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# PRINCIPLES AND PERSPECTIVES ON ABORIGINAL GOVERNANCE

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LOWER  
MAINLAND  
TREATY  
ADVISORY  
COMMITTEE

## Lower Mainland Treaty Advisory Committee

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## 1.0 Introduction

### **1.1 Purpose of Paper**

This paper is a catalyst and resourcing document for future discussions on the issue of governance. The paper outlines governance interests related to treaty negotiations as considered by the Lower Mainland Treaty Advisory Committee (LMTAC) and the Greater Vancouver Regional District (GVRD). It is intended that as governance discussions progress, this document will be updated and revised.

This paper is without prejudice and for discussion purposes only. It is not intended to indicate defined LMTAC or GVRD positions on the subject. Further discussion will be needed.

### **1.2 Process**

The following document reflects a combination of contributions from LMTAC's Technical and Strategic Working Group (TSWG) members as well as an articulation of principles, positions, interests and concerns on the subject of "governance" drawn from three specific documents: LMTAC's *First Principles, Considerations – A Guide to Lower Mainland area Local Government Interests in Treaty Negotiations*, and *GVRD Principles for Treaty Negotiations*. Governance options presented in this document are summarized from the study sponsored by the Union of BC Municipalities (UBCM) entitled *Approaches and Options for Treaties in Urban Areas*.

## 2.0 Perspectives on Governance

The Province of British Columbia has politically recognized the inherent right to self-government and has stated that it intends to define the meaning of self-government within the current treaty negotiation process. The Government of Canada has recognized the inherent right of self-government as an existing right within section 35 of the *Constitution Act, 1982*. The debate whether Aboriginal self-government is, or should be, an inherent versus delegated right originates out of questions arising from the legal origin of the right and of Aboriginal people's aspirations to make decisions related to the preservation and development of their communities and cultures. The debate over the source of the right, however, ignores the importance of the political recognition of rights. It could be argued that a right to carry out a particular activity has little significance if such a right is not recognized by existing authorities. Regardless of this debate, the distinction between inherent versus delegated rights to self-government thus remains a key element in the debate over self-government.

First Nations, the courts, and governments all have different perspectives on “governance”. These perspectives of governance, outlined below and in Attachment 1, will have an effect on approaches to treaty negotiations and will help to inform Local Government perspectives on this topic.

## **2.1 Constitutional and Legal Context**

The *Canadian Charter of Rights and Freedoms* includes a provision (section 25) directing that it must be interpreted in a manner that respects Aboriginal and treaty rights. Section 35 of the *Constitution Act, 1982* also recognizes and affirms Aboriginal and treaty rights. Modern-day treaties that contain provisions for Aboriginal self-government thus receive constitutional protection as a result of sections 25 and 35.<sup>1</sup>

Several court decisions – *Sparrow*, *Van der Peet*, *Adams*, and *Pamajewon* – have dealt with the scope and extent of section 35. However, these cases provided little substantive guidance with respect to self-government. The decisions speak to the regulation of rights and the methods of dealing with section 35, not to ongoing intergovernmental relationships. The Supreme Court of Canada was also silent on self-government when it delivered its landmark ruling in *Delgamuukw* on December 11, 1997. What these cases do illustrate (particularly *Sparrow* and *Delgamuukw*) is an emphasis that negotiation, rather than litigation, is the best way to resolve complex questions about Aboriginal rights, including self-government.

The clearest guidance provided by the Courts on the issue of self-government comes from the recent July 24, 2000 British Columbia Supreme Court Decision in *Campbell et al.* In the decision, Justice Paul Williamson rejects the plaintiffs' submission that a limited right to self-government cannot be protected constitutionally by section 35(1). Deferring to *Delgamuukw*, Williamson concludes that the right for the community to decide to what uses the land encompassed by their aboriginal title can be put, including the right for the community to make land use decisions and have a political structure for making those decisions, is constitutionally guaranteed by section 35. Williamson's decision is the most forthright articulation on Aboriginal self-government to date.

## **2.2 Aboriginal Perspective**

First Nations maintain that the jurisdiction of their governments is inherent, original and existed prior to Confederation. The source of this authority is claimed to flow from the exercise of government authority from “time immemorial” (i.e. prior to colonialization). First Nations also envision that any form of Aboriginal self-government negotiated as part of a treaty would have constitutional protection under section 35 of the *Constitution Act, 1982*.

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<sup>1</sup> As of July 2000, it is the view of the federal government that such protection is, however, not automatic and that the extent of constitutional protection will depend upon the will of the tripartite negotiating parties.

This does not mean, however, that First Nations are necessarily seeking a sovereign form of self-government autonomous from Canadian laws and institutions. Rather, Aboriginal self-government should be viewed as a continuum along which distinct First Nations each assert different demands for law-making authority and structures.



Conceptually, individual First Nations are each developing an approach to governance that meets the specific interests and needs of their community. The governance model being proposed by a particular First Nation at one treaty table in a given region (e.g. Tsawwassen) may be distinct from models proposed at other tables (e.g. Tsleil-Waututh) in the same region.

There are, however, some consistencies in the governance models being proposed by First Nations in British Columbia. In many cases, First Nations may agree to be bound by certain laws of general application (i.e. laws that apply to all citizens), but not to laws which are inconsistent with the First Nation's concept of self-government. Under this approach, Aboriginal people are seeking real and legitimate authority and protection of that authority over time. Aboriginal governments would thus have far-reaching powers which would only be limited by the rules of paramountcy set out in the treaty.

### **2.3 Provincial Approach**

The Provincial approach to "governance" has been that Aboriginal governments will be defined in treaty negotiations and will fit within the current constitutional framework of Canada. The nature and scope of authorities exercised by Aboriginal governments will be a key topic of negotiations. The Provincial mandate paper entitled "*British Columbia's Approach to Treaty Settlements: Self-Government*" outlines the BC approach (see Attachment 3).

The Province acknowledges that the challenge of the treaty process will be to negotiate self-government arrangements which allow First Nations to participate more actively in the existing institutions of public government at the federal, provincial, regional and local levels, and at the same time maintain the flexibility to address the diversity of circumstances among aboriginal peoples. In doing so, the overarching objective of the Province is to increase aboriginal government authority without creating a myriad of new government structures and institutions throughout the province. A related objective is to ensure that the laws affecting aboriginal and non-aboriginal people are stated clearly.

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<sup>2</sup> Didluck, D.L., *In Search Of Accommodation: Responding To Aboriginal Nationalism In Canada* (UBC, 1996).

The Province defines “self-government” as the right of First Nations to manage their own affairs and exercise authority within the limits of their jurisdiction. The Province envisions that this may include the right to administer taxes, pass laws in negotiated areas, manage land and natural resources, and negotiate with other governments. An aboriginal government's authority may also include education, health, safety and welfare services for the community.

