



# **Finding Local Solutions: Examining the Impacts of Forced Regionalization**

November 2011

## FOREWORD

Local governments in the Province of Alberta have an enviable record of working together to address service delivery needs within their region. Historically they have recognized that by combining forces in a cooperative effort they can effectively and efficiently find and implement regional solutions without compromising the integrity of individual municipalities.

The success of these regional alliances has not been without challenges but the collective will and spirit of cooperation has been such that solutions have been secured.

There have also been times in the past when the provincial government has seen fit to impose regional solutions. These approaches, most notably regional planning commissions, have produced results but not without dissatisfaction and discord among the participants. Imposed or forced regionalization invariably resulted in the fostering of long standing resentment and the belief that they, individually, had not been treated fairly or equitably.

With this in mind, the Alberta Association of Municipal Districts and Counties (AAMDC) has prepared this position paper on forced regionalization.

### EXECUTIVE SUMMARY

In the context of local government, regionalization has traditionally meant regional service delivery through a voluntary partnership among two or more municipalities. Typically the partners share a common need and see an opportunity to share the cost, risk and benefits through some joint initiative. The decision to participate in the regional venture is left to individual municipalities to determine if it is in the best interests of their municipality to participate.

#### What is forced regionalization?

Before defining forced regionalization it is necessary to define a region. For the purposes of this paper, the term region means the creation of a unique entity that has a defined purpose, has a membership made up of two or more local municipalities and a governance structure separate and distinct from the local governments contained within its boundaries. Regionalization, therefore, is the action, process or causation of the formation of the region.

The simplest definition of forced regionalization is any form of regionalization that is not voluntary, that is, where the regionalization is imposed, typically by another order of government. Similarly, forced regionalization exists where the explicit or implicit threat of imposed regionalization exists.

From AAMDC's perspective, forced regionalization is any form of regionalization that results in:

1. **Non-voluntary participation** – producing a situation where a municipality is compelled to participate by legislation, coercion or punitive consequences for not participating.
2. **An Imposed definition of the region** – taking the decision of who is a member out of the hands of the participating municipalities.
3. **Compromised political autonomy** – demanding a municipality compromise or foregoes its political autonomy.
4. **Hierarchical local government** – results in another level of government for Regional Decision making.
5. **Voting inequity** – gives a voting advantage to one municipality over another, such as a veto power.
6. **Non-consensus decision making** – subjecting a municipality, voting in the minority, to a majority decision.
7. **Non-user pay cost sharing** –subjecting a municipality to a cost sharing formula that is not based on user pay principles.
8. **Regional non-transparency** – promoting back-room deal making at the expense of public scrutiny.
9. **Non-accountability of individual municipalities** – relieving municipalities of the obligation to be accountable for actions of the partnership.
10. **No opting out** – when the partnership addresses a number of service delivery provisions, individual municipalities are not able to opt out of one or more of these services.

## When is Force Regionalization an Acceptable Solution?

It is AAMDC's position that the only situation where forced regionalization should be considered is as a solution of last resort. In short, if the province has evidence that all the following conditions exist:

- a basic and material regional need is not being met;
- all other legitimate options have been tried and have failed to address the need;
- there is agreement that a stalemate exists;
- and finally, when it can be demonstrated that the benefits (positive impacts) for the region and for the participating municipalities out-weight the costs (negative impacts);

Then, and only then, should forced regionalization be considered as an option.

The existence of one or more of the following conditions does not satisfy the criteria for forced regionalization:

- conflict or the potential for conflict among municipalities in the region;
- reluctance to participate in a regional solution by one or more of the municipalities in the region;
- the potential for sub-optimal outcomes for service or service delivery;
- progress towards a solution is not apparent.

## The Current State of Affairs

**Calgary Regional Partnership.** The Calgary Regional Partnership (CRP) is a not-for-profit company incorporated in 2004 with the express purpose “to encourage regional thinking within the context of local decision making and to support local autonomy while emphasizing that local goals can often best be facilitated through regional cooperative approaches;”<sup>21</sup>

The principles of the CRP speak to cooperative and voluntary regionalization but the reality for three rural, former members is not acceptable. That is, the incentive of rationalized and harmonized regional growth was over-ridden by the cost or negative impacts of both the process and the outcome of the Calgary Metropolitan Plan (CMP).

This leads us to ask the question; “Is the CRP and the application of the CMP a form of forced regionalization?” We believe it is and the analysis presented in Exhibit 2, Evaluation of the Calgary Regional Partnership, indicates why.

### EXHIBIT 2 – EVALUATION OF THE CALGARY REGIONAL PARTNERSHIP

Principle Involved	Calgary Regional Partnership	Forced Regionalization?
Voluntary participation	Membership is discretionary	✗
Partners define the region	Have control of membership	✗
Political autonomy	Forced compliance	✓
Non-hierarchical governance	Not legislated by province	✗
Voting equity	City of Calgary has veto	✓
Consensus decision making	Binding decisions without consensus	✓
User-pay cost sharing	To be determined	?

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Principle Involved	Calgary Regional Partnership	Forced Regionalization?
Regional transparency	Operates openly	x
Accountability of individual municipalities	Open for debate	✓
Ability to opt out of service program(s)	Can only opt out of membership not programs	✓

**Capital Region Board.** The Capital Region Board (CRB) was established by the provincial government in June 2008 through the Capital Region Board Regulation under the *Municipal Government Act*. This action presumably followed from the province's perception that the 25 municipalities in the Edmonton area were not capable of cooperatively developing a regional growth management plan.

The CRB was formed with 25 member municipalities (now 24 with the dissolution of the Village of New Sarepta into the County of Leduc). The Board was charged with the development of a Capital Region Growth Management Plan (CRGMP) by March 31, 2009. *The Capital Region Growth Plan: Growing Forward* was submitted to the Minister of Municipal Affairs on April 2, 2009 and was approved by the government on March 10, 2010.

Is the Capital Regional Board and the application of the Capital Regional Growth Management Plan a form of forced regionalization? The analysis presented in Exhibit 3, Evaluation of the Capital Region Board, leads us to believe it is.

### EXHIBIT 3 – EVALUATION OF THE CAPITAL REGION BOARD

Principle Involved	Capital Region Board	Forced Regionalization?
Voluntary participation	Membership is mandatory	✓
Partners define the region	Region defined by the province	✓
Political autonomy	Forced compliance	✓
Non-hierarchical governance	Another order of government	✓
Voting equity	City of Edmonton has veto	✓
Consensus decision making	Binding decisions without consensus	✓
User-pay cost sharing	Various models	Possibly
Regional transparency	Deal making	✓
Accountability of individual municipalities	Region super-cedes	✓
Ability to opt out of service program(s)	No opting out	✓

**In Summary.** Is forced regionalization justified? That is the question that remains to be answered for both the Edmonton and Calgary regions.

**EXHIBIT 4 – IS FORCED REGIONALIZATION JUSTIFIED?**

Criteria	Calgary Regional Partnership	Just-ified?	Capital Region Board	Just-ified?
Regional need not being met	No all inclusive entity to address regional service delivery needs	✓	No all inclusive entity to address regional service delivery needs	✓
All options tried and unsuccessful	The current option was a negotiated solution, options exist	✗	Imposed solution justified by lack of progress	✗
Stalemate Exists	Questionable given that on-going discussion takes place	✗	Minimal progress is not a stalemate	✗
Positive Impacts out-weight Negative Impacts	Clearly not the view of the dissenting municipalities	✗	On-going objection to the approach taken indicates that this view is not shared by all municipalities	✗

As the exhibit indicates, all the conditions have not been met and the imposition of forced regionalization is not justified.

**Finding a Solution – Alternatives to Forced Regionalization**

It is AAMDC’s position that there are solutions and that these alternative approaches to delivering regional services are superior to forced regionalization.

At the very heart of this issue is the province’s insistence that there must be regional growth plans for services in the metropolitan areas of Calgary and Edmonton. There is little to dispute concerning the desirability of having rational plans in place that take into account the regional needs of the municipalities involved and to put into place regional solutions that address local needs.

**There are models in place in the province.** The MGA provides numerous vehicles to address services regional service needs. In the following sections we provide a series of examples where these models have been successfully applied without the need for an imposed solution.

**Commissions and Authorities**

One of the primary approaches to cooperative regional service delivery has been the use of commissions. In the Province of Alberta, commissions exist to provide water, wastewater treatment, solid waste management, emergency services, assessment services, utility services and airport services on a regional basis. All of these commissions, with the exception of the Capital Region Board, are voluntary cooperatives where the partners have established a separate organization under the MGA and where the partners have given over control for the delivery of a service.

