



CITY OF RICHMOND

REPORT TO COMMITTEE

To Gen. Purp. Ctte. - March 20 /00

TO: General Purposes Committee

DATE: March 15, 2000

FROM: Greg Halsey-Brandt
Mayor

FILE: 0060-20-LMTA1-01

RE: Lower Mainland Treaty Advisory Committee (LMTAC)

RECOMMENDATION

That the 8 suggested additions or amendments to the LMTAC "First Principles" be endorsed.

Greg Halsey-Brandt
Mayor

Att.

The set of 35 First Principles established in November 1999 is a great benefit in establishing a framework for local governments in the Lower Mainland to work within, in dealing with treaty negotiations. They also provide guidelines to our provincial negotiators in terms of the policy and position through which local government views the treaty negotiations. The additional principles and amendment are worthwhile additions to the list adopted in 1999, and should be supported by Council.

Greg Halsey-Brandt
Mayor

REPORT

ORIGIN

Council will recall that in the Fall of 1999 we endorsed a set of 35 First Principles as fundamental policy statements that will provide a framework for our position as part of the British Columbia provincial negotiation team in dealing with First Nations treaty negotiations. As a result of that review, there were 7 suggested additions, and one amendment to those First Principles. LMTAC executive has requested that we review the recommended principles, and provide our written comments no later than April 12, 2000.

ANALYSIS

The suggested additions and amendment all appear to be supportable. Number 8 (see attached document) is a worthwhile objective, although it may not be that realistic. If a specific deadline is chosen for the filing of all aboriginal claims, and some First Nations groups do not meet this deadline, we could then be burdened with a worse situation than we have now, wherein some bands would have a treaty, and others would continue under the administration of the Indian Act. Additions 1, 3 and 5 are particularly important as they reinforce the concept that treaties are intended to provide a level playing field for all Canadians, and it should not be used as a legal device to establish different social and economic standards on First Nations land as opposed to non-treaty lands.

FINANCIAL IMPACT

Unknown at this time.

CONCLUSION

The set of 35 First Principles established in November 1999 is a great benefit in establishing a framework for local governments in the Lower Mainland to work within, in dealing with treaty negotiations. They also provide guidelines to our provincial negotiators in terms of the policy and position through which local government views the treaty negotiations. The additional principles and amendment are worthwhile additions to the list adopted in 1999, and should be supported by Council.

Greg Halsey-Brandt
Mayor

LOWER
MAINLAND
TREATY
ADVISORY
COMMITTEE

March 9, 2000

Mayor Greg Halsey-Brandt and Councillors
City of Richmond
7577 Elmbridge Way
Richmond, B.C.
V6Y 2C1

Dear Mayor and Council:

RE: Additional and Amended principles for LMTAC "First Principles"

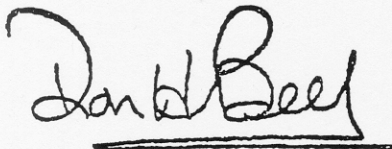
In November 1999, the Lower Mainland Treaty Advisory Committee (LMTAC) adopted a series of "First Principles" to help inform local government interests in treaty negotiations. To develop the principles, LMTAC member Councils/Boards provided detailed comments, including suggestions for new principles, which were set aside for future examination.

Please find attached a list of new principles that were reviewed by the full LMTAC membership on February 23, 2000 and were recommended to LMTAC member Councils/Boards for detailed review. **LMTAC again respectfully asks that your Council review the attached recommended principles and provide our office with written comments no later than April 12, 2000.**

In April, LMTAC will revise its "First Principles" to reflect the comments received so that local government interests can be effectively presented to the provincial treaty negotiators. Your detailed attention to this matter is most appreciated.

Should any questions arise about the attached document, please do not hesitate to contact David Didluck, LMTAC Executive Director, at (604) 451-6179.

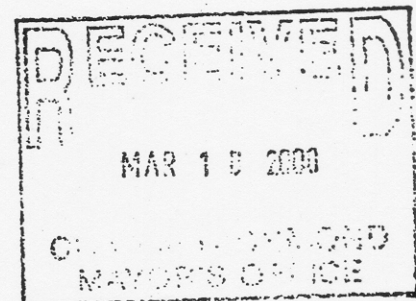
Yours truly,



Mayor Don Bell
Chair, Lower Mainland Treaty Advisory Committee

Attachment

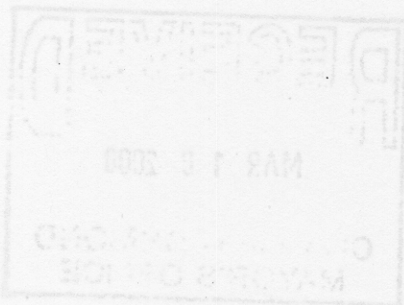
cc: LMTAC Members



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Suggested Additions or Amendments to the LMTAC First Principles

