

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

July 13, 2005

Minutes of the Regular Meeting of the **Lower Mainland Treaty Advisory Committee (LMTAC) Executive Committee** scheduled 2:00 p.m. to 3:40 p.m. on Wednesday, July 13, 2005, in the 2nd Floor Café East Boardroom, GVRD Offices, 4330 Kingsway, Burnaby, B.C.

ATTENDANCE:		
JURISDICTION:	LMTAC ELECTED REPRESENTATIVE:	LMTAC STAFF REPRESENTATIVE:
Greater Vancouver RD	Mayor Ralph Drew (Chair) (arrived 2:12 p.m.)	Marino Piombini
Maple Ridge, District of	Councillor Candace Gordon (Vice Chair)	
Bowen Island, Municipality of	Mayor Lisa Barrett	
Squamish, District of	Councillor Corinne Lonsdale	
Squamish Lillooet RD	Director John Turner	
Sunshine Coast RD	Director Barry Janyk	
Surrey, City of	Councillor Penny Priddy	
West Vancouver, District of	Councillor Jean Ferguson	
LMTAC STAFF ATTENDANCE:		
Kirstie Pirie	LMTAC Manager	
Regan Schlecker	Aboriginal Affairs Analyst	
GUESTS:		
Trish Balcaen	Ministry of Forests, Tenure and Revenue	
Dawna Harden	Ministry of Forests, Aboriginal Affairs Branch	
PREPARATION OF MINUTES:		
Carrie Peacock	Recording Secretary, Raincoast Ventures	

CALL TO ORDER

Vice Chair Gordon confirmed a quorum was in attendance, called the meeting to order at 2:10 p.m. and led the meeting in a round of introductions.

2:12 p.m.

Chair Ralph Drew arrived at the meeting and assumed the Chair.

Agenda Varied

The order of the Agenda was varied to consider Agenda Item 3 prior to Agenda Item 1.

3. DELEGATION

3.1 Presentation by the Ministry of Forests, Aboriginal Affairs Branch: Consultation and Agreements with First Nations

- a) *“Strategic Policy, Approaches to Accommodation, Ministry of Forests”, labeled “Final Draft” and dated July 31, 2005;*
- b) *Printed copy of a website page titled “Aboriginal Affairs Branch, Agreements with First Nations, Forest and Range Agreements”;*
- c) *Ministry of Forests correspondence addressed to the Chief, Squamish Nation, dated April 8, 2005 and attached “Squamish Nation Short Term Forest Agreement” dated March 30, 2005; and*
- d) *On-table printed copy of the overhead presentation titled “Approaches to Consultation and Accommodation” dated July 2005.*

Chair Drew welcomed Trish Balcaen, Executive Director – Forest Policy Implementation, Ministry of Forests, Tenure and Revenue; and Dawna Harden, Manager, Policy and Interim Measures, Ministry of Forests, Aboriginal Affairs Branch to the meeting.

Ms. Balcaen provided comments relative to her professional background and experience. It was noted that the Ministry of Forests (MoF) was an implementer of policy, and received guidance from the new Ministry of Aboriginal Relations and Reconciliation (MARR). It was noted that the Ministry had changed legislation to allow direct award licenses, via various agreements. It was further noted that the MoF was able to make administrative decisions; and that First Nations were asserting their titles and rights, and wanted involvement in large and small decisions.

Ms. Balcaen informed the meeting that Forest Range Agreements:

- offered unique revenue sharing opportunities for First Nations;
- provided a 'fast-tracked' way to do business together in a 'functionable' manner;
- had been recognized and supported by the prior Ministry and current Cabinet; and
- prompted the interest of First Nations, as they offered a 'fast-track' process to trees and funding.

Information was provided regarding tree farm licenses and forest licenses, noting that each of the tenures required a different commitment from the MoF to its clients. The meeting was informed regarding funding that Cabinet had committed to First Nations. The meeting was informed that MoF land covered a significant percentage of the province's land base, and that the Ministry had established relationships with many First Nations.

The meeting was further informed that the Huu-ay-aht First Nation received a decision in May 2005 from the BC Supreme Court, indicating that the Forest and Range Agreement (FRA) program failed to meet the province's constitutional duty to First Nations. It was further noted that the court found its population based formula to be inflexible and unfair, and requested the Province consider the individual interests of the affected First Nations. Ms. Balcaen acknowledged that the MoF was appealing this decision. Comments were also offered relative to the 2004 Haida and Taku Supreme Court Decisions which defined the responsibilities of line agencies.

