

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

October 22, 2003

Minutes of the Regular Meeting of the **Lower Mainland Treaty Advisory Committee (LMTAC) Board** scheduled from 5:30 p.m. – 7:30 p.m. on Wednesday, October 22, 2003, in the 2nd floor Board Committee Room, GVRD Offices, 4330 Kingsway, Burnaby, B.C.

ATTENDANCE:		
JURISDICTION:	LMTAC ELECTED REPRESENTATIVE:	LMTAC STAFF REPRESENTATIVE:
Greater Vancouver RD	Director Ralph Drew (Chair)	Marino Piombini
North Vancouver, District of	Mayor Don Bell (Vice Chair)	Steve Hardy
Anmore, Village of	Councillor Ken Juvik	
Belcarra, Village of	Councillor Colin Richardson	
Bowen Island, Municipality of	Mayor Lisa Barrett (departed 7:56 p.m.)	
Burnaby, City of	Councillor Lee Rankin (departed 7:25 p.m.)	Kimberly Flick
Coquitlam, City of	Councillor Louella Hollington (departed 7:55 p.m.)	Sonia Santarossa
Langley, City of	Councillor Ted Schaffer	
Langley, Township of	Councillor Bob Long	Frank Clark-Jones
Lions Bay, Village of	Councillor Lisa Turpin (departed 7:25 p.m.)	
Maple Ridge, District of	Councillor Candace Gordon (arrived 7:04 p.m.)	
New Westminster, City of	Councillor Bob Osterman	
North Vancouver, City of	Councillor Craig Keating (departed 7:20 p.m.)	Ken Tollstam
Pitt Meadows, District of	Councillor Debra Eisel	
Port Coquitlam, City of	Councillor Mike Forrest	Jim Maitland (departed 7:51 p.m.)
Port Moody, City of		Gerry vanderWolf
Richmond, City of		Lani Schultz (departed 7:25 p.m.)
Surrey, City of		Rob Costanzo
Vancouver, City of	Councillor Ellen Woodsworth	Rhys Williams
West Vancouver, District of	Councillor Jean Ferguson	
Sunshine Coast RD	Mayor Barry Janyk	
White Rock	Councillor Mary-Wade Anderson	
LMTAC STAFF ATTENDANCE:		
Kirstie Pirie, Manager		
Regan Schlecker, Aboriginal Affairs Analyst		
GUESTS:		
Chief Kim Baird, Tsawwassen First Nation (departed 7:33 p.m.)		
Laura Cassidy, Tsawwassen First Nation (departed 7:33 p.m.)		
Katherine Gordon, B.C. Treaty Negotiation Office		
Cory Herrera, Negotiator, B.C. Treaty Negotiations Office		
Robin Dodson, Federal Treaty Negotiation Office (departed 7:33 p.m.)		
Margo Novak, Federal Treaty Negotiation Office (departed 7:33 p.m.)		
Councillor Bill McNulty, City of Richmond		
PREPARATION OF MEETING MINUTES:		

CALL TO ORDER

Chair Drew confirmed a quorum was in attendance and called the meeting to order at 5:50p.m.

1. AGENDA FOR ADOPTION

October 22, 2003

It was MOVED and SECONDED

THAT the Agenda for the Regular Meeting of the LMTAC Board scheduled October 22, 2003, be adopted as circulated.

CARRIED UNANIMOUSLY

2. MINUTES

2.1 MINUTES FOR ADOPTION

September 24, 2003

It was MOVED and SECONDED

THAT the Minutes of the Regular Meeting of the LMTAC Board held September 24, 2003, be adopted as circulated.

CARRIED UNANIMOUSLY

2.2 MINUTES FOR INFORMATION

October 8, 2003 Executive

October 7, 2003 CSC/FOSC Joint Meeting

It was MOVED and SECONDED

THAT the Minutes of the LMTAC Executive Committee and the Communication Subcommittee / Finance and Organizational Subcommittees joint meeting held October 8, 2003 and October 7, 2003 respectively, be received for information.

