

**PLANNING FOR PROSPERITY: FIRST NATIONS,
INTERGOVERNMENTAL COOPERATION AND TREATIES**

A Leaders' Forum

MORRIS J. WOSK CENTRE FOR DIALOGUE

SEPTEMBER 9, 2004

Conveners:

Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

Tony Penikett, Gordon Foundation Senior Fellow, Simon Fraser University

Presented in cooperation with:



**BC Treaty
Commission**

MORRIS J. WOSK

Centre for Dialogue

SIMON FRASER UNIVERSITY

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TABLE OF CONTENTS

Introduction.....	2
Agenda.....	3
Participants.....	5
Opening Prayer.....	7
• Chief Leonard George, Tsleil-Waututh First Nation	
Welcome by Co-chairs.....	8
• Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU	
• Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission	
Session I: Intergovernmental Relationships and Treaties: Lessons Learned	
Success Stories from Nisga'a and Yukon First Nations.....	10
• Barry Stuart, Former Chief Judge and Chief Negotiator, Government of the Yukon Territory	
• Edmond Wright, Secretary-Treasurer Nisga'a Lisims Government	
Roundtable Discussion.....	13
Planning Together: Experiences on the Way to Treaties – Part I.....	16
• Mayor Colin Kinsley, City of Prince George	
• Chief Barry Seymour, Lheidli T'enneh First Nation	
• Finlay Sinclair, Manager of Special Projects & Communications, Regional District Fraser-Fort George	
Roundtable Discussion.....	22
Planning Together: Experiences on the Way to Treaties – Part II.....	25
• L. Maynard Harry, Chief Councillor, Sliammon First Nation	
• Mayor Steward Alsgard, Corporation of the District of Powell River	
Roundtable Discussion.....	29
Working Lunch.....	34
Session II: Creating Economic Opportunities Together	
Growing Communities: Taxation as a Tool.....	40
• Manny Jules, First Nations Fiscal Institutions Initiative, Indian Taxation Advisory Board	
• Chief Maureen Thomas, Tsleil-Waututh First Nation	
• Tim Raybould, Negotiator, Westbank First Nation	
• Doug McArthur, Professor, Public Policy Program, Simon Fraser University	
Roundtable Discussion.....	52
Business Partnerships and Training.....	55
• Jo-ann Archibald, Associate Professor, Faculty of Education, UBC	
• Mayor John Slater, Town of Osoyoos	
• Lyn Brown, Director, Corporate Affairs & Social Responsibility, NorskeCanada	
• Michael Uehara, President, King Pacific Lodge	
Roundtable Discussion.....	68
Wrap-Up.....	70

INTRODUCTION

Planning for Prosperity: First Nations, Intergovernmental Cooperation and Treaties is the fourth in a series of treaty-related conferences held at Simon Fraser University's Centre for Dialogue over the last two years. The first dialogue involved senior negotiators for all three parties to the BC treaty process and focused on what works and what doesn't in the current BC Treaty Commission negotiations. At the second conference, the negotiators returned to tackle key questions arising from the first conference, including: interim measures, dispute resolution techniques, the problem of prescriptive mandates and building the political will for treaty settlements. The third dialogue centred on one issue, Aboriginal self-government and the deep divide between First Nations and government policy makers on this question, the settlement of which will determine whether or not there will be new treaties in British Columbia.

A joint initiative of the BC Treaty Commission and the Centre for Dialogue, the *Planning for Prosperity* conference brought together chiefs, mayors, business leaders and scholars. The conference began on a positive note with descriptions of the new relationships forged by the Nisga'a and Yukon treaty settlements. This tone continued with discussion of the healthy relationships developing between First Nations and municipalities in Osoyoos, Powell River and Prince George. Participants also dwelt on emerging partnerships between industry and Aboriginal communities, and such tools of development as education and taxation policy. In concentrating on the practicalities of planning together for their mutual advantage, this conference clearly demonstrated the benefits of respectful relationships between indigenous communities, local governments and regional economic leaders. A close reading of these proceedings might assist elected officials in areas, such as the Lower Mainland, where such healthy relationships have yet to be forged.

All four of these dialogues are accessible on the Centre for Dialogue website (<http://www.sfu.ca/dialogue/proceedings.htm>) and all were sponsored by the Walter and Duncan Gordon Foundation. To the participants, our hosts and sponsors, we extend the convenors' appreciation for their contributions.

The BC Treaty Commission hopes to be able to build on the dialogue we witnessed in this session at similar events in the future.

