

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

March 28, 2007

Minutes of the Regular Meeting of the **Lower Mainland Treaty Advisory Committee (LMTAC) Board** scheduled 5:30 – 7:10 p.m. on Wednesday, March 28, 2007, in the 2nd Floor Boardroom, 4330 Kingsway Burnaby, B.C.

ATTENDANCE:		
JURISDICTION:	LMTAC ELECTED REPRESENTATIVE:	LMTAC STAFF REPRESENTATIVE:
Greater Vancouver RD	Mayor Ralph Drew (Chair)	Marino Piombini
Anmore, Village of	Councillor Ken Juvik	
Belcarra, Village of	Councillor Colin Richardson	
Bowen Island, Municipality of	Councillor Lisa Barrett	
Burnaby, City of	Councillor Sav Dhaliwal (arrived 6:55 p.m.)	Kimberly Flick
Coquitlam, City of	Councillor Brent Asmudson	
Delta, Corporation of		Mike Brotherston
Langley, City of	Councillor Ted Schaffer	
Langley, Township of	Councillor Mel Kositsky	Eric Britton
Lions Bay, Village of	Councillor Lisa Turpin	
Maple Ridge, District of	Councillor Ken Stewart	
North Vancouver, City of	Councillor Bob Heywood	Ken Tollstam
North Vancouver, District of		Dennis Back
Pitt Meadows, City of	Councillor Debra Eisel	
Port Moody, City of	Councillor Shannon Watkins	
Richmond, City of	Councillor Linda Barnes	
Squamish Lillooet RD	Director John Turner	
Sunshine Coast RD	Director Barry Janyk	
Squamish, District of	Councillor Corinne Lonsdale	
Surrey, City of	Councillor Barbara Steele	Rob Costanzo
Vancouver, City of	Councillor George Chow	Barbara Pearce
White Rock, City of	Councillor Mary-Wade Anderson	
LMTAC STAFF ATTENDANCE:		
Regan Schlecker	Managing Director	
GUESTS:		
Bronwen Beedle	Chief Negotiator, MARR - TNO	
Ernie Filzwieser	Negotiator, FTNO	
Tim Koepke	Chief Negotiator, FTNO	
David Miranda	Negotiator, FTNO	
Margo Novak	Negotiator, FTNO	
Catherine Panter	Chief Negotiator, MAR - TNO	
Corinne Shephard	Negotiator, MARR - TNO	
Phil Symington	Negotiator, MARR- TNO	
OBSERVERS:		
Ken Kolba	Communications, FTNO	
Don MacKenzie		
Cathy Wilson	Office of MP John Cummins	
PREPARATION OF MINUTES:		
Karen Miller	Recording Secretary, Raincoast Ventures Ltd.	

Call to Order

Chair Drew confirmed a quorum was in attendance and called the meeting to order at 5:44 p.m.

1. AGENDA FOR ADOPTION

1.1 March 28, 2007

It was MOVED and SECONDED

THAT the Agenda for the Regular Meeting of the LMTAC Board scheduled March 28, 2007, be adopted as presented.

CARRIED UNANIMOUSLY

2. MINUTES FOR ADOPTION

2.1 February 28, 2007

It was MOVED and SECONDED

THAT the Minutes of the Regular Meeting of the LMTAC Board held February 28, 2007 be adopted as circulated.

CARRIED UNANIMOUSLY

Chair Drew introduced federal and provincial negotiation team members; and a roundtable of introductions of LMTAC members ensued. Observers Cathy Wilson, MP John Cummins office; Don MacKenzie; Ken Kolba Communications, Federal Treaty Office; were also introduced.

3. DELEGATION

3.1 Update on the Tsawwassen Final Agreement – Tax, Fiscal Relations and Fisheries Chapters

Four Papers on the topic of Tsawwassen Final Agreement titled: General Overview; Financial Components; Taxation and Fisheries;

Tim Koepke, Chief Federal Negotiator, explained the role of each of the federal negotiation team members recognizing that they were present to answer questions, acknowledging that fish, fiscal matters and taxation were of priority importance to LMTAC members.

The Tsawwassen (TFN) draft final agreement was initialed December 8, 2006 with copies of the treaty available on the web since. Printed copies were available at the initialing. Side agreements were posted to Tsawwassen's website in mid-March. As they are awaiting French translation, they are not yet posted to the federal site. Food, Social and Ceremonial (FSC) harvesting of fish was discussed noting that Fraser River allocations for salmon were included in the Appendices. The FSC fishery is a priority fishery only second to conservation. Some misconceptions included in media coverage and speculation on the Tsawwassen harvest were clarified by federal negotiators. For example, the maximum sockeye harvest under Tsawwassen's FSC ceremonial fishery totals about 191 pounds per Tsawwassen person per year. Reference was made to the independent analysis of Pearse-McRae that projected the total coast-wide allocations of First Nations fisheries would amount to between 33 to 38 percent of the sockeye harvest. Crab was also recognized as a very important harvest to TFN with domestic limits set at 50 traps per vessel, with monitoring and reporting used to inform negotiation of the harvest level after the initial 12 years.