### **Inter-Municipal Development Plans**

Land-use and the planning for land-use likely represents the area of greatest potential for dispute among adjacent municipalities. In anticipation of the need for a regional solution, the MGA provides a vehicle for municipalities to negotiate and plan for the rational development of areas of land lying within the boundaries of the municipalities.

### **Contractual Agreements**

An additional approach available under the MGA is the ability of municipalities to enter into agreements with other municipalities for the purposes of addressing regional needs.

**There are models in other jurisdictions.** Other jurisdictions have attempted regionalization using a variety of different approaches with varying levels of success.

#### **British Columbia**

British Columbia has had a regional model in place for service delivery since 1965. In the mid-1990s regions were given powers to prepare regional growth plans as well as the delivery of hard services related to water, wastewater, transportation etc.

What is significant to this discussion about the British Columbia model is the principle that:

“A regional growth strategy cannot be imposed on a municipality. Rather, any municipalities affected by the plan must be consulted in the planning process and must pass a motion to formally adopt the plan.” (As cited by Municipalities Newfoundland and Labrador).<sup>44</sup>

#### **Ontario – Regional Services from a Regional Government**

The regionalization model in Ontario is based on another order of government; the Regional Council. The Regional Council can be made up of directly elected council members and the mayors of local municipalities both urban and rural (example, Region of Waterloo) or exclusively from the elected officials of the local municipalities (example, Region of Peel). The Ontario model creates a de facto order of government that is distinct from the local municipalities.

#### **Jurisdictions Outside of Canada**

Alberta Municipal Affairs commissioned a study in 2007 called “Regional Governance Models – An exploration of structures and critical practices”. The study looked at six city-regions in the United States and six city-regions outside of North America. It found that for a regional model to be a cooperative partnership, it must be one based on voluntary participation, not imposed or forced.

The logical conclusion reached in this study was that there has to be motivation to become part of a region and that the structure discussion is irrelevant until that motivation is sufficient to induce participation. This premise is consistent with the principles espoused earlier concerning the need for the benefits of partnership to exceed the negative impacts on individual municipalities.



### Finding a Solution – Justifying Forced Regionalization

In the end, if the need for forced regionalization is justified, it implies that there is some material benefit that will accrue to the participating municipalities.

It is not sufficient to say that a greater good is being served. There must also be some tangible benefit that all municipalities can point to. It is important for all municipalities to share in this benefit and that it is not a benefit for just the majority of the population and not just a 'pay-off' to the disaffected. The benefit must also be realizable now. Talking about the long-term benefits of a growth plan is important but they do little to address the immediate need of building cooperation and engendering a spirit of partnership today.

**Charter Region Concept.** The concept of a charter for local municipalities is not new. Currently five cities in Canada have a charter city status that distinguishes them from other cities in their respective provinces—Vancouver, Winnipeg, Toronto, Montreal and St. John. Among others, the primary reasons for granting charter status are based on the premise:

- “Provincial policies and programs that are designed for application province-wide do not always fit the needs or operations of the City;
- Likewise, the City's needs and responsibilities are often not shared by other municipalities;”<sup>54</sup>

While the concept of a charter local municipality originated with cities, there is no reason to believe that the concepts are not applicable to a region. In fact the concepts, as applied to a region, appear to be consistent with the rationale for forcing the formation of the region in the first place.

The potential downside of this approach is the possibility that the trade-off, loss of independence for financial gain, is perceived to be a reward rather than a benefit of association. There is a distinction between these two concepts, and it is important. Regionalization is not about prizes for cooperating, it is about balancing the loss of independence in exchange for something of greater value. Secondly, this type of approach goes against the traditional concepts of equity among all municipalities. Typically the province avoids introducing programs or situations that create exclusivity similar to what the charter region concept involves. Treating one municipality differently from another is not without precedence however, and the reality of regional benefit may be sufficient to offset the objection.

### Conclusion

The pendulum swing from forced to un-forced regionalization must stop, and it must stop at the point where regional solutions are not imposed and municipal councils are allowed to carry out their sworn duty.

Forced regionalization is an unwarranted attack on the independence of local municipalities as guaranteed in the MGA. Local councils are elected to make decisions in the best interest of the municipality and any artificial, imposed governance model that supplants this obligation should be opposed and abandoned.

It seems ironic that the MGA goes to great lengths to spell out the obligation of local government and then the Province ignores these provisions and suggests that the collective wisdom of a municipality's neighbours should prevail over the best interests of a municipality



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that takes a minority position on a regional issue. It is also ironic that other legislation protects minority interests and rights.

The AAMDC sees no legitimate reason for the application of forced regionalization by the province unless the conditions presented earlier in the paper are present.

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### BACKGROUND

In the context of local government, regionalization has traditionally meant regional service delivery through a voluntary partnership among two or more municipalities. Typically the partners share a common need and see an opportunity to share the cost, risk and benefits through some joint initiative. The decision to participate in the regional venture is left to individual municipalities to determine if it is in the best interests of their municipality to participate.

Regionalized service delivery can take many forms and the available approaches include:

- Regional Service Commissions
- Joint Committees typically called Authorities or Boards
- Part 9 or Not-For-Profit Companies
- For Profit Companies
- By Contractual Agreement

Variations exist for each of the approaches such that the participating municipalities have a broad spectrum of choice concerning how the regional solution will be put into place. There are literally hundreds of these arrangements in force in the province today.

Regardless of the number of options for putting regional structures in place, there are a common set of principles that underlie these cooperative initiatives. These principles include:

1. **Voluntary participation** – municipalities can choose to join or resign from the partnership at their discretion.
2. **Partners define the region** – the participating municipalities determine which municipalities will be part of the regional partnership.
3. **Political autonomy** – municipalities remain independent and their ability to make decisions in the best interests of their municipality remains intact.
4. **Non-hierarchical governance** – the regional structure does not create another level of government.
5. **Voting equity** – each municipality has one equal vote.
6. **Consensus decision making** – major decisions that require a vote are approached on the basis of reaching a consensus.
7. **User-pay cost sharing** – for the most part, the cost of delivering a regional service is borne in proportion to the use of that service.
8. **Regional transparency** – the operation and governance of the regional entity is easily observable and understood.
9. **Accountability of individual municipalities** – when a municipality chooses to become a member of a regional service partnership, the individual municipality is accountable to its community for the value of that service.
10. **Opting out of programs** – when a municipality is a member of a regional service partnership, and the partnership addresses more than one service, each partner has the ability to opt out of one or more of the service delivery programs.

The relevant feature of all these initiatives is that they are conceived, developed and implemented by the municipalities involved without the need for the province, or any other third party, to insert itself into the process.

## WHAT IS FORCED REGIONALIZATION?

Defining forced regionalization requires that the term “region” be defined.

The *Municipal Government Act* (MGA) does not define what a region is or what a region’s purpose is. This is clearly intentional in that the legislation leaves the decision of defining the boundaries (membership) and purpose of a region up to the municipalities involved. Other legislation however fixes the region around specific purposes or themes. For example, the *Land Stewardship Act*.

“...enables the establishment of seven planning regions congruent with Alberta’s major watersheds and rural municipal boundaries . . .”<sup>1</sup>

Other examples include, the six natural regions of Alberta defined by Alberta Heritage based on eco-systems; Alberta Children Services has created 10 regions in the province that roughly divides the province into geographic areas; the Alberta Learning Information Service (ALIS) divides Alberta into eight regions for the purpose of providing information consistent with Statistics Canada’s Alberta regions and so on.

For the purposes of this paper, the term region means the creation of a unique entity that has a defined purpose, has a membership made up of two or more local municipalities and a governance structure separate and distinct from the local governments contained within its boundaries. Regionalization, therefore, is the action, process or causation of the formation of the region.

The simplest definition of forced regionalization is any form of regionalization that is not voluntary, that is, where the regionalization is imposed, typically by another order of government. Similarly, forced regionalization exists where the explicit or implicit threat of imposed regionalization exists.

Forced regionalization can take many forms. In Nova Scotia, for example, the term forced regionalization is used to describe imposed annexation. For the purposes of this paper, we are limiting our discussion to the forms of forced regionalization that arise from situations other than imposed annexation.