The Province also acknowledges that the primary constitutional authority with regard to Aboriginal peoples and self-government rests with the Federal government. The policies and activities of the Federal government will therefore have an effect on the Province's approach to self-government. Ultimately, however, the Province envisions that the extent of aboriginal government powers and the application of self-government within Canada will be negotiated at the treaty table with First Nations, British Columbia and the Federal government.

## **2.4 Federal Approach**

In August 1995, the Federal government released *The Government of Canada's Approach to the Implementation of Inherent Right and the Negotiation of Aboriginal Self-Government* (also known as the “Inherent Right Policy”). The Government of Canada's recognition of the inherent right is based on the view that the Aboriginal peoples of Canada have a right to govern themselves in relation to matters that are internal to their communities and integral to their unique cultures.

Under this approach, also known as the “concurrent law model”, federal, provincial and First Nation laws will all apply unless there is a specific conflict between them.<sup>3</sup> The treaty agreement will articulate those subject matters for which First Nations will have law-making authority and, in the event of a conflict, will provide rules of paramountcy regarding which law prevails. The concurrent law model ensures that First Nations are closely bound to the existing federal/provincial framework.

To implement this approach, the Federal government has identified a defined “range of matters” on which negotiations for Aboriginal self-government could occur. Such matters would include policy fields internal to the Aboriginal community, integral to its distinct culture and essential to its operation as a government. For other policy fields related to Canadian sovereignty, defense and external relations and other “national interest powers”, the Federal government envisions that these matters would not be the subject of negotiations for Aboriginal self-government.

While the Federal policy recognizes the premise of an inherent right to self-government, the central objective of the policy is to reach negotiated agreements on self-government as opposed to legal definitions of the inherent right.

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<sup>3</sup> Definition of “conflict” is limited only to cases where compliance with one law automatically results in contravention of another, not to conflicts arising from intergovernmental relations.

### 3.0 Linkages to Other Treaty Issues

LMTAC has produced *First Principles* which represent broad mandates for Local Government in treaty negotiations. In addition, LMTAC has produced key interest statements for Local Governments on a number of treaty negotiation issues. The GVRD has also produced its *GVRD Principles for Treaty Negotiations* which are relevant in a regional context. Many of the principles and interest statements articulated by LMTAC and GVRD speak directly to the issue of governance (see Attachment 2).

Governance issues cannot be dealt with in isolation of other treaty topics. Treaties must help to clarify the “governance” linkages between future First Nation governments and Local Governments on topics including, but not limited to:

- Regional Planning, Zoning and Growth Management Initiatives
- Planning and Construction of Infrastructure
- Service Delivery
- Certainty
- Access and Rights-of-Way
- Lands and Assets
- Management of the Environment and Natural Resources
- Taxation and Fiscal Issues
- Consultation

### 4.0 Governance Models: Examples and Options

In the UBCM-sponsored discussion paper entitled *Approaches and Options for Treaties in Urban Areas* (Semmens & Adams, 1999) – a paper which included local government representation and input – it was acknowledged that First Nations post-treaty will likely have many, if not all of the powers typically exercised by Local Governments in BC.

However, First Nation governments neither see themselves as Local Governments nor seek a delegated form of authority as outlined in the *Local Government Act*. First Nations are also not part of the existing Local Government community. For this reason, Local Governments are concerned that they will not have the same opportunities to work in partnership with First Nation governments in the post-treaty environment as they have through the various existing institutions established for and by local government.

Members of LMTAC’s Technical and Strategic Working Group (TSWG) note that the *Local Government Act* is generally effective at respecting the independent authority of Local Government jurisdictions while simultaneously encouraging these governments, through a variety of formal and informal means, to work cooperatively together. This unique ability to

“coerce action” and “encourage diplomacy” amongst different jurisdictions may be a useful approach to replicate in designing an Aboriginal self-governance model for the post-treaty environment.

## **4.1 Current Relationships**

### **Amongst Local Governments**

The primary vehicle for Local Government interaction is through the Regional Districts. Municipal governments appoint representatives to the Regional Board from their municipal councils. Residents of unincorporated areas elect a director to the Board.

Local Governments also interact through:

- membership in the Union of BC Municipalities (UBCM)
- participation in Treaty Advisory Committees (TAC)
- participation in the Municipal Finance Authority
- Council of Councils meetings (with wider representation than on the Regional Board)
- Intergovernmental Advisory Committees (as part of Regional Growth Strategies)
- Special structures such as TransLink

### **Between Local Governments and First Nations**

Local Government / First Nation relationships are largely informal. Only a few formal relationships exist between First Nations and Local Governments:

- The Sechelt Indian Government District is a unique Local Government structure and is a full member of the Sunshine Coast Regional District
- First Nation representation on some Land Use Management Structures

In some areas, there are agreements to meet and cooperate on issues of mutual concern. In others, Local Governments have invited First Nations to be active observers at Regional Board meetings. (See Attachment 4 for Meeting Notes from the LMTAC Workshop to Discuss on First Nation Participation on Regional District Boards)

## **4.2 Lessons from the Negotiations**

### **Nisga’a Final Agreement**

- The Nisga’a Nation is neither a municipality nor an electoral area. However, in practice the electoral area director is likely to be a member of the Nisga’a Nation.
- The Final Agreement includes provision for the Nisga’a Nation and the Regional District to enter into agreements to coordinate their activities in areas of common responsibility such as planning, health and infrastructure development.

### **Sechelt Agreement-in-Principle**

- The Sechelt will retain the unique structure that they have developed. The Sechelt Indian Government District will operate like a municipality and will remain a full member of the Regional District.
- The Sechelt Indian Government District will continue to be a member of the UBCM. The Agreement-in-Principle contains explicit language on consultation with Local Governments.

### **4.3 Possible Changes Post-Treaty**

First Nations will become the sole authority responsible for Local Government type issues. They will no longer be subject to the *Indian Act*. The Federal Government's involvement will be only as a provider of funding.

First Nations will not be municipalities and will not be subject to the *Local Government Act* (however, some sections may apply).

The lack of a formal relationship with Local Government neighbours could be problematic if First Nations have greater willingness and capacity to develop their land base.

### **4.4 Options for Addressing the Issue Post-Treaty**

A structured political relationship between Local Governments and First Nation governments is a valuable way to achieve a better understanding and a closer working relationship between neighbours. This could be achieved through:

- **Voluntary Arrangements:** Agreements between governments to meet and discuss issues on a routine basis; and or,
- **Joint Commissions:** Governance structures created for the joint management of shared services.