1. Local governments strongly support the need for certain and final definitions of Aboriginal Rights. Treaties should provide a final and exhaustive listing of powers that First Nations governments may exercise.
2. The Governments of British Columbia and Canada should support the expeditious amendment of the Constitution of Canada to provide, protect and prescribe the powers of local government.
3. Treaty settlement lands within municipalities and regional districts should be taxed at comparable levels.
4. Locally, nationally and globally significant wildlife habitats in the Lower Mainland area must be recognized.
5. *Amend First Principle #25 to read:* Standards and regulations (including enforcement procedures) 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.
6. The rights of all fishers engaged in commercial or recreational fishing should be protected.
7. No one local government should be disproportionately burdened as a result of treaty negotiations.
8. A specific deadline should be established for the filing of all Aboriginal claims under the BC Treaty Process.



Don Bell

Mayor Don Bell
Chair, Lower Mainland Treaty Advisory Committee

Attachment
cc: LMTAC Members

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Lower Mainland Treaty Advisory Committee

FIRST PRINCIPLES

PREAMBLE

LMTAC's First Principles are fundamental policy statements that provide the framework for Local Government input as full members of the British Columbia provincial negotiation team.

LMTAC's First Principles were developed through extensive consultation. All LMTAC members had open invitations to participate, all principles were forwarded to Lower Mainland area Councils, and many member municipalities and regional districts held public meetings to receive community input.

Subsequent to the consultation process, LMTAC endorsed the following First Principles for treaty negotiations.

Definitions for **bold faced** terms may be found in the Glossary of Terms.

GENERAL PRINCIPLES

1. The Lower Mainland Treaty Advisory Committee (LMTAC) First Principles will be applied to all Lower Mainland treaty agreements.
2. Treaty agreements in other regions of the Province should not be used as a precedent or template for urban treaty settlements. Provisions in Lower Mainland area treaties should reflect the complex realities of the urban environment specific to each treaty.
3. Local Government shall be recognized in the treaty process as an independent, responsible and accountable order of government not as a secondary level or third party interest.
4. Treaties will uphold the principles of the Canadian Constitution.
5. Treaty settlements must respect the values, heritage, culture and traditions of Aboriginal and non-Aboriginal peoples.
6. **Tripartite** treaty negotiations must be open and provide for meaningful public input throughout the negotiations. The cost of the public process to be funded as an essential part of the process of treaty making by the tripartite negotiating parties.

7. **Agreements in Principle** (Stage 4) shall not be completed until all conflicting land, water and resource issues of those Aboriginal Peoples who have been qualified by the British Columbia Treaty Commission (BCTC) have been resolved and shall include the details of the overlap resolution agreement.
8. The Lower Mainland Treaty Advisory Committee (LMTAC) is the voice for Lower Mainland area Local Governments on all issues relating to the treaty process.

LANDS

9. Urban treaty settlements should be composed primarily of cash and other fiscal considerations rather than land because of scarcity of unencumbered and uncommitted lands in the Lower Mainland area.
10. Privately owned **fee-simple** lands, Crown Corporation lands, and Local Government owned lands and assets, including those acquired through a local government process must not be available for land selection. Lands and assets include but are not limited to: local government facilities, rights-of-way, lands leased from other levels of government, Crown lands subject to a Local Government license or tenure, municipal and regional parks, conservation and protected areas, greenbelts, school board lands, and local government commercial operations (i.e. forest lands, park restaurants).
11. The continuation of local government regulatory and taxation authority over lands within a municipality or regional district that may be transferred as part of a treaty settlement is paramount.

Lands received by a First Nation as part of a treaty settlement should be held in **fee-simple** and have no new or special status. Lands to be added after the treaty is signed must remain subject to Local Government jurisdiction and taxation unless otherwise agreed to by the Local Government through a community consultation process.
12. Clarity and consistency in regulatory jurisdiction is paramount in the post-treaty environment. Treaty settlement lands within municipalities and regional districts are to be treated like all other **fee-simple** lands (e.g. be subject to compatible zoning bylaws, be assessed for regional services, and not include ownership of sub-surface resources).
13. Local governments must ensure continued access (via land, water or air) to local government lands and assets on, between or adjacent to treaty settlement lands as well as to privately held and leased lands on, between or adjacent to treaty settlement lands for the purposes of, but not limited to, infrastructure development and maintenance.

RESOURCES: NATURAL and PHYSICAL

14. **Sustainability** of local economies is a priority in the post treaty environment. Lower Mainland area renewable, natural resources, including but not limited to forests, water and fish, must continue to be managed on a sustainable basis in order not to undermine the economic base of Local Governments and their communities.
15. International agreements and federal and provincial legislation that applies to non-Aboriginals with respect to conservation (of wildlife, migratory birds, fish and other species) be incorporated into all treaties.

