

LOWER NICOLA INDIAN BAND

Lands Management Advisory Committee

LMAC Virtual Meeting Monday, June 29, 2020

Details to Join Skype Meeting by Phone:

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Dial-in toll number: 1 (647) 260-0507

Conference ID: 645600533#

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If you would like to join by Skype to see meeting materials as we discuss them, find details on the LNIB website or email Jerrica.Joe@lnib.net for more information.

Note: *In order to maintain audio quality and meeting flow, non-LMAC attendees may be muted during the meeting.*

Note: *Attendees may enter a “waiting room” as LMAC members get set up; everyone is let in as soon as we are ready to start (typically 5-10 minutes after 4:00pm)*

Note: *Questions and comments can be submitted to Jerrica.Joe@lnib.net prior to the meeting to be addressed during or after the meeting.*

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Agenda**

June 29, 2020, 4:00pm
Virtual Skype Meeting

TIME	ITEM	PRESENTER
4:00	1. MEETING OPENING 1.1. Opening Prayer	
4:15	2. ADMINISTRATION 2.1. Adoption of Agenda 2.2. Adoption of Minutes <i>Reference Materials: 2020-06-01 LMAC Meeting Minutes draft</i>	
4:25	3. TRAINING AND OPPORTUNITIES 3.1. Conflict of Interest Training Presentation <i>Reference Materials: FMB Managing Conflicts of Interest Presentation Slides</i>	Laura Bouchard, <i>First Nations Financial Management Board</i>
6:15	3.2. Webinars Follow-Up	Stephen Jimmie
6:25	4. FOR INFORMATION AND DISCUSSION 4.1. Lands Sector Quarterly Report <i>Reference Materials: 2019-2020 Lands Quarterly Report for Q4</i> 4.2. Enforcement Law Review: Community Justice Process	Brandi O'Flynn Stephen Jimmie
	5. NEW BUSINESS 5.1. Lot 11 Dispute Resolution Process <i>Reference Materials: Lot 11 Draft Dispute Resolution Process; Draft LMAC Resolution 2020-05</i>	Brandi O'Flynn & Stephen Jimmie
6:55	6. MEETING CONCLUSION 6.1. Summer Meetings Schedule 6.2. Next LMAC Meeting	

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Minutes**

**June 01, 2020, 4:00 pm
Virtual Skype Meeting**

Present:	Bill Bose (Chair)	Gene Moses	Louise Moses	Madeline Lanaro
	Hrolfe Joe (Co-Chair)	Robert Sterling	Sondra Tom	
Council:	Robin Humphrey			
Guests:	Shawn Speirs, Lands Advisory Board Resource Centre (LABRC)			
	Rae-Lynne Mills, Trans Mountain Corporation (TMC)			
Staff:	Stephen Jimmie	Brandi O’Flynn	Jerrica Joe	

1. MEETING OPENING

The meeting was called to order at 4:09 pm. All attendees participated via phone or computer.

1.1. OPENING PRAYER

An opening prayer was offered by Bill Bose.

2. ADMINISTRATION

2.1. ADOPTION OF AGENDA

Motion (01): That the LMAC Meeting Agenda dated June 01, 2020 be adopted with the following amendment:

- Add Lot Allotments as item 3.2

Moved: Sondra Tom

Seconded: Louise Moses

Motion Carried

2.2. ADOPTION OF MINUTES

Reference Materials: 2020-05-11 LMAC Meeting Minutes draft

Motion (02): That the LMAC Meeting Minutes dated May 11, 2020 be adopted as circulated.

- 4.2 Remove “Discussion ensued on” and “Questions arose regarding”

Moved: Sondra Tom

Seconded: Gene Moses

Motion Carried

It was mentioned that LMAC would still like the topic of fencing along Highway 97C to be added as an agenda item for discussion at a future meeting. Staff – Brandi O’Flynn from the Lands Department and Suzette O’Flynn from the Infrastructure Department – are looking into files at LNIB regarding any agreement with the Cattle Association about this fencing and its maintenance. Discussion ensued on the specific fencing in question.

3. NEW BUSINESS

3.1. TRANS MOUNTAIN 2020 SURVEY REQUEST

Reference Materials: TM LNIB Survey Request Presentation; Ownership Sketch; Proposed Resolution 2020-04 – two options

Rae-Lynne Mills introduced herself and provided a presentation outlining the survey work planned and anticipated for the year, as well as Trans Mountain Corporation's (TMC) request for survey permission on Zoht IR No. 5 for 2020. It was noted by Rae-Lynn that this area was missed during previous preparation stages during which permission would typically have been sought.

Rae-Lynne briefly overviewed the surveys listed in the presentation and the usual process taken for receiving permission for surveys and next steps once work progresses. It was discussed that to date there has been an ownership sketch completed, and next would be the sweeps and staking for existing utilities in the right of way and a legal survey in the area.

Discussion ensued the areas for which permission is being sought, land ownership and title, and other areas which may be involved with TMC requests. Rae-Lynne overviewed the process of the sweep and survey activities for which they are seeking permission, which are expected to span one day on reserve, and that TMC would be willing to compensate for a cultural monitor to attend. It was additionally mentioned that TMC could be flexible in working around when LNIB is open to having these activities carried out.

Discussion ensued on the need for TMC to seek permission from the Certificate of Possession (CP) holder(s) for a parcel of private member-owned land which their planned activities cross (Zoht IR No.5 Lot 3). Disconnect between various systems may have caused a gap in knowledge regarding land ownership on reserve, resulting in TMC not having contacted the CP holder(s) for permission at this time.

Rae-Lynne left the meeting at 4:39 pm.

Questions arose regarding TMC's timeline for proceeding with work on the Trans Mountain Expansion Pipeline (TMEP); it was discussed that the timeline is unknown to Lands staff due to many variables and discussions between TMC and landowners, though it is likely quite some time away – public media comments may have suggested around a 2 year timeline. Comments were made regarding the desire for clearer lines of communication regarding projects such as the TMEP.

Discussion ensued on the reference material proposed resolution options, and land title for the area which TMC is requesting access. It was mentioned that LMAC members would prefer to revisit this topic after staff follow up regarding land ownership in the area.

DECISION (01): LMAC members requested that this item be tabled until staff can confirm that affected CP holder(s) are contacted for permission, and would only like to see a proposed motion permitting the legal survey, sweeps and staking (*Proposed Resolution Option B in the 2020-06-01 LMAC Meeting Package*).