A more comprehensive and analytical definition of forced regionalization comes from an examination of the principles expressed earlier. From AAMDC’s perspective, a violation of any **one** of these principles results in forced regionalization. Forced regionalization is any form of regionalization that results in:

1. **Non-voluntary participation** – producing a situation where a municipality is compelled to participate by legislation, coercion or punitive consequences for not participating.
2. **An Imposed definition of the region** – taking the decision of who is a member out of the hands of the participating municipalities.
3. **Compromised political autonomy** – demanding a municipality compromise or foregoes its political autonomy.
4. **Hierarchical local government** – results in another level of government for Regional Decision making.
5. **Voting inequity** – gives a voting advantage to one municipality over another, such as a veto power.

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9. **Non-accountability of individual municipalities** – relieving municipalities of the obligation to be accountable for actions of the partnership.
10. **No opting out** – when the partnership addresses a number of service delivery provisions, individual municipalities are not able to opt out of one or more of these services.

The single defining element for any form of agreement is that the agreement exists as an expression of free will. If the mechanism for binding the parties together in a regional partnership is not based on free will, then there is no agreement and there is no partnership.

### The Treatment of Municipalities Taking a Minority Position

One of the major ironies that occurs under forced regionalization is the treatment of municipalities that subscribe to a minority position. As we shall see, consensus decision making or more importantly the absence of consensus decision making represents a pivotal concern of dissenting municipalities. Under forced regionalization these municipalities are left with no satisfactory recourse or legitimate avenue for appeal. There is no ‘not-withstanding clause’ to accommodate opting-out of the matter being decided or the ability to appeal to a higher authority for a suitable remedy once a decision has been made against the interests of the dissenting municipality. While there is typically some form of dispute resolution process, the process is usually controlled by the region, the very party with whom the municipality has the dispute. For example, the regulation governing the Capital Region Board contains a dispute resolution section:

#### Dispute resolution

- 25(1)** A participating municipality may make a complaint in writing to the Capital Region Board if the participating municipality is of the view that there has been a breach of process, improper administration or discriminatory treatment by the Capital Region Board.
- (2)** On receipt of a complaint under subsection (1), the Capital Region Board shall attempt to resolve the complaint informally with the participating municipality.
- (3)** If a complaint cannot be resolved under subsection (2), the Capital Region Board may refer the matter to mediation.
- (4)** If the parties are not able to resolve the matter through mediation, the Capital Region Board may refer the matter to arbitration under the *Arbitration Act*.<sup>2</sup>

This treatment of minority interests is in direct conflict with the position taken by the province when other categories of minority are considered. For example, we have minority shareholder rights and minority language rights and we have the *Alberta Human Rights Act* that protects minorities from discrimination and so on. Yet the provincial government feels justified in forcing

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individual local councils to submit to majority decisions that negatively impact the very aspects of community life council(s) have sworn to protect.

What immediately comes to mind is the protection of shareholders under the *Canada Business Corporations Act* and the range of remedies available to rectify what is commonly referred to as oppression. Oppression results from the corporation acting in such a way as to disadvantage, abuse or otherwise inflict some inequity on a shareholder.

“Importantly, it has been held that no bad faith is required in order to establish conduct as oppressive. It is the effect of the conduct, and not the intention of the party engaging in the conduct, that is of primary importance in oppression remedy cases.”<sup>3</sup>

The *Alberta Corporations Act*, Section 242, which mirrors the federal legislation, provides this very protection:

### **Relief by Court on the ground of oppression or unfairness**

**242(1)** A complainant may apply to the Court for an order under this section.

**(2)** If, on an application under subsection (1), the Court is satisfied that in respect of a corporation or any of its affiliates

- (a) any act or omission of the corporation or any of its affiliates effects a result,
- (b) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted in a manner, or
- (c) the powers of the directors of the corporation or any of its affiliates are or have been exercised in a manner

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer, the Court may make an order to rectify the matters complained of.<sup>4</sup>

This remedy is to protect shareholders who have voluntarily acquired an interest in the corporation. Compare this to the position of local municipalities that are forced into being a member of a regional association. It is mystifying why shareholders are afforded this protection, but not local governments under forced regionalization.

In considering these conditions and the impacts they present, AAMDC has prepared a position on forced regionalization and it impacts and presents this position in the following sections of this paper.



## AAMDC POSITION ON FORCED REGIONALIZATION

AAMDC is opposed to the use of forced regionalization by the provincial government except in the most limited of circumstances.

AAMDC is a strong proponent of regional cooperation and has supported the legitimate application of voluntary agreements by cooperating municipalities to address common needs on a regional basis. It is AAMDC's position that there are viable options available to municipalities to address regional concerns that preclude the necessity of imposing a solution. These solutions have served us well in the past and there is no reason to believe that when individual municipalities act in good faith these approaches will address any and all regional concerns.

### When is Forced Regionalization an Acceptable Solution?

AAMDC recognizes that the provincial government has the constitutional power to direct local municipalities in the province to conform to provincial legislation. As author Jack Masson puts it:

“Local governments’ powers and very existence are conferred by statutory laws passed by provincial legislatures. In theory, this means provinces can create and abolish municipalities and increase or diminish their powers at will.”<sup>5</sup>

Having said this, the province has gone to great lengths in the past to create an environment where local governments have the responsibility, the obligation and the authority to make decisions concerning the delivery of services to their local communities, in effect, creating an order of government distinct from the province. Parts 1, 2 and 3 of the *Municipal Government Act* (MGA) spell out many of these requirements and in particular address what the purposes of a municipality are:

- (a) to provide good government,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and
- (c) To develop and maintain safe and viable communities.<sup>6</sup>

From a regional perspective, municipalities have historically defined what regions they will be a part of and have actively participated in addressing the needs of the region as part of a local solution.

The conundrum is when one or more municipalities, accept the premise that they are part of a region, but do not share the vision for a regional solution that other municipalities may promote.

The province has been a strong supporter of the concept of partnership while retaining local autonomy and in 1999 introduced the Regional Partnership Initiative: “...as a means of fostering regional cooperation and strengthening Alberta by helping municipalities explore and develop partnerships that benefit their operations and residents, as well as business and industry.”<sup>7</sup>

The guidelines go on to describe five key principles of the initiative that includes the following:

- “4. The Regional Partnerships Initiative respects municipal autonomy for local service delivery decision making.”<sup>8</sup>

The MGA makes provision for municipalities to address their differences through a variety of formal and informal mechanisms. Again, historically municipalities have been able to effectively use these mechanisms to resolve their differences and to put a solution in place. Conflict among

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neighbouring municipalities is neither new nor unusual and it is naive to expect that simple solutions are available off-the-shelf to resolve differences. The question remains—when is forced regionalization an acceptable solution?

It is AAMDC's position that the only situation where forced regionalization should be considered is as a solution of last resort. In short, if the province has evidence that all the following conditions exist:

- a basic and material regional need is not being met;
- all other legitimate options have been tried and have failed to address the need;
- there is agreement that a stalemate exists;
- and finally, when it can be demonstrated that the benefits (positive impacts) for the region and for the participating municipalities out-weight the costs (negative impacts);

Then, and only then, should forced regionalization be considered as an option.

The last point regarding impacts is vitally important in that it pinpoints why forced regionalization results in dissention and discord. There must be a material incentive for each municipality to participate. If we look at the under-pinning of cooperative regional ventures there is always an incentive for participation and that incentive is significant to the municipalities who participate.

The existence of one or more of the following conditions does not satisfy the criteria for forced regionalization:

- conflict or the potential for conflict among municipalities in the region;
- reluctance to participate in a regional solution by one or more of the municipalities in the region;
- the potential for sub-optimal outcomes for service or service delivery;
- progress towards a solution is not apparent.

Forced regionalization in this province has a history of creating as many problems as it solves. The potential good that results from the application of this approach to regional service delivery has to be balanced against the damage that results from limiting the ability of a municipality to satisfy the purpose of a municipality under the MGA.

This is not a trivial consideration. When a municipality is forced to participate there is justifiable concern that elected councils no longer have the power to govern given them by the MGA. Part 2 of the MGA, for example, talks about bylaws and section 9 addresses the powers of a Municipal Council:

- “9 The power to pass bylaws under this Division is stated in general terms to
- (a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and
  - (b) enhance the ability of councils to respond to present and future issues in their municipalities.”<sup>9</sup>

It seems clear that the provincial government is intent upon having municipalities make independent decisions on the matters that affect their municipalities, notwithstanding what a regional perspective might be.