Instead, or in addition, First Nations could participate in Regional Districts. Two options exist for involving First Nations in Regional Districts:

- **Full Membership:** First Nations could participate in the same way as municipal members of the Board of the Regional District – with the associated roles and responsibilities, including participation in regional land use planning. While this may seem the most straightforward option, it could raise some concerns:
  - the impact of new governments on the voting dynamics of the Regional District;
  - the imbalance in voting rights between large municipalities and small First Nations;

- the impact of new members on the size of Regional District Boards;
  - that membership in a Regional District might alter the relationship that exists between a municipality and a First Nation with respect to the provision of municipal services.
- **Stakeholder Membership:** Involvement on the Regional Board where First Nations “opt in” to regional services. This option is more flexible than full membership, but would reduce the obligation on First Nations to see themselves as members of the region and to consider the needs of other members. However, this option may be more useful where a First Nation has a closer relationship with an individual municipality rather than with the Regional District.

The Cowichan Band and Cowichan Valley Regional District Board are also currently exploring alternative approaches to providing for Cowichan Band participation with the Cowichan Valley Regional District. The implications of each option, for both the First Nation and the Regional Board, are provided below.

- **Contractual Relationship for Specific Services:** The Regional District sees this relationship as purely contractual and voluntary, which does not imply participation in Regional Board decision-making. The First Nation would pay for specific services at an agreed upon price.

The Cowichan Band, on the other hand, sees this option as allowing it the opportunity to:

- choose the services it wants to receive;
- only pay for services received (only obligation);
- participate on the Regional Board as with the other proceeding options;
- confirm Band taxation by agreement.

The advantages of this option are that it could be combined with other membership options. As well, there are no legislative implications and minimal implications for non-Aboriginal occupiers of Band lands.

- **Advisory Role:** This option assumes that the Cowichan Band member sits at Regional District table but does not vote or participate in services. As with the preceding option, this option has: (1) no legislative implications; (2) minimal implications for non-Indian occupiers of First Nation lands; (3) increases information flow between the Regional Board and the First Nation; and (4) creates precedents for other First Nations and Regional Districts.

The Cowichan Valley Regional District sees this option as the Band:

- participating as observer, not a voting member;
- having no participation in *in-camera* meetings;
- having no financial implications;
- having modest administrative implications;
- creating precedents for the participation of other First Nations on Regional Boards.

On the other hand, with this option, First Nations, would view themselves as having:

- voluntary participation on the Regional Board;

- no financial implications;
- opportunities to try out closer cooperation with local government; and
- having the opportunity to make other “membership” choices at a later date.

**Electoral Area Created for First Nation Lands with Direct Election of a Director:** This option, requiring Electoral Area structure changes and amendments to Regional District Letters Patent, could be combined with the Contractual Relationship for Specific Services option. Under this option, non-Aboriginal occupiers of First Nation lands would have direct representation on the Regional Board. This option creates a precedent for participation of First Nations, in addition to the Cowichan Band, on the Regional Board.

The Regional District sees this option as creating:

- a necessary agreement on First Nation participation in services and costs;
- political implications of adding a new Electoral Area;
- additional financial costs;
- a patchwork Electoral Area;
- a possible precedent for other Bands to participate on the Regional Board.

Alternatively, the Cowichan Band regards this option as producing:

- a necessary agreement on Band participation in services and costs;
- the opportunity for Aboriginal and non-Aboriginal electors to vote;
- the potential for a non-Aboriginal Director to be elected;
- minimal financial implications.

- **Electoral Area Created for First Nation Lands with Appointment of Director by Band Council:** This option, providing a direct means for providing inter-jurisdictional coordination between the Band Council and Board, could also be combined with the Contractual Relationship for Specific Services option. With this option, legislation would be required and non-Aboriginal residents could lose direct political representation.

The Cowichan Valley Regional District sees this option as having the same implications as the previous approach, as well as resulting in political difficulties for the Board if non-Aboriginal residents lose their political voice. An agreement could provide for a non-Aboriginal observer on the Board.

The Cowichan Band, on the other hand, sees an agreement on First Nation participation in services and costs as being necessary as well as allowing itself the opportunity to choose a Councillor to represent the Band on the Regional Board.

It is also important to note that relationships between Local Governments and First Nations are not confined to regional linkages. Currently (and in the post treaty environment), the primary linkage may be between the First Nation and the municipality in which that community is located.

## Other Options

- **First Nation Council with an Elected Corporation:** A particular First Nation could set up a corporation, under the *BC Local Government Act* (Section 12) and any applicable First Nation laws, having an elected council separate from the First Nation government. All residents of treaty settlement lands (both First Nation and non-First Nation) would be eligible to vote for council; however, the First Nation government would retain the authority to disallow council decisions. The corporation would be limited to providing local government services (water, sewer, garbage pick-up, road maintenance, etc.) on treaty settlement lands, and could levy user fees and real property taxes to cover the costs of providing such services. Non-First Nation residents would have the right to vote for the body that taxes them. At the same time, the First Nation government would have jurisdiction or authority over property rights, land management, taxation, and public works on treaty settlement lands.

Considerations when examining this particular option:

- Will the First Nation be a Nation but with municipal-like powers? Or will it have powers similar to the Province or the Federal Government?
- What is the underlying purpose of the Corporation? To enable the First Nation to join a regional district?
- The elected council is an advisory body whose recommendations can be vetoed. This structure appears to negate the need for the advisory body.
- Clarity is needed between the law making authority and fiscal powers of the Council Vs. the Corporation. For example, does the Council or the Corporation have taxation authority?
- How would a Corporation-style model address Local Government principles regarding “no taxation without representation”? And what happens in situations where the First Nation does not tax residents?
- The TFN membership is small and the model is a multi-tiered form of self-government. This may not be cost-effective to implement.
- The urban environment necessitates a consistent and coherent approach to governance.

## 4.5 Observations

Any mechanism put in place after treaty cannot be expected to generate a good relationship overnight. Relationship-building develops over time and cannot be legislated or mandated. For this reason, a positive working relationship is most likely, post-treaty, where one has been established pre-treaty. The treaty process itself could be a catalyst for developing these “good relations.”

No one model is likely to be appropriate for all circumstances. A variety of mechanisms will be needed. Also, while some options are labeled “voluntary” and some are more structured, all will depend on good will between the parties to be successful.

The decision as to whether the appropriate relationship for a First Nation is with an individual municipality or with the Regional District is one best considered on a case by case basis. One possibility is that the relationship with the region be mandatory on a limited number of issues that clearly have consequences beyond the boundaries of individual First Nations (e.g. air quality monitoring and management).

## 5.0 Next Steps

Local Governments have well-defined working relationships with the Federal and Provincial governments and amongst themselves. These relationships define many aspects of local operations including jurisdiction, fiscal arrangements, powers and communications. Local Governments, therefore, have a strong interest in maintaining workable intergovernmental relations.

Critical to ensuring the development of harmonious relationships between Local and Aboriginal governments will be a clear understanding of the lines of authority and the separation of powers, possible areas of overlapping jurisdiction and concurrent or co-jurisdiction, and well-defined mechanisms for cooperation, consultation, and joint-decision-making, and clear dispute-resolution processes. This includes definition of roles, responsibilities, jurisdiction and enforcement of bylaws and civil laws.