ACTION (01): Lands staff will follow up regarding CP holders being contacted by TMC for permission for surveys and sweeps for 2020.

3.2. LOT ALLOTMENTS

Madeline brought up that she is seeking a home lot on LNIB reserve near Shulus, given the recent sale of her home off-reserve. She mentioned a willingness to pay for a home lot, and that she is under the impression that there are some lots which may be available near the Band School.

Discussion ensued on the availability of home lots for members, including the necessity for the enactment of an Allotment Law and the resolution of traditional land holdings prior to home lots being made available for allotment to members. At this time, the only option for purchasing lots on LNIB reserve is to purchase from a member who possesses a CP for their lot. Discussion ensued on the timeline for progression on this issue, and the Traditional Holdings Projects Phase 2 commencing this year, which includes the drafting of a process to resolve traditional land holdings.

ACTION (02): Bill would like to see a map of ownership and availability of lots in the Shulus area – CP'd, etc.

Discussion ensued on the re-survey of the Shulus Village area on Nicola Mameet IR No.1, which is planned for summer 2020. LMAC members expressed a desire for lots to be made available for members to build homes in the next few years. Discussion ensued on CMHC home lots, equitable process for home lot allotments, and an Allotment Law. It was noted that Madeline will have a conflict of interest regarding discussion and decision making related to LNIB home lot allotments.

4. FOR INFORMATION AND DISCUSSION

4.1. ENFORCEMENT LAW REVIEW (continued)

Reference Materials: LNIB Enforcement Law Draft 02 with tracked changes

Stephen provided a high-level summary of the changes made since the previous draft of the Enforcement Law, considering feedback received throughout the review process at LMAC meetings to date. Stephen then reviewed the document in detail, discussing each revision from past discussions.

Discussion ensued on community justice process considerations, and the need for ticketing to be carried out in an unbiased manner. The group discussed decision making, LNIB values, inter-nation decision making possibilities, and ensuring that activities are in line with what the LNIB community wants. Stephen mentioned that if a community justice process were added to this law, as a schedule, it would need to go through community engagement, which would ensure that it is community minded. Stephen asked that LMAC members start thinking further about what a community justice process could look like for planning and discussion at a later date.

Discussion ensued on examples of past enforcement carried out by LNIB staff. Concerns were raised with the amount of responsibilities within the Enforcement Law which all seem to fall onto the Lands Manager, the capacity of one person to handle all of these responsibilities and duties, and the future need for increased staff.

Comments mentioned during the discussion of the LNIB Enforcement Law included:

- Favourable thoughts about the community involvement included in the law development;
- It was mentioned that Darwin Hanna, a former indigenous lawyer, may have good insights into the inclusion of Indigenous law or xitlix (pronounced "hee-t-lee"), and it may be a good idea to invite him to a meeting or to review this draft law;
- Discussion ensued on the benefit of inviting members and families directly to join into the review and the importance of asking individual members in community meetings for their input on topics or questions, as some will only share comments if asked individually.

ACTION (03): Stephen requests that the LMAC review Section 13 (*Community Justice Process*) for consideration and discussion at a later date regarding composition, eligibility, etc.; and proposed discussing this section with members' families for additional ideas and feedback.

Stephen mentioned that section 13 (*Community Justice Process*) will continue to be reviewed at future meetings, and that the LMAC will continue to look at the next draft LNIB law while considering options and ideas for the Community Justice Process.

5. MEETING CONCLUSION

5.1. NEXT LMAC MEETING

Discussion ensued on when to hold the next LMAC meeting, June 08 or June 15, 2020.

Decision (02): Next Meeting: Monday, June 15, 2020 at 4:00pm

Motion (03): That the Lands Management Advisory Committee meeting be concluded at 6:47 pm.

Moved: Sondra Tom

Seconded: Gene Moses

Motion Carried

SUMMARY OF ACTION ITEMS:

01. Lands staff will follow up regarding CP holders being contacted by TMC for permission for surveys and sweeps for 2020.
02. Bill would like to see a map of ownership and availability of lots in the Shulus area – CP'd, etc.
03. Stephen requests that the LMAC review Section 13 (*Community Justice Process*) for consideration and discussion at a later date regarding composition, eligibility, etc.; and proposed discussing this section with members' families for additional ideas and feedback.



Managing Conflicts of Interest



First Nations
FINANCIAL
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BOARD

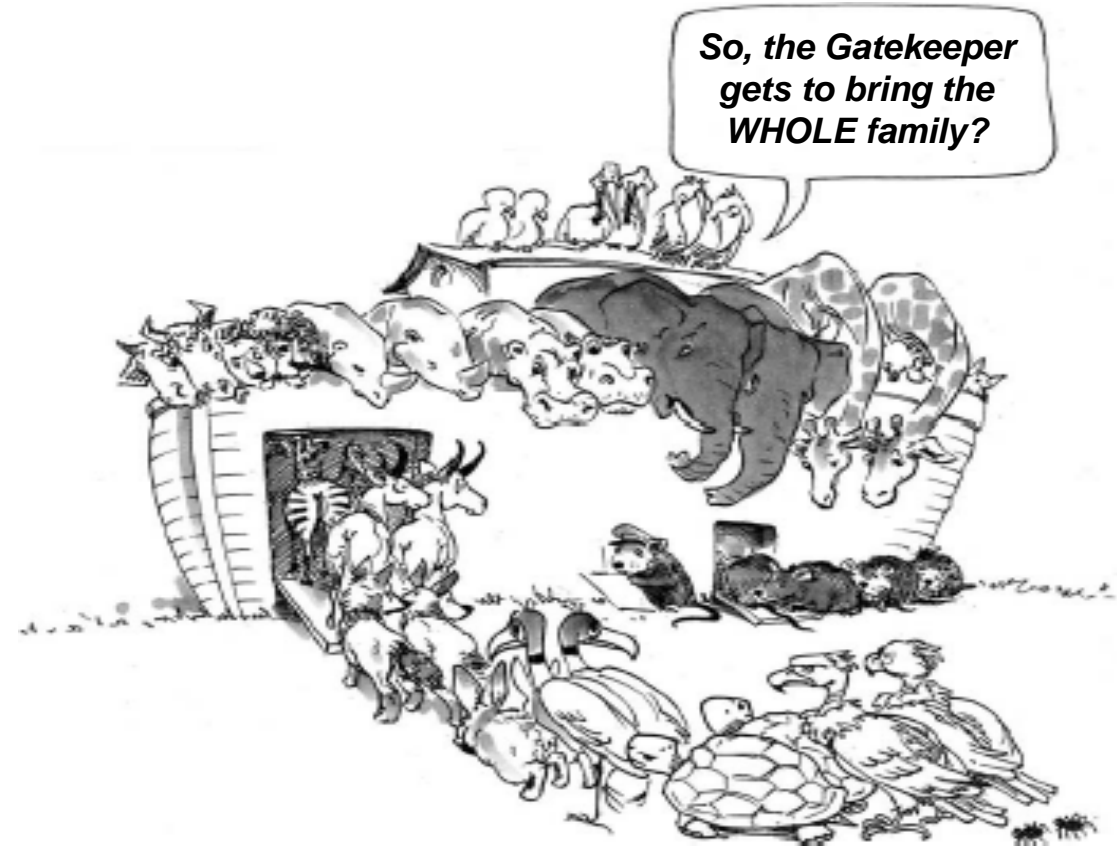
LE CONSEIL
DE GESTION
FINANCIÈRE des
Premières Nations