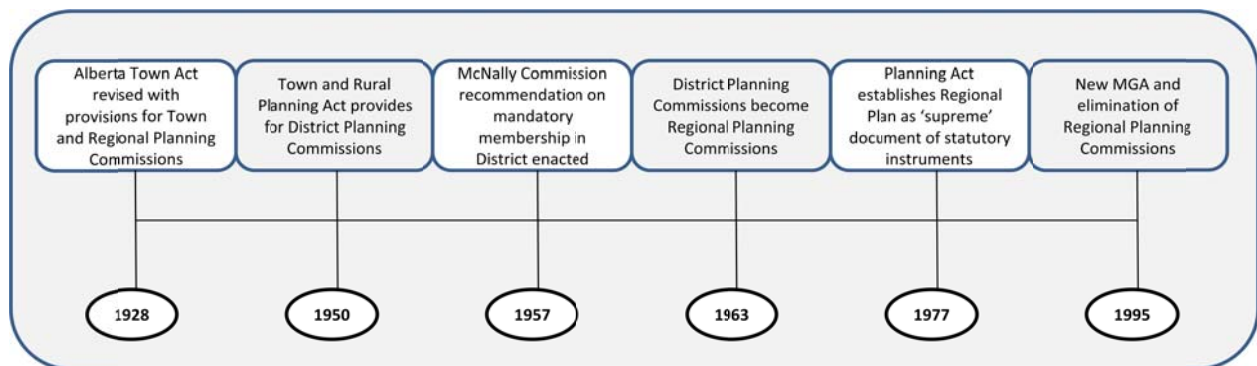
## EXAMPLES OF WHERE FORCED REGIONALIZATION WAS USED IN THE PAST

It is useful to have an historical perspective when talking about forced regionalization in the province. The genesis of most regionalization initiatives has come from individual municipalities who have banded together to address a common service need that either requires a regional solution (typically for economic reasons) or makes sense because of the particular circumstances of the region such as promoting economic growth that will be shared by the participating municipalities.

Perhaps the most visible example of forced regionalization in the past was the introduction of regional planning commissions.

The timeline presented in Exhibit 1 – History of Forced Regional Planning provides an overview of the introduction, application and eventual abandonment of an example of forced regionalization.

### EXHIBIT 1 – HISTORY OF FORCED REGIONAL PLANNING



Forced regionalization as we have defined it, first appeared in the 1950's with the introduction of the Edmonton District Planning Commission. Initially this was purely an advisory board whose decisions were not binding on the City of Edmonton or any other municipality. The purpose of this Board was to develop an "Outline General Plan" which was adopted by the City of Edmonton in 1953.<sup>10</sup>

In 1954, the province formed the McNally Royal Commission, to:

"...examine and make recommendations for the cities of Edmonton and Calgary on the 'financing of school and municipal matters.' As well 'the boundaries and the form of local government which will most adequately and equitably provide for the orderly development of school and municipal services."<sup>11</sup>

In 1956 the Commission recommended that:

"...each metropolitan area would be best governed by enlarging each of the present cities to include its whole metropolitan area."<sup>12</sup>

This recommendation was based on the Commission's:

"...assumption that the metropolitan region was one economic, social and physical unit."<sup>13</sup>

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The Province ignored this recommendation and instead relied upon other recommendations in the report to address issues of planning in the regions. Most significant was the recommendation to strengthen the district planning commissions, such that:

“...membership on the District Planning Commission should be mandatory and the Commission should prepare a District General Plan.”<sup>14</sup>

This, in effect, was the first legislative attempt of the provincial government to introduce regional planning through forced regionalization. The McNally Commission concluded that there could be no orderly development in any area where dissent by one member municipality alone could disrupt an entire district plan.<sup>15</sup>

In 1963 district planning commissions became regional planning commissions under the new *Planning Act* and in 1977 the *Act* was further amended to solidify regional plans as superior in law to:

“...municipal general plans, area structure plans, and finally to local land-use bylaws.”<sup>16</sup>

Under the 1977 legislation, membership in the region was determined by cabinet, membership was mandatory and the municipal representatives had to be an elected official. The legislation also mandated that a regional plan be prepared and that the municipalities in the region were obligated to adhere to the principles and dictates of the plan. Regional planning commissions endured until 1995 when the then Minister of Municipal Affairs cut funding for the commissions and introduced the current *Municipal Government Act*. This action effectively ended forced regionalization for land-use planning.

The historical attempts at forcing a relationship produced results but as a joint 1979, AUMA – AAMDC survey of members (as cited in Climenhaga, 1997)<sup>17</sup> on the issue of regional planning indicated:

“In every region, urban municipalities made a substantially greater percentage of positive comments than the rural municipalities, while in every region, except one, rural municipalities made a greater percentage of negative comments ...there is a perceived urban domination in the eyes of the rural municipalities and a small town-rural bias in the eyes of the larger municipalities.”<sup>18</sup>

“Almost half the comments from the urban respondents viewed regional planning as doing a good job, providing needed advice, encouraging organized regional development ...rural respondents said such things as the regional planning commission is too dictatorial; there is a loss of local autonomy and there is an urban membership bias on the commission.”<sup>19</sup>

This is hardly a ringing endorsement for forced regionalization.

The pendulum swing of regionalization from cooperative to forced and back to cooperative has been costly in terms of exacerbating the environment of conflict and confrontation that exists between Alberta's two major urban centres and their rural neighbours.

## THE CURRENT STATE OF AFFAIRS

The pendulum has again swung from cooperative regionalization to forced regionalization with the province's requirement in June 2007 that the Calgary and Edmonton metropolitan regions prepare regional growth plans. Both initiatives were initially conducted as cooperative ventures where the participation of individual municipalities was solicited by the provincial government.

In the Calgary metropolitan area, the Calgary Regional Partnership (CRP) was charged with the responsibility to prepare the Calgary Metropolitan Plan (CMP). In Edmonton, the initial plan was to have the Alberta Capital Region Alliance (ACRA) responsible for the plan's preparation. However; the decision by the City of Edmonton to abandon ACRA, forced the province to appoint a project team to carry out the planning work. The Capital Region Integrated Growth Management Plan Project Team was disbanded in December 2007 and was replaced by the Capital Region Board (CRB). The CRB has on-going responsibility for the maintenance and implementation of the Capital Region Growth Management Plan (CRGMP).

Concurrently the province passed the *Land Stewardship Act* and introduced the Provincial Land-Use Framework. This legislation created seven regions in the province including the South Saskatchewan Region which embraces the municipalities that make up the Calgary Regional Partnership and the North Saskatchewan Region which takes in the municipalities of the Capital Region Board.

The terms of reference for the development of the regional plans under the Land-use Framework provide some useful insights into the intent of the provincial government:

"The Government of Alberta is responsible for regional planning. Regional plans will be reviewed and approved by Cabinet; they will become official government policy and have the force of law.

Municipalities and Alberta Government departments will be required to comply with regional plans in their decision making."<sup>20</sup>

It is clear that local planning is again now subordinate to regional plans.

### Calgary Regional Partnership

The Calgary Regional Partnership (CRP) is a not-for-profit company incorporated in 2004 with the express purpose "to encourage regional thinking within the context of local decision making and to support local autonomy while emphasizing that local goals can often best be facilitated through regional cooperative approaches;"<sup>21</sup>

The CRP started out as a regional cooperative that included 15 municipalities located around the City of Calgary. Included among the original 15 were the MD of Big Horn, the MD of Rocky View (now Rocky View County), the MD of Foothills and Wheatland County. Today there are 15 members but the four rural municipalities identified above are no longer participants. The MD of Big Horn withdrew from the CRP with the understanding and support of the CRP membership. The remaining three municipalities were forced to withdraw when they refused to ratify the CMP.

The principles of the CRP speak to cooperative and voluntary regionalization but the reality, for the three rural former members, is not acceptable. That is, the

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**Calgary Regional Partnership (CRP)**  
**Calgary Metropolitan Plan (CMP)**



incentive of rationalized and harmonized regional growth was over-ridden by the cost or negative impacts of both the process and the outcome of the CMP. For example, the MD of Foothills refused to ratify the CMP because, in their words:

“(the CMP)...contains many statements and associated mapping which erode or, by virtue of ambiguity and contradiction, take away the rightful autonomy of Foothills, its land use authority and consequently, the rights of its residents . . .”<sup>22</sup>

In the same council meeting, the process related issues of the CRP were identified and included, but were not limited to:

“... the proposed Calgary Metropolitan Plan permits land use decisions, ... to be overridden or challenged by the Calgary Metropolitan Plan, urban councillors and others who are neither elected nor accountable to MD residents” and “... the City of Calgary can freely and unreasonably veto any and every Foothills counter-proposal concerning the areas of future urban growth of Calgary into the MD (of) Foothills...”<sup>23</sup>

This leads us to ask the question—is the CRP and the application of the CMP a form of forced regionalization? We believe it, is and the analysis presented in Exhibit 2 - Evaluation of the Calgary Regional Partnership, indicates why.