It was noted that the "Consultation and Accommodation Policy" was more in-depth than the FRA policy, as it guided all line agencies and was triggered the moment a decision was considered. Ms. Balcaen added that consultation and accommodation always occurred, and was the baseline for the Ministry's business.

Ms. Balcaen acknowledged the pending vision document titled "The New Relationship", prepared through the First Nations Summit and Premiers office over the past year; which was intended as an attempt to lay out the goals of the province and First Nations moving forward. It was noted that the management structure of "The New Relationship" would include a management committee, technical committee and four working groups (which could provide recommendations to Cabinet).

It was noted that in May 2005, Haida First Nation reached a Letter of Understanding with the Government of BC, which addressed issues including revenue sharing, information sharing, and consultation protocol. Ms. Balcaen added that First Nations across the province had seen Haida's Letter of Understanding, "The New Relationship" document, and the Huu-ay-aht decision, and saw this as a good time to assert their interests and views. She added that she understood after meeting with the Haida First Nation, that they wanted to be able to assert themselves and continued to have high expectations while they proceeded within the mandate, policy and framework. Ms. Balcaen noted that the province was seeing signals of growing expectations from First Nations for accommodation measures.

A member referenced the Forestry Revitalization Plan and the impacts of its allocation, noting that in her community, the MoF's reallocation to First Nations equated to 50% of the area's tree farm license, and 150 lost jobs. It was further noted that the First Nation would be receiving fee simple

land that produced trees, in addition to their revenue sharing proceeds . Members further noted that many First Nations were doing better negotiating outside the treaty process than within, and were reaching higher rewards with minimal effort. It was noted that the FRA removed incentives for First Nations to participate in the treaty process, but was not intended as an 'extra credit' to the treaty process. A lack of consultation outside the treaty process was also acknowledged.

First Nations' perceptions of the new Ministry's name (particularly the reference to "Reconciliation") were discussed. It was noted that land transfers, including acreage for the Sea-to-Sky and Legacy Agreement, had been negotiated without the involvement of local governments. It was suggested that plans for the 2010 Olympics may have encouraged negotiations with First Nations in the area.

Members acknowledged a general lack of consultation, and noted that as a matter of principle the MoF and all government operations, needed to consult with local government. Members noted that regardless of the program, First Nations should not be consulted to the exclusion of the balance of the community. It was further noted that First Nations citizens comprised 3% of the population, and that the remaining 97% required equal consideration.

In response to concerns raised, Ms. Balcaen recognized difficulties and practical realities resulting from decisions; and acknowledged conflicts created when First Nations pursued a volume of a community's forest. It was further noted that the FRA was only one tool being used, and that the MoF was working closely with the new MARR to ensure that MoF activities did not hamper treaty processes. She added that treaties were designed to address longer term issues.

Ms. Balcaen referenced broad public processes relative to the Forest Practices Code and forest management issues, noting that she was uncertain of the details pertaining to the issues identified by committee members. She added that within the MoF mandate, anticipated impacts and appropriate accommodations were considered. It was further noted that the process was not looked at as being "non-inclusive". Difficulties and a consultation issues during the takeback process were referenced, noting that government had a broad view, that volume was needed for timber sales, and that benchmarking was needed relative to the softwood lumber appeal.

Prior exclusions were referenced, and impacts of a lack of perceptive decision-making were recognized, noting that the provincial government was typically not in the business of engaging in hastiness. It was further noted that the Ministry of Aboriginal Relations and Reconciliation continues to recognize the treaty process as a viable target.

In response to members' suggestions that each Ministry's attempts with First Nations to address a specific problem had resulted in a lack of tie-in to the treaty process, Ms. Balcaen noted that a consultation protocol was being developed, whereby government agencies would list all decisions made on the ground. She added that the protocol would be designed to ensure a catch-point for issues within traditional territories, and to avoid 'one-offs'.

A member acknowledged that applications for the use of Crown Lands did not require consultation with local governments, although local governments had been charged with land use management.

Ms. Balcaen noted that line agencies were guided by the Deputy Minister's Committee on Natural Resource and Environment (DMCNRE), which was in the process of identifying representatives for a Secretariat, intended to consider a number of cross-government issues (such as consultation and compensation issues).

A member recognized that a lack of communications as the basis for many difficulties, noting that a better understanding of issues was essential, as misinformation led to speculation. He added that local government had been left with an understanding that "The New Relationship" was the new treaty process, and a new way of reaching reconciliation and agreements. A lack of informal communications between local government and First Nations was also acknowledged.