CARRIED UNANIMOUSLY

3. DELEGATION

Chief Negotiators' Presentation on Draft Tsawwassen Agreement in Principle

Document dated July 9, 2003, titled "Tsawwassen First Nation Treaty Negotiations, Summary of Agreement-in-Principle".

Chair Drew provided opening comments and welcomed the three chief negotiators at the Tsawwassen First Nation (TFN) table to the meeting who provided comments on the Draft Tsawwassen Agreement in Principle (AIP).

Katherine Gordon, Chief Negotiator, BC Treaty Negotiation Office, commented on the process of ratifying the draft AIP and on the work that would be required of the three parties to achieve final agreement. It was hoped that LMTAC would continue to participate in the process as part of the proposed Intergovernmental Relations Technical Working Group. Of particular interest would be the development of policies for transitional issues such as:

- land transfer;
- identification of existing infrastructure;
- regional government participation; and,
- information for contractual agreements.

It was clarified that TFN would work through the B.C. Agricultural Land Commission to see what possibilities there were to exclude land in the Agricultural Land Reserve for other uses.

Robin Dodson, Chief Negotiator, Federal Treaty Negotiation Office, confined remarks to fisheries concerns and noted that the draft AIP allowed a number of decisions to be made prior to the final agreement. Some issues of interest to LMTAC were identified as follows:

- fisheries provisions should not interfere with present management principles the draft TFN AIP provisions uphold this principle that the Minister is the single manager of the fishery;
- allocations for TFN constitutionally protected fish harvest (food/social/ceremonial) should not endanger conservation and conservation levels have been protected through the use of abundance-based formulas;
- the establishment of a Joint Fisheries Committee (JFC) to manage TFN fisheries;
- the possibility of developing the Joint Fisheries Committee into a regional management system;
- related to economic opportunities, the Parties agreed not to define or describe the licensing regime. The draft AIP expresses the magnitude of the opportunity and all options are open for discussion in Final Agreement negotiations.
- monetary settlement to increase TFN fishing capacity;
- trade and barter;
- monitoring and enforcement of TFN fisheries;
- TFN access to fisheries; and,
- a viable fishery for all citizens

It was noted that negotiations to a final agreement would commence early in 2004.

Chief Kim Baird, Chief Negotiator, Tsawwassen First Nation, commented on the urban challenges faced by TFN and neighbouring communities and advised that TFN would vote to ratify the draft AIP on December 10, 2003. The main work-at-hand was concentrated on educating community members regarding the draft agreement contents and process.

It was clarified that the final agreement negotiations would address among other issues:

- some key interests expressed by LMTAC members;
- governance (placement of governing authorities) and IGRTWG (servicing); and,

The floor was opened to discussion.

In response to a question it was noted that options to be considered for fisheries were still open, e.g., management, timing, gear, etc.

Mr. Dodson clarified that the draft AIP states that a Joint Fisheries Committee (JFC) will be formed and TFN will develop annual fishing plans for review by the JFC. Funds released for purposes of the TFN fisheries were in two parts:

- the Parties will establish a fund of \$1 Million to enable TFN to increase its commercial fishing capacity; and,
- Canada and TFN will negotiate a one-time payment of up to \$1 Million by Canada to establish a TFN Fisheries Fund to assist with management or stewardship.

In regard to the draft AIP Governance provisions regarding the creation of a TFN constitution, Chief Baird commented that generally it would include principles such as accountability and a democratically-elected government, but that also aspects of the traditional system could be included as well.

It was queried to what degree non-members would have input into the (TFN) governance? Chief Baird acknowledged that the mechanism would have to be settled by final agreement, but that the draft AIP allowed non-member participation in those decisions and items having direct affect on them.

In discussion regarding provisions for servicing agreements, Chief Baird noted this to be a priority issue to be addressed prior to final agreement and noted within the draft AIP chapter on Governance.