The steps required to address the “governance” issue include identification of:

- Local Government/Aboriginal Government lines of authority and division of powers;
- possible areas of overlapping jurisdiction and concurrent or co-jurisdiction;
- opportunities for joint consultation, interaction, communications, and decision making with First Nations;
- possible dispute resolution processes.

## **Attachments**

- Attachment 1:** Summary of Federal, Provincial, and Local Government Perspectives on First Nation “Governance”
- Attachment 2:** Local Government Principles and Considerations
- Attachment 3:** Self-Government in Treaties - British Columbia's Approach
- Attachment 4:** Meeting Notes – LMTAC Workshop to Discuss First Nation Participation on Regional District Boards

## ATTACHMENT 1

### Summary of Federal, Provincial, and Local Government Perspectives on First Nation “Governance”

Canada	Provincial	Municipal Government	Regional Districts
<p>Recognizes the Aboriginal right to self-government as an inherent right under Section 35 of the Constitution Act, 1982.</p> <p>Canada’s policy paper, The Government of Canada’s Approach to the Implementation of Inherent Right and the Negotiation of Aboriginal Self-Government (1995), describes classes of laws that could form the basic legislative framework of a First Nations government. The policy discusses the legal criteria for establishing First Nations legislative authority in a given area and discusses the priority of laws, but offers no insights into the Federal government’s position on intergovernmental relations, or on the fit between First Nations governance arrangements and existing government structures.</p>	<p>Suggest a tiered approach to First Nation authorities, whereby unconditional governance authority would be granted to First Nations in culturally-specific areas only.</p> <p>Further restrictions, such as compliance with provincial standards, would be required where a First Nation exercised legislative authority over matters other than cultural matters.</p> <p>Prefers to retain ultimate jurisdiction over the remainder of subject areas, which could potentially become the subject of delegation to First Nations.</p> <p>Prefers to ensure a minimum of First Nation exclusive jurisdiction over matters involving Local Government jurisdiction.</p> <p>Recognizes the need for intergovernmental interface forums, particularly with respect to regional planning and growth management.</p>	<p>Believe that treaties must bring about well-defined mechanisms, bodies or structures for interface between Local Governments and First Nations, and that ensure clear lines of governmental authority and responsibilities.</p> <p>Recognition of the need for harmonious intergovernmental relationships, while advocating a clear definition of jurisdictions between Local and First Nation governments.</p> <p>Local Governments prefer to move rapidly toward establishing intergovernmental forums and consultative mechanisms and to promote greater understanding between First Nations and Local Government bodies.</p> <p>Municipal governments envision joint decision-making or joint membership on Local Government bodies as a means of achieving results.</p>	<p>Primarily concerned with processes of post-treaty governance arrangements.</p> <p>Regional districts envision that relationships between governments are to be clearly defined and allow for harmonious working relationships.</p> <p>Where joint decision-making processes are to be established or where jurisdictions might overlap, a clear mechanism for dispute resolution is the preferred option.</p>

Source: Molgat, Jean-Paul A. *Relations Between Local, Regional, and First Nations Governments: The GVRD Experience*. Master’s Thesis, SFU, 1998.

## ATTACHMENT 2

### Local Government Principles and Considerations

LMTAC has produced *First Principles* which represent broad mandates for Local Government in treaty negotiations. In addition, LMTAC has produced key interest statements for Local Governments on a number of treaty negotiation issues. The GVRD has also produced its *GVRD Principles for Treaty Negotiations*, which are relevant in a regional context.

The following LMTAC *First Principles* and key interest statements, as well as *GVRD Principles for Treaty Negotiations*, relate specifically to the issue of governance:

#### Law-Making, Application of Laws and Other Authorities

- Treaties must recognize and respect the authority and jurisdiction of federal, provincial and local governments. (LMTAC *First Principle* #24)
- Treaty settlements should uphold the principles of the Canadian Constitution and the Canadian Charter of Rights and Freedoms. (LMTAC *First Principle* #3)
- Canadian Criminal Law should continue to apply as well as existing precedents set out in Civil Law in British Columbia. (LMTAC *First Principle* #25)
- Standards and regulations (including enforcement provisions) that apply to treaty settlement lands should meet or exceed established standards set by federal, provincial and Local Governments for issues including but not limited to: environmental protection, public health, labour, safety, fire protection, building codes, noise and licensing. (LMTAC *First Principle* #29)
- Treaty settlement lands must be subject to the same Federal and Provincial enactments as they are to the GVRD and all other Local Governments including, but not limited to, the Provincial *Growth Strategies Act*. (*GVRD Principle for Treaty Negotiations* #3)
- Lands designated within the Agricultural Land Reserve, in the selection of lands for First Nations, continue to be dedicated for agricultural use in the future. (*GVRD Principle for Treaty Negotiations* #4)
- The *Constitution of Canada* be expeditiously amended to provide, protect and prescribe the powers of Local Government (*GVRD Principle for Treaty Negotiations* #6)

#### Structure and Scope of Aboriginal Government

In complex urban regions like the Lower Mainland, there is the potential for multiple overlapping Local Government and Aboriginal authorities. Aboriginal self-government should strive to simplify this structure, not add to its complexity.

- Treaties must uphold the principle of “no taxation without representation” for all persons residing on treaty settlement lands. Treaties should contain mechanisms to ensure that all persons who are living on treaty settlement lands and who are paying taxes or levies to the First Nation have access and a voice in First Nation governance systems. (*LMTAC First Principle #27*)

While the precise structure of Aboriginal self-government is likely to vary by each community, Local Governments believe strongly that self-governing First Nations should uphold the principles of democracy and accountability.

- Aboriginal self-government should uphold the principle of democracy and accountability. (*LMTAC First Principle #26*)

Consistency between First Nation and Local Government jurisdictions must be a key objective of treaty settlements in urban areas.

- The GVRD’s preference is for treaty settlement lands to become subsets of the municipalities in which they are located. (*GVRD Principle for Treaty Negotiations #1*)

Furthermore, Local Governments believe that treaties should include Lower Mainland area-wide mechanisms for dealing with the social and economic well-being of Aboriginal peoples who reside within the traditional territory of another First Nation.

## **Intergovernmental Relations**

Since Local Governments exercise substantial jurisdiction at the local level, and it is the local or community level at which the de facto, day-to-day relationships between self-governing First Nations and other governments will take shape, treaties should create mechanisms and processes to open meaningful dialogue between First Nations and Local Governments.

Moreover, treaties must recognize and specifically provide relations between local and First Nation governments, particularly on issues such as education health, transportation, land use planning, air quality, and zoning and which require substantial interaction between various levels of government.

