

HOW WE LIVE, WHERE WE LIVE, IF WE LIVE

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I. THE ROAD FROM ISTANBUL

In 1950, 30 per cent of humans lived in cities, compared with more than 50 per cent by the year 2000. By 2015, the 10 largest cities in the world will be in Africa, Asia and Latin America, nine of them in developing countries (UN Chronicle, Spring 1996, Page 42).

In anticipation of these major changes, more than 12,000 persons interested in sustainable cities met in June, 1996 in Istanbul for the United Nation's conference on Human Settlements, known as "Habitat II." Among other things, the conference addressed governance, global co-ordination and greater autonomy for local authorities. These gave rise to the declaration of the World Assembly of Cities and Local Authorities, held in Istanbul on May 30 and 31, 1996. The declaration called on the United Nation's and sovereign states to acknowledge and foster the leading role of local governments in achieving improved urban living conditions and to adopt policies and programs to enhance that role.

Sustainable urban settlements are a key objective. Achieving this will depend on the policies and programs implemented by local authorities.

II. LESSONS OF HABITAT II

The starting point for the Habitat II conference was the concept of sustainable human development. The final declaration of the World Assembly of Cities and Local Authorities, paragraph 2, averred that "sustainable human development is the concept around which the future of our towns and cities must be conceived and organized."

There are numerous definitions of sustainability. The seminal definition was that posited by the World Commission on Environment and Development in 1987 in the report entitled "Our Common Future": Settlement that meets the needs of the present without compromising the ability of future generations to meet their own

needs.” This has been refined by Herman Daly: a sustainable human settlement is one that does not place greater demands on an ecosystem than what the ecosystem can sustain through natural regenerative processes. That is, renewable resource use must not exceed regeneration rates; consumption or disposal of non-renewable resources must not exceed the renewable substitution rate; and pollution emissions must not exceed the assimilative capacity of the ecosystem. Against these subjective mensuration devices, the 12,000 urban planners, government officials and activists who met in Istanbul attempted to build a coherent model.

One of the themes of the conference was that since human beings are at the centre of concerns for sustainable development, they are the basis for action in implementing sustainable human settlements (United Nations, Habitat Goals and Principles, Section 7). This requires sustainable patterns of production, consumption, transportation and settlements; pollution prevention; homeostatic ecosystems; and the protection of hope for future generations (Section 10). Of interest to local government is the precept that humans must promote the evolution of powers through local governments and reinforce their competencies in the context of accountability, transparency and democracy (Section 12).

The Habitat II hearings involving Mayors and representatives of international associations of local authorities arrived at a consensus on more practical recommendations for human settlement sustainability (United Nations, Role and the Contribution of Local Authorities, Section 8). The hearing participants concluded that human settlement development is integral to sustainability generally. Accordingly, economic development, social progress and environmental awareness are functions of the same conception. Local governments are the most proximate to extant and future crises and are well placed for resolving health, employment, environment and community service problems. This will not be possible without reinforcing the powers and resources of local government. Local governments can then play the pivotal role in establishing partnerships with industry, business, academia and community groups. These objects can only be obtained if the principles of local self government are implemented (European Charter on Local Self Government, Articles I-VI).

The participants at the conference hearings celebrated the fact that more than 1,500 communities had adopted “local Agenda 21” (United Nations, Making Cities Work). The Agenda 21 principles for sustainability direct the local decision making process. The principles were developed at the Rio Earth Summit, 1992. The participants concluded that implementation of local Agenda 21, inter alia, could support the achievement of the objects of human settlements development.

Based on these guiding principals, the delegates to the World Assembly of Cities and Local Authorities at the Conference on Human Settlement committed themselves (United Nations, “World Assembly of Cities and Local Authorities - Final Declaration”) to:

1. evolve development policies based on partnerships engendered by local government with neighbourhood resident associations, non-governmental organizations, business, industry, professions, trade unions and other community based organizations;
2. plan regionally;



3. inculcate a culture of civic engagement by making local government transparent, accountable and democratic;
4. reinforce exchanges and co-ordination among local governments, aided by regional and international associations of local authorities;
5. ensure the national state fulfils the United Nation resolution calling for at least .7 per cent of the GNP to be allocated to developing countries' programs;
6. address pollution caused by traffic circulation; and
7. make citizens and decision makers more aware of sustainable development, more economic in consumption of non-renewable natural resources, more sensitive to pollution, and more conscientious in reducing, recycling and reusing waste.