Katherine Gordon provided comments related to taxation and provision of service and programs to individuals on Treaty Settlement Lands. Ms. Gordon noted that Fiscal Finance Agreement would be negotiated outside treaty for agreed upon programs and services. The terms and conditions on where taxes can be raised by TFN were still to be determined.

It was pointed out that the wording regarding the log salvage permits may be incorrect as anyone could acquire a log salvage permit.

Concern was expressed regarding the use of the term "trade and barter" as it applied to fisheries. Mr. Dodson agreed that it would be a challenge to determine a definition but that the intent of the provision was for domestic fishing purposes, not commercial. Further, the draft AIP provided for the negotiation of the TFN right to trade and barter and the power to make laws in respect to the right of trade and barter prior to the Final Agreement..

Mr. Dodson addressed concerns regarding allocation and front-end loading of early Stuart Sockeye . The proposed allocation would vary with amount of fish available for harvest. The underlying principle being that the allocation will vary with run size. The development of TFN annual fishing plans in respect of timing of runs, etc. would be considered by the Joint Fisheries Committee as would the fisheries operation guidelines.

7:04 p.m.

Councillor Gordon arrived at the meeting.

Mr. Dodson took it under advisement that there might be some confusion in the wording of the document in regard to the transfer of licenses representing capacity and not access and opportunity as intended; and, referencing the percentage of catch by two different criteria: Canadian yearly catch to terminal catch in chum. "Terminal catch" was not a defined term and is for Final Agreement negotiations.

Concerns were expressed regarding allocations and conservation (fish harvest) and it was noted that valuable work was being conducted by the Katzie First Nation in regard to a framework management plan for allocations to be divided among all parties on the Fraser River. In response Mr. Dodson noted that all First Nation communities in the area had been invited to a meeting in order to pursue final principles on how the regional management process could be expedited.

Katherine Gordon affirmed that the provincial government was most interested in maintaining recreational fishing and noted that all three parties to the draft TFN AIP acknowledged that allocation and method of delivery be based on informed decisions satisfactory to regional management and forecasting. The Joint Task Force between Canada and BC would examine how the issues could be addressed through viable solutions in the Final Agreement. Chief Baird commented that while fisheries presented complex issues, TFN is not operating in a vacuum on fisheries issues. TFN was previously provided allocations under the Aboriginal Fishing Strategy, that is no longer operating. The absence of a percentage or allocation was not conducive to good management of the resource, nor provided for greater certainty.

In answer to a query regarding environmental issues and the ferry terminal Chief Baird advised that TFN was addressing concerns and that litigation has been underway over the past 2 years and was pending.

Concerns were expressed over fiscal matters regarding royalties over resources, corporate taxes, and payment for services. Chief Baird responded that tax agreements were still outstanding and the issues were prime considerations to developing a government that would create capacity for future authority.

One member noted the monumental achievement of developing the first urban AIP and considered that there were other concerns besides fisheries. The three chief negotiators concurred that no agreement would be settled until fisheries issues have been finalized. It was advised that in order to prevent fisheries becoming a 'hot button' issue that the province needed to establish clear principles and long term goals for the industry.

Chief Baird, in response to a question regarding involvement with the GVRD, indicated that TFN were looking forward to considering the issue of regional governance.

Discussion ensued regarding the nature and scope of TFN's power to make laws applicable on Tsawwassen lands as they relate to the protection and preservation of fish and fish habitat. Chief Baird noted that for areas in which TFN laws are to prevail, TFN laws must meet or exceed Provincial laws.

7:20 p.m.

Councillor Keating departed the meeting.

Regarding the removal of lands from the ALR, Katherine Gordon commented that the Governance chapter anticipated discussion on different kinds of tools to deliver authorities and that the municipal model might be used as a model. It was clarified that the AIP chapters agreed on list of powers but not as yet to the placement of authorities in or out of the Final Treaty.

Chief Baird advised when asked that the total monetary remuneration to the TFN was set at 14.2 million dollars.

Chief Baird further clarified that transitional tax measures would be negotiated prior to Final Agreement and that it had been suggested that guidelines for current treaties might be applied.

