



Yukon AFN Conference  
September 14-16, 2010  
Whitehorse, YT

# TSAWWASSEN FIRST NATION

September 15, 2010



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## Topics

- Building Effective and Accountable Institutions
  - ▣ What are they?
  - ▣ What should they look like?
  - ▣ How should they be built?
- Our process to build our institutions was ‘bottom-up’ – relying heavily on the input of our Members





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## Institutions and Governance

- Importance of having clear definitions of “institution” and “governance”
  - ▣ Institutions are an establishment or a significant practice, relationship or organization in society or culture – “Government” is an institution
  - ▣ Governance is best thought as a set of processes which set out how an institution works
- Institutions and Governance must be reflective of a community’s values and culture
- If a framework is not a good cultural fit, it is unlikely that the government will be legitimate in the eyes of the people it is supposed to represent



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## Constitutional Development

- TFN decided to express Government framework and incorporate both TFN culture and principles of good governance in a Constitution
- Process to develop the Constitution was important to ensure legitimacy
  - ▣ We reached out to our community to get guidance on what our institutions and processes should look like
  - ▣ We reached out to our biggest critics and invited them to work to make a better system for our people





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## Cont.

- We took direction from our community by establishing a Constitution Committee comprised of Members that met every two weeks for two years to discuss institutional and governance options
- None of these discussions were easy, but were crucial to ensuring legitimacy
- There is also a by-product of community capacity building and community aligning
- Used creative ways to ensure the approach was consistent with the broader community view
  - ▣ Member wide sessions; various options presented to Members and they would indicate their preference by placing stars beside preferred option
  - ▣ Constitution was ratified by community vote – intent to ensure legitimacy



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## Cont.

- To help guide our development of our Constitutions we asked our self the question: What in Constitution makes for a good governance system?
  1. It has to be a good cultural fit – reflective of societal norms and values, and in our case, expressive of Tsawwassen’s identity. It also sets out the rights of our Members and who were beneficiaries under Treaty;
  2. It has to have an elected body charged with law-making and one responsible for implementing those laws – a legislature and an executive, that must be democratic and directly accountable to the public it serves;
  3. There must be independent oversight of the elected bodies and the public service – this can help ensure that the rule of law is adhered to. This includes having a clear process for addressing appeals of decisions made by the Government and an independent body to decide on those appeals. ;
  4. You must have a professional public service to facilitate the efficient implementation of new institutions and deliver on your strategic vision – this means that employment decisions must be based both on merit principles and ones ability to work in a First Nation setting, with respect of our values and culture;
  5. It must set out sound principles for the management of assets (both financial and land) that is in line with best practices and is both transparent and accountable; and
- Consideration of these elements shaped our Constitution and in fact, our Constitution is broken out into several ‘Chapters’ which add further detail.



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## TFN Constitutional Framework

- Community decided to have the following in our Constitution
  1. Legislature big enough to represent all family groups
  2. Executive Council comprised of the highest vote getters and Chief
  3. Advisory Council with a mandate to provide advice on laws and the budget
  4. Judicial Council to provide an independent oversight and appeals function
  5. Ensure that the land tenure system prohibited alienation of TFN lands – recognizing the cultural significance



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## Laws framework

- Constitution was a starting point – still need to add detail to further define governance processes
- TFN developed 23 laws for effective date, through similar bottom-up, community led process that was used when developing the Constitution
- Laws added detail and defined governance and institutional processes
- Looked to best practices as well as community to ensure legitimacy, cultural fit and accountability



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## Evolution of Framework

- We've only been self-governing for a short-while, but there are signs of success
- Some laws have changed already – evolution in response to local issues is a step forward
- Evolution as it occurs, signifies effective institutions