There are many practical lessons to be learned from Habitat II. Some are described in "Practices in Urban Development" (*The Urban Ecologist*, 1996, Number 3, pp. 6-7). Tilburg, the Netherlands, has reconstituted itself by establishing wards wherein efficacy is a function of transparency, accountability and quality. Tilburg evolved quality standards in housing, traffic, safety and the environment on a neighbourhood basis. The Tilburg Plan stresses high density development in compact areas, optimal public transit, restrictions on other traffic, the expansion of public open space and rehabilitation of the core.

The Halifax Eco-City Project in Adelaide, Australia, calls for an industrially contaminated 2.4 hectare site in the city core to be transmogrified into a solar powered community embracing a wide spectrum of uses, with all sewage recycled on site, rainwater captured for domestic use, greywater filtered through reedbeds for reuse, local building materials, and travel by foot, bicycle or public transit. The project will accommodate 800 people. 700 registrations of interest have already been received.

A Germantown, Maryland development of 569 dwellings is characterized by landscaping designed to absorb runoff and filter pollutants on site. Grass swales replace curbs and gutters. Vegetation and underground sand filtration remove contaminants and reduce flooding and erosion.

Instead of building a 12 million dollar water supply dam, Ashland, Oregon has instituted a comprehensive water conservation program that saves more than 50 million gallons of water and 500,000 kilowatts of electricity per annum. It also reduces the amount of wastewater to be treated by 43 million gallons per year. This is for a population of only 20,000.

Kentucky, Mississippi and Louisiana have established guidelines for wetlands sewage treatment systems which have been installed in 800 individual dwellings. Elsewhere in the United States, more than 400 communities have built sewage treatment wetlands.

Although Curitiba has Brazil's second highest per capita car ownership, innovative land use planning for the public transit system has resulted in 75 per cent of commuters travelling by bus instead of private automobile. The program is unique and inventive. For example, low income families can exchange waste they have

collected for bus tickets (*UN Chronicle*, Spring, 1996 "Habitat II: City Summit to Forge the Future of Human Settlements in an Urbanizing World, Page 40).

III. POPULATION GROWTH IN GEORGIA BASIN

Population growth in the Georgia Basin is becoming one of the most important public issues in British Columbia. There are more than 120 local governments situate in the Georgia Basin area, each with unique land use control powers.

The area may be characterized in many ways. The Fraser Valley has the third worst air pollution in Canada. Raw sewage is discharged from the Vancouver and Burnaby combined sewer overflows, the Iona and Lions Gate primary "treatment" plants in Vancouver and West Vancouver, the Capital Regional District outfalls, and others. This despite the fact that Georgia Strait flushes but once a year. Burrard Inlet bottom sediments are contaminated with mercury, copper, lead, cadmium, hydrocarbons and polyaromatic hydrocarbons. There is a high prevalence of pre-cancerous lesions and tumours in bottom fish. The deleterious compounds occur as a result of industrial and shipping activities, sewage, surface runoff from paved surfaces and roofs, soil erosion, atmospheric deposition, illegal dumping and poor waste disposal practices (Lidstone, Liquid Waste Management Plant Process, 1993, Page 1).

The population of metropolitan Vancouver is currently 1.8 million. By 2021, the area will have a population in excess of 3 million. Some authorities have suggested the population will reach between 4 and 10 million by that year. The current population burdens existing infrastructure. In order to deal with the population increases, upgrading will be required for hospital and health services, water supply systems, the transportation network, air emissions controls and storm water treatment, solid waste disposal and combined sewer overflows (Lidstone, Report of Sewage Treatment Review Panel, 1992, Page 1-1).

Constitutionally, the public authority to regulate the private use of land is a provincial power under the "Property and Civil Rights" heading in Section 92(13) of the *Constitution Act*, 1867. Accordingly, the laws controlling land use are primarily provincial, although there are exceptions created by federal control over lands for Indian Reserves, airports, railways, harbours and other purposes regulated by federal law. As well, local government enactments have no effect in respect of land owned by the Crown federal even to the extent it is leased to a private third party.