Learning Objectives

- What IS a conflict of interest?
- Who cares? Why do I and my Nation need to know?
- How can we manage conflicts of interest?

What IS a Conflict of Interest?

Personal gain at the expense of others



Why Do I and my Nation Need to Know About and Manage Conflicts of Interest?

- ✓ Ensures Nation's best interests are behind every decision
- ✓ Minimizes criticism of the Nation's Councillors, staff, contractors
- ✓ Promotes transparency and accountability
- ✓ Builds community trust and support
- ✓ Meets FMS Certification requirements



How Can I and my Nation Manage Conflicts of Interest?

Who decides on whether a conflict of interest exists?

When and how should it be disclosed?

When and how should it be managed?

Consequences?

Conflict of interest policy

Code of conduct

Transparency & accountability mechanisms



What IS a Conflict of Interest?

Defining Conflicts of Interest

- Defining what is a conflict of interest means defining what are 'private interests' i.e. '**conflicting motives**'. This is what creates the 'personal gain' at the expense of others i.e. the Nation.
- 'Personal' can mean immediate family, close friends, other relatives, business interests, other employment. This definition is unique to each Nation and can be specified in a policy or in the Financial Administration Law
- How broad should the definition of 'conflicting motives' (private interests) be?



Real vs. Perceived vs. Potential – Defining ‘Private Interests’



Real vs. Perceived vs. Potential

Perceived conflict of interest

- Situation where there appears to be a conflict of interest, but this is not in fact the case, or may not be the case.
- Can be as serious as an actual conflict, because of the potential for doubt to arise about a person's integrity, and the integrity of the Nation.

Potential conflict of interest

- Situation where a conflict of interest may exist where a person has private interests which could cause a conflict of interest to arise at some time in the future.

Real vs. Perceived vs. Potential – Testing for ‘Conflicts of Interest’

?

What duties or functions is the person responsible for?

?

Does this person or their relatives/close friends have conflicting motives?

Example # 1 – Real, Perceived, Potential or None?

A Nation's Housing Manager is a 50/50 partner in a project management business and sits on the Board of Directors. This business is bidding for work to assist the Nation manage its housing new builds.

Question 1: What are the Housing Manager's duties and responsibilities?

– the effective administration of the Nation's Housing Policy and resources.

Question 2: Does the Housing Manager have conflicting motives?

– to make money from the project management business. As Housing Manager, would have confidential knowledge of contract requirements that other bidders would not have.

Question 3: Does a real, perceived or potential conflict of interest exist, or none at all?

Example # 2 – Real, Perceived, Potential or None?

The Nation is considering investing in a for-profit mining camp business and one of the Nation's councillors sits on the Board of Directors of this business as an independent Director (not in their capacity as councillor).

Question 1: What are the councillor's duties and responsibilities?

– Responsible for acting in the Nation's best interests and leading the Nation to achieving its strategic goals.

Question 2: Does the councillor have conflicting motives?

– As Director of the mining camp business, must represent the best interests of the business' shareholders.

Question 3: Does a real, perceived or potential conflict of interest exist, or none at all?

Example # 3 – Real, Perceived, Potential or None?

The band manager, completely separate from his duties and responsibilities for the Nation, owns a snow removal business. The Nation currently has an agreement with the neighboring municipality for snow removal but is not happy with the quality of service. The Nation is thinking of going to tender for a new snow removal service.

Question 1: What are the band manager's duties and responsibilities?

- Responsible for managing the day-to-day operations of the Nation's administration.

Question 2: Does the band manager have conflicting motives?

- Not right now, but could if the Nation goes to tender for a new snow removal supplier.

Question 3: Does a real, perceived or potential conflict of interest exist?

Case Study # 1 – Real, Perceived, Potential or None?

The Capital Works department has presented to Council its recommendation for procuring a supplier for renovating 25 of its houses.

- A competitive process was followed and 3 bids were submitted. The Director of Capital Works was on the Selection Committee which has recommended awarding the contract to supplier # 2. The evaluation was based on cost, qualifications of staff, and previous experience.
- The Director of Capital Works' cousin is a 50/50 owner of supplier # 2.
- The Director of Capital Works is not close with this cousin and has lost ties with this family. He did not disclose/declare a conflict of interest.

At your table, discuss if there is a real, perceived, potential or no conflict of interest?

After 5 minutes, name a spokesperson to share your discussion with the group.

Managing Conflicts of Interest



How Can I and my Nation Manage Conflicts of Interest?

Who decides on whether a conflict of interest exists?

When and how should it be disclosed?

When and how should it be managed?

Consequences?

Conflict of interest policy

Code of conduct

Transparency & accountability mechanisms

Conflict of Interest Policy

An effective policy includes:

- a clear definition of 'conflict of interest' that includes the definition of 'conflicting motives' will provide clear direction to Council, staff, contractors and members on what the Nation considers **fair**, **equitable** and **transparent** treatment;
- requirement for Councillors to annually disclose their private interests that could result in a conflict of interest;
- requirement for officers, committee members, employees, contractors and agents to disclose as soon as possible any situations that could result in a conflict of interest;
- restrictions on the acceptance of gifts and benefits that may influence the decision making of a person with regards to their duties and responsibilities for the Nation;
- direction on who ultimately decides if a conflict of interest exists (real, perceived, potential) – Council for councillors, committee members, officers, and major contractors; direct supervisors and department managers for staff and contractors;
- procedures on how to manage and document conflicts of interest will provide clear direction to Council, staff, contractors, agents on how conflicts of interest can be **avoided** or **managed**; and
- consequences for not complying with the conflict of interest policy.