Tony Penikett & Mike Harcourt

CONFERENCE AGENDA**Planning for Prosperity: First Nations, Intergovernmental Cooperation and Treaties
A Leaders' Forum****September 9, 2004****Panel Sessions and Roundtable Discussions**

8:00 am - 8:30 am Registration and Continental Breakfast**8:30 am - 8:45 am Opening Prayer**

- Chief Leonard George, Tsleil-Waututh First Nation

Welcome by Co-chairs:

- Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU
- Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

Session I: Intergovernmental Relationships and Treaties: Lessons Learned**8:45 am - 9:45 am Success Stories from Nisga'a and Yukon First Nations**

- Barry Stuart, Former Chief Judge and Chief Negotiator, Government of the Yukon Territory
- Edmond Wright, Secretary-Treasurer Nisga'a Lisims Government

*Roundtable Discussion***10:00 am - 11:00 am Planning Together: Experiences on the Way to Treaties – Part I**

- Mayor Colin Kinsley, City of Prince George
- Chief Barry Seymour, Lheidli T'enneh First Nation
- Finlay Sinclair, Manager of Special Projects and Communications, Regional District Fraser-Fort George

*Roundtable Discussion***11:00 am - 12:00 pm Planning Together: Experiences on the Way to Treaties – Part II**

- L. Maynard Harry, Chief Councillor, Sliammon First Nation
- Mayor Steward Alsgard, Corporation of the District of Powell River

*Roundtable Discussion***12:00 pm - 1:00 pm Working Lunch**

Session II: Creating Economic Opportunities Together**1:00 pm - 2:30pm****Growing Communities: Taxation as a Tool**

- Manny Jules, First Nations Fiscal Institutions Initiative, Indian Taxation Advisory Board
- Chief Maureen Thomas, Tsleil-Waututh First Nation
- Tim Raybould, Negotiator, Westbank First Nation
- Doug McArthur, Professor, Public Policy Program, Simon Fraser University

*Roundtable Discussion***2:30 pm - 2:45pm****Refreshment Break****2:45 pm - 4:15pm****Business Partnerships and Training**

- Jo-ann Archibald, Associate Professor, Faculty of Education, UBC
- Mayor John Slater, Town of Osoyoos
- Lyn Brown, Director, Corporate Affairs & Social Responsibility, NorskeCanada
- Michael Uehara, President, King Pacific Lodge

*Roundtable Discussion***4:15 pm - 4:30 pm****Wrap-Up**

CONFERENCE PARTICIPANTS

1. Stewart Alsgard
Mayor, Corporation of the District of Powell River
2. Martha Anslow
Manager, Local Government - First Nations Relations, Ministry of Community, Aboriginal and Women's Services, Government of BC
3. Jo-ann Archibald
Associate Professor, Faculty of Education, UBC
4. Mel Bevan
Northwest Tribal Treaty Group of Northern British Columbia
5. Kevin Blaney
President, Sliammon Development Corporation; Councillor Sliammon First Nation
6. Lyn Brown
Director, Corporate Affairs and Social Responsibility, NorskeCanada
7. Cheryl Casimer
Negotiator, Ktunaxa Kinbasket Tribal Council
8. Jack Ebbels
Deputy Minister, Ministry of Energy and Mines, Province of British Columbia
9. Dave Formosa
Economic Development Consultant, Sliammon Development Corporation
10. Mike Furey
Assistant Deputy Minister, Treaty Negotiations Office, Ministry of Attorney and Ministry Responsible for Treaty Negotiations
11. Chief Leonard George
Tsleil-Waututh First Nation
12. L. Maynard Harry
Chief Councillor, Sliammon First Nation
13. Manny Jules
First Nations Fiscal Institutions Initiative, Indian Taxation Advisory Board
14. Colin Kinsley
Mayor, City of Prince George
15. Rick Krehbiel
Lheidli T'enneh First Nation
16. Tom Mann
Director, Regional District of Central Kootenay

17. Doug McArthur
Professor, Public Policy Program, Simon Fraser University
18. Rick McDougall
Acting Manager, Aboriginal Relations, BC Hydro
19. Alison McNeil
Senior Policy Analyst, Union of British Columbia Municipalities (UBCM)
20. Tony Penikett
Gordon Foundation Senior Fellow, Centre for Dialogue, SFU
21. Marino Piombini
Senior Planner (Aboriginal Affairs), Greater Vancouver Regional District (GVRD)
22. Kirsteen Pirie
Manager, Lower Mainland Treaty Advisory Committee (LMTAC)
23. Tim Raybould
Negotiator, Westbank First Nation
24. Chief Barry Seymour
Lheidli T'enneh, First Nation
25. Finlay Sinclair
Manager of Special Projects and Communications, Regional District Fraser-Fort George
26. John Slater
Mayor, Town of Osoyoos
27. Dan Smith
Chief Negotiator, Hamatla Treaty Society
28. Harold Steves
Councillor, City of Richmond, Lower Mainland Treaty Advisory Committee (LMTAC)
29. Barry Stuart
Former Chief Judge and Chief Negotiator, Government of the Yukon Territory
30. Chief Maureen Thomas
Tseil-Waututh First Nation
31. Sandi Tremblay
Councillor, District of Powell River
32. Michael Uehara
President, King Pacific Lodge
33. Edmond Wright
Secretary-Treasurer Nisga'a Lisims Government

OPENING PRAYER

Chief Leonard George, Tsleil-Waututh First Nation

My friends and colleagues, it is a pleasure for me to be here this morning to offer a prayer for our gathering. As a part of my prayer, I would like us to consider, in our hearts and in our minds, what we think of as peace and explore this a little deeper than we might normally. I consider that this is where we should begin, and by creating peace within ourselves and for others, is the initial building block in overcoming the issues that prevent us from creating, within Canada, British Columbia and our communities, a better place to live for ourselves and for others. If this were a time of war we would all, spontaneously, know what would be required of us but, because we are in times of peace, there is a little more to be considered.