Section 92(8) of the *Constitution Act*, (1867) assigns control over "municipal institutions in the province" to the provincial governments. In British Columbia, as in the other provinces, some powers to control land use and density, subdivision of land and the form of buildings have been delegated to local governments. These powers do not apply to provincial activities (Canadian Bar Association, "Law Reform for Sustainable Development in British Columbia," Page 126).

Municipal councils are closest to the people and, more and more, are providing the public services and works that meet citizens' needs. Despite expectations on the part of local citizens that municipal institutions act as if they constituted a level of government, the Canadian constitution does not recognize municipalities as an order



of government. As a consequence, municipalities do not have adequate powers or resources to meet local needs or expectations. This can be resolved, in the short term, by way of adjustments to existing provincial legislation. In the long term, the role municipal governments are already playing in the nation's political and economic spheres will be reflected by way of recognition, with entrenchment of municipal powers, in the federal and provincial constitutions.

Local government and other land use powers are found in more than 70 British Columbia statutes. Most of these are unknown to local citizens and some are not known to local government officials, including planners. Some of the acts are not even contained in the Revised Statutes of British Columbia (e.g. *Resort Municipality of Whistler Act*, *New Westminster Redevelopment Act*, *Municipalities Enabling and Validating Act*, etc.).

What is clear is that there is in the Georgia Basin a plethora of regulatory schemes wielded on an ad hoc basis by literally hundreds of local governments, provincial or state departments and agencies and the federal governments. The result has been degradation of the water courses and Georgia Strait, the atmosphere and soils. What is unclear is how the area could assimilate a doubling of the population and still attempt to cleanse, preserve and protect the natural environment.

That is where the *British Columbia Growth Strategies Act* and the Fraser Basin Management Program provide a useful starting point. The legislation is the most comprehensive provincial or state law dealing with co-ordination among local governments on cross-boundary issues. The legislation was enacted as the *Growth Strategies Amendment Act*, 1995. The statute contains a rarity, abhorred by legislative counsel, called a "preamble." The preamble provides that the Province recognizes the strengths of local governments to "promote in Cupertino with other authorities human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources."

It is important to note that this legislation is not only a prototype being studied by other jurisdictions: the process pursuant to which it was developed was a model of consultation, information exchanges, transparency and accountability. The Minister of Municipal Affairs, Darlene Marzari, consulted with local government officials, planners, non-government organizations and individuals. The consultation resulted in a discussion paper entitled "Growth Strategies for the 1990's and Beyond," published in September 1994. Five thousand copies were distributed to local government elected and appointed officials; environmental, social, business and agricultural organizations; members of the general public; planning professionals; other government departments or agencies; and First Nations groups. The Ministry then released a January 1995 document entitled "Growth Strategies Act Draft Legislation Act, 1995" based on submissions received from more than 300 local government officials who participated in regional workshops. The Ministry held a public workshop in Vancouver, five regional meetings with the Planning Institute, meetings with other government ministries and agencies, and others.

The principles articulated by the public and reflected in the 1994 discussion paper included the following:

1. use of existing institutions instead of creating new structures;
2. encouragement of voluntary regional strategies subject to a decision of cabinet in the absence of Cupertino or the presence of extreme growth or change;
3. a balance between local government official community plan and regional strategies in order to keep decision making proximate to the local citizens affected by it;
4. consensus, with dispute resolution where local governments cannot negotiate collegially;
5. participation by community groups and interested parties in plan development;
6. acceptance of regional diversity;
7. participation of provincial government;
8. input from provincial ministries and agencies at early stages;
9. provincial commitment by way of partnership agreements with local governments.

The growth strategies legislation, described in detail in Appendix A, reflects the principles affirmed at the United Nations Conference on Human Settlements in that it:

1. promotes participatory development policies rooted in an active partnership with vital local forces;
2. strengthens direct Cupertino among local authorities with the support of the Province;
3. recognizes the role of local governments in sustainable development;
4. guides the allocation of resources to local government with respect to human settlement development;
5. creates an institutional and legal framework for the exercise of local democracy;
6. grants local autonomy to manage human settlements.