Local Governments wish to continue to make laws in the following policy fields, including, but not limited to:

- Recreation
- Public Safety and Nuisance (includes noise and pet controls)
- Policing Services
- Fire Protection Services
- Engineering Services
- Economic Development
- Property Taxes, Special Assessments, and User Charges

- Health Regulations
  - Social Planning
  - Housing and Building Regulations
  - Environment Protection and Waste Management
  - Land Assembly and Banking
  - Regional Planning
  - Land Use, Zoning and Community Planning (including subdivision controls)
  - Flood Control, Water Management, and Watersheds
  - Traffic, Roads and Transportation (including street lighting and sign regulation)
  - Public Transit
  - Emergency Programs and Services
  - Heritage and Conservation
- Local Governments must be provided the opportunity to access Local Government-related powers, as defined by Provincial legislation, also available to First Nations in the post-treaty environment. (*LMTAC First Principle #31*)

Local Governments also strongly believe that final treaty settlements must include a formalized process of dispute resolution to deal with issues that directly involve Local Government. Such a forum would have access to both traditional and alternative dispute resolution processes and strive to deal with cross-community issues and impacts as well as treaty rights that apply outside of settlement lands.

- Treaties should include an effective dispute resolution mechanism that is accessible to Local Governments, particularly relating to inter-jurisdictional issues such as, but not limited to: planning, land use, natural resources, growth management, stewardship and transportation. (*LMTAC First Principle #30*)
- Where applicable, there be an orderly transition in authority and application of laws in the post-treaty era, and that there be an acceptable dispute resolution process involving the GVRD, other than the courts, in cases of future disagreement or conflict over interests in land and/or issues of jurisdiction and compliance (*GVRD Principle for Treaty Negotiations #5*)

Should some Local Government powers be shared with future First Nation governments, First Nations must assume full responsibility for their actions, including coordinating their actions with existing Local Government, Provincial and Federal agencies.

In addition, First Nations who become members of a regional district should accept all of the associated responsibilities and costs of membership.

- Where a First Nation has been granted powers over treaty settlement lands within the GVRD, the relationship between the GVRD and First Nations should be consistent with the current relationships between the GVRD and its member Municipalities. (*GVRD Principle for Treaty Negotiations #2*)

Self-government arrangements and co-management regimes established in treaties should encourage cross representation. In other words, consideration should be given to non-Aboriginal representatives sitting on First Nation Councils/Boards, and First Nation representatives sitting on Local Government Councils/Boards.

### **Program and Service Delivery**

Treaties should acknowledge the importance of economies of scale in program and service delivery. For some policy fields, some consideration should be given to establishing a 'Lower Mainland Coast Salish region' to help rationalize program and service delivery, rather than have each individual First Nation responsible for its own programs and services.

- Aboriginal self-government provisions must provide for First Nation participation in, or partnerships with, Local Governments for more effective and efficient delivery of services and programs. (LMTAC *First Principle #28*)

Lower Mainland area treaties, as well as the reformed *Local Government Act*, should encourage the development of new partnerships between First Nations and Local Governments to work together on implementing cost-effective community programs and services.

- Lower Mainland area Local Governments have increasing Aboriginal populations that are not from the traditional territories of Lower Mainland area First Nations as well as Aboriginal populations that will reside on off future treaty settlement lands. Treaties must include mechanisms to ensure that the costs of providing programs and services to these populations do not become the responsibility of Local Government. (LMTAC *First Principle #32*)

Treaties should stipulate which mandatory programs, services, and infrastructure must be delivered by First Nation governments or purchased from neighbouring municipalities.

Treaties should also articulate a specific mechanism or principles for determining the fiscal value of local programs and services and use of existing infrastructure. Numerous case studies in Canada and the United States indicate that First Nations and Local Government often disagree on appropriate costing formulas and valuation techniques.

- Treaties must identify programs and services (such as, but not limited to, air quality, solid waste management and Regional Growth Strategies) in which First Nations must participate, either through direct involvement in the existing program/service or indirectly through a contract with Local Governments.

The principle recognizes that some programs/services affect all area residents and that regional delivery enhances economies of scale. This principle also emphasizes the importance of the various to the various interconnections between urban communities in the Lower Mainland area. (LMTAC *First Principle #33*)

## ATTACHMENT 3

### **Self-Government in Treaties - British Columbia's Approach**

July 26, 2000 Presentation to LMTAC by Jose Villa Arce  
Mandates Branch, Ministry of Aboriginal Affairs

#### **Context**

- In BC very few treaties settled with First Nations.
- Undefined nature of aboriginal rights and title resulted in costly litigation and disputes over land and resource use.
- Aboriginal people subject to Indian Act and a reserve system that does not work.
- Different laws and standards than other communities in BC.
- Indian Reserves are federal lands - "Lands Reserved for the Indians" under section 91 (24) of the Constitution Act, 1867.
- Provincial laws and standards generally do not apply on reserve.
- Indian bands can pass bylaws that must be approved by federal Minister of Indian and Northern Affairs.
- If band bylaw inconsistent with provincial law, bylaw prevails.
- Aboriginal people live under unacceptable conditions of poverty, discrimination and neglect.
- Especially problematic in urban areas.
- Province recognizes Aboriginal right to self-government.
- Scope and nature of that right will be negotiated through treaty process.

#### **Vision**

- Access to social and economic opportunities.
- New relationship between aboriginal people and non-aboriginal people.
- Certainty regarding nature of Aboriginal rights and land and resource ownership.
- Objective of Self-government
- Create governments with a capacity to:
  - manage their own affairs;
  - enter binding contractual relationships or on-going political relationships with other governments; and
  - govern their communities effectively and efficiently within the larger governmental system of the Province.

#### **Constitutional Basis**

- Operate within the framework of the Constitution of Canada and Charter of Rights and Freedoms.

#### **Connection to the Land Base**

- Recognize connection of First Nations to the land.
- First Nations will own and manage an area of land called Treaty Settlement Land (TSL).

## **Legal Basis**

- Based on a concurrent law-making model.
- First Nation laws will apply alongside federal and provincial laws.
- No vacuum in application of laws on TSL.
- Conflict of laws provisions identify whose laws prevail.
- First Nation laws may prevail:
  - over matters internal and integral to the First Nation; and
  - where conditions on First Nation laws satisfy provincial interests.

## **Approaches**

- Framework provides for different approaches:
  - Self-government in Final Agreement (Nisga'a);
  - Self-government outside Final Agreement, but negotiated within treaty process (Sechelt);
  - Decentralized governance arrangement (Kaska Dene);
  - Regional governance arrangements (Northern Regional negotiations).

## **Structure**

- The structure of First Nation governments will be specified in: Final Agreement and First Nation Constitution.
- First Nation governments will: be accountable; reflect aboriginal traditions and existing structures; establish effective relationships with other governments; and be elected at least every 5 years.