It was queried whether 'overlap' (land claim) issues had been addressed. Chief Baird advised that the TFN has approached others to start discussions on such issues early in the new year, after ratification of the draft AIP by her community.

A member suggested that a dispute resolution mechanism for use between First Nations and neighbouring local governments was an issue that required addressing in a Final Treaty. Mr. Dodson advised that the dispute resolution mechanism addressed in AIP would be intended for treaty implementation issues and interpretation of provisions and that he remained convinced that the intergovernmental side table would want to be involved in establishing a dispute resolution process at a local level.

7:25 p.m.

Councillor Rankin and Lani Schultz departed the meeting.

In further discussion it was noted that an important factor was a willingness for parties to engage in discussion and the need for public education.

To further clarify fishing allocations, Mr. Dodson advised that in all cases the harvest would be less than one percent of the sockeye run.

Chair Drew acknowledged the investment of time, energy and money by the three parties and local governments in achieving the draft TFN AIP and noted that everyone was interested in solving uncertainties.

7:33 p.m.

Chief Baird, Laura Cassidy, Robin Dodson and Margot Novak departed the meeting.

4. REPORTS

4.1 Comparative Analysis of LMTAC Interests with Draft Tsawwassen Agreement-in-Principle

Memo dated October 10, 2003, from Regan Schlecker, aboriginal Affairs Analyst and Kirstie Pirie, Manager, regarding the attached document titled, "Comparative Analysis of LMTAC Interests with Draft Tsawwassen Agreement-in-Principle".

Chair Drew provided an overview of the scope of information contained in the document and noted that key issues of interest dated from the first involvement of LMTAC with the Tsawwassen First Nation (TFN) treaty table.

Regan Schlecker, Aboriginal Affairs Analyst, first presented the purpose and content of the report and then provided a summary of the components. Of special note was that of the 61 topics addressed by members of the Board, 10 were considered "inconsistent", 3 were "silent", and 17 were "consistent but required monitoring". Further, approximately half of the Draft TFN AIP issues were considered consistent with LMTAC interests.

Members were requested to identify any items for inclusion or exclusion.

A member acknowledged the extensive work involved with providing members with such comprehensive material and commented that constituents would appreciate a simplified version of the issues that specified the amounts of treaty settlements (e.g., monies, harvests, etc.). Katherine Gordon, Chief Negotiator (B.C.), advised that an information sheet with relevant issues had been published and was available to the public.

Chair Drew advised the summary report and referenced information sheet published by the Province would be sent to mayors and councils and encouraged LMTAC members to speak to LMTAC issues when the report was addressed at council.

Kirstie Pirie, Manager, reminded members that any correspondence sent to mayors and councils would be sent to LMTAC members via email first.

It was MOVED and SECONDED

THAT the LMTAC Board:

- a) receive the summary report titled, 'Comparative Analysis of LMTAC Interests with Draft Tsawwassen Agreement-in-Principle'; and,
- b) review and provide comments on the interest summary (chart) for the purposes of identifying LMTAC's key areas of concern which need to be addressed during Final Agreement negotiations;
- c) recommend that LMTAC staff, with assistance from the Technical and Strategic Working Group, begin work on potential next steps, including:
 - Identify LMTAC First Principles that require Background discussion papers/workshops;
 - Identify those LMTAC First Principles that require member review as part of LMTAC's 2003 Workplan Specific Policy Item 3: *Review of the LMTAC First Principles*; and,
 - Direct staff to continue work on LMTAC's 2003 Workplan Specific Policy Item 3: *Review of the LMTAAAC First Principles*; and,
- d) direct that the cover report and accompanying chart be forwarded to the Mayor/Chair of each LMTAC member jurisdiction with a covering letter from LMTAC.

CARRIED UNANIMOUSLY

4.2 Review of LMTAC Sub Committee Structure

- a) *LMTAC Report Flow Summary dated October 8, 20003, titled "Review of LMTAC Sub Committee Structure"*
- b) *Report dated September 28, 2003, from Kirstie Pirie, Manager, regarding a review of LMTAC Sub Committee Structure*

7:51 p.m.