Another precedental British Columbia experience is the Fraser Basin Management Program, which informally integrates and co-ordinates the activities of the federal, provincial and municipal governments, First Nations, non-government organizations, private industry, and others in respect of sustainable development in the Fraser Basin. If the concept were formalized by agreements and legislation, it would offer a useful paradigm for co-ordinated action on sustainability.



IV. GOVERNANCE FOR URBAN SUSTAINABILITY

a. *Improving the Growth Strategies Legislation*

The British Columbia growth strategies legislation is a welcome model for provinces and states to consider when following the global plan of action enunciated at Habitat II. As in the case of any legislation, it may be improved in a number of ways.

From the perspective of the lessons learned from Habitat II, the Province should consider legislating a requirement that all regional growth strategies, official plans and implementation bylaws satisfy the tests of human settlement sustainability. This could be mandated by way of provincial legislation that requires the strategy, plans, bylaws, works and services to exist in a way that does not place greater demands on the eco-system than what the eco-system can sustain through its natural regenerative processes. In particular, the legislation could require local governments, following extensive public consultation and planning, to act in such a way that pollution does not exceed natural assimilative capacity; non-renewable resources consumption does not exceed development of renewable substitutes; and renewable resource use does not exceed regeneration rates.

Official community plans should be consistent with regional growth strategies the way local trust committee's official community plans under the *Islands Trust Act* must be consistent with the Trust Policy Statement adopted by the Trust Council. Otherwise, the practical divergences between local practices and regional strategies will be insurmountable and could result in the failure of some aspects of the growth strategies. Further, there should be a requirement that the official community plans contain matters dealing with sustainability [such as those listed in Section 942.11(2)] and that they deal with every matter referred to in a regional growth strategy. Otherwise, it is possible that a regional growth strategy compatible with the Habitat II precepts might go to waste.

The technical advisory committees required after regional growth strategies have been initiated should include representatives of non-governmental organizations, members of the public (including neighbourhood and interest groups) and representatives of affected First Nations organizations. Otherwise, the legislation would fail to encourage the requisite level of public participation.

Although the legislation requires monitoring once a plan is in force, it fails to require a co-ordinated monitoring plan which provides quantifiable information suitable for decision making. Regional growth strategies cannot be properly drafted, and then implemented and monitored, until adequate initial environmental assessments have been integrated into the plans. In other words, it is impossible to monitor progress when there are inadequate or non-existent baseline data.

The Minister should have the power to recommend to Cabinet that Cabinet make an Order to declare the contents of a regional growth strategy and an official community plan where such affects the public policy of the Province or where the Minister anticipates there will be significant change in population, economic

development or aspect of growth or development that requires co-ordination among governments.

If there is a failing of the legislation in the context of the lessons we have learned from Habitat II, it is that the growth strategies legislation does not mandate the participation of the provincial government (and of course the federal government) to the same degree with respect to the same issues as is the case with local governments. The differences between provincial ministries, agencies and corporations are artificial to a lay person or a taxpayer so the legislation should treat the Province, to the extent that its land use jurisdiction has not been delegated by local governments, as one government that must prepare regional growth strategies and participate in the process in precisely the same matter as regional districts. Otherwise, the local governments will continue to operate ineffectively in their discrete jurisdictions. Accordingly, the policies and the decisions of the ministries, agencies and corporations dealing with the environment, land use planning, economic development, industry, health and others would be integrated pursuant to a regional growth strategy rooted in the principles of sustainability.

The legislation fails to bring together in one place all provincial legislation governing the regional growth strategy process. There are more than 70 statutes involved in this process and these could be simplified, integrated and published in one place for local governments and the public.

The regional growth strategies legislation does not address sewer and water systems, drainage systems and regulation or public and private transportation in a manner that mandates sustainability. At most, the legislation currently requires the undertaking of works for services by a regional district to be consistent with the strategy and by a municipality to be consistent with the official community plan (which merely provides a regional context statement).