Conflict of Interest Policy

Effective procedures include:

Avoiding a conflict of interest: Example: A person can sell their interest in the entity that is causing the conflict of interest or have the interest be managed by an independent party **at arms length**. Have to assess how *realistic* this is...

A newly elected Chief is made aware that his ownership in a business that the Nation uses as a major supplier creates a conflict of interest. The Chief agrees to 'sell' his ownership in the business and 'sells' it to his 90 year old mother. Does this really remove the conflict? Has the Chief really created a distance between himself and the business?

Conflict of Interest Policy

Effective procedures include:

Managing a conflict of interest: A person with conflict of interest must not be involved or receive any information related to the area that is creating a conflict of interest. In the example of a councillor, the councillor would not receive the meeting material that relates to the conflict of interest area. They would also recuse (remove) themselves physically and practically from any discussions and decisions related to the conflict of interest. This would all be documented in the Council's meeting minutes. The councillor with the conflict of interest would not receive the minutes related to the conflict.

Food for thought – even if the person is out of the room and does not vote, are they still able to influence the decision-makers around the table.

Example – a councillor with significant ties and support (votes) amongst membership may recuse/remove themselves but Council may still want to 'keep the councillor happy' in order to boost and/or maintain membership's support for Council.

Conflict of Interest Policy

So, what can a Nation do about that? Build the trust of members by having integrity in the administrative procedures that conflicts of interest are and will continue to be effectively managed so all members, councillors, officers, staff, committee members, contractors and agents are treated in a **fair, equitable** and **transparent** way and the Nation's best interests are always behind all decisions.

This is the heart of having good governance and finance practices (fair, equitable and transparent policies on housing, procurement, hiring, letting go, etc.)

Conflict of Interest Policy –Gifts and Benefits

G – is this gift GENUINE, meaning that it is related to something I have done as part of my responsibilities for the Nation (and not something I asked for, encouraged, or hinted at);

I – if I accept this gift, can I still think and act INDEPENDENTLY in doing my job/role, without being influenced to do something I would not otherwise do;

F – if I accept this gift, am I still FREE and clear of any obligation of doing something in return for the person/business who gave me the gift;

T – if I accept this gift, am I willing to declare it and be TRANSPARENT to my supervisor, Council, Nation, family and anyone else, about where I got it and why.

Managing Conflicts of Interest – Key Takeaways

Other important mechanisms for managing conflicts of interest:

1. Having a **code of conduct** in place that guides the actions, decisions and behaviour of councillors, officers, committee members, staff, contractors, agents;
2. **Training, training, training**, on a regular basis, on the conflicts of interest policy and the code of conduct for all councillors, officers, committee members, staff, contractors, agents;
3. **Communication, communication, communication** to members on the Nation's conflicts of interest policy and code of conduct;
4. Having and using **good governance and finance policies** around roles, responsibilities, procurement, hiring, letting go, segregation of duties, whistleblower, to name a few, removes confusion and builds process, accountability and transparency.

Managing Conflicts of Interest – In Practice

In *practice*, how will the Conflict of Interest Policy work?

Recurring conflicts
of interest

Council's ability to
have quorum

Annually vs.
ongoing

Case Study # 2 – I Heard It In the Wind...

The Social Assistance Manager's cousin has been receiving social assistance for a number of years. The Social Assistance Manager was walking with the receptionist. They overheard the manager's mother speaking with her aunt that this cousin recently began working as a builder in a neighboring town. The Social Assistance Manager is aware that the cousin has not declared this to the Social Assistance department. The Nation's Social Assistance Policy states that changes to a person's income or employment status must be declared as soon as they arise.

At your table, discuss:

1. Is the Social Assistance Manager under obligation to declare this fact about her cousin's employment to her Director? (Is there a real, perceived, potential or no conflict of interest?) Explain your answer.
2. How do you recommend that this situation be managed, if at all?
3. What if the receptionist had not been there and only the manager heard the discussion? Are there any ethical concerns?

After 5 minutes, name a spokesperson to share your table's discussion.

Case Study # 3 – It's For the Greater Good...

The persons at your table represent members of Council of a First Nation. It has come to your attention that a staff member is saying that the Nation's contracting and procurement processes are corrupt.

The Nation has a contract for building maintenance. The Nation has a Procurement Policy that requires the Nation to go to a competitive process for contracts over \$5,000. Expenses under \$5,000 can be approved by managers without a competitive process.

Upon questioning the staff member, you learn that the manager responsible for contracting building maintenance has an uncle who has just bought a small building maintenance company. Further questioning shows that for the last 4 months, the manager stopped using the Nation's regular supplier and used her uncle's building maintenance company for one-off maintenance requirements. The value of the services was under \$5,000 and the manager explained that the cost of her uncle's company's services are the same as the Nation's regular supplier. She further explains that she feels her uncle's company is more reliable than the other supplier. The manager did not advise anyone of this change in supplier.