## **Categories of Authority**

- Self-government authorities will relate to:
  - the operation of government;
  - the management of assets;
  - matters integral to culture; or
  - public programs and services.

## **Scope of Authority**

- First Nation law making authority limited to TSL with minimal exceptions (e.g. solemnization of marriages, adoption).
- May deliver certain programs and services to: non-members resident on TSL; and members resident off TSL, where practical.
- Such arrangements negotiated outside the Final Agreement.
- Self-government arrangements will include requirements to meet provincial standards.
- Regional economies of scale will be considered when negotiating certain areas such as health and education.

### **Operation of First Nation Government**

- Includes: Legal, financial and political administration; Local service delivery; Management of assets in a manner comparable to local governments; and Administration and management of land (TSL).

### **Management of Treaty Assets**

- Includes: management of collective treaty assets;
- examples: treaty settlement land, wildlife entitlements

### **Matters Integral to First Nation Culture**

- Includes:
  - First Nation language education and training;
  - Management of cultural heritage sites and artifacts;
  - Adoption;
  - Marriages; and
  - Aboriginal healers.

### **Public Programs and Services**

- Includes:
  - Child and family services;
  - K-12 education; and
  - Aspects of health services.

### **Federal and Provincial Authority Maintained**

- Certain areas of federal and provincial authority will not be negotiated:
  - matters of over-arching provincial and national importance; and
  - matters which require legal uniformity.
  - Examples: foreign policy, national defence and security, property and civil rights, and labour relations.

### **Fiscal Arrangements with the First Nation**

- Basic principles for fiscal arrangements in Final Agreement.
- Fiscal Financing Agreements negotiated between Canada, BC and the First Nation.
- Agreements outside the Final Agreement and not constitutionally recognized or affirmed.

### **Canada-BC Self-government Cost-Sharing Negotiations**

- Negotiations underway.
- 1993 MOU did not finalize the details of self-government cost-sharing.
- Respect federal constitutional responsibility for First Nations, balanced with a new relationship with the Province.

## **Taxation**

- Ability to level direct taxes on First Nation members residing on TSL.
- Additional taxation powers may be delegated outside of the Final Agreement with conditions.
- Tax exemptions will be phased out (property and income tax).

## **Representation of Non-members**

- Mechanisms for the representation of non-members in decision-making processes required.
- Goal to balance non-members interests, while respecting the First Nation's need to govern matters integral to their culture or internal to the First Nation.
- Taxation authority over non-members will not be delegated without representation of non-members.
- Ministry examining options and approaches based on feedback.
- Final Agreements will require different mechanisms to address unique circumstances.
- For example, situations where few non-members reside on TSL.

## **Relationships with Local Governments**

- Objectives:
  - co-ordination and harmonisation of land use planning between local governments and First Nations;
  - constructive, fair and predictable agreements for the delivery of services between local governments and First Nation governments; and
  - constructive relationships between local governments and First Nation governments with opportunities to resolve differences.
- First Nation government authorities and responsibilities will fit within the larger governmental system in the province.
- Will require partnerships and agreements with local governments to be successful.
- Examples: adjacent land use planning processes, fire, water and sewer services, building inspections.
- Specific arrangements will not be included in Final Agreements.
- Final Agreements will provide a framework for facilitating agreements but will not specify the relationships themselves.
- Need to ensure government to government relationships are facilitated through Final Agreement.
- Seeking advice on how to best approach this issue.

## **Conclusion**

- BC's concept and interests in self-government remain constant for all Final Agreements.
- Different approaches within provincial framework based on:
  - geographical differences;
  - demographic considerations; and
  - specific interests of individual First Nations.
- First Nation governments will:

- have a legal capacity to operate as a government and own assets;
- be democratic, open and transparent; and
- be politically and financially accountable.
- Self-government arrangements will have positive impacts for all British Columbians.

## ATTACHMENT 4

### LMTAC Workshop to Discuss First Nation Participation on Regional District Boards Meeting Notes

Notes of the Meeting of the **LMTAC Hosted Workshop to Discuss First Nation Participation on Regional District Boards** held on Thursday, October 5, 2000.

#### 1. Welcome and Introductions

Mayor Don Bell, LMTAC Chair, welcomed attendees to the meeting and led a round table session of introductions. Chair Bell noted the increasing need for regional and local government to develop good working relations with First Nations, and that the discussion to follow should focus on the implications of First Nations representation on local and regional government, not on finding ways to facilitate such representation.

#### 2. Workshop Overview

David Didluck, LMTAC Executive Director, reviewed the meeting agenda and purpose of the meeting, to discuss First Nation participation on Regional District Boards.

Mr. Didluck invited participants' discussion to focus on the following seven questions:

1. What are the experiences of Regional Districts or other Local Governments with respect to First Nation participation on their Boards/Councils?
2. What would be some objectives for having First Nations as participants on Regional Districts? What opportunities would participation present and what challenges would be created?
3. What are the "responsibilities" of Regional District membership? What is it about these "responsibilities" that are important?
4. How might First Nations be involved on the Regional District Board? (i.e. as "Full Members" or "stakeholders").
5. How might First Nation involvement affect current relationships between Regional Districts and their Local Government members?
6. What might be some ways of dealing with cases where Regional Districts encompass the traditional territory of more than one First Nation?
7. How can you build First Nation/Local Government relationships, other than membership on Regional Boards?

#### 3. Brief Presentations

Marino Piombini, Greater Vancouver Regional District outlined the report: *Aboriginal Governance and First Nation Membership of Regional District Boards, June 2000* which resulted in the GVRD Board recommending the workshop to discuss related issues. The report details perspectives on Aboriginal Governance, governance models, land use planning, servicing agreements, Aboriginal representation on regional boards and GVRD policy on the provision of utility services to First Nations.

Gary Paget, Ministry of Municipal affairs, explained his Ministry's role in creating the structure for local government, and facilitating First Nations involvement in it noting that

there are several models currently in use. Mr. Paget further commented that First Nation membership on regional boards and local government is unlikely to work in all situations and asked participants to consider the following in their discussion:

- What services are provided and at what cost?
- Expectations of local government, regional boards and First Nations.
- Political balance on the boards.
- That there are other ways to bring First Nations and local government together besides local government membership.

Mr. Paget cited an agreement between the Westbank Nation, the City of Kelowna and the Central Okanagan Regional District as a successful example of intergovernmental relations. The agreement requires the three governments to agree on how services are provided as well as the level of development on strategic urban land controlled by the First Nations. In this example, the two local governments can use their service provision ability as leverage in land development discussions.

Alison McNeil, Union of BC Municipalities, explained that UBCM has been studying First Nations and local government relations for a number of years, and often deals with service coordination and political relationship issues during Community-to-Community forums. She noted that the Nisga'a Final Agreement has provision for the Nisga'a Nation and the Regional District to enter into agreements on service provisions.