Despite these suggestions for improvements, the legislation constitutes the best available precedent for growth management.

b. *Local is Beautiful*

The international community recognized this pivotal role of local government when convening the Second Global Conference on Human Settlements (Habitat II) in June, 1996 in Istanbul. For the first time in an international forum, local government was strongly represented through formal participation in national delegations. Habitat II established an international framework for building strong cities in the 21st century by promoting policies that address critical urban issues and by affirming the need to afford local government the necessary legal and financial capacity to resolve pressing human settlement problems. The consensus of Habitat II was that the United Nations and others' objectives for sustainability in human settlements can only be implemented by local governments that have adequate legal and financial capacities.

The International Union of Local Authorities and the European Economic Community have formally recognized that municipalities must be able to exercise power in relation to any matter that is not expressly excluded from their competence or exclusively delegated to another entity. IULA and the EEC have also formally



recognized that municipal powers must be adequate to meet local needs and not subject to adverse intervention by other levels of government.

Although the quality of Canadian local government is recognized the world over, and the participation of Canada's local governments in the international community and the global economy is growing, the laws of the Canadian federal and provincial governments do not conform with the principles of Habitat II, IULA or the EEC.

What is needed is reasonable consultation on the questions as to which level of government should provide which public services and what powers and resources local governments must have to act autonomously to meet local needs. This brings to mind the principle quoted from “Encyclical Quadragesimo Anno” by E.F. Schumacher in *Small is Beautiful: A Study of Economics as if People Mattered*:

“It is an injustice and at the same time a great evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do.”

Habitat II, IULA and the EEC have suggested that the following principles govern the role and structure of local governments:

1. the rule making, decision making and administration of every order of government, and every order's elected and appointed officials, must be accountable to the citizens, transparent and governed by the rule of law;
2. the citizens of the state and of every order of government within the state have the right to form autonomous local governments that provide for the citizens' needs for local association;
3. a local government must be recognized by other levels of government as an order of government;
4. every order of government may participate in decision making by other levels of government which has implications for that order;
5. an order of government must have full discretion to exercise adequate powers to meet conditions and needs within its jurisdiction;
6. local governments must have financial and other resources, sufficient to support local needs, that are distinct from financial and other resources of other orders of government;
7. enactments creating or empowering local governments must not be repealed or amended except by extraordinary legal processes and procedures, and the entity or entities repealing or amending the enactments must give notice to and consult with local governments before repealing or amending the enactments;
8. orders of government must comply with the authority of other levels of government in the areas of jurisdiction of individual members of those other levels;
9. orders of government, and individual members of those orders, must resolve conflicts by consultation, negotiation and, if necessary, arbitration, instead of by way of the court process;
10. non-local orders of government must notify and consult with local governments when addressing interprovincial, national or international issues that will impact the jurisdiction of local governments;

11. local governments must not place greater demands on the ecosystem than what the ecosystem can sustain through the natural regenerative processes, such that:
 - (a) use of renewable resources does not exceed the rates at which the ecosystem is able to regenerate them;
 - (b) consumption or irretrievable disposal of non-renewable resources does not exceed the rate at which renewable substitutes are developed; and
 - (c) pollution emission into the environment does not exceed the rate of the ecosystem's natural assimilative capacity.

These principles would be consistent with the positive experiences of the Fraser Basin Management Program, *Growth Strategies Act*, and the general legislative intent of the report of Canada to the United Nation's Commissioner on sustainable development dated April 11, 1995.

In addition to implementing these principles, British Columbia in general and Georgia Basin in particular could benefit from implementation of other lessons learned from Habitat II. In this regard, the Province could, working with the affected local governments, develop province-wide standards for sustainable development (with the same legal effect as province-wide standards for building safety, fire safety and forestry practices). The only difference would be that the standards would be developed in concert with the affected municipalities and not unilaterally imposed by the Province. Second, every community in British Columbia, and the Province itself, should proceed with an "Agenda 21" program. Third, one of the objects of provincial participation in regional planning (pursuant to the proposal discussed above) should be the establishment of settlement boundaries for communities of interest (i.e., boundary extensions for existing municipalities) with the consecration of green space in areas between the boundaries. Fourth, there should be a provincial auditor appointed to audit every program of the Province, its agencies, Crown corporations and local governments in the context of the province-wide sustainability standards and the inter-governmental co-ordination and contracting that would derive from the principles of local self-government described above. Pursuant to this audit, the Province's grant programs, approvals, delegations of powers, *Waste Management Act* enforcement and other matters could be based on audit results.

