replace appointed alternates with elected alternates --** the alternate would be selected as a result of an election process such as:
   - The EA director and the EA alternate would run together on a slate; citizens vote for their preferred pair of director and alternate.
   - The second runner-up on the election ballot would become the alternate; if the EA director is acclaimed, then he or she can appoint an alternate.
   - The alternate would be directly elected, separately.

Topic 7 - Single Electoral Area Director

1. ISSUE

Does the representation of electoral areas (EA) by a single, directly elected director meet the present day needs of *all* areas of the province?

2. BACKGROUND/CONTEXT

The purpose of an EA director is to represent the interests of the citizens of the EA to the regional district (RD) board. The director is accountable to those citizens through the election process, but also has broader accountabilities which flow from the director being a member of the board as a whole. As the representative for the EA, the director has the authority to provide consent on behalf of the EA when establishing certain types of services.

- The single EA director is an effective and cost efficient means of representation for EAs in *most* of the Province. It can be combined with the board's ability to delegate administration and operation of services to commissions and committees to provide more autonomy and local control of services down to the community (or sub-regional) level.
- This model has been the approach for representation of EAs on the regional board since the inception of RDs. However, some EAs are changing dramatically with larger populations, a broader range of interests, and new and more complex planning and servicing decisions.
- In 1968, there were 5 EAs with a population greater than 5000 throughout the province; by 2008, this number had grown to 22.
- Large and increasing populations can place strains on a single EA director. The single director can be challenged by a heavy work load, the difficulties of representing diverse interests in the community and dealing with a wide range of complex issues. In contrast, a municipality, shares this burden among a group of elected officials.
- As well, in these changing EAs, citizens may have less representation than that to which they feel entitled. For example, a single EA director could represent 5,000 people while the adjacent municipality could have a smaller population, but with a council of five.
- These situations can also create challenges for communities and the RD board. Communities may sense a lack of control or influence on critical issues. The board, on the other hand, may be frustrated because local issues that normally get resolved at the community level are brought to the board. This can both distract the board from larger regional/corporate issues and increase tensions at the RD table.
- The traditional response for these changing communities has been to seek municipal incorporation. However, the incorporation process can take time and, in some cases, citizens vote against this option, for a range of reasons.

3. OBSERVATIONS

- As each RD is unique, the needs of BC's 161 EAs vary from place to place.
- For those EAs with large and more diverse populations, and which face more complex servicing decisions, different approaches to a single EA director may be useful. Depending on the circumstances in the particular EA, those alternatives may provide a more local and democratic forum for providing input; a mid-

way step between the single EA director and municipal incorporation; and/or a means of easing the burden on the single EA director and the RD board.

- Addressing these needs has to be balanced with issues such as size of the RD board, the desire not to unnecessarily add "more government", and the fact that the existing model of the single EA director continues to be an appropriate means of meeting citizen's needs in most areas of the province.
- In other words, different approaches to the single EA director model should be viewed neither as a general solution nor as a general concern; instead, they could be selective, targeted tools to address particular pressures in particular circumstances.
- For example, in looking at the 22 EAs in the province with populations greater than 5000, two categories emerge: EAs with geographically diverse populations and; EAs with rapidly growing communities that spill across EA boundaries.
- For some EAs in the first category, an *Electoral Area Body* could provide a different approach to the single EA director; for some EAs in the second category, the *Multi-Director model* could provide a different approach to the single EA director. The characteristics of both tools are outlined in Table 1 and the circumstances in which these tools could be applied can be found in Table 2.
- The potential application of either of these approaches would have to be looked at in the context of the internal structure of the particular regional district. Implementation of either model may only make sense if, for example, EA boundaries are realigned, or the voting unit is changed. In either model, the costs would have to be borne by the community.

4. APPROACHES

Electoral Area Body: The purpose of the EA body would be to provide citizens with a more local and democratic forum for providing input. The EA body would be created by the RD board following a public consultation process and a referendum. The EA body would be a body of the RD, not a separate corporate entity. The parameters of the EA body could be broadly described as:

- The EA body would represent an EA within a regional district (could be more than 1 EA).
- Three or five representatives would be elected to the EA body (normal election rules would apply -- e.g. 3 year term).
- The representatives on the EA body would be responsible for appointing an EA director to the board from among their members. The appointment of the EA director would essentially parallel that for a municipal director (i.e. for the 3 year term or until replaced by another appointee).