Key Points



Managing conflicts of interest is a fluid, **ongoing** process



Clear conflict of interest **policies** and **procedures** are essential



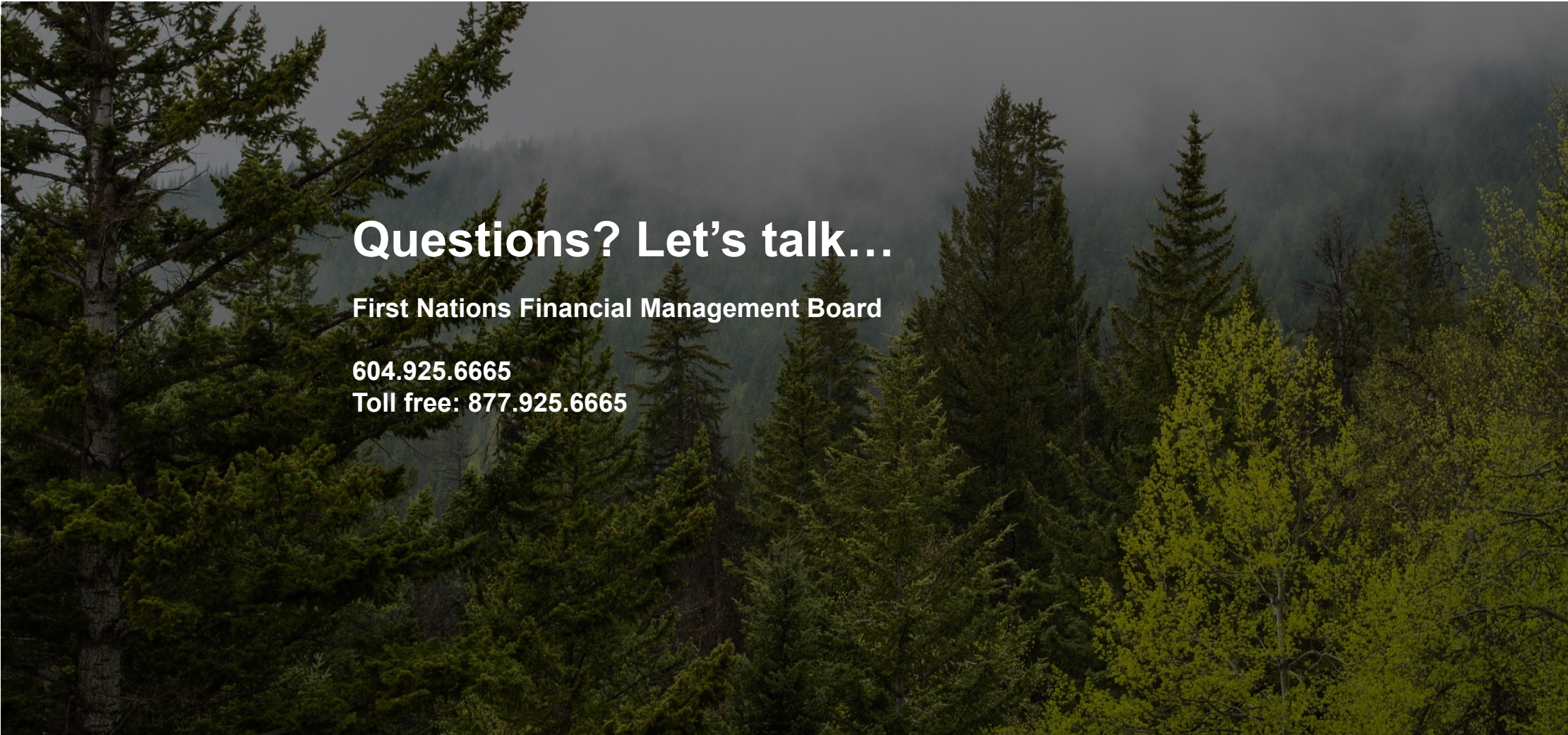
Council ultimately decides if conflict of interest exists and needs to be managed, if there is a 'grey' area



Regular **training** and **communication** for all builds trust and transparency



Treat everyone **equally** regardless of family, age, political ties, business ownership



Questions? Let's talk...

First Nations Financial Management Board

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First Nations
**FINANCIAL
MANAGEMENT
BOARD**

**LE CONSEIL
DE GESTION
FINANCIÈRE** des
Premières Nations

LANDS SECTOR QUARTERLY REPORT

for Quarter Ending March 31, 2020

To

Chief and Council

Prepared by

Stephen Jimmie, Brandi O'Flynn, Geraldine Bangham
Jerrica Joe

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SECTOR SUMMARY

The Lands Sector is responsible for developing and implementing a land and environmental governance structure that will enable the implementation of the *Lower Nicola Indian Band Land Code*. Developing a land and environmental governance structure includes the following activities:

- Establishment, implementation, and maintenance of the legislative, regulatory, and policy structure, including an environmental assessment and protection regime;
- Enforcement which includes enforcing LNIB laws (both environmental laws and other land laws) and the prosecution of those in contravention of LNIB laws; and
- Undertaking of periodic evaluation of LNIB's land governance system.

SECTOR PLAN OVERVIEW

The Lands Sector 5-Year Plan is weighted towards the implementation of the Land Code. The Plan is separated into key focus areas which include land governance, environmental stewardship, natural resource management on reserve, the resolution of *Indian Act* legacy issues, geographical information systems development, land administration, and membership.

Key Focus Areas	Key Focus Area Goals
Land Governance	<ol style="list-style-type: none"> 1. Improved transparency of the Lands Department. 2. Improved accountability of the Lands Department. 3. Improved efficiency through capacity development and short-term land governance guidelines. 4. Establish long-term land governance guidelines through laws.
Environmental Management	<ol style="list-style-type: none"> 1. Improved efficiency by outsourcing for environmental management and environmental assessment services. 2. Improve capacity of staff by allowing them to self-studying by reviewing courselets available on First Nation Land Management Resource Centre website. 3. Improved efficiency through capacity development and short-term environmental management guidelines.
Natural Resource Management on Reserve	<ol style="list-style-type: none"> 1. Improved efficiency through capacity development and short-term natural resource management guidelines.
Resolution of <i>Indian Act</i> Legacy Issues	<ol style="list-style-type: none"> 1. Reduce the number of membership land title issues. 2. Eliminate all buckshee leases.
Graphical Information Systems Development	<ol style="list-style-type: none"> 1. Improved efficiency and utilization of GIS tools.

Land Administration	<ol style="list-style-type: none"> 1. Improved efficiency in processing land instrument applications, registrations, rent/royalty collection and compliance monitoring. 2. Support the implementation of the Infrastructure Sector projects. 3. Support the implementation of Administration projects. 4. Improved efficiency regarding responses to IR access requests. 5. Improved efficiency regarding the coordination and completion of surveys. 6. Improved efficiency regarding responses to land inquiries and requests from the membership. 7. Ensure all rental buildings are maintained to commercial standards.
Membership	<ol style="list-style-type: none"> 1. Timely administration of status card applications and renewals regarding Indian Registry. 2. Amend the Membership Transfer Policy to improve efficiency of the transfer process.