**EXHIBIT 2 – EVALUATION OF THE CALGARY REGIONAL PARTNERSHIP**

Principle Involved	Calgary Regional Partnership	Forced Regionalization?
Voluntary participation	Membership is discretionary	x
Partners define the region	Have control of membership	x
Political autonomy	Forced compliance	✓
Non-hierarchical governance	Not legislated by province	x
Voting equity	City of Calgary has veto	✓
Consensus decision making	Binding decisions without consensus	✓
User-pay cost sharing	To be determined	?
Regional transparency	Operates openly	x
Accountability of individual municipalities	Open for debate	✓
Ability to opt out of service program(s)	Can only opt out of membership not programs	✓

As the above analysis indicates, the CRP and the application of the CMP falls within our definition of forced regionalization. For a more comprehensive explanation of the conclusions illustrated in Exhibit 2, see Appendix A - Why the Calgary Regional Partnership and the Calgary Metropolitan Plan Are an Example of Forced Regionalization.

The primary concern with the CRP is the existing reality that binding decisions compromising the political autonomy of a municipality have been made and that these decisions were arrived at without consensus.

**Calgary Regional Partnership (CRP)  
Calgary Metropolitan Plan (CMP)**



## Finding Local Solutions: Examining the Impacts of Forced Regionalization

The fact that three rural municipalities have withdrawn from the CRP and have referenced the reason cited above is demonstrable evidence that the negative impacts of membership outweigh the positives.

### Capital Region Board

The make-up and history of the Edmonton region differs from that of the Calgary region. If we look at what occurred after the provincial government adopted many of the recommendations of the “Report of the Royal Commission of the Metropolitan Development of Calgary and Edmonton”, (the McNally Report), the City of Calgary was much more successful in pursuing a uni-city policy that saw the city grow dramatically in size through annexation.

“Between 1951 and 2008, Calgary grew from 104 km<sup>2</sup> to over 848 km<sup>2</sup> “...an increase of over 700%”<sup>24</sup>

Edmonton also annexed considerable lands in the same time frame, but was less successful than Calgary in acquiring the land they applied to take over. The City of Edmonton very quickly ran up against strong opposition from the municipalities that border it on all sides. The current area of the city sits at 684.37 km<sup>2</sup>.

The Capital Region Board (CRB) was established by the provincial government in June 2008 through the Capital Region Board Regulation under the *Municipal Government Act*. This action presumably followed from the province’s perception that the 25 municipalities in the Edmonton area were not capable of cooperatively developing a regional growth management plan. We say presumably since there has never been an official reason given for the board’s establishment other than the adoption of many of the recommendations contained in the Project Team’s Report (the Radke Report) and the Premier stating:

“Moving forward on regional planning is part of my government’s plan to prepare for the long term future of the province,” said Premier Ed Stelmach. “Recognizing the scale of challenges the Capital Region faces it is essential that infrastructure and services be provided in a timely and effective way.”<sup>25</sup>

The Minister of Municipal Affairs offered this explanation in the same new release:

“...this is an important milestone in meeting the development needs of the Capital Region. Our government is absolutely committed to making this board and this region work.”<sup>26</sup>

The CRB was formed with 25 member municipalities (now 24 with the dissolution of the Village of New Sarepta into the County of Leduc). The board was charged with the development of a Capital Region Growth Management Plan (CRGMP) by March 31, 2009. *The Capital Region Growth Plan: Growing Forward* was submitted to the Minister of Municipal Affairs on April 2, 2009 and was approved by the government on March 10, 2010.

When the vote was called for the adoption of the growth plan, the plan was approved with a 19 to 6 majority—a reflection of the voting mechanism that requires 17 votes in favour which represent at least 75 per cent of the population. There is obvious dissent and

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### Capital Regional Board (CRB)

### Capital Region Growth Management Plan (CRGMP)

## Finding Local Solutions: Examining the Impacts of Forced Regionalization

discord associated with the CRB and with the CRGMP. At the time of the vote, the then mayor of the County of Parkland, Rob Wiedeman, commented:

“This plan has been put together in eight months without consideration for the opinions of rural communities and without the time and care usually taken for a statutory plan for over one million people.”<sup>27</sup>

He further went on to comment about how this happened:

“The regional board has pitted municipality against municipality and has led to “backroom” meetings and deals among some members.”<sup>28</sup>

Growth in the Edmonton region has been the subject of many commissions, studies and reports. Recommendations to the province on how to foster, support and incent the development of a regional growth plan have varied dramatically in scope and in the content of the recommendations. Two of the more recent and more inclusive of the studies are the following:

- An Agenda for Action, Alberta Capital Region Governance Review, Final Report, December 2000<sup>29</sup>, also known as the Hyndman Report and
- Working Together, Report of the Capital Region Integrated Growth Management Plan Project Team, December 2007<sup>30</sup>, also known as the Radke Report.

These two documents, more than any other, provide an opportunity to understand why controversy and dissent concerning the CRB and the integrated CRGMP exist today.

The Hyndman Report took the approach that recognized the differences among the Edmonton region municipalities and suggested that a forced regionalized approach was not the solution. In doing their homework, the members of the governance review initiative came to the conclusion that it was vitally important NOT to force a result because the negative consequences would out-weigh the benefits:

“First, new solutions can’t be imposed ... that approach simply won’t work. Experience in other provinces shows us the turmoil that forced solutions can cause. Instead, we need to take this step by step, sort out problems as we go and develop new approaches and solutions cooperatively.”<sup>31</sup>

This sentiment was shared by the then Minister of Municipal Affairs, Walter Paskowski (as cited in An Agenda for Action, Alberta Capital Region Governance Review, December 2000):

“I want to emphasize the words “self determined regional partnerships.”<sup>32</sup>

The Governance Review Committee recognized that there would be problems, and in their words, “No quick Fixes ... There will be hits and misses”<sup>33</sup> and also that it would take time to put into place the partnerships necessary to plan effectively for the Edmonton region.

The governance review also recognized that it may be necessary to force membership in regional partnership to get all members to the table,<sup>34</sup> but nowhere did it suggest that individual municipalities could not opt out of individual programs or initiatives of the partnership:

“The voting mechanism should ensure that a majority of municipalities are not able to impose services in an unwilling municipality.”<sup>35</sup>

**Capital Regional Board (CRB)**

**Capital Region Growth Management Plan (CRGMP)**

**Capital Regional Board (CRB)**

**Capital Region Growth Management Plan (CRGMP)**

Seven years after the governance review, the Radke Report was presented to the provincial government. This assessment of the Integrated Growth Management

Plan concluded that:

“...little **real** progress had been made during the last seven years on creating the cooperative and collaborative regional approach to planning and development within the capital region envisioned by Mr. Hyndman in December 2000.”<sup>36</sup>

More importantly, Mr. Radke concluded that:

“...the region is still a long ways from accomplishing on its own what Mr. Hyndman recommended seven years ago. There are any number of reasons for this seven year delay, none of which really matter if what Mr. Hyndman saw to be required is ever going to happen. It would seem that municipalities in the region need a framework, a tool to get it done, one that does not rely on “consensus.””<sup>37</sup>

Mr. Radke’s report appears to have been accepted and adopted by the province and the CRB is based on many of the recommendations contained in the report. It is not clear why the province choose to take this approach when a contentious outcome was readily apparent.

Is the CRB and the application of the CRGMP a form of forced regionalization? The analysis presented in Exhibit 3 - Evaluation of the Capital Region Board, leads us to believe it is.

**EXHIBIT 3 – EVALUATION OF THE CAPITAL REGION BOARD**

Principle Involved	Capital Region Board	Forced Regionalization?
Voluntary participation	Membership is mandatory	✓
Partners define the region	Region defined by the province	✓
Political autonomy	Forced compliance	✓
Non-hierarchical governance	Another order of government	✓
Voting equity	City of Edmonton has veto	✓
Consensus decision making	Binding decisions without consensus	✓
User-pay cost sharing	Various models	Possibly
Regional transparency	Deal making	✓
Accountability of individual municipalities	Region super-cedes	✓
Ability to opt out of service program(s)	No opting out	✓

For a more comprehensive explanation of the conclusions reached in Exhibit 3, see Appendix B – Why the Capital Region Board and the Capital Region Growth Management Plan Are an Example of Forced Regionalization.