Ms. Balcaen acknowledged that speculation could be harmful, and that First Nations were expressing their view of what they expect from the New Relationship. Cabinet's need to have their views and express the interests of citizens, was discussed.

The committee requested that Ms. Balcaen convey to MoF leadership, that while the province required certainty, LMTAC demanded equity.

In response to a request for clarification, Ms. Harden confirmed that the "Strategic Policy" document labeled "Final Draft" located within the agenda package was the final version of the document and was the current policy. Members questioned if the document's reference to a "demonstrable economic benefit to British Columbia" referred to the public or government of BC. It was further noted that the agreement with Squamish did not acknowledge the Regional Growth Strategy or local community; and that the map included in the "Strategic Policy" of the Squamish Nation Traditional Territory excluded West and North Vancouver, Gibsons and other regional district members.

The committee further requested that Ms. Balcaen report back to the committee regarding the public accessibility of the "audit by the provincial government" referenced in the fourth paragraph of the "Revenue Sharing" portion of the "Strategic Policy" document.

Ms. Harden provided clarification relative to the one year revenue sharing funding agreement for the Squamish First Nation, as indicated in the "Strategy Policy" document. She further responded that the agreements referenced in the document were publicly accessible in their entirety, via the Aboriginal Affairs Branch website.

The meeting discussed the need to convey the importance of equity to leadership at the Cabinet level, and recognized the meeting scheduled with the new Minister as an opportunity to do so.

In response to comments presented, Ms. Balcaen recognized that every citizen should have the same right to speak, and acknowledged land use planning tables, treaty tables, and referral processes within the MoF.

Committee members referenced local government's prior and regular attendance at Regional Advisory Committee meetings with line agency and Crown representatives; and requested their attendance be re-instituted with the DMCNRE's Secretariat.

Regarding a request for clarification regarding the MoF's role in allocating parcels of fee simple forest land to First Nations, Ms. Balcaen informed the meeting that the MoF did not have jurisdiction over Crown Lands; and noted that the Ministry responsible would be determined by the end of the week.

1. AGENDA FOR ADOPTION

1.1 July 13, 2005

It was MOVED and SECONDED

THAT the Agenda for the Regular Meeting of the LMTAC Executive Committee scheduled July 13, 2005, be adopted with the inclusion of the on-table correspondence Items 4.3 and 4.4.

CARRIED UNANIMOUSLY

2. MINUTES FOR ADOPTION

2.2 June 22, 2005 Executive Committee

It was MOVED and SECONDED

THAT the Minutes of the Regular Meetings of the LMTAC Executive Committee held June 22, 2005 be adopted as circulated.

CARRIED UNANIMOUSLY

4. REPORTS

4.1 Lower Mainland Round Table on First Nation – Local Government Relations

Report from the Technical and Strategic Working Group regarding the “Lower Mainland Round Table on First Nation-Local Government Relations”, dated July 5, 2005 and attached “Draft Terms of Reference”, dated July 2005.

Regan Schlecker, Aboriginal Affairs Analyst, noted that suggestions provided by members during the June 22, 2005 review of the draft Terms of Reference, had been incorporated into the revised draft.

It was MOVED and SECONDED

That the LMTAC Executive Committee:

- a) receive for information the July 5, 2005 report titled “Lower Mainland Round Table on First Nation-Local Government Relations” and the attached draft revised Terms of Reference;
- b) recommend the Board endorse the draft revised Terms of Reference; and
- c) recommend the Board send correspondence, including the draft revised Terms of Reference, to the B.C. Treaty Commission with a request that it consider facilitating the establishment of a Lower Mainland Round Table on First Nation-Local Government Relations, under the auspices of the BCTC.

CARRIED UNANIMOUSLY

4.2 Correspondence – City of Port Coquitlam: Kwikwetlem First Nation

City of Port Coquitlam correspondence addressed to the LMTAC Chair, regarding “Kwikwetlem First Nation” dated June 24, 2005.

Chair Drew referenced the correspondence from Port Coquitlam relative to on-reserve soil deposits without regard to existing regulations.

It was MOVED and SECONDED

That the LMTAC Executive Committee inform the Provincial Ministry of Aboriginal Relations and Reconciliation regarding the June 24, 2005 correspondence from the City of Port Coquitlam, acknowledging the issue as a matter of concern; and that a copy of the letter be sent to Director Ted Armstrong, UBCM First Nations Relations Chair.

CARRIED UNANIMOUSLY

Members suggested that Port Coquitlam keep UBCM informed regarding the situation. It was further noted that the issue presented had relevance to regional policies, and that similar issues existed with demolition materials. It was suggested that the provision of further information regarding this issue, would be helpful prior to the July 27, 2005 LMTAC Meeting.