MAJOR ACHIEVEMENTS

LAND GOVERNANCE

Lands Sector Plans (towards Efficiency, Transparency, and Accountability)

- Lands Researcher position posted November 2019, scheduled interviews in April 2020
- Lands Agent position posted in November 2019 and still vacant
- 2020-2021 Annual Work Plan developed and delivered to Executive Director in February 2020
- Lands Sector 5-Year Plan will be revised to reflect the 2020-2021 Work Plan in June 2020

Lands Management Advisory Committee

- Quarterly Reports up to Q4 completed and delivered to ED

Funding Received for Land Use Planning Initiative, Indigenous Services Canada, Budget \$168,000

- Funding contributed to the Land Use Planning, Traditional Holdings Project, Subdivision, Development and Servicing Law, Land Use and Zoning Law, and Environmental Management Plan
- LNIB Land Use Plan and Community Economic Development Plan
 - Additional \$57,000 received from Rural Dividend Fund for Community Economic Development Planning (Budget of \$64,250)
 - Urban Systems engaged and projects combined into one scope of work to increase efficiency
 - Community engagement session delayed due to COVID-19 Restrictions
 - Second draft of the Land Use Plan anticipated April 2020
 - Final Land Use Plan and reporting to ISC delayed due to COVID-19 Restrictions that impact community meetings
 - Project completion pending future community engagement
 - Community Economic Development Plan due date is March 22, 2021
- Traditional Holdings Project

- Angie Bain and Gretchen Fox engaged for project
- Final report delivered in March 2020, presentation to LMAC and Council anticipated for April 2020
- Phase 2 of the project anticipated to start in May 2020
- Subdivision, Development and Servicing Law
 - Land Forest People Consulting engaged to support law development
 - Final Subdivision, Development and Servicing Law delayed due to COVID-19 Restrictions that impact community meetings
 - Project completion pending future community engagement
- Land Use and Zoning Law Development
 - Land Forest People Consulting engaged to support law development
 - Final Land Use and Zoning Law delayed due to COVID-19 Restrictions that impact community meetings
 - Project completion pending future community engagement
- Environmental Management Plan
 - Land Forest People Consulting engaged to support plan development
 - Funding received for Land Use Planning was utilized to advance the draft already received as part of the 2018-2019 Solid Waste Management Planning project
 - An updated draft was received dated March 31, 2020 and another draft is anticipated in June 2020.
 - The final Environmental Management Plan is delayed due to COVID-19 Restrictions that impact community meetings
 - Project completion pending future community engagement

Allotment Law Development

- Document review initiated and ongoing, preliminary summarized Draft of Law Terms circulated among the Traditional Holdings Project Team, pending outcomes of Traditional Holdings Project
- First draft anticipated in Fall 2020 and will come from progress on Phase 2 of the Traditional Holdings Project

ENVIRONMENTAL MANAGEMENT

Godey Pit Salt Contamination

- LNIB required the Province to agree to meet at least twice in 2019 to discuss damages suffered by the LNIB, including to Joeyaska residents. These meetings didn't occur but we propose to hold these meetings after we receive the site report from the Ministry of Transportation and Infrastructure; anticipate meeting in Spring 2020.

Environmental Management Database

- Initiated development of a database with the support of Gandalf Consulting; budget of \$7,550
- Database will identify, describe, and locate all Areas of Potential Environmental Concern (APEC) and Areas of Environmental Concern (AEC); structure and content under review by Urban Systems for import into our GIS system and inclusion in our Land Use Plan Mapping

- Work plans to be developed for each APEC and AEC
- GIS database setup and instructions for its management provided by Urban Systems in December 2019
- The database was updated and accessible through Lightship now by Lands staff

Proposal for Solid Waste Management Planning, First Nation Land Management Resource Centre

- Budget of \$51,300, application made October 1, 2019 with support from Land Forest People Consulting
- Proposal focus: next phase of solid waste management planning and implementation including education, a composting program, illegal dumping and an Enforcement Law
- Project application approved and initiated in November 2019
- Project expected to be complete by March 31, 2020 but now extended due to COVID-19 Restrictions that impact community meetings
- Project completion pending future community engagement

NATURAL RESOURCE MANAGEMENT ON RESERVE

Timber Permit Policy Amendment

- Policy amended to include a permit for fuel management activities, ratified by Council September 17, 2019
- Policy will be redrafted and included as a schedule to the Subdivision, Development and Servicing Law. First draft received in December 2019
- General Requirements for Timber Permitting now developed and included in the Subdivision, Development and Servicing Law

RESOLUTION OF INDIAN ACT LEGACY ISSUES

Buckshee Lease –Lot 145, Nicola Mameet IR1 – SCFSS Building

- Issue corrected and new lease with LNIB Dev Corp contemplated but no action to date
- Actions on other buckshee leases on hold and subject to the outcome of the Traditional Holdings Project

Survey Issues

- Planning in progress to address Shulus Community survey issues
- List of CMHC survey issues in-progress
- Planning in progress related to registering unallocated lots in the First Nation Land Registry

GRAPHICAL INFORMATION SYSTEM DEVELOPMENT

Proposal for Land Survey Capacity Development, Survey General Branch – Natural Resources Canada

- Budget of \$62,000, application made January 2019
- Proposal focus: providing LNIB participants with 12 weeks in community capacity development spanned over a 24-month period, not selected for 2019-2020 intake, but awaiting funder response for 2020-2021 intake – response anticipated for February 28, 2020
- Presentation on revised approach by the Survey General Branch cancelled due to the COVID-19 Restrictions

Asset Management Program/Information Management Needs Review & Strategic Capacity Development Project

- Project budget of \$105,500 funded internally by LNIB Administration; Urban Systems engaged for project
- Project focus: streamlining digital systems and internal staff capacity to collect, store, manage, access and utilize central information to support on-going decision making
- GIS development included in the project:
- Projects complete and implementation activities anticipated in Spring 2020

LAND ADMINISTRATION

Lands Property Management Reports

- Reports for January, February and March complete and delivered to ED.