Edyie Fraser, Union of BC Municipalities, explained that the Nuu-chal-nulth Nation on Vancouver Island has asked to become a regional district electoral area. Since then, they were offered a seat on the board in a non-voting advisory capacity only and a member now regularly attends meetings. She added that Nanaimo First Nations is also seeking regional district representation, and inter-governmental work groups are now underway.

Cory Herrera, Ministry of Aboriginal Affairs, noted most of her experience has been with Lower Mainland municipalities, where the goal is to lay 'seeds of ideas' that will stimulate discussion and improved relations with First Nations. Ms. Herrera noted that the workings of local and regional government are outside the experience and understanding of many First Nations and emphasized that relationships with First Nations are necessary and inevitable, so it is important for both groups to determine their needs. Throughout her discussions with local governments, common themes expressed have been the desire for a level playing field, the need for a forum to discuss issues, fairness principles, and the financial commitment that goes along with regional government membership. Ms. Herrera further commented that it is useful for the group to consider that Regional District membership includes responsibilities as well as rights.

#### **4. Group Discussion**

David Didluck, LMTAC Executive Director, invited participants to consider the seven discussion questions as they engaged in a roundtable discussion that covered concerns, opportunities and objectives relating to First Nations participation in local and regional governments; general and specific questions and answers; and comments on past experiences and examples of First Nation/local government relations.

### **Key Point:**

**Improved communication between First Nations and local governments is essential and there are numerous examples to illustrate this need. Local government can and should do more to facilitate relationship-building and not depend on or wait for treaties to provide solutions**

- Local governments have great concern about the lack of consultation with them regarding development and planning on First Nations land.
- Despite local government agreements to provide servicing, some experience no reciprocal planning consultation about projects on First Nations lands.
- Some jurisdictions run essential services such as water and sewer through First Nations lands and expressed concern should an ‘Oka situation’ develop here.
- One jurisdiction said First Nations tapped into local government water supply without consultation.
- Watersheds, employment issues and royalties on water are impacted, as are air quality issues, growth, garbage, sewer and water.
- There should be more emphasis on side agreements outside of the treaty process, and the value advisory committee roles can serve to both First Nations and local government in improving coordinated land use planning.
- Economic development can be a good start for relationship building; Fraser Valley RD enjoys a good First Nations relationship on a regional district forest-issues committee, a common interest.
- There is the challenge of some First Nations having fish or forestry concessions not afforded to municipalities within the same regional district. This unlevelled playing field could stand in the way of full cooperation.
- Regional districts rely on a process where the parties are bound together by common interest. It should not be easy for any party to walk away.
- First nations without a treaty are governed by Indian Act and cannot be sued.
- Treaties should be viewed as enabling, not prescribing.
- Regional districts must create an opportunity for inclusion; consider the changes that might be necessary to realize the objectives and essentially, take a leap of faith.
- In a jurisdiction where the relationship with First Nations has deteriorated, there was concern that a welcome to regional board meetings was hardly incentive; there needs to be some benefit, or interest, to stimulate participation and discussion.
- First Nation members on regional districts is not a solution, it is a tool, and way to develop relationships.
- Clarity of roles, responsibilities of relationships are needed.
- Advantage to board membership as a means to provide a holistic view, discuss diversity of views, a forum for resolving differences.
- First Nations don’t often share the same objectives as local government. Need to build staged relationships, perhaps on a piecemeal basis.
- Importance of preserving local government principles was stressed.
- Need for ‘step-building’ in terms of First Nation membership (eg Community to Community Forum Process).
- Only by sitting down with First Nations can local government arrive at objectives.

- First Nations need exposure to the ‘seat of government’.
- Agreements need to be built from the bottom-up.
- First Nation-local government agreement will build, encourage more openness, information sharing.
- There is need for a direct First Nation-Local Government relationship before involving senior government.
- Electoral Areas Committee of GVRD should have informal discussion with local First Nations to commence a relationship.
- The ‘right to contract’ and certainty of legal status will be provided via treaties.
- Primary relationship is currently between First Nations and municipalities, not regional districts.
- GVRD is an entity; the sum is greater than its parts. Understanding by First Nations of the ‘culture’ of regional districts will enable First Nations to better participate in urban region culture.
- In urban area primary relations between First Nations and local government create the need for interaction with all First Nations in region.
- Given the existence of numerous First Nations in an area and their overlaps, which First Nation do you deal with first?

### **Key Point:**

**First Nations have little understanding of, or interest in, regional districts. Most key relationships with First Nations will be built at the municipal level, and there needs to be improved understanding by First Nations of local government, regional districts, and the roles, limitations and inner workings of both.**

- The provincial government should be encouraged to create incentives for First Nations – and all students – to undertake disciplines such as urban studies, planning, economics and administration. Local government should encourage co-op work programs where First Nations can appreciate first hand the need for community planning, and learn first hand, governmental skills such as bylaw-drafting.
- Ladysmith and Ditidaht nation have a good co-op work program.
- How can local governments ensure First Nations don’t ‘cherry pick’ some services without buying into others?
- Can regional and local governments look at ways to create new structures that would allow piecemeal participation?
- There needs to be a clear guideline as to what GVRD will and will not accept.
- The process should proceed in steps. Regional district board meetings can be threatening to First Nations. In many cases, a community forum is preferred to a structured board meeting. If we set them up to fail, they won’t participate in future. The process should be built slowly.
- Objectives for both local governments and First Nations will evolve with discussion.
- Local government must educate, without patronizing. There is a tremendous need for mutual understanding.
- The liberal and confrontation attitude is not the fault of First Nations; in order to carry out a business deal in Asia, a relationship is required. The same is necessary if local

government wants to work cooperatively with First Nations.

- Regional districts should invite First Nations to attend with ‘observer status’ at board meetings – find a way to sell them participation and interest in the process.
- GVRD members should show more respect within its ranks and members who leave early should assign alternates – how can we expect First Nations to show interest in our process of government when we don’t demonstrate it ourselves?
- The concept of First Nations as one of two distinct governments and its relationship to a regional board with 20 or more regional interests.
- Regional governments need to recognize their own shortcomings in keeping step with the evolving and controversial process of local government.

**Key Point:**

**Most First Nations have finite resources for representation. There needs to be appreciation by local government of First Nations’ limited capacity to attend meetings, and to participate in both local and regional government issues.**

- Regional and local governments should be mindful that many First Nations have no interest in regional government beyond basic services such as water and sewer. Issues such as regional growth strategies and long term planning are not likely of interest. There is a risk of deterring interest if First Nations are deluged with issues that don’t affect or interest them – limited desire to assume responsibility.
- First Nations representatives tend to remain constant for long periods of time whereas local government representatives change frequently in municipal elections. This makes relationship building particularly challenging. Good rules make good neighbors; write them to last.
- Importance of involving First Nations in sub-committees, helps build a better understanding of full board discussions.
- Sub committees provide a ‘low-risk’ environment to ‘learn the ropes’ and way around the Regional District. Sub committees build inter-connections between communities.
- Need for mentorship.
- Too many bands for each to sit on regional district board.
- Move slowly; educate First Nations as to what regional districts do. Education is not, however, a one-way street.
- Need to start building relationships now – can’t wait for finalization of treaties.
- Useful ideas around buddy-system (Ladysmith-Ditidaht) and ability to assists in building capacity.
- Many regional governments have massive resources; most First Nations don’t.