Mr. Koepke indicated the Harvest Agreement was a side agreement detailing commercial fishing opportunities. The TFN commercial fishing capacity will be authorized with licenses using similar terms to other licensees in the same commercial fishing area. If the Minister, for conservation reasons, feels it necessary to limit any specific year's harvest then the limitations will apply to all licensees. TFN is signing on to a monitoring and enforcement regime. On commercial crab, TFN may purchase up to five commercial licenses for inclusion in the harvest agreement. Any additional licences they may purchase will be held outside the harvest agreement.

Request for Action: *It was requested that the speaker's notes from Tim Koepke, Chief Federal Negotiator (FTNO) be provided to LMTAC members.*

In response to LMTAC members' questions with respect to fish, negotiation team members commented:

- the TFN fishery is not an exclusive fishery, and DFO will continue to work with other harvesting First Nations on their harvest allocations which will be operationalized as other groups come to the treaty table;
- commercial capacity must be purchased from existing license holders, so there would be no additional pressure on the fishery;
- when treaty comes into effect there will be no further pilot sales arrangements for TFN;
- the 33-38% projected fisheries have taken into account the potential upstream uptake through treaties which will not account for an over-subscription;
- First Nation allocations on the Fraser River are accounted for in Aboriginal fisheries agreements currently by DFO and there are no new fish on the table;
- not all salmon species go to all areas and therefore there is a variation in the allocation for each First Nation;
- other groups claiming overlapping territory negotiate their own Aboriginal fisheries strategy agreement;
- if there are conservation concerns there would be limits on fisheries, and if there is an abundance there still will be a cap for TFN;
- provisions for delegating TFN right to fish an established allocation under the FSC will be managed and commercial harvest will be designated by Tsawwassen to their own community members;
- with respect to reporting and monitoring Clause 22 was referenced noting TFN has a treaty responsibility to report, and the license would describe the regimens in place;
- fisheries operational guideline are available on the provincial website for more specific detail;
- funding was committed for a monitoring and enforcement demonstration project to be started immediately following treaty ratification;
- treaty obligations flow both ways;
- DFO staffing to address monitoring and management enforcement was being considered and the relationship will be discussed with Tsawwassen Department of Fisheries.

Mr. Koepke next discussed fiscal arrangements. There will be a capital transfer over nine years as well as one-time payments. An example of a one time payment is a payment of \$2 million for the surrender and transfer to the province of mines and minerals. TFN will receive payments to establish its machinery of government. Funding of agreed upon programs and services is a shared responsibility detailed in the Fiscal Financing Agreement (FFA).

In response to LMTAC on the topic of fiscal arrangements, federal negotiation team members commented:

- approximately \$70.1 million was the total value of the TFN treaty (without a value included for the Tsawwassen Indian Reserve # 0);
- TFN will continue to access provincial and federal programs and services for which they are eligible;
- funding is a shared responsibility – the *Own Source Revenue* (OSR) agreement addresses this – and there is a recognition that a transition period is important;
- ongoing transfer amounts for programs and services will never go below \$265,000 to be adjusted over time;
- Tsawwassen members will contribute to taxation;
- cost-shared items such as road projects would be considered on their own case-specific merit where required;
- use of federal transfers are at the discretion of the First Nation as long as prescribed programs and services are delivered. Reporting on the delivery of programs and services provided as detailed within the *Fiscal Financing Agreement* (FFA) must be consistent with a management framework;
- A Tsawwassen financial administration act will set out requirements for reporting, developing budgets etc. for citizens to vote on, and an auditing system will be reviewed by the federal government;

- there is no guarantee of own source revenue materializing or safety nets, however it is in the best interests of a First Nation to have own source revenue as they keep 50% of revenues. Some provisions for emergency situations are set out in the FFA;
- Tsawwassen accountability after treaty is to the TFN electors and tax payers so they have some protection at the ballot box, as with local governments; and
- a transfer maximum is set out in the *Fiscal Financing Agreement* (Schedule E) and web links are on the LMTAC website.

In response to LMTAC, the provincial negotiation team provided further clarification that:

- value of lands included in the treaty were based on ALR market value figures at the time of the Agreement-in-Principle.

Mr. Koepke lead a discussion on tax provisions noting that taxation is a closely held jurisdiction by any government. There currently exists an exemption from taxation for status Indian people under the *Indian Act*, however those section 87 exemptions will cease following the 8th anniversary of the effective date for transaction (sales) taxes, and following the 12th anniversary date for income tax. TFN will be able to levy direct taxation on its residents. BC will share with TFN 100% of real property tax from any person residing on Tsawwassen lands. The *BC Real Property Tax Coordination Agreement* is a side agreement. After the effective date Tsawwassen lands are no longer part of Delta, and Tsawwassen will join the GVRD. Meetings have been held with leaseholders and concerns relative to representation on taxation bodies were addressed. All parties are well on their way to addressing concerns and processes will be in place, with regular planning meetings being undertaken.