Infrastructure Project Support

- Working on Zoht IR4 Waterline Easements
- Supporting Zoht IR4 Reservoir planning activities
- Working on Industrial Park Waterline Easements
- Working on Domestic Water System (DWS) East Loop 10 Lots Waterline Easements
- Supporting Irrigation Ditch Water Management activities
- Supporting Joeyaska IR2 road and culvert planning activities
- Supporting Joeyaska IR2 Reservoir planning activities
- Supporting bus stop relocation planning activities
- Supporting environmental compliance planning activities for LNIB fuel tank

Housing Project Support

- Coordinating outstanding CMHC Home Lot Transfers – 35 on current list
- Supporting the First Nations Market Housing Fund application and process

Administration Project Support

- Research on Lots 101 & 103, Nicola Mameet in-progress for New Administration Building
- Review of LNIB Bylaws complete and require further management

Environmental Management

- Coordinating asbestos remediation on Lot 105

IR Access Requests

- FLNRO Range Use Plan Tenure Monitoring
- FLNRO and STC Irrigation Ditch Flow Monitoring
- STC Surveying of Guichon Creek for Coho
- TMP Natural Hazard Ground Inspection
- BC Hydro Vegetation Maintenance Zoht IR No.4

Survey Requests

- Nicola Mameet IR No.1 Lot 209-7 Subdivision: *complete*
- Zoht IR No.4 Waterline Survey: *complete*
- Pipeseul IR No.3 Re-Survey: *complete*
- Nicola Mameet IR No.1 Lot 376: *tabled*

MEMBERSHIP

Status Cards

- 18 Certificate of Indian Status (CIS) Cards processed to date
- 20 Secure Certificate of Indian Status (SCIS) Applications assisted to date

New Indian Registry Administrators (IRA)

- Two new Indian Registry Administrators now successfully appointed and approved to administer and maintain the LNIB Indian Registry Department. Lower Nicola Indian Band now has three Indian Registry Administrators (IRA).

Membership Changes

- Total membership changes:
 - 1286 members at Dec 2019
 - 1290 members at March 2020 1290

CHALLENGES

1. *COVID-19 Restrictions that impact community meetings make it impossible to complete several projects. These projects will advance as much as possible but will not be complete until community engagement activities can resume.*
2. *Membership requests regarding land issues to ED and Council*
 - 10 Year (2016-2025) Replaceable Grazing Licence (RAN076730), MFLNRO
 - Outside the scope of the work plan.
 - An off-reserve Crown Land Tenure that requires development and implementation of a Range Use Plan. Range Use Plan developed and ratified in January 2019 to satisfy requirements of the Licence.
 - Collaboration with members in progress to allow the members assume responsibility of the tenure.
3. *Recruiting qualified people for the Lands Agent position*
4. *Lack of office space for new employees*

LOT 11 DRAFT DISPUTE RESOLUTION PROCESS

1. The Director of Lands will present the following dispute resolution procedure to the Lands Management Advisory Committee for:
 - a. their review and consideration in the context of the Nlaka'pamux culture, traditions, laws, and the community's history;
 - b. feedback as to the form and contents of the procedure; and
 - c. if acceptable, their approval of same.
2. Once approved by the Lands Management Advisory Committee, the Lands Manager will present the dispute resolution procedure to Council and:
 - a. seek approval in principal to its contents;
 - b. set the specific dates noted in the procedure; and
 - c. direct the Lands Manager to present same to Lisa Sterling and Frederick Sterling (collectively, the "**Sterlings**").
3. At the Lands Manager's request, LNIB Legal Counsel shall attend the meeting and provide assistance/information to the Chief and Council as required.
4. At this time, Council Members will declare whether they consider themselves to be in a position of conflict of interest and the basis for why they feel that may be the case. The purpose of this declaration is to determine who will hear the dispute and decide the matter and to confirm that quorum will be achieved.
5. If the dispute resolution procedure is approved by Council, the Lands Manager will provide a copy of the procedure to the Sterlings and invite their comment on the procedure and dates set out therein by a certain deadline. The Sterlings will be afforded a reasonable period of time to comment. 14 days may be considered reasonable.
 - a. The request for comment must be clear that this is not a request to argue the substantive merits of the issue but solely to comment on the procedure itself and allow the Sterlings a role in setting the process.
 - b. The Sterlings should be advised that if they do not take a position on the process and/or simply try to argue the merits, the Lands Department will proceed with the dispute resolution process as written.
6. If the Sterlings do not provide substantive comments/feedback on the process, proceed as written.
7. If the Sterlings provide substantive feedback, review and consider same.
 - a. If the feedback is acceptable, provide the Sterlings with a revised procedure implementing their proposed changes and advise them that same will be presented to Council for approval and implementation.
 - b. If the feedback is not acceptable, seek legal advise as to next steps.

Guiding Principles for Council

As the arbiters in this process, Council shall:

1. Review the Information Packages provided to them in advance of the Special Hearing;
2. Attend the Special Hearing;
3. Strive to not be influenced by fear of criticism or partisan interests; and
4. At all times bear in mind Nlaka'pamux culture, traditions, and laws and the importance of fair and transparent dealings.

Proposed Lot 11 Dispute Resolution Procedure

1. The Lands Department under the supervision of the Lands Manager will prepare an information package (the “**Information Package**”) containing the following:
 - a. Details of the lands in question – description, history, significance (if any);
 - b. Details of the specific land instrument;
 - c. Details of every person who may be affected by a possible change in the allotment of the land instrument;
 - d. A copy of the land instrument and a copy of any Band Council Resolution(s) related to the issuing or allotting of that land instrument;
 - e. Identification of the issues in question;
 - f. Copies of any documents that relate to the issuing or allotment of the land instrument, including all:
 - i. written or electronic correspondence;
 - ii. court documents and submissions;
 - iii. text messages; and
 - iv. historical records;
 - g. A timeline of events, including all relevant facts/events whether they support or refute a finding that the allotment was made in error, by mistake or by fraud; and
 - h. A summary of the dispute from the Lands Department’s perspective.
2. On or before [●date], the Lands Manager will provide a copy of the Information Package to the Chief and Council. Copies shall also be provided to all Affected Parties via regular mail or courier to their last known addresses with copies to any known email addresses.
 - a. “Affected Parties” means:
 - i. Lisa Sterling and Frederick Sterling; and
 - ii. Any other person who may be affected by a possible change in the allotment of the land instrument and/or has or had an interest in the subject lands.
3. On or before [●date], the Affected Parties are at liberty to submit to Council (with a copy to the Lands Department) a response document package (the “**Response Package**”) which sets out:
 - a. the Affected Parties’ position on the issues in question;
 - b. revisions/additions to the timeline of events;