The EA body could play a number of roles in the governance of the EA. For example, the EA body could assume the role of the advisory planning commission. It could also provide consent for a service, in a manner more similar to municipal consent. Other potential roles could include: the consolidation of service management in the EA body (e.g. an existing water commission could transfer to the EA body); the approval of grants; recommendations on feasibility studies; and the ability to hold public hearings under Part 26 of the *Local Government Act (LGA)* respecting zoning, official community plans and phased development agreements, should the RD choose to delegate those roles.

Multi-Director Model: The purpose of the multi-director model would be to act as a stepping stone in a comprehensive review of sub-regional service delivery, planning and governance, possibly leading to municipal incorporation or inclusion of EA(s) in an existing municipality. The multi-director model would be implemented

by changes to the RD letters patent, as requested by the board, following a public participation process. The parameters of the multi-director model could be broadly described as:

- The multi-director model would be based on the existing model of the single EA director, except that there would be two or three directors rather than just one. In other words, the EA directors would be elected directly to the RD board and serve for a three-year term.
- In keeping with the RD system, the number of EA directors would be based on the relationship between the EA population and the RD voting unit. Therefore, in order to elect at least two EA directors, the EA population would have to be at least six times the voting unit; if not, that relationship would be accomplished by: merging two or more EAs; adjusting the RD voting unit, or modifying the divisor from the default (which is 5 as per LGA s. 783(5)).

Much like the EA body, the multi-director model would result in broader authority for consent. The RD would also continue to be able to delegate land use under Part 26 of the *LGA* as desired. However, given that there would be only two or three elected representatives, the other functions noted in the EA body description (the APC, service management consolidation and approval of grant in aid and feasibility studies), would not transfer to the multiple directors. This model of EA representation has already been tested in the Westside area of the Central Okanagan Regional District, before that area was incorporated.

	Single EA Director	Local Community Commission	EA Body	Multi-Director Model	Municipality
Characteristics					
Geographic representation	Entire EA	Part of an EA	Entire EA	Amalgamation of two or more EAs	Municipality
# of elected officials	1	Variable	3-5	2-3	Minimum of 5
Corporate status	No	No	No	No	Yes
Election or appointment to RD board	Election	n/a	Appointment	Election	Appointment
Election or appointment of RD board alternates	Appointment	n/a	Election to EA body then appointed to RD board	Appointment	Election to municipality then appointed to RD board
Functions					
Consent on behalf of electors	Can provide consent under certain circumstances	n/a	Similar to municipal provisions	Similar to municipal provisions	Can provide consent if service includes entire municipality
APC	EA director is not a member of APC	n/a	The EA body becomes the APC	The APC continues to provide advice to the multiple directors	The APC provides advice to council on matters in the municipality
Delegation of some Part 26 decisions	Sometimes	No	Yes	Sometimes	Council exercises authority within the municipality (but may delegate)
Consolidation of service management	No	Yes	Yes	No	n/a
Approval of grants in aid and overseeing feasibility studies	No	n/a	Yes	No	n/a

	Single EA Director	**EA Body**	**Multi-Director Model**
Population	Less than the RD voting unit	Larger than the RD voting unit	Several times larger than the RD voting unit
Population density	Low	Moderate to high	High
Settlement pattern	The population is dispersed throughout the EA in rural or small communities	1 EA with a large and diverse population. There may be no municipalities embedded in the EA, or the population might surround one dominant municipality	2 or more EAs with high populations are abutting; the area could be considered one community; the area could ultimately be a candidate for either a municipal boundary extension or municipal incorporation
Is it a candidate for incorporation?	Not likely	Possibly	Yes
Level of services received	Low	Medium	High
Services provided at what scale	Mostly local	Mostly local, sub-regional, regional	Local, sub-regional, regional
Services provided by whom?	Mostly the RD	Mostly the RD, some improvement districts, some private utilities	Several improvement districts, private utilities, and the RD
Pressure for development	Low	Moderate to high	High
Planning decisions	Low complexity	Moderate complexity	High complexity

Table Two: Link between EA Characteristics and Governance Model

Topic 8 - Internal Structure of Regional Districts

1. ISSUE

The internal structure of regional district (RD) boards has changed little over the years, despite significant population changes in some regions. Should internal structures be reviewed to ascertain whether they are consistent with these changing populations?