In response to LMTAC members' questions relative to taxation, federal representatives commented:

- the process for taking collective funds and distributing them would be governed by Canada's tax laws;
- a corporation would have to pay taxes and the tax agreement would specify the distribution, and a normal commercial corporation would be subject to BC and Canada tax law;
- laws of Canada will apply after the 12th year;
- 50% of provincial income tax is remitted to the Band from Tsawwassen members only, and non-member leaseholders' health and welfare would be provided through the regular funding process as currently in operation (provincially);
- there likely would be an agreement with the school district on a per pupil rate for services to ensure interests of children on treaty settlement land are addressed at the school district level;
- compensation to Delta of a one time payment for loss of taxation revenue is not considered;
- treaty sets out the opportunity for the First Nation to negotiate a GST/PST arrangement;
- the Tax Treatment Agreement is a side agreement which sets out that the TFN is treated similarly to a municipality with regard to GST;
- GST collected by a business on TSL goes to the federal government as the business is a tax collector on behalf of the federal government, and as a PST collector on behalf of the province; and
- home property tax is a provincial discussion, and it is intended to harmonize the tax rates between the municipality and the First Nation government.

6:55 p.m.

Sav Dhaliwal joined the meeting.

A member emphasized to negotiators that if a municipality was put in undue hardship, they should be compensated for loss of revenue; and a significant burden should not be put upon municipal ratepayers.

The provincial negotiation team clarified that soft services were being negotiated and contracting of services will be considered.

The federal negotiation team provided the following additional comments:

- the finished treaty process total cost was not available, however the Auditor General likely has a cost for it. The value of the treaty was estimated at \$70.1 million;
- side agreements are not protected by the Constitution and are subject to renegotiation (i.e. fiscal finance agreement is 5 years; harvest agreement is renewable after 15 years; own source revenue agreement is 20 years and is renewable); and
- the nature of side agreements generally has no impact on municipalities as the issues have already been covered within the treaty (i.e. intergovernmental relations chapter sets out that Tsawwassen will become a member of the GVRD).

Request for Action: *An information presentation to City of Surrey municipal council was requested of the federal and provincial negotiation team for information about the TFN treaty.*

Chair Drew thanked federal negotiation office representatives for their presentation, noting that greater insight could be achieved through the dialogue.

Mr. Koepke invited LMTAC members to contact federal representatives with questions so all could be well informed with respect to the Tsawwassen treaty.

7:14 p.m.

Federal Treaty Negotiation Office representatives departed at 7:14 p.m.

4. REPORTS

No reports presented.

5. TABLE PROGRESS REPORTS

5.1a) Katzie

No items were presented.

5.1b) Musqueam

No items were presented.

5.1c) Squamish

No items were presented.

5.1d) Tsawwassen

No items were presented.

5.1e) Tsleil-Waututh

No items were presented.

5.1f) Other

6. SUB-COMMITTEE REPORTS

6.1 Finance & Administrative Sub-Committee (FASC)

Chair Drew indicated that the next meeting was scheduled for May 2, 2007.

7. CHAIR & STAFF REPORTS

7.1 Chair's Report

Chair Drew commented on a March 15, 2007 presentation to the Langley Agricultural Advisory Committee.

7.2 Staff Report

LMTAC Managing Director Report: Activities from February 21, 2007 – March 21, 2007

8. MISCELLANEOUS REPORTS

8.1 GVRD Aboriginal Relations Committee

The meeting was apprised that the next meeting of the GVRD Aboriginal Relations Committee was scheduled for May 4, 2007 with Bronwen Beedle, Chief Negotiator, MARR - TNO, attending.

8.2 Fraser Valley Treaty Advisory Committee (FVTAC)

Regan Schlecker, Managing Director, advised that the Community-to-Community Leadership forum scheduled for March 29, 2007 was cancelled and would likely be rescheduled to September.

8.3 Union of British Columbia Municipalities (UBCM)

Chair Drew indicated that the next First Nations Relations Committee meeting was scheduled for April 18, 2007 in Victoria; and a Treaty Conference was planned for May 23-24, 2007 in Richmond focusing on the three initialed Final Agreements. Details of a joint TAC Chairs conference call will be forwarded to LMTAC members when available.

8.4 Federation of Canadian Municipalities (FCM)

No report provided.

9. OTHER BUSINESS

9.1 Summary of Results – Monthly Board Feedback Form (February 28, 2007)

No report provided.

10. INFORMATION

It was MOVED and SECONDED

THAT the LMTAC Board receive for information the following items:

- 10.1 Correspondence;
- 10.2 News Release – First Nations Summit Elects BCTC Commissioners
- 10.3 2007 LMTAC Meeting Schedule; and
- 10.4 Honorarium and Expense/Feedback Form.

CARRIED UNANIMOUSLY

11. NEXT MEETING

The next Regular Meeting of the LMTAC Board was scheduled April 25, 2007.

12. CONCLUSION

It was MOVED and SECONDED

THAT the Regular Meeting of the LMTAC Board held March 28, 2007 be concluded.

CARRIED UNANIMOUSLY

(Time: 7:17 p.m.)