

**LOWER MAINLAND TREATY ADVISORY COMMITTEE  
BOARD  
REGULAR MEETING**

**April 24, 2002**

Minutes of the Regular Meeting of the **Lower Mainland Treaty Advisory Committee (LMTAC) Board** scheduled from 8:15 p.m. to 8:45 p.m., on Wednesday, April 24, 2002, in the 2<sup>nd</sup> floor Boardroom, GVRD Offices, 4330 Kingsway, Burnaby, B.C.

<b>ATTENDANCE:</b>		
<b>JURISDICTION:</b>	<b>LMTAC ELECTED REPRESENTATIVE:</b>	<b>LMTAC STAFF REPRESENTATIVE:</b>
Greater Vancouver RD	Director Ralph Drew ( <b>Vice Chair</b> )	Marino Piombini
Anmore, Village of	Councillor Tony Frei	
Belcarra, Village of	Councillor Jamie Ross	
Corporation of Delta	Councillor Vicki Huntington	
Langley, City of	Councillor Ted Schaffer	
Langley, Township of	Councillor Bob Long	Frank Clark-Jones
Lions Bay, Village of	Councillor Peter Stevenson	
Maple Ridge, District of	Councillor Candace Gordon	
New Westminster, City of	Councillor Bob Osterman	
North Vancouver, City of	Councillor Bill Bell	Ken Tollstam
Pitt Meadows, District of	Councillor Janis Elkerton	
Port Coquitlam, City of	Councillor Mike Forrest	
Port Moody, City of	Councillor Ann Hulbert	Gerry vanderWolf
Squamish Lillooet RD	Director Pam Tattersfield	
<b>LMTAC STAFF ATTENDANCE:</b>		
Kirstie Pirie, Manager		
Regan Schlecker, Aboriginal Affairs Analyst		
<b>GUESTS:</b>		
Katherine Gordon, Chief Negotiator, BC South Regional Team		
Cory Herrera, Negotiator, BC South Regional Team		
<b>PREPARATION OF MEETING MINUTES:</b>		
Rae Ratslef, President, Raincoast Ventures		

**CALL TO ORDER**

Vice Chair Drew confirmed a quorum was in attendance and called the meeting to order at 8:40 p.m.

**1. AGENDA FOR ADOPTION**

**1.1 April 24, 2002**

**It was MOVED and SECONDED**

THAT the Agenda for the Regular Meeting of the LMTAC Board scheduled April 24, 2002, be adopted as circulated.

**CARRIED UNANIMOUSLY**

**2. MINUTES FOR ADOPTION**

**2.1 March 27, 2002**

**It was MOVED and SECONDED**

THAT the Minutes of the Regular Meeting of the LMTAC Board held March 27, 2002, be adopted as circulated.

**CARRIED UNANIMOUSLY**

## MINUTES FOR INFORMATION

### 2.2 April 10, 2002 Executive It was MOVED and SECONDED

THAT the Minutes of the LMTAC Executive Committee regular meeting held April 10, 2002 be received for information.

**CARRIED UNANIMOUSLY**

### 3. DELEGATION

No Delegation was received at the meeting.

### 4. REPORTS

No Reports were received at the meeting.

### 5. STANDING REPORTS

#### 5.1 Chair's Report

Chair Bell reported that he would participate via teleconference in an upcoming UBCM Aboriginal Affairs Committee meeting on May 4, 2002 during which there would be discussion of issues relative to fish farming.

#### 5.2 Staff Report

*Manager's report dated April 15, 2002 titled "Manager Report – March 19 to April 15, 2002 Activities".*

Received for information.

#### 5.3 Communications Sub-Committee (CSC)

No Communications Subcommittee report was provided at the meeting.

#### 5.4 Finance and Organizational Sub-Committee (FOSC)

No Finance and Organizational Subcommittee report was provided at the meeting.

#### 5.5 Negotiation Table Reports

*Document prepared by British Columbia dated March 27, 2002, labeled "Without Prejudice", titled "Katzie First Nation Treaty Negotiations Status Update".*

Received for information.

Ms. Gordon provided contextual information leading up to the Chief Negotiator's meeting held earlier in the day at which a review of work that had taken place at the table since December 2001 took place. It was noted that the Main Table had previously agreed to explore an incremental approach based on guiding principles outlined in the on-table document, and that it had been agreed at the meeting on April 24, 2002 that all three parties would work towards an Agreement in Principle by March 2003.

Ms. Gordon noted that lands issues were anticipated to be challenging to resolve. It was noted that Tsawwassen has expressed its interest in two types of land not included in the land-cash proposal: land that would provide access to the Fraser River and archaeological sites on Crown land. These types of land are a priority for further analysis. Confirmation was provided that, if parcels of interest to Tsawwassen were identified in Surrey, the City would be consulted at the outset.