- c. a summary of the dispute from the Affected Parties' perspective; and
 - d. copies of any relevant documents not already contained in the Information Package.
4. Council will review and consider the Information Package and Response Package.
5. On [●date], a Special Chief and Council meeting (a "**Special Meeting**") will be convened where the issues regarding the allotment are to be considered.
 - a. While the Special Meeting will be open to Band Members, only Affected Persons, and/or their legal counsel (if any) may actively participate in meeting.
 - b. Attendance at the Special Meeting is mandatory for all Council Members not previously excused for being in a conflict of interest position.
 - c. Notice of the Special Meeting is to be provided to all Affected Parties.
 - d. All Affected Parties shall be afforded the opportunity to attend and make oral submissions at the Special Meeting.
 - i. At the outset of the Special Hearing, the order in which Affected Parties may speak and the time limits for same will be allotted.
 - e. The Lands Manager and LNIB Legal Counsel shall attend the meeting and provide assistance/information to the Chief and Council as required.
6. [●note to draft – is setting a specific meeting for the Council to meet and make their decision necessary or can the matter be added to the end of an agenda for an upcoming Chief and Council meeting where the Council will meet in camera and discuss?]
7. Within 30 days after the Special Meeting, the Council will render their decision with respect to the allotment and provide to the Lands Department and Affected Persons written reasons setting out the basis for same.

LOWER NICOLA INDIAN BAND
LANDS MANAGEMENT ADVISORY COMMITTEE
181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7
TEL.: 250-378-5157 FAX: 250-378-6188

RESOLUTION NO. 2020-05

WHEREAS

- A. The Lower Nicola Indian Band Land Code (the “**Land Code**”) came into force on December 01, 2016;
- B. Relevant subsections of the Land Code state the following:
- 14.7 *Council may, subject to an applicable ruling under PART 8 or by a court of competent jurisdiction, cancel or correct any Interest or Licence issued or allotted in error, by mistake or by fraud.*
- 43.2 *The Council shall, within a reasonable time after this Land Code comes into effect, enact a Law establishing a process for the resolution of disputes in relation to LNIB Land.*
- 43.3 *The Law enacted under section 43.2 [Dispute Resolution Law] shall provide for the following matters:*
- (a) *the appointment of an individual, body or bodies to hear disputes in relation to LNIB Land, and the powers and duties of the individual, body or bodies;*
- (b) *persons who may initiate a dispute, which shall include persons whose rights or interests in LNIB Land is affected by a land management decision;*
- (c) *procedures for initiating a dispute;*
- (d) *the establishment of process steps for the resolution of disputes;*
- (e) *limitation periods;*
- (f) *whether appeals from decisions are available; and*
- (g) *costs.*
- 43.5 *In the absence of a Law under section 43.2 [Dispute Resolution Law], disputes in relation to LNIB Land may be referred to a court of competent jurisdiction.*
- C. In 2001, Sophie Sterling died, willing a parcel of land on the Joeyaska Indian Reserve (“**IR**”) No.2 (“**Lot 11**”) to her grandchildren; including Lisa Sterling, and her son, Fred Sterling (the “**Sterlings**”). Sophie Sterling did not hold a certificate of possession (“**CP**”) to Lot 11.
- D. In 2012, Lisa Sterling built a home on Lot 11, with a BCR approving a BC Hydro hookup to her home. In 2014, she applied for an allotment of Lot 11. Council has no record of approving the allotment.
- E. In July 2016, Ms. Sterling applied again for the allotment of Lot 11 and was informed by the LNIB Lands Department of the need for further research to be conducted, given the lack of CP and competing interests in relation to the lot.
- F. At an October 28, 2016 meeting, a motion was purportedly passed, allotting Lot 11 to the Sterlings by BCR. This meeting did not comply with LNIB Chief and Council Policy requirements for a duly convened meeting.
- G. On October 31, 2016, Indian and Northern Affairs Canada (“**INAC**”) approved the Sterlings’ CP. However, at a duly convened meeting on November 01, 2016, Council passed a motion rescinding the October 28, 2016 BCR; and LNIB subsequently sent a letter to INAC requesting cancellation of the erroneously issued CP.
- H. In December 2016, with Land Code in effect, INAC informed LNIB that INAC no longer had jurisdiction to cancel the CP issued to the Sterlings, and that LNIB now had the authority over this issue.

- I. A Council meeting was scheduled for February 28, 2017 to discuss cancellation of the CP, though this meeting was subsequently cancelled. Helder Ponte, former Executive Director of LNIB, informed the Sterlings of this meeting by email on February 24, 2017, stating that the evidence before Council was that the allotment of Lot 11 was not made at a duly convened meeting, therefore the CP was issued in error.
- J. At the Chief & Council meeting held March 07, 2017 the cancellation of the CP was tabled.
- K. On March 07, 2017, Council received a letter from the Sterlings' counsel disputing the CP cancellation. On March 08, 2017, Ms. Sterling emailed all of Council with submissions regarding the potential CP cancellation. Minutes of the March 14, 2017 Chief & Council meeting state that Council had an in-camera discussion regarding Lot 11.
- L. At the Chief & Council meeting held March 15, 2017, a motion was passed to approving a BCR to cancel the CP for Lot 11. On March 17, 2017, Council informed the Sterlings of Council's decision to cancel the CP.
- M. On April 13, 2017, the Sterlings filed a Notice of Application for judicial review contesting Council's decision. Calling into question the interpretation of section 14.7 of the Land Code, the Sterlings took the position that since LNIB has not passed a dispute resolution law under Part 8 of the LNIB Land Code, a ruling by a court of competent jurisdiction was required before Council could exercise its jurisdiction to cancel a CP.
- N. On March 26, 2019, the Federal Court held that Council's decision violated the principles of procedural fairness and natural justice, and repealed the decision.
- O. On September 3, 2019, Chief and Council passed a motion to engage in a new decision-making process to reconsider the issuance of the CP of Lot 11 to the Sterlings, in compliance with the Land Code.

NOW THEREFORE BE IT RESOLVED THAT the LMAC supports and recommends that Chief and Council approve the Proposed Lot 11 Dispute Resolution Procedure, setting specific dates noted in the procedure.

This resolution is supported by the undersigned and passed this 29th day of June 2020.

Quorum of Committee: 4

William Bose, Chair

Madeline Lanaro

Gene Moses

Louise Moses

Hrolfe Joe

Robert Sterling

Sondra Tom