## Finding Local Solutions: Examining the Impacts of Forced Regionalization

It is interesting to note that Mr. Hyndman's prediction that an imposed solution would not work and that the negative consequences would create greater problems than the forced solutions provided appears to be coming true.

### In Summary

Today we again have a situation where the province has imposed a regional model that forces individual municipalities into accepting service delivery or planning directions that may not be in the best interests of the local community. As we have seen in the past, this shifting of control away from the individual municipalities has predictable results that are again in evidence today.

It is also apparent that the whole approach to getting growth management plans in place in both the Calgary and Edmonton regions was flawed. In requiring the Calgary and Edmonton regions to prepare growth plans, the province has unintentionally or intentionally forced the bundling of a selection of municipal services into one solution. Is this necessary? The implication of this approach is that one approach is optimal for addressing service delivery solution for all services included in the growth plans. Similarly any municipality that can't accept the solution must, in the case of the Calgary Regional Partnership, abandon membership in the Calgary Regional Partnership or in the case of the Capital Region Board, must accept the solution.

Would it not have made more sense in the first version of the growth plans to include only those service areas where consensus was achievable and allow more time to build trust and a cooperative spirit before addressing the more contentious areas associated with land-use?

While we recognize that it is the prerogative of the provincial government to impose regional models, we, as Mr. Hyndman predicted, find the present situation untenable.

The question that remains to be answered for both the Edmonton and Calgary regions is—is forced regionalization justified?

Earlier in this paper we addressed the conditions that would need to exist, to make forced regionalization an acceptable option:

1. a basic and material regional need is not being met;
2. all other legitimate options have been tried and have failed to address the need;
3. there is agreement that a stalemate exists;
4. and finally, when it can be demonstrated that the benefits (positive impacts) for the region and for the participating municipalities out-weight the costs (negative impacts).

In the following exhibit, we have summarized our evaluation of these criteria:

#### EXHIBIT 4 – IS FORCED REGIONALIZATION JUSTIFIED?

Criteria	Calgary Regional Partnership	Just-ified?	Capital Region Board	Just-ified?
Regional need not being met	No all inclusive entity to address regional service delivery needs	✓	No all inclusive entity to address regional service delivery needs	✓
All options tried and unsuccessful	The current option was a negotiated solution, options exist	✗	Imposed solution justified by lack of progress	✗

## Finding Local Solutions: Examining the Impacts of Forced Regionalization

Criteria	Calgary Regional Partnership	Justified?	Capital Region Board	Justified?
Stalemate Exists	Questionable given that on-going discussion takes place	x	Minimal progress is not a stalemate	x
Positive Impacts out-weight Negative Impacts	Clearly not the view of the dissenting municipalities	x	On-going objection to the approach taken indicates that this view is not shared by all municipalities	x

As the exhibit indicates, all the conditions have not been met and the imposition of forced regionalization is not justified.

## FINDING A SOLUTION – ALTERNATIVES TO FORCED REGIONALIZATION

It is AAMDC's position that there are solutions and that these alternative approaches to delivering regional services are superior to forced regionalization.

At the very heart of this issue is the province's insistence that there must be regional growth plans for services in the metropolitan areas of Calgary and Edmonton. There is little to dispute concerning the desirability of having rational plans in place that take into account the regional needs of the municipalities involved and to put into place regional solutions that address local needs.

### **There are models in place in the Province**

The MGA provides numerous vehicles to address services regional service needs. In the following sections we provide a series of examples where these models have been successfully applied without the need for an imposed solution.

#### **Commissions and Authorities**

One of the primary approaches to cooperative regional service delivery has been the use of commissions. In the Province of Alberta, commissions exist to provide water, wastewater treatment, solid waste management, emergency services, assessment services, utility services and airport services on a regional basis. All of these commissions, with the exception of the Capital Region Board, are voluntary cooperatives where the partners have established a separate organization under the MGA and where the partners have given over control for the delivery of a service.

Notable among the many examples is the Alberta Capital Region Waster Water Commission (ACRWC). Since 1985 the ACRWC has provided transportation and treatment of wastewater for 13 urban and rural municipalities in the Capital Region excluding the City of Edmonton. Edmonton is not part of the commission yet it is part of the solution through a strategic partnership with ACRWC. This combination of approaches facilitates the regional need for wastewater treatment and transportation without compromising the autonomy of the partners in either the commission or the partnership.

The positive impacts of this alliance far outstrip the negative consequences for each partner and there is limited discord and an enviable record of achievement.

#### **Inter-Municipal Development Plans**

Land-use and the planning for land-use likely represents the area of greatest potential for dispute among adjacent municipalities. In anticipation of the need for a regional solution, the MGA provides a vehicle for municipalities to negotiate and plan for the rational development of areas of land lying within the boundaries of the municipalities. This section of the *Act* goes on to suggest that:

- “(2) An intermunicipal development plan
  - (a) may provide for
    - (i) the future land use within the area,



- (ii) the manner of and the proposals for future development in the area, and
- (iii) any other matter relating to the physical, social or economic development of the area that the councils consider necessary,”<sup>38</sup>

It is clear from this section of the *Act* that the provincial government intended that local municipalities should find local solutions “for development of the area that the councils consider necessary”. There are numerous examples of intermunicipal development plans (IDPs) virtually all of which contain statements of the cooperative nature of the agreement and the mutual benefit that accrues to the partners. One example is the City of Lacombe and the County of Lacombe IDP:

### “2.0 PLAN OBJECTIVES

2.1 The objectives of the Intermunicipal Plan are to

- (1) identify future land uses in and around the Town and establish policies to guide decisions on those uses;
- (2) accommodate urban growth and rural development in a manner which is mutually acceptable, orderly and efficient;
- (2.1) provide for commercial and industrial development in identified areas within Lacombe County along Queen Elizabeth II Highway and make available public water and wastewater services.  
*(Amending Bylaw Nos. 1054/07, July 31, 2007 and 174.6, July 23, 2007)*
- (3) identify the transportation and municipal utility systems required to serve the area;
- (4) protect the natural environment and ensure that its resources are used in a sensitive manner; and
- (5) establish a mutual consultative approach to the implementation of the Plan.”<sup>39</sup>

The sentiment expressed in this agreement is based on mutual benefit. The incentive is the ability to move forward “...in a manner that is mutually acceptable, orderly and efficient”.

### Contractual Agreements

An additional approach available under the MGA is the ability of municipalities to enter into agreements with other municipalities for the purposes of addressing regional needs. One such example is the Municipal District of Foothills and the Town of Okotoks, Joint Planning Agreement, adopted January 18, 2010. These two municipalities have had an IDP in place for many years and the Mission Statement and Opportunities Statement of the agreement speak to the long term relationship and the “...desire to commit to a long term partnership...”. As part of this agreement the partners have spelled out the principles that will guide the execution of the agreement:

“The following Principles shall guide subsequent processes and communications between the MD of Foothills and the Town of Okotoks:

## Finding Local Solutions: Examining the Impacts of Forced Regionalization

1. **Understand** each other's growth aspirations by providing full disclosure and factual information;
2. **Respect** each other's point of view and have honest interaction and realistic expectations;
3. **Respect** which aspects of development planning and growth are of mutual interest and which areas are of single jurisdictional interest;
4. **Share** costs relating to the delivery of agreed upon soft and hard services on a **Fair and Equitable** basis;
5. **Support** each other in finding mutually beneficial solutions;
6. **Serve** the constituents while respecting the social, economic and infrastructure capacities of the municipalities;
7. **Communicate** effectively to clarify any challenges and provide a clear and mutually supportive message to the public and media; and
8. **Live** within the **Carrying Capacity** of the landscape."<sup>40</sup>

### Inter-Municipal Cooperation Protocol

In Spring 2010, Rocky View County and the Town of Cochrane "...signed an historic and precedent-setting agreement to work together in the spirit of commitment, respect, and trust and to enhance the lines of communication into the future."<sup>41</sup> The Ranche House Accord is designed to build upon an already strong relationship between the two municipalities and formalizes the protocol they will follow on mutually beneficial initiatives. These two municipalities have a number of partnership agreements already in place to address community programs and the operation of regional facilities.