Cory Herrera, Negotiator, BC South Regional Team, commented on efforts at the Table to consolidate areas where there was agreement, to identify where gaps remained, and to capture this information in elements charts. She indicated that, utilizing the elements charts, work would begin on drafting chapters (the first being on access) with the understanding that all clauses were under review and without prejudice.

Ms. Herrera advised that an outline for an Agreement in Principle (AIP) would also be drafted, which could incorporate draft chapters as they are prepared, and reported on the status of discussions relating specifically to lands and access. She commented on the anticipated differences between an access chapter in an urban versus rural context, given the availability of technical information as well as the presence of critical infrastructure in a relatively small area. Information was also provided on discussions with the Tsawwassen regarding recreational access to the dyke. For example, the proposed treaty settlement land base is being considered, provisionally, to be "private property" with all the same characteristics enjoyed by private land owners throughout the province. In considering the possibility of recreational access for members of the to the provincially-owned dyke, the table has realized that there could be significant potential issues regarding liability for injuries / damages to members of the public. This is a highly technical topic, and more detailed discussions will await further research on ownership, management and current arrangements for liability.

Members were informed of the significant resources that were tied to dealing with the technical elements of lands, including title searches, copies of statutory rights-of-way and relevant provincial restrictions or legal encumbrances on each parcel of land. It was noted that LMTAC representatives would also be consulted to ensure that no gaps had been overlooked in the technical analysis of lands status. Ms. Hererra advised that parties would be provided with copies of all materials and asked to work out the principles relating to access and to clarify their thinking around the issues.

Ms. Herrera reported that the table was working with a goal of releasing first consultation drafts of three chapters by the end of June 2002 and would move to other issues that relate to the land, including culture and heritage, forestry, wildlife, and servicing. The objective of maintaining enough flexibility to be able to implement agreements reached at the table while continuing to move towards an AIP was noted.

In response to a question raised, Ms. Herrera commented that governance issues relating to treaty lands would need to be resolved. The table has not yet begun its detailed work on governance. Hunting issues were raised and it was noted that, while municipalities do have the authority to disallow the discharge of firearms, alternative methods of hunting could be explored in different areas subject to conservation and health and safety. The need for further discussion regarding the real needs relating to access was recognized.

Question was raised regarding how jurisdictional disputes regarding current statutory rights of way would be resolved. Ms. Hererra advised that the first step would be reviewing the copies of the statutory rights-of-way recognizing that the traditional rule of thumb is that the senior government law prevails in case of conflict (conflict is said to exist if, by obeying one law, someone would disobey another law). Ms. Gordon noted that the treaty negotiations team would be sure to bring the situation to light in an effort to perfect the title and would encourage resolution of the dispute without making the position worse by superimposing the treaty issues and making it a three way dispute. It was anticipated that most disputes would be technical rather than substantial.

Councillor Huntington reported on Delta's efforts to research the parcels of land for which an interest had been previously expressed. It was noted that other municipalities had been previously encouraged to do likewise.

In response to a question about information provided to local government, Ms. Herrera advised that as the negotiating team assembles information about land being analyzed at the treaty table, the TAC representative automatically receives a copy of the information as soon as it is assembled. The negotiating team circulates this information to all line ministries and agencies as well as local government in order to confirm the information and obtain their comments.

In response to a question about structuring potential incremental arrangements, members were informed of the negotiating team's commitment to a strategy to work towards the right balance of quid pro quos. Examples of possible quid pro quos and their implications were provided. Ms. Gordon noted the need for continued input on the issue of quid pro quos and noted that there was not a fixed approach to this at the Table.

Question was raised regarding how overlaps between First Nations would be considered. Ms. Gordon noted that whether an agreement was reached in an incremental approach or in a formal treaty, prior to implementation, it was subject to resolution of overlap issues.

Members were informed that First Nations were expected to take the lead in resolving overlap issues and that Tsawwassen has taken initial steps to resolve the issues in this regard.

Clarification was sought regarding what Tsawwassen's incentive to conclude an AIP would be. Ms. Gordon noted that continued input on good incentives was welcomed. She advised that at this point once an AIP chapter is formalized it is anticipated that it will form the basis of the final agreement, however, there may be some issues where broad principles are discussed in the Agreement in Principle while specific issues (e.g., perhaps the operating details of governance) would remain unresolved until final treaty. Confirmation was provided that all parties agree that incentives for all parties are important to move along the path of an AIP to a formal treaty.

It was commented that lands were a critical issue and suggested that it would be useful to not close on lands unless it were without prejudice to the outcome of governance. Ms. Gordon advised that the 315 hectares adjacent to Tsawwassen has been offered with governance, with the specifics to be negotiated.

Ms. Gordon noted that information from various sources, including the Community Charter and the outcome of the BC Treaty Commission Principals' discussions on governance, would provide some information and ideas about practical approaches to governance that could be discussed at the Table.