2. CONTEXT / BACKGROUND

- The *Local Government Act*, Part 24 sets out the legislative rules for how an RD is to be structured. Changes to RD internal structure are implemented through Letters Patent issued by the provincial Cabinet.
- The internal structure of an RD is made up of a number of elements: voting units; voting strength; the population divisor; directors; and electoral area (EA) boundaries. Each of these elements is described in Table 1 attached. The internal structure of an RD does not include the external geographic boundaries of the RD.
- The internal structures of individual RDs were established over 40 years ago, one at a time on a region by region basis, taking into account population, distances, geography and natural communities.
- BC's population more than doubled from 1966 to 2006 (from 1.8 million to 4.2 million). While the proportion of the population which is rural and municipal has been relatively constant, the pattern within particular regional districts has seen dramatic shifts.
- Each RD has undergone unique experiences over the past 40 years; in terms of population growth, some regional districts have grown significantly, others have stayed relatively the same, while a few others have shrunk in size.
- For example, since the mid-1960's, the population of:
    - o   five RDs has more than tripled;
    - o   eight RDs has more than doubled (but less than tripled);
    - o   twelve RDs has grown (but less than doubled); and
    - o   three RDs has shrunk.
- In addition, municipalities have undergone a number of changes and restructures in the past 40 years (i.e. 50 incorporations since 1965).
- However, the internal structures of individual RDs have been relatively untouched. Most of the changes in internal structure have occurred as a consequence of municipal incorporation (i.e. elimination or merger of EAs).
- Over the past 40 years, only seven RDs have had their voting units changed – four increased their voting units and three decreased their voting units. For example, when the Nanaimo Regional District was incorporated in 1967, its voting unit was 3,000. In 1975, the Regional District requested an amendment to its Letters Patent to change the voting unit to 1,500. Subsequently, in 1983 the Regional District made a further request to change the voting unit to 2,500.
- A number of reports on RDs, including the 1978 Farmer Report and the 1999 Bish Report, have argued that some type of internal structure realignment is needed for appropriate RD governance. For example, the 1999 Regional District Issues Steering Committee report encouraged "boards to review parameters of corporate structure including voting unit, divisor, number of EAs and their boundaries".

3. OBSERVATIONS

- The internal structure of an RD is an integral aspect of the constitution of local governments; it is at the heart of who is represented on an RD board and how. As such, the Province is responsible for establishing and changing internal structures.
- Currently, review and action on internal structure generally occurs in response to an RD's request or, more typically, via a municipal incorporation or restructure. This approach has the advantage of responding to specific issues and allowing decision makers to make the decisions that are really needed. However, this may mean that problems related to the broader internal structure are not addressed.
- For example, the director of an EA with a large population may be challenged in meeting the needs of all citizens. Citizens could be concerned if it is seen as limiting their democratic rights to be relatively equally represented in a governing structure. Also, if one jurisdiction's share of directors is well below its share of the regional population, the jurisdiction may perceive it is unfairly underrepresented in number of directors and voting strength (or alternatively, that others in the RD are overrepresented) (i.e. a municipality whose population has grown significantly over the past 40 years).
- However, the extent to which any of these factors contribute to conflict between members or impair the ability of RD boards to effectively carry out their responsibilities is difficult to pin down and will certainly vary depending on the particular RD and its circumstances.
- In its focus on representation, discussion of the internal structure of an RD links to some of the discussion of EA governance set out in the "Single EA Director" paper.

4. APPROACHES

There is the potential for internal structural imbalance in RD boards to contribute to conflict. However, reviewing internal structure can also be difficult for all affected, costly, and could serve as a lightning rod for exacerbating existing challenges in an RD.

The following approaches are not mutually exclusive and could be used in combination with each other.

Continue the current approach -- the province could continue with its current approach to managing the internal structure of RDs. Structures would continue to be adjusted where necessitated by a municipal incorporation or restructure. Changes could also be made where an RD requests a change to a particular aspect of internal structure, for example, the voting unit or the EA boundaries. This approach is low cost and issue specific, but does not address issues systematically within a particular RD.