4.3 Correspondence – Draft Letter to Deputy Minister Lorne Brownsey

On-table draft LMTAC correspondence addressed to the Deputy Minister of Ministry of Aboriginal Relations Reconciliation, dated July 14, 2005.

Chair Drew acknowledged that the meeting scheduled with the new Minister would be limited; and suggested omitting the section titled “Transition Funding” and including a section titled “Treaties and Non-Treaty Agreements” with information that reflected the Executive Committee’s discussion with Trish Balcaen, MoF. The meeting further agreed to reorganize the letter to indicate the topic sections in the following order:

1. Treaties and Non-Treaty Agreements
2. Regional Governance and Services
3. Land Use Harmonization
4. LMTAC Funding

It was noted that the revised draft letter would be re-circulated to members prior to its finalization.

Request for Action

Staff was requested to develop a discussion paper, prior to September 2005, identifying LMTAC's concerns regarding issues related to consultation and accommodation outside of the treaty negotiations process, for distribution to the Minister and his staff.

4:05 p.m.

Mayor Barrett departed the meeting.

It was noted that "The New Relationship" document would be helpful to compare with the treaty process, as it appeared to be a guiding document for processes outside of treaty negotiations. It was further noted that UBCM First Nations Relations Committee would be receiving a briefing regarding the document. The meeting acknowledged the importance of the opportunity to convey a specific message and make a request of the Minister.

It was MOVED and SECONDED

That the LMTAC Executive Committee approve the revised draft correspondence to the Deputy Minister, Ministry of Aboriginal Relations and Reconciliation, dated July 14, 2005.

CARRIED UNANIMOUSLY

(Mayor Barrett absent for the vote)

4:12 p.m.

Mayor Barrett rejoined the meeting.

4.4 Correspondence - Draft Letter to Minister Christensen

Draft LMTAC correspondence addressed to the Minister of Aboriginal Relations and Reconciliation, dated July 2005.

It was MOVED and SECONDED

That the LMTAC Executive Committee approve the draft July 2005 correspondence addressed to the Minister of Aboriginal Relations and Reconciliation, as presented.

CARRIED UNANIMOUSLY

5. STANDING REPORTS

5.1 Negotiation Table Reports

5.1a) Katzie

Vice Chair Gordon, LMTAC Representative to the Katzie Treaty Table, noted that Katzie recently acknowledged the openness of their sessions, and invited LMTAC Executive Committee members to attend their meetings.

Request for Action

Vice Chair Gordon was requested to convey to Katzie the Executive Committee's appreciation for the invitation to attend their meetings.

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**
No items were presented.

6. **SUB-COMMITTEE REPORTS**
6.1 **Finance and Administration Sub-Committee (FASC)**
No items were presented.

7. **CHAIR AND STAFF REPORTS**
7.1 **Chair's Report**
No items were presented.

7.2 **Staff's Report**
No items were presented.

8. **MISCELLANEOUS REPORTS**

8.1 **UBCM**
a) *UBCM Agenda for the June 29, 2005 "Regional District and First Nation Governments: Building Effective Relations" Convention; and*
b) *On-table UBCM Agenda for the UBCM September 26-30, 2005 Convention.*

Chair Drew acknowledged the June 28, 2005 meeting of TAC Chairs and Administrators, which was followed by the June 29, 2005 "Workshop on Regional Districts and First Nations".

Regan Schlecker, Aboriginal Affairs Analyst, added that UBCM staff noted they would try to compile Regional District specific general principles for treaty negotiations, based on comments provided at the workshop.

8.2 **FCM**
No items were presented.

8.3 **LMMA**
No items were presented.

9. **OTHER BUSINESS**
No items were presented.

10. **INFORMATION**
It was MOVED and SECONDED
That the LMTAC Executive Committee receive for information the following items:
10.1 Correspondence; and
10.2 MOU and Protocol Agreement Between FVRD and In-SHUCK Nation.

CARRIED UNANIMOUSLY

Request for Action

Staff was requested to invite representatives from the Fraser Valley TAC and In-SHUCK Nation to a future LMTAC meeting, to provide information regarding how they were proceeding.

11. **NEXT MEETING**
It was noted that the next meeting of the LMTAC Executive Committee was scheduled July 27, 2005.

12. **CONCLUSION**
It was MOVED and SECONDED
THAT the Regular Meeting of the LMTAC Executive Committee held July 13, 2005 be concluded.

CARRIED UNANIMOUSLY
(Time: 4:20 p.m.)