Concerning an incremental approach, it was suggested that there were a lot of specific interests in land that needed to be looked at, i.e. dyke, aspects of access, maintenance, liability, and that working through these specific issues in a comprehensive way was vitally important. This approach might demonstrate the benefit of working at level of detail that would allow a break through on some of the higher level issues. It was suggested that these could be framed to apply broadly in other areas of the lower mainland to try and minimize customization at the detail level to assist in building these types of agreements at the other tables.

Ms. Gordon commented on Tsawwassen's request for access to servicing being included in the treaty. She advised that Tsawwassen was seeking an assurance in the treaty that they could obtain municipal services on a contract basis. At the same time, Delta wishes to ensure that there is harmonization of land use between neighbouring jurisdictions. For some time there has been no progress in servicing agreement negotiations between the two and the GVRD has advised the Tsawwassen that they have to deal with the member municipality.

Concern was expressed that the First Nations could receive fee simple lands which would give them to right to services provided that they are developing within the municipal zoning. The need for further discussion of the implications associated with this was noted. It was noted that First Nations currently have the ability to acquire property on a private basis.

Ms. Gordon advised that the premier has offered to negotiate a delegated model of governance with any First Nation interested in pursuing such discussions. She noted that there was a distinction between the Aboriginal right to self government and the mechanics of how it is implemented and that its implementation was the matter under debate. Members were reminded of the need to be cognizant that First Nations were seeking to regulate issues relating to their culture, i.e. adoption laws, marital process, etc., and that tools to address these needed to also be considered.

A member questioned the status of fisheries discussions. Ms. Gordon reported that the province had not engaged in any discussions regarding an incremental approach to fisheries at Tsawwassen. It was noted that Canada and Tsawwassen had been having ongoing discussions regarding an interim measure to test drive a proposal for the summer of 2002. The province has been listening but not participating given that provincial staff were awaiting negotiating instructions in this area. Ms.

Gordon advised that the Canada and Tsawwassen have not yet agreed to an interim measure and that DFO officials take a leading role in the federal fisheries negotiation team.

It was noted that LMTAC had been very clear in its position on fisheries. It was suggested that, as part of the provincial negotiating team, LMTAC had expressed some strong concerns that needed to be communicated and reflected at the table. Concern was expressed that thus far the province had been silent. The need for representation was reiterated.

Ms. Gordon restated that staff were waiting for negotiating instructions and could not make definitive statements at the table until those instructions were received. In the interim, Ms. Gordon advised that staff were trying to ask questions that reflected LMTAC's concerns, including, how the allocations formula meshes with other allocations to First Nations up the Fraser, and what does "same priority as the commercial fishing" mean?

Shock was expressed regarding the lack of provincial response to LMTAC's concerns. It was noted that the expectations of the Aboriginal community would increase as the talks continue and that LMTAC would not agree to what was being proposed.

It was agreed that consideration of appropriate steps to take in conveying LMTAC's concerns directly to the Minister would be placed on the Agenda for the next Executive Committee meeting.

Ms. Gordon indicated that, as work continued, the province would highlight in advance issues that could be discussed on the LMTAC agenda. It was suggested that once chapters relating to lands began to be developed they could be brought forward for comment.

Members were informed that Ms. Gordon would be taking a three month sabbatical to write a book and were advised that Ms. Hererra would attend the next several meetings on the province's behalf.

#### **5.6 Fraser Valley Treaty Advisory Committee (FVTAC)**

*Letters dated April 4, 2002 from the Acting Fraser Valley Treaty Advisory Committee (FVTAC) Administrator advising of a FVTAC Board resolution to suspend its operations due to lack of funding.*

Received for information.

#### **5.7 UBCM**

- a) *Document from the Union of BC Municipalities (UBCM) titled "2002 Province-Wide Community-to Community Forum – Tuesday, June 11, 2002"; and*
- b) *UBCM memorandum dated April 12, 2002 regarding "Regional Community to Community Forum Funding Still Available".*

#### **It was MOVED and SECONDED**

THAT the LMTAC Board direct staff to proceed with the coordination of a follow up workshop on servicing agreements with First Nations under the UBCM's Community to Community Forum funding before the May 21, 2002 deadline.

**CARRIED UNANIMOUSLY**

### **6. OTHER BUSINESS**

No Other Business items were considered at the meeting.

### **7. INFORMATION**

#### **It was MOVED and SECONDED**

That the LMTAC Board receive for information the following:

- 7.1 Correspondence – General;

- 7.2 LMTAC Mission Statement, Roles and Project Screening Guidelines;
- 7.3 Agenda Deadlines 2002; and
- 7.4 Members Honourarium and Expense Form.

**CARRIED UNANIMOUSLY**

**8. CONCLUSION**

**It was MOVED and SECONDED**

That the Regular Meeting of the LMTAC Board held April 24, 2002 be concluded.

**CARRIED UNANIMOUSLY**

(Time: 8:42 p.m.)