The development of the Accord was facilitated by Alberta Municipal Affairs and supported by the Minister, the Honourable Mr. Hector Goudreau, who expressed the desire to have this accord "... serve as a model for other jurisdictions in the province."<sup>42</sup>

This approach, in effect, relieves the municipalities of the need to "re-invent-the-wheel" each time they wish to enter into an agreement to work together for some regional initiative that will benefit both municipalities. As well, the Accord is a "commitment to actively seek and foster partnership opportunities."<sup>43</sup>

### Do these approaches meet the test?

The following exhibit evaluates each of the examples using the principles established earlier for cooperative initiatives that are not forced:

#### EXHIBIT 5 – EVALUATION OF AVAILABLE APPROACHES TO REGIONALIZATION

Principle Involved	ACRWC	Lacombe IDP	Foothills-Okotoks Agreement	Ranche-House Accord
Voluntary participation	✓	✓	✓	✓
Partners define the region	✓	✓	✓	✓
Political autonomy	✓	✓	✓	✓
Non-hierarchical governance	✓	✓	✓	✓
Voting equity	✓	✓	✓	✓
Consensus decision making	✓	✓	✓	✓

Principle Involved	ACRWC	Lacombe IDP	Foothills-Okotoks Agreement	Ranche-House Accord
User-pay cost sharing	✓	✓	✓	✓
Regional transparency	✓	✓	✓	✓
Accountability of individual municipalities	✓	✓	✓	✓
Ability to opt out of service program(s)	✓	✓	✓	✓

These four examples clearly pass the test for a voluntary, cooperative approach to regionalization. These are certainly not the only examples but they are indicative of the desire and spirit of rural municipalities to enter into partnerships with their neighbours to effectively address a regional community need.

### There are models in other Jurisdictions

Other jurisdictions have attempted regionalization using a variety of different approaches with varying levels of success.

#### British Columbia

British Columbia has had a regional model in place for service delivery since 1965. In the mid-1990s regions were given powers to prepare regional growth plans as well as the delivery of hard services related to water, wastewater, transportation etc.

Representation on regional boards goes to great lengths to avoid the perception or reality of a forced or imposed structure:

“The regional system in British Columbia is exceptional because of its democratic principles. Establishing a strong democratic framework within regions was not simple; instead it developed over the years through slight modifications, which added various protections to communities. The structure of all regional districts is similar. There is a governing board composed of both elected municipal councillors appointed to the board by their municipal councils and independently elected members from electoral areas outside of incorporated municipal boundaries. All regional district board members are classified as directors.” (As cited by Municipalities Newfoundland and Labrador.)<sup>44</sup>

What is significant to this discussion about the British Columbia model is the principle that:

“A regional growth strategy cannot be imposed on a municipality. Rather, any municipalities affected by the plan must be consulted in the planning process and must pass a motion to formally adopt the plan.” (As cited by Municipalities Newfoundland and Labrador.)<sup>45</sup>

Perhaps the most relevant example from British Columbia is the Metro Vancouver Board.

#### Metro Vancouver Board

Metro Vancouver is the third largest metropolitan area in Canada comprising 22 municipalities, one electoral area and one Treaty First Nation that is home to 2.3 million residents or about half

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the population of British Columbia. In the words of Derek Corrigan, the mayor of the City of Burnaby and a Director of the Metro Vancouver Board (MVB), the Regional District:

“(is)...seen as a “coordinator” and “common instrument” of separate local governments.”<sup>46</sup>

The MVB has three roles: service delivery, regional scale planning and regulation and political advocacy/collaborative governance. The Board of Directors is made up of municipal council appointees: one director per 100,000 residents and one vote per 20,000 residents. The principles under which the MVB operates include:

- One non-hierarchical system of local government;
- Region must add value or leave at local level
- The interests of individual partners will prevail over everything except the collective interest of the partners
- Resolve issues through consensus and avoid surprises and destructive conflict
- Result should be coherent regional action which:
  - Respects and reinforces the diversity, character and integrity of local municipalities
  - Protects the environment
  - Maintains cost effective service delivery to tax payers.

In the same presentation, Mr. Corrigan highlighted what he saw as the strengths of regional partnership under their model. The list included a comment on consensus decision making as being “...(an) inclusive approach to decision making.” There is recognition that “...consensus can be hard to find and maintain” and that “...parochial concerns can inhibit the development of regional solutions”, but this does not mean that a solution has to be imposed or forced. What he does reveal is that the MVB is a “cooperative system ... (which) necessitates constant attention to local municipal interests.”<sup>47</sup>

One other striking feature of the MVB model is the voting threshold which is divided into two categories for amending the regional growth strategy (major amendments and minor amendments). For major amendments, a 50%+1 weighted vote is required, plus acceptance by all affected local governments.

Mr. Corrigan suggests that their model is not perfect and the process of collaboration is at times painful. However, the model works and regional solutions are possible without the need for imposing regionalization.

### **Ontario – Regional Services From a Regional Government**

The regionalization model in Ontario is based on another order of government—the regional council. The regional council can be made up of directly elected council members and the mayors of local municipalities both urban and rural (eg. Region of Waterloo) or exclusively from the elected officials of the local municipalities (eg, Region of Peel).

Services vary from region to region and consist of those services typically addressed by service commissions in Alberta. The Region of Waterloo, for example, has a Planning and Works Committee that advises the regional council on:

“...matters relating to the civil works operated by the Region and other functions related to the Region’s facilities, such as the Region of Waterloo International Airport, roads and

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traffic, transit, water supply, waste water treatment, residential waste management, industrial waste management and on Planning.” issues such as the Regional Official Policies Plan, transportation planning, planning and development matters and recommends approval of municipal official plans.”<sup>48</sup>

Growth in the region is managed by an official plan developed by the regional council:

“The Region Official Plan (ROP) is a long-term plan used to assist the Region in managing growth and development. The main purpose of the Plan is to:

- Provide Regional Council with a long-term regional strategic policy framework for guiding growth and development in Peel while having regard for protecting the environment, managing the renewable and non-renewable resources, and outlining a regional structure that manages this growth within Peel in the most efficient manner.
- Interpret and apply the intent of Provincial legislation and polices within a Regional context using the authority delegated or assigned to the Region from the Government of Ontario.”<sup>49</sup>

The Ontario model creates a de facto order of government that is distinct from the local municipalities.

### Jurisdictions Outside of Canada

Alberta Municipal Affairs commissioned a study in 2007 called “Regional Governance Models – An exploration of structures and critical practices”. The study was prepared by the City-Regions Study Centre in the Faculty of Extension at the University of Alberta. The final report was presented October 26, 2007. The report is included as background information on the Municipal Affairs web page for the Capital Region Board.

The report attempts to answer two basic questions:

- “1. Are there any effective regional governance models or elements of models that can be drawn from existing arrangements and support structures in other regions with a population demographic similar to that of the Capital Region?
2. What kinds of governance arrangements might serve as vehicles for inter-municipal cooperation in implementing the regional growth management plan in the Capital Region?”<sup>50</sup>

The study looked at six city-regions in the United States and six city regions outside of North America and provides some useful insights on the common elements to be found in regional structures. Their initial conclusion is that there is no consistent regional model to be found and “...a ‘best-practice’ model of regional governance does not exist.”<sup>51</sup> They did, however, identify one common feature or principle that was present in the majority of models they reviewed:

“In the twelve cases that were examined, the most frequent pattern found for a *cooperative mechanism* is that of a voluntary association.”<sup>52</sup>

That is, for a regional model to be a cooperative partnership, it must be one based on voluntary participation, not imposed or forced. The study looked at six different governance structures including several forced or imposed regionalization models and concluded the only viable approach is:

### **“Voluntary Associations**

Not-with-standing the history in the Capital Region with voluntary association, this cooperative mechanism can work. It requires a willingness to work together, to appreciate mutual benefits, the ability to negotiate from multiple perspectives (not just population equities and inequities), systems and regional thinking, the ability to conceptualize integrated planning, leadership, the use of business model thinking, and a sense of the public good that is not parochial. It may require legislation that supports regional decision making powers.”<sup>53</sup>

The logical conclusion reached in this study was that there has to be motivation to become part of a region and that the structure discussion is irrelevant until that motivation is sufficient to induce participation. This premise is consistent with the principles espoused earlier concerning the need for the benefits of partnership to exceed the negative impacts on individual municipalities.



## FINDING A SOLUTION – JUSTIFYING FORCED REGIONALIZATION

In the end, if the need for forced regionalization is justified, it implies that there is some material benefit that will accrue to the participating municipalities.

It is not sufficient to say that a greater good is being served. There must also be some tangible benefit that all municipalities can point to. It is important for all municipalities to share in this benefit and that it is not a benefit for just the majority of the population and not just a 'pay-off' to the disaffected. The benefit must also be realizable now. Talking about the long-term benefits of a growth plan is important but they do little to address the immediate need of building cooperation and engendering a spirit of partnership today.