**Key Point:**

**Regional and local governments should be mindful of opportunities to establish relationships with First Nations that involve common interests, such as joint business ventures, service or parks agreements. These bottom-up agreements with First Nations could stimulate their interest in regional government; it’s an invitation to the regional table, rather than forcing participation.**

- The process is as evolutionary for regional and local government as it is for First Nations.
- All agreements must be open and public.
- Electoral Areas committee could launch discussion with local First Nations.
- First Nations who approach local government for servicing agreements are sometimes rejected outright because they don't discuss planning issues.
- The right to contract with some First Nations is dependent on treaty settlement. It is a challenge to attain any agreement that could be brought to regional board.
- The primary relationships with First Nations and GVRD should be with member municipalities; not at GVRD board.
- Are local and regional governments able to create the structure for future negotiations? How can it best be facilitated?

### Key Point:

**Existing agreements between First Nations and local and regional governments are diverse in scope and region/government specific. In the Nisga'a agreement, only Nisga'a people can vote for Nisga'a government. This model may exclude a large group of residents who live, or may in future, reside on Nisga'a land. The Sechelt model gives First Nations a direct vote on local government, through a First Nations representative, and responsibilities similar to municipal obligations to regional districts. Local and regional governments should be mindful of their needs, priorities, and explore the contributions and concessions they are willing to make to facilitate discussions.**

- The evolution of local government is about change – the GVRD grew over time to a system of regulatory authority from the needs and shared commitments of local communities for stability and the need to develop and grow. We don't have to define the structure and relationships today – let them evolve.
- Sechelt agreement enables First Nations to adopt some aspects of Municipal Act, while retaining the right to reject other sections – concern about different rules for different members at the same regional board table.
- Legitimacy of relationship – support for relationship in both local government and First Nations communities.
- How to achieve balance.
- Need for dispute resolution.
- Lack of pre-existing relationships as a foundation/precedence between local government and First Nations.
- Differing expectations of local government and First Nations – some are unrealistic.
- Differing First Nations decision-making processes, eg. Consensual.
- Presence of special First Nations powers, eg. Fishing rights, may impact local government/First Nations relationship at regional district board.
- First Nations may only be interested in certain roles like water or sewer, not other complex regional district issues.
- First Nations boundaries of one band may overlap several regional districts.
- Difficulties determining which First Nation representatives speak for the group.

- Urban Aboriginals without a land base is a growing concern.
- What changes would local government be willing to make to incorporate First Nations?
- Test drive First Nations-Regional District membership incrementally.
- Need for local governments, regional districts to have a clear idea of what it is prepared to consider in terms of changes/modifications to the status quo.
- Need for a mechanism to prevent a First Nation from ‘easily’ walking away from regional district.
- Question when disputes arise whether First Nations recognize the courts.
- After a long history of litigation, broad corporate powers are recognized in the Sechelt and Nisga’a agreements. This is the most secure arrangement. The hundreds of other First Nations without agreements are independent bodies, under jurisdiction of federal government/ministry of justice Indian Act. Some contracts with First Nations require a signature from ministry of justice. The objective is to get First Nations out of the Indian Act and give them ‘natural person powers.’ Progress in this regard is being made.

**5. Next Steps**

Mr. Didluck summed up key points and objectives as follows:

- the need to increase information flow and build relationships;
- First Nations understanding of Regional District functions/roles;
- coordinated land use planning;
- forum for non-treaty indicatives;
- creating a level playing field;
- joint economic goal setting;
- sharing of costs, responsibilities and expertise;
- the need to work directly with First Nations recognizing each regional district will be unique;
- treaties enable First Nation/local government relationships, not determine them;
- shifting roles and responsibilities of regional district if First Nations participate;
- importance of First Nations to understand role and mandate of regional districts; and
- issues of First Nations voting authority and political balance of boards.

**6. Conclusion**

The LMTAC Hosted Workshop to Discuss First Nation Participation on Regional District Boards held Thursday, October 5, 2000 concluded at 12:03 p.m.

**Attendance:**

<b>ATTENDANCE:</b>	
Mayor Don Bell ( <b>Chair</b> )	District North Vancouver
Jim Abram	
Lynn Beak	Ministry of Aboriginal Affairs
Director Tom Blom	Greater Vancouver Regional District Electoral Area A
Mayor Brenda Broughton	Village of Lions Bay

Ken Cameron	Greater Vancouver Regional District
Councillor James Coleridge	City of White Rock
Helen Davies	Federal Treaty Negotiation Office
David Didluck	Lower Mainland Treaty Advisory Committee
Graham Dragushan	Ministry of Municipal Affairs
Councillor Bruce Drake	Village of Belcarra
Mayor Ralph Drew	Village of Belcarra
Councillor Jeanne Eddington	City of Surrey
Margo Elewonibi	Ministry of Aboriginal Affairs
Councillor Janis Elkerton	District of Pitt Meadows
Councillor Bob Fearnley	District of North Vancouver
Mayor George Ferguson	City of Abbotsford
Edyie Fraser	Union of British Columbia Municipalities
Ellen Frisch	Ministry of Aboriginal Affairs
Director Susan Gimse	Squamish Lillooet Regional District
Mayor Greg Halsey-Brandt	City of Richmond
Cory Herrera	Ministry of Aboriginal Affairs
Councillor Louella Hollington	City of Coquitlam
Councillor Vicki Huntington	Corporation of Delta
Jim Hurst	City of New Westminster
Mayor Lois Jackson	Corporation of Delta
Chris Kelly	Federal Treaty Negotiation Office
Councillor Kiichi Kumagai	City of Richmond
Tamara Little	Fraser Valley Treaty Advisory Committee
Mayor Corrine Lonsdale	District of Squamish
Alison McNeil	Union of British Columbia Municipalities
Gary Paget	Ministry of Municipal Affairs
Marino Piombini	Greater Vancouver Regional District
Mike Sakamoto	Federal Treaty Negotiation Office
Debbie Seto-Kitson	Ministry of Aboriginal Affairs
Inta Sloman	District of North Vancouver
Councillor Peter Stevenson	Village of Lions Bay
Director Pam Tattersfield	Squamish-Lillooet Regional District Electoral Area D
Cameron Thorn	District of North Vancouver
Mayor Hal Weinberg	Village of Anmore
Pauline Martin	Recording Secretary, Raincoast Ventures

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