The foregoing constitutes a conservative and common sense response to Habitat II.



A more aggressive and radical approach would be to proceed with federal, provincial and local government legislation that would identify which level of government does what and establish a social “sustainability” contract among the levels of government in respect of the following matters:

1. an objective definition of sustainability, with sustainability having legal paramouncy in respect of programs relating to land or land development;
2. identification of respective roles, structures, powers and jurisdiction in the context of the IULA principles of governance;
3. initial monitoring to establish baseline data;
4. federal and provincial standards developed in concert with the local governments;
5. regional plans built, on the basis of the *Growth Strategies Act* model, by the federal, provincial and municipal governments and backed up by legislation at all three levels;
6. the establishment of implementation and monitoring programs for the social “sustainability” contract;
7. enforceability of the paramount regional sustainability plans;
8. establishment of “Agenda 21” programs in every community;
9. requiring paramouncy of the regional sustainability plans in respect of liquid and solid waste management, transportation, density, water supply and other matters;
10. formal auditing of all programs on the basis of the provincial and federal sustainability standards and regional sustainability plans;
11. legislation and regulations that offer “one-stop shopping” for public so they don't have to look at hundreds of statutes;
12. international Cupertino based on these principles; and
13. education, and promotion, in respect of these programs.

V. CONCLUSION

The lessons learned from Habitat II were summarized by Wally N'Dow, Habitat II Secretary-General:

“Habitat II is more than a conference. It is a recognition by the international community - an awakening...but time is running out...; that if we want to save the future, we have no choice other than to find answers today to one of the most neglected and urgent problems of our time, one that goes to the very heart of our everyday lives - how we live, where we live and above all, if we live at all”. (United Nations, “Why a Conference on Cities?”, Page 2).

APPENDIX A

THE BRITISH COLUMBIA *GROWTH STRATEGIES ACT*

The scheme of the legislation is simple. Division 1 describes the purposes and content of a regional growth strategy. Division 2 prescribes implementation procedures. Division 3 sets out the legal effect of a regional growth strategy.

CONTENT OF REGIONAL GROWTH STRATEGY

Section 942.11(1) provides that the purpose of a strategy is to promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources. Section 942.11(2) then elucidates the purpose of a strategy by suggesting approaches to attaining the object (many of which were cited at Habitat II) such as avoiding urban sprawl, minimizing the use of automobile and protecting environmentally sensitive areas.

Section 942.12(1) provides that a regional board may by resolution adopt a strategy.

Subsection (2) then sets out the minimum requirements of a strategy. The theme is identification of clear regional interests to be managed at a regional level. The strategy must address at least a 20 year period and include a comprehensive statement on the future of the region, population projection, actions proposed to meet that population's needs in respect of housing, transportation, services, open space and economical development.

A strategy must cover all of the regional district unless the Minister authorizes a lesser area or development of a plan by 2 or more regional districts (Section 942.13). If the Province considers that a regional district is not developing a strategy in an area where required or in a timely fashion, Cabinet may identify an area for a strategy and stipulate a deadline for adoption (Section 942.14). The Minister does not have jurisdiction to recommend that Cabinet so act unless the Minister is satisfied that the area has experienced significant change in population, economic development or growth development that requires co-ordination among governments.

IMPLEMENTATION PROCESS

The preparation of a strategy is initiated by regional board resolution (Section 942.16(1)). The Board must give notice in writing of this initiation to affected local governments and the Minister (Section 942.16(4)).

Section 942.17 requires the Board to create opportunities for consultation with persons or entities the Board believes will be affected by the Strategy. The Board and affected local governments must collaborate on the strategy by way of "all reasonable efforts." The Board must prepare a consultation plan to provide opportunities for consultation. However, the Board does not need to comply with the plan if it conducts mere "reasonable consultation" (Section 942.17(3)). The strategy must go to a public hearing after second reading and prior to referral to affected local governments for consultation.



Under Section 942.18 the Minister may appoint a facilitator to help local governments reach agreement on strategies by facilitating negotiations, facilitation the resolution of objections, recommending non-binding resolution processes, and facilitating the involvement of senior levels of government, First Nations, school boards, greater boards and Improvement District Boards. Section 942.18(4) requires the regional district and the affected local governments to provide requested information and otherwise cooperate with facilitators.