This leads to the necessity of introducing incentives (motivation) as a surrogate benefit for forced regionalization. In the past the province has used grants (both conditional and unconditional) to municipalities to help them transition from one form of government to another, for example, the transition from Improvement Districts (IDs) to Municipal Districts (MDs).

The creation of regions is another order of magnitude and the incentive to be part of the region should involve a significant gesture by the province to endow the region with the financial security in keeping with the significance the province has placed on the importance of the region.

One means of accomplishing this would be to incorporate the Calgary and Edmonton regions as charter regions with a distinct and recognized status and with enhanced revenue sources that will address the financing of growth in the regions.

### Charter Region Concept

The concept of a charter for local municipalities is not new. Currently five cities in Canada have a charter city status that distinguishes them from other cities in their respective provinces—Vancouver, Winnipeg, Toronto, Montreal and St. John. Among others, the primary reasons for granting charter status are based on the premise:

- "Provincial policies and programs that are designed for application province-wide do not always fit the needs or operations of the City;
- Likewise, the City's needs and responsibilities are often not shared by other municipalities;"<sup>54</sup>

While the concept of a charter local municipality originated with cities, there is no reason to believe that the concepts are not applicable to a region. In fact, the concepts, as applied to a region, appear to be consistent with the rationale for forcing the formation of the region in the first place.

Conceptually the regional charter would confer the follow rights:

- Independent status with the power to act on regional matters;
- Enhanced revenue sources compared to traditional local governments;
- The right to be consulted on any legislation in advance of the legislation being enacted, on issues that would impact the region;
- The power to enact legislation in the region for areas of provincial responsibility excepting only when they do not conflict with provincial legislation

## Finding Local Solutions: Examining the Impacts of Forced Regionalization

Fundamentally, the charter is a trade-off where municipalities give up some level of independence in local decision making in exchange for enhanced powers in other areas. The trade-off must be sufficiently beneficial in the eyes of all partners if it is to be effective as an incentive for participation in the regional entity. Using the words trade-off and independence in the same sentence is a red-flag for any local council and as a consequence there must be clarity, certainty and sufficiency concerning the return for loss of independence.

It is apparent from our review of the literature that many of the other principles that are inherent in the concept of a charter municipality are already present in the MGA such as natural person powers. What is significant and material concerning the viability of a region is the access to enhanced revenue sources to provide the funding for major infrastructure initiatives such as rapid transit, water treatment facilities, etc.

The potential downside of this approach is the possibility that the trade-off, loss of independence for financial gain, is perceived to be a reward rather than a benefit of association. There is a distinction between these two concepts and it is important. Regionalization is not about prizes for cooperating. It is about balancing the loss of independence in exchange for something of greater value. Secondly, this type of approach goes against the traditional concepts of equity among all municipalities. Typically the province avoids introducing programs or situations that create exclusivity similar to what the Charter Region concept involves. Treating one municipality differently from another is not without precedence however and the reality of regional benefit may be sufficient to offset the objection.

The concept of a charter region is novel in Canada and would again place Alberta at the forefront of innovation for addressing local government needs.

## CONCLUSION

The pendulum swing from forced to un-forced regionalization must stop, and it must stop at the point where regional solutions are not imposed and municipal councils are allowed to carry out their sworn duty.

Forced regionalization is an unwarranted attack on the independence of local municipalities guaranteed in the MGA. Local councils are elected to make decisions in the best interest of the municipality and any artificial, imposed governance model that supplants this obligation should be opposed and abandoned.

It seems ironic that the MGA goes to great lengths spell out the obligation of local government and then the province ignores these provisions and suggests that the collective wisdom of a municipality's neighbours should prevail over the best interests of a municipality that takes a minority position on a regional issue. It is also ironic that other legislation protects minority interests and rights.

AAMDC sees no legitimate reason for the application of forced regionalization by the province unless the conditions presented earlier in the paper are present.

## Appendix A:

### Why the Calgary Regional Partnership and the Calgary Metropolitan Plan Are an Example of Forced Regionalization

## Appendix A: Why the Calgary Regional Partnership and the Calgary Metropolitan Plan Are an Example of Forced Regionalization

Principle Involved	Comment	Conclusion
Voluntary participation	Individual municipalities have the choice to join and or withdraw from the Partnership.	Not Forced
Partners define the region	Existing Partners decide on who may join the Partnership.	Not Forced
Political autonomy	If a Partner refuses to accept the application of the Calgary Metropolitan Plan for any reason including the belief that the Plan compromises the Political Autonomy of the municipality, the Partner is compelled to withdraw from the Partnership.	Forced
Non-hierarchical governance	The Partnership is configured to provide services to the Partners of the region at the pleasure of the Partners.	Not Forced
Voting equity	<p>The Partnership employs (among others) a ‘Super Majority’ voting formula that requires:</p> <ul style="list-style-type: none"> <li>▪ A majority of the region’s population</li> <li>▪ A 2/3 majority of the Partners</li> </ul> <p>In effect, the City of Calgary must vote yes for a decision to pass. Equity implies equality suggesting that one Partner will <b>not</b> have the voting power to pass or veto a decision. Calgary, with a clear majority of the population, has the ability to veto any decision by voting no.</p>	Forced
Consensus decision making	The Partnership and the Plan make the statement that “...decisions can and will be made by consensus.” There is, however; no readily apparent policy or process that spells out how a consensus could or should be reached.	Forced
User-pay cost sharing	To be determined	Unknown
Regional transparency	The Partnership’s Memorandum of Association includes an object that states: “ To develop a public involvement protocol to keep citizens of the Region informed about Regional Matters and to support the involvement of citizens, businesses and not-for-profit organizations in regional thinking.”	Not Forced
Accountability of individual municipalities	Accountability in this context suggests a municipality being individually responsible for the actions of the Partnership. A municipality could potentially suggest that the Partnership is accountable in situations where the municipality is “forced” to ratify a decision of the Partnership to remain a partner in ‘good-standing’.	Forced
Ability to opt out of service program(s)	The Calgary Metropolitan Plan contains the following statement: “It should not be possible ...for communities to cherry pick, to opt into or out of individual components of the CMP.”	Forced

## Appendix B:

### Why the Capital Region Board and the Capital Region Growth Management Plan Are an Example of Forced Regionalization



## Appendix B: Why the Capital Region Board and the Capital Region Growth Management Plan Are an Example of Forced Regionalization

Principle Involved	Comment	Conclusion
Voluntary participation	Participation in the Capital Region Board is mandated through Provincial Legislation.	Forced
Partners define the region	The province defines the region by specifying the municipalities (by schedule) in the legislation.	Forced
Political autonomy	Each member municipality is compelled by legislation to accept decisions of the Board.	Forced
Non-hierarchical governance	The Regulation specifies the process and organization that must be established to approve statutory plans with a regional impact. The infrastructure and governance to support this process is indicative of another order of government, see for example, regional government in the province of Ontario.	Forced
Voting equity	<p>The CRB employs a double majority voting formula that requires:</p> <ul style="list-style-type: none"> <li>• 75% of the population of the region (City of Edmonton must vote yes for a decision to be approved)</li> <li>• A 2/3 + 1 majority of the members.</li> </ul> <p>Equity implies equality, suggesting that one partner will not have the voting power to pass or veto a decision. The City of Edmonton, with 75% of the population has the ability to veto any decision by voting no.</p>	Forced
Consensus decision making	The CRB and the Plan make the statement that: "...whenever possible, Board decisions are made by consensus." There is no readily apparent policy or process that spells out how a consensus could or should be reached.	Forced
User-pay cost sharing	The CRB has developed an Approved Cost Sharing Formula for Regional Projects and a Regional Transit Cost Sharing Formula. The formulas are primarily based on a user pay concept but also, in the case of transit, factor in the ability to pay. User pay is based on equity, ability to pay is based in altruism, a different value, where one municipality is potentially subsidized by others.	Forced
Regional transparency	The voting formula creates the potential for 'deal-making' among the members. That is, in the absence of a consensus, the City of Edmonton is placed in the position of being able to 'trade' the population vote for majority votes. This potential clouds transparency.	Forced
Accountability of individual municipalities	There is no ability for individual municipalities to be held accountable for the actions of the CRB where the municipality has voted against a decision.	Forced
Ability to opt out of service program(s)	There is no 'not withstanding' clause in the CRB regulation. All elements of the Growth Management Plan apply to all municipalities. Abstaining or failing to vote on decisions results in a vote in favour of the resolution.	Forced

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