Comprehensive, regional district specific, review -- in this approach, an individual RD could request, or the province could initiate, a comprehensive review of the internal structure of an RD. This type of review has been conducted on occasion in the past at the request of the RD. Alternatively, this type of review could be triggered by the publishing of a new census. Either would involve a proactive review of internal structure in an individual RD, with limited resource and cost implications.

Comprehensive review of regional districts -- in this approach, the internal structures of some or all RDs would be reviewed on a regular basis (i.e. every 5 years). This could be done in a number of ways – from using an independent body, similar to a provincial electoral boundaries commission, to partnership teams comprising the province/individual RDs/UBCM to review a group of RDs. While either of these approaches would result in regular, "neutral" reviews and resulting changes to internal structures, it is not clear how practical they would

be -- the cost and the resources needed would be very high, as would the level of disruption. As well, this approach may be seen as "overkill" (i.e. may assume a wider-scale problem than actually exists).

Table 1: Internal Structure of Regional Districts

The internal structure of an RD board is made up of a number of elements including: voting units; voting strength; the number of directors; the divisor; and EA boundaries.

Voting Unit. Voting power and representation on a regional district board are based on a "voting unit", a population number which was designated in a regional district's Letters Patent when it was created. Voting units typically approximately matched the size of the smallest municipality or EA, to reflect the principle of representation by population, balanced with representation by community. If the voting unit gets smaller, the size of an RD board increases and if it gets larger, the board shrinks.

Voting Strength. The number of votes to which a municipality or an EA is entitled was reached by dividing the population of the EA or municipality by the **voting unit** and then rounding up to the next whole number (e.g., an EA with a population of 3500 in a regional district with a voting unit of 1500 would have 3 votes). The number of votes that an EA or a municipality has is referred to as its **voting strength**.

Directors. The number of municipal directors sitting on the RD board is determined by dividing the number of votes to which the municipality is entitles by five, the default **divisor** established in legislation (if there is a quotient, the number is rounded up to the next whole number). For example, if a municipality has six votes, then that municipality would have two directors (i.e., 6/5=1.2 therefore 2. directors). Note that an electoral area cannot, under the default legislative rules, have more than 1 director.

Divisor. The LGA establishes the divisor as 5. However, the Act enables the divisor to be changed by amendment to Letters Patent, typically at a RD's request. If the divisor is increased then the number of directors may decrease, but not below 1 director per jurisdiction.

Electoral Area Boundaries. EA boundaries were established in Letters Patent at the time of incorporation of the regional district. The original boundaries reflected a number of factors: population; area; geographic features; and natural communities. Boundaries can be adjusted over time, in response to changes in population or local government structure.

Topic 9 - The Role of Delegation in Service Delivery

1. ISSUE

Delegation of responsibilities for the operation and administration of services to committees and commissions can contribute to effective governance and service delivery in electoral areas (EAs) and at the regional and sub-regional scale. How can regions be encouraged to effectively use these tools?

2. BACKGROUND/CONTEXT

The *Local Government Act* provides regional district (RD) boards with broad corporate powers, including the ability to delegate administrative and operational responsibility for services to a number of different bodies including committees, both select and standing, and commissions of various kinds.

Examples of what a board **can** delegate to such bodies are powers, duties and functions such as planning, budgeting, expenditures, contracting, operational policies and procedures and operational decisions. If the RD board delegates the administration and operation of a service to a body, the RD board may also, in a service establishment bylaw, provide for appointments to the body and establish custom voting rules for the body in relation to the service. An RD board may also delegate the holding of hearings, but only to one or more directors.

A regional district board **cannot** delegate:

- bylaw making powers;
- a power or duty that can only be exercised by bylaw (i.e. power to levy parcel taxes);
- a power or duty to suspend or terminate a regional district regional district officer;
- a power or duty to consider an action or decision where reconsideration is mandated in statute;
- a power or duty established in legislation where the local government provides its consent; and
- a power to impose remedial action requirements.

An RD board may only delegate by bylaw adopted by an affirmative 2/3s vote. The delegation bylaw lays out the delegation scheme in order to protect the overall interests of the board, to establish the board's expectations of the delegated body and to ensure that the delegated body has clear direction on the scope and limits of its powers.