Present, future and potential refuge and environmentally sensitive areas, including but not limited to the Boundary Bay Wildlife Management Area, Maple Wood Flats and Indian Arm, must be identified and protected during the treaty process.
16. Lands in the Agricultural Land Reserve (ALR) must remain in the ALR and under the jurisdiction of the Agricultural Land Commission (ALC).
17. Local Government leases and licenses (including park tenures and agricultural, mining, forest and range leases/licenses on Crown lands), and the economic and environmental viability of these agreements as well as any provisions for their renewal, must be respected and preserved.
18. Local Government and private interests in water must be preserved. Interests include but are not limited to: historic rights of water use, watersheds, water licenses, access to shorelines, status of water lots, access and easements for servicing, enforcement of purity control standards and water use regulations, and ground water and aquifers.
19. Clarity and consistency in regulatory jurisdiction with respect to natural and physical resources is paramount in the post-treaty environment. Development of resources can have a significant impact on local governments. **Treaty settlement lands (TSL)** within municipalities and regional districts should therefore to be treated like all other fee-simple lands and not include ownership of sub-surface or submerged resources.
20. Forest land which may come under aboriginal control must remain and continue to be managed within the existing timber supply areas and Forest Districts to ensure no loss of Annual Allowable Cut (AAC) on the land base.

GOVERNANCE

21. Treaties must recognize and respect the authority and jurisdiction of federal, provincial and local governments.

22. Treaty settlements should remain within the framework of the Canadian Constitution and the Canadian Charter of Rights and Freedoms. Canadian Criminal Law should continue to apply as well as existing precedents set out in civil law in British Columbia.
23. 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.
24. Aboriginal self-government provisions must provide for First Nation participation in, or partnerships with, Local Governments or regional governments for more effective and efficient delivery of services and programs.
25. Standards and regulations 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.
26. 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.
27. Local Governments must be provided the opportunity to access local government-related powers, as defined by provincial legislation, also available to First Nations post-treaty.
28. Aboriginal self-government should uphold the principle of democracy and accountability.
29. Lower Mainland area local governments have increasing Aboriginal populations that are not from the **traditional territories** of Lower Mainland area First Nations or that will not reside on future treaty settlement lands. Treaties must therefore include mechanisms to ensure that the costs of providing programs and services to these populations does not become the responsibility of Local Government.
30. Treaties must identify programs and services which because of their regional significance (such as, but not limited to, air quality and sewage treatment) First Nations must provide to their constituents, either directly or indirectly through a contract with Local Governments or other agencies, the provision of those programs and services.

The principle speaks to the various interconnections between urban communities that Lower Mainland area treaties will need to address, and recognizes the responsibility that all jurisdictions have in creating and sustaining systems that benefit all residents of the Lower Mainland.

FISCAL

31. Treaties must recognize the limited fiscal capacity of all levels of government and not impose any cost to Lower Mainland taxpayers, other than their contribution to treaty settlements through the cost sharing Memorandum of Understanding (MOU) between the Provincial Government and the Government of Canada.
32. All existing and future service agreements must be respected to ensure Local Governments receive financial contributions from all users of Local Government programs, services and infrastructure.
33. There must be no demand placed on Local Government tax revenues or revenue sources resulting from treaty settlements, particularly on the ability of Local Government to derive tax revenue from sources such as property taxes services fees, utility charges and grants-in-lieu from Crown lands. Any revenue loss to Local Governments arising from treaty settlements must be fully compensated.
34. The provincial *Municipal Act* and *Vancouver Charter*, through Municipal Act reform, must enable Local Governments to develop flexible taxation and cost recovery mechanisms when dealing with Aboriginal governments post treaty.
35. Treaties must respect and recognize existing provincial fiscal commitments to Local Governments.

GLOSSARY OF TERMS

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|-------------------------------|--|
| Agreement In Principle (AIP) | in Stage 4 of the BC Treaty Process, the negotiating parties work towards finalizing an “Agreement in Principle” (AIP). The AIP outlines topics for negotiation and the related treaty provisions developed by the parties. |
| Fee-Simple | an estate of virtually infinite duration in land, conveyed or granted. |
| Sustainability | the ability to make development meet the needs of the present without compromising the ability of future generations to meet their own needs. Definition adapted from <i>Our Common Future</i> , World Commission on Environment and Development |
| Traditional Territory | the geographic area that a First Nation has identified as the land it has historically used and occupied. |
| Treaty Settlement Lands (TSL) | term used to refer to lands owned by a First Nation post-treaty. |
| Tripartite | of three (3) parties. In the BC Treaty Process, parties at the negotiating table include the Governments of Canada and British Columbia as well as members of the First Nations Summit. |