Before adoption of the strategy, affected local governments must accept it by way of a formal resolution. Accordingly, Section 942.19 requires the strategy to be adopted by affected local governments and either the facilitator or in his or her absence the Minister after the public hearing and before a third reading. A local government has 120 days to either accept or refuse the strategy by resolution. Failure to respond within the time period is deemed to be an acceptance. Acceptance is effective when all affected local governments have accepted. A refusal resolution must indicate the objectionable provisions, reasons for objections and an indication as to whether it would accept if the provision will not apply to the local government. Section 942.19 empowers the facilitator to require identification of issues where acceptance may not be reached. If there are such issues, the facilitator may require for a meeting and the parties must provide information to the facilitator and otherwise cooperate with him or her. The facilitator may extend the 120 day period.

If an affected local government refuses, the Minister must establish a non-binding resolution process or direct settlement of the strategy by way of peer panel settlement, final proposed arbitration process or full arbitration. Unless the parties cannot agree, they may choose the non-binding resolution process. Costs are shared proportionately among the affected parties (Section 942.21). Once a strategy is settled by way of a settlement process, the proposing board and affected local government may for 60 days agree on a strategy that differs from the one settled. Otherwise, the provisions as settled become binding on all parties whether or not they participated in the settle process. Cabinet may order a time by which the Board must adopt a growth strategy if it has been accepted by affected local governments or has become binding by way of a settlement process but has not been adopted by the Board. If the Board refuses to adopt within the time period, Cabinet may order the strategy adopted (Section 942.26).

EFFECT OF REGIONAL GROWTH STRATEGY

All bylaws adopted and works and services undertaken by a regional district must be consistent with the strategy. A strategy does not commit or authorize a local government to proceed with any project referred to in the strategy (Section 942.27).

A municipal official community plan must include a regional context statement that identifies the relationship between the plan and the strategy and describes how the plan is to be made consistent with the strategy over time. The Board must accept the context statement and any amendments to it. The municipality must review the context statement at least every 5 years and then continue submitting it for Board acceptance.

INTEGRATIVE, CO-ORDINATING PROCESS

Under Section 942.29, a regional board may establish an entity reminiscent of the technical advisory committees of the 1970's. The intergovernmental advisory committee may be established, generally, but must be established if a strategy has been initiated. The role of the committee is to advise on development and implementation of the strategy and facilitate co-ordination provincial and local government actions. The committee includes the regional district planner, the municipal planning directors, senior representatives of provincial ministries, agencies and corporations, determined by the minister, and representations of other authorities and organizations if invited.

Section 942.3 provides that a local government may enter into agreements respecting the co-ordination of activities relating to implementation. Our experiences with such agreements under the *Islands Trust Act* is that they must contain enforcement provisions or, predictably, they will be contravened for political reasons or due to errors or omissions. The provincial government may enter into implementation agreements containing provincial commitments or to implement an attribute of a strategy. These are subject to the *Financial Administration Act*, which requires an annual appropriation by the legislature. Such agreements may also be made with the federal government, other local governments, First Nations, school boards or others.

A regional district that has adopted a strategy must establish a monitoring program and prepare an annual report on implementation and progress under Section 942.31. The Board must review the plan at least every 5 years.

The Minister may establish policy guidelines respecting implementation and the content of strategies or official plans. These guidelines may be established only after consultation with the Union of British Columbia Municipalities.

Section 942.33 provides that on the adoption of a strategy, the Minister may require a local government adopt by a deadline an official community plan, zoning bylaw or subdivision bylaw where no such plan or bylaw applies.

A little known and never used section of the *Municipal Act* is Section 942 which provides that where a local government has enacted an official community plan bylaw, zoning bylaw, subdivision bylaw or other land use control bylaw, and the Minister believes that all or part of the bylaw is contrary to the public interest of the province, the Minister may notify the local government of his or her objections and the local government must, within 90 days after receipt of the notice alter the bylaw or plan. If not, the Minister, with cabinet approval, may order the bylaw or plan altered in accordance with the date of such an order, the bylaw or plan is deemed to be so altered. The order of the Minister is final and binding.