Delegating to a regional, sub-regional or EA body is an important tool for RDs to consider in governing and operating services. Delegation can:

- improve service delivery by shifting some of the more technical, and sometimes, time consuming aspects of operating services or managing RD property off the board table and onto the delegated bodies;
- give boards more room to focus on region-wide or corporate issues;
- assist the participants in a service by providing a dedicated forum to discuss issues related to the management and operation of a particular service;
- provide opportunities for citizens and key stakeholders to participate and contribute expertise to the management of the service, bringing decision making closer to home; and
- encourage members of the RD to establish service partnerships by providing an additional voice and control for service participants (i.e. by customizing the administration and delivery of those services).

Delegation to bodies can also be used to help address specific issues affecting governance. Delegation to a committee of EA and municipal interests can assist in managing fringe planning issues by providing a forum to bring those interests to the table and by encouraging harmonized decision-making. Delegation is essential to the effective use of local community commissions, a unique elected service delivery and governance body that can be established to manage local communities within EAs. Delegation can be used today to enhance EA governance, by providing for delegation of a wide range of operational and planning decisions to a committee for EAs. Delegation would also be a key factor in the effectiveness of alternative approaches in relation to EA governance, such as an EA body as set out in the "Single EA Director" paper.

3. OBSERVATIONS

While the experience is different in different RDs, it appears that the authority to delegate service authority to RD committees or commissions is not frequently used or not frequently used to its full authority (i.e. the bodies are advisory rather than operational decision-makers). Why is not fully understood.

Delegation authority is not "wide open" for either municipalities or regional districts; limits on delegation are important to maintaining the appropriate balance between administrative effectiveness and decision-making accountability. Delegation is a very valuable tool (as noted above) however ineffective delegation can lead to confusion, concerns about "losing power", blurred accountability and potential conflict.

Effective delegation requires:

- Boards to consider and understand **why** they wish to delegate (e.g. what is it they want to accomplish; what do they wish to avoid; do they have realistic expectations of what delegation to a commission or committee involves and what it can do?).
- Boards and service participants to think through the implications of delegation (i.e. all need to have a clear understanding "up front" of roles and responsibilities of the board and of the committee or commission, and therefore clarity around accountability and the decision-making matrix).
- Consideration "up front" of the administrative and other resource needs of the delegated committee or commission and therefore a shared understanding of its potential costs and benefits for the RD as a whole and for various board members.
- With day-to-day administrative and operational issues off the board table, a concerted focus by the board on "regional", "corporate" or overarching "policy" issues -- so that they avoid the temptation of wandering back into the minor operational and administrative issues that they wanted to avoid by delegating in the first place.

It is unclear whether what inhibits RD boards from the full use of delegation authority is concern about too much delegation (i.e. as the authority is already broad, the potential loss of control by RD boards) or about too little delegation (i.e. too limited delegation authorities). Delegation authorities could be enhanced in targeted ways -- for example, to include setting fees or parcel tax rates which would provide the delegated bodies with some additional control over service provision and management. However, is that actually what is needed to encourage RD boards to devolve service administration and governance decision-making to committees and commissions?

4. APPROACHES

Delegation is an important tool for enhancing EA service administration and governance, improving regional and sub-regional service delivery and managing specific issues such as fringe planning. As the opportunities for effective delegation have not been fully realized, two approaches are suggested:

Promote best practices. Enhancing advisory materials on delegation may provide a first step in ensuring that boards take advantage of the benefits of delegation. This could provide more precise advice on how well-balanced delegation could be used to enhance the operations of regional boards, enable more effective governance and service delivery in rural areas and deal with sub-regional services and urban fringe issues. This could also engage those boards that do use delegation effectively to tell their stories. Some may consider this approach insufficient.

Broaden delegation authority. This could include targeted opening up of the scope of delegation to committees and commissions by providing additional powers such as delegating board authority for establishing parcel taxes and fees for a service. Some aspects of broadened scope could be considered for delegation generally; other aspects might be focused on particular types of bodies (e.g. local community commissions). Broadened scope could provide an additional incentive and opportunity to create more effective service and governance bodies for electoral areas, sub-regional services and managing fringe planning issues. The risk of additional tools and authorities is that they may not resolve the issue and therefore will not be used.

Topic 10 - Appointment of Municipal Directors

1. ISSUE

Should the process of appointing municipal directors be reconsidered? In particular, should the double-direct method of appointment be recommended?