Jim Maitland departed the meeting.

Councillor Gordon, FOSC Chair, reported that the committees had reached consensus that as LMTAC had the benefit of an expanded executive and the two committees realized an

overlap in membership, it would be more efficient and economically reasonable to combine as one committee.

It was MOVED and SECONDED

THAT the LMTAC Board adopt the following recommendation of the LMTAC Executive that:

- a) the FOSC and CSC join into one sub-committee focusing on Finance and Organizational issues and addressing Communication issues when they arise;
- b) the new committee will consist of five members;
- c) incoming Vice-Chair of LMTAC will automatically be Chair of the new sub-committee;
- d) the revised sub-committee structure will commence on January 1, 2004; and,
- e) the name and terms of reference for the new committee will be determined at a later date.

CARRIED UNANIMOUSLY

A member expressed concern that the duties of the CSC be included in the revised Terms of Reference for the new committee in order that the responsibility for the clarification of information for LMTAC members be maintained.

5. TABLE PROGRESS REPORTS

5.1 Katzie

Document dated October 22, 2003, titled "Context Summary: Katzie" containing information regarding the attached "Katzie First Nation Economic Development Strategy Report Business Outlines (January 2003)"

Councillor Gordon, LMTAC representative to the Katzie table, slow but steady process on chapters.

7:55 p.m.

Councillor Hollington departed the meeting.

5.2 Musqueam

No items presented.

5.3 Squamish

Members expressed concern for the recent flooding of the area.

5.4 Tsawwassen

Document dated October 22, 2003, titled "Context Summary" containing a report of an Open Main Table Meeting held February 27, 2003; and supporting documents titled, "Eligibility and Enrolment AIP Chapter Consultation Draft #1" (February 27, 2003); Cover sheet for the "Chapter Related to Eligibility and Enrollment Under the Final Agreement"; and, "Chief Negotiators Letter to the Editor" (February 19, 2003)

No further discussion in regard to the Tsawwassen First Nation table was held at the meeting.

5.5 Tsleil-Waututh

Mayor Don Bell stated that meetings were on-going.

5.6 Other

No other items presented.

6. SUB-COMMITTEE REPORTS

6.1 Finance and Organizational Subcommittee (FOSC)

No items presented.

6.2 Communications Sub-Committee (CSC)

On-table document titled, "2003 LMTAC Member Survey"

It was noted that the 2003 LMTAC Member Survey had been provided for completion by members.

7. CHAIR AND STAFF REPORTS

7.1 Chair's Report

No items presented.

7.2 Staff Report

No items presented.

8. MISCELLANEOUS REPORTS

8.1 Fraser Valley Treaty Advisory Committee (FVTAC)

No items presented.

8.2 Union of British Columbia Municipalities (UBCM)

No items presented.

8.3 Federation of Canadian Municipalities (FCM)

No items presented.

7:56 p.m.

Mayor Barrett departed the meeting.

9. OTHER BUSINESS

Chair Drew provided a verbal update regarding the GVRD Board Workshop on Regional Governance. Another meeting was scheduled 9:00 a.m. – noon, Thursday, November 27, 2003.

Councillor Schaffer advised that the City of Langley had added a link to the LMTAC website on the City's website and encouraged other members to do the same.

10. INFORMATION

It was MOVED and SECONDED

That the LMTAC Board receive for information the following:

- 10.1 Web Site Statistical Summary
- 10.2 Schedule of Meetings for 2003
- 10.3 Honorarium and Expense Form

CARRIED UNANIMOUSLY

11. NEXT MEETING

The next meeting of the Lower Mainland Treaty Advisory Committee Board is scheduled November 26, 2003.

12. CONCLUSION

It was MOVED and SECONDED

That the Regular Meeting of the LMTAC Board held October 22, 2003 be concluded.

CARRIED UNANIMOUSLY

(Time: 7:59 p.m.)