2. BACKGROUND/ CONTEXT

Each municipal director is appointed to the regional district (RD) board by the municipal council from among its members. Municipal directors can be appointed for a term of up to three years and can be replaced at any time.

Existing legislation does not prevent (nor does it explicitly permit), a municipality from utilizing a method of double-direct appointment under which the electorate, at the time of municipal elections, also "elects" which municipal councillors should be sent to the RD board. The decision made by the electorate is not binding on the Council, but municipalities who use this method have chosen to abide by the choices made by the electorate. Currently, only two municipalities use the double-direct model: Saanich and Victoria.

Under the Saanich and Victoria models, the councillor(s) declare their intent to run for the RD board prior to the election (so that the ballot separates those who intend to run for council only, versus those who intend to run for council and the RD board).

- this double-direct model assumes that the mayor of a municipality is automatically selected as the first municipal director to the RD board.
- the remaining councillor or councillors are "elected" (voted to be appointed) to the RD board at the general local election, based on the most votes received for the position of municipal director.
- this model can only be used if the municipality has more than one director on the RD board. If there is only one director, then municipalities choose who to appoint to the RD (many municipalities automatically select the mayor as the municipal representative, but in some municipalities this is not the case).
- this model requires councillors to serve on the RD board for at least a 3-year term of office (to coincide with the election cycle).

From 1973-1978, local government legislation required all municipal directors to be *elected* via a double-direct model. Following considerable debate the double direct method was dropped in favour of the current system of appointment.

3. OBSERVATIONS

- Municipal directors are expected to distinguish between matters that should be viewed from a regional perspective (i.e. wearing "regional hats") and matters on which local jurisdictional concerns should be paramount. Under the federated system, municipal directors are accountable primarily to their council rather than to electors for decisions taken at the board table.
- There has been considerable debate as to how municipal representatives should be selected to RD boards. Those advocating the existing approach (i.e. municipal appointments by councils), argue that: (1) municipal councils are in the best position to judge who is best able to serve the municipality at the RD board; (2) any other approach (i.e. direct elections) would violate the principle that the RD board is a forum for inter-

municipal cooperation and not a separate government; and (3) alternative models, particularly, the double-direct approach, would make little or no difference in enhancing accountability.

- Those who advocate for an alternative approach, such as the double-direct model, argue that (1) it would enhance accountability and legitimacy without undermining the "federated" systems; and (2) that it would make it easier for municipal directors to wear their various "hats". Generally, however, there has been great difficulty in being able to come to an amicable conclusion, particularly around the double-direct debate, as evident by the following excerpt from the October 1978 RD review by the Farmer Committee:

  > *"The committee appreciates that it is difficult to think regionally if one is accountable to a particular electorate by virtue of being a member of the municipal council. The method of direct election to the regional board with such election being conditional upon being elected to council was criticized in many presentations. However, the method previously used of appointment by council of one or more of its members to the regional board was also criticized. The Committee's Hearings brought forth no consensus for either method."[2]*

Design elements

- **Appointment of Mayor:** There is no requirement that the mayor of a municipality be selected to sit at the RD board table. Many municipalities automatically select the Mayor as municipal representative, but in some municipalities this is not the case. Having mayors present increases the profile of the board.
- **Tenure:** Turnover of municipal representatives on the board may be seen to work against the development of an effective and informed RD board.

4. APPROACHES

Raise the profile

Profile the double-direct model by encouraging its usage through educational and promotional materials (such as circulars, best practices guides, etc.). This approach would encourage the two municipalities, Saanich and Victoria, who currently use the double-direct system, to share their experience, knowledge and expertise about the double-direct model with other municipalities.

Enable under legislation

Explicitly enable municipalities to use the double-direct model through legislation, but retain it as a voluntary tool. Legislation would need to set out the basic parameters and design characteristics of the double-direct model -- for example, tenure of the term and appointment of the mayor would be design elements to consider.

Require under some circumstances

This approach would require municipalities, through legislation, to use the double-direct model under certain circumstances. Again, this approach raises a number of design questions and issues including tenure of the term and appointment of the mayor. Other elements to consider under this approach include, for example, when the requirement would be triggered -- at a population threshold? when a new municipality is incorporated? if there is more than one municipal director?

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[2] Regional District Review Committee (Farmer Committee), Report of the Committee, October 31, 1978, p.73