Generally, what we are focused on is "what is in this for me" instead of thinking about what it is that we can give to the next generations, to our memberships and to our colleagues. By reversing our thinking, there may be something mutually beneficial to receive in return. We have an opportunity to live in peace, considering that by comparison with the rest of the world that appears in chaos, we live in utopia. However, in the midst of abundance we waste all of this precious time by looking at the smaller issues and we don't see things from a global perspective.

What would happen if First Nations' people have jurisdiction? I don't consider that anything would happen. That jurisdiction, I consider, would increase all of our abundance by three or four hundred percent because we will have something to go forward with. If we take a further step back then we, as First Nations, will have to look more to each other. We are at the epitome of everything and yet we are the last to be considered. We are constantly in competition and yet, collectively, what we could potentially accomplish by working together is much greater than what we are focusing on in our traditional territories. We would have much greater opportunities if we were all working together and, in so doing, and in concert with the indigenous territories and all of the colleagues in this room, the focus can be changed. To do this we have to be willing to examine our own hearts and minds in order to create our own term of peace and be willing to look at other people's interpretation of richness. We, perhaps, should be willing to look at each other more as family. There is no reason why you can't be my brother or sister, or uncle, or cousin, and, as family, we would view each other in a different way and build closer ties and trust. In working with a partner, from outside of this country, the main ingredient that has created success for us was having the ability to trust the people we were working with.

It is that trust that becomes more important than the money, or the business plan, or the strategy to create the success because it is people that make things happen and it is not the tools that we use. I thought about this long and hard and these are the pathways that I am working on right now. I talk about what lessons I am most in need of learning and, maybe I am just talking about myself. However, if there is anything that makes sense to you then I am going to stand here and take that risk because I think that is how changes are made – they are made by risk takers.

In conclusion, we can see where we are today and we can see the kind of messes that we are in the way we have been working. What does it look like and how can we envision it the way that we would like it to be and let us work towards that. On behalf, of the families of Capilano, Tsleil-Waututh, bringing together the Squamish and the Musqueam, I would like to welcome you all here with these thoughts and prayers and whatever else you have in your hearts and minds.

WELCOME BY CO-CHAIRS

Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

I would like to thank Chief Leonard George for the welcome extended from First Nations' traditional territories. Downtown Vancouver, historically, was an island and a very busy port. I am delighted to see so many people in attendance at this leaders' forum, which is being held at the Simon Fraser University Morris J. Wosk Centre for Dialogue. The forum is being hosted by Simon Fraser University in conjunction and cooperation with the BC Treaty Commission, of which I am a member, along with Wilf Adam and Jody Wilson, who are also in attendance along with a number of our staff. We are delighted to be a part of this forum and the full attendance is testimony to the importance of what we are going to be talking about today, which is "Planning for Prosperity: First Nations, Intergovernmental Cooperation and Treaties." I consider we are going to have a very productive day and regard this as the start of a more intense and rigorous dialogue that will take place over the course of the day.

We invite you, as leaders from First Nations, from governments, from industry and universities to engage in an open dialogue and frank discussion about what is required to accomplish a more prosperous future. The key to that future lies in Aboriginal and non-Aboriginal people planning together and sharing resources, sharing jurisdictions and sharing expertise to achieve mutual gains rather than individual losses. It is an era of mutual certainty and not just certainty for industry and other governments and should include First Nations. Mutual certainty is what we should be trying to build as part of the new relationship. I want to reiterate and stress what Chief Leonard George has stated, that it really is about new relationships based on mutual trust, mutual understanding and mutual respect.

The BC Treaty Commission is unique in this country. Contained in the pending Annual Report, dated September 21, 2004, will be articles stressing the need for new relationships and it will outline the basic principles that were put in place for the treaty process. The basic principles were the result of a task force that was established by a predecessor of mine, when I was Premier, Bill Vander Zalm, and Jack Weisgerber who was Minister of Aboriginal Affairs and is now a member of the BC Treaty Commission. In 1991, this task force was co-chaired by First Nations' leaders and by Allan Williams who was a sceptic when first involved and who later became convinced that we needed to have a new relationship. In 1991, the task force urged that a new relationship that recognizes the unique place of Aboriginal peoples and First Nations in Canada must be developed and nurtured. As far as the Treaty Commission is concerned, the first recommendation of the task force was to establish a new relationship that is based on trust, mutual understanding and respect.

We are still developing that relationship in the treaty tables across the province and we are making progress. We have witnessed the signing of treaties with the Nisga'a and we are seeing that self-government can be all about self-sufficiency. The Yukon First Nations is another example and we have five agreements-in-principle underway in British Columbia as well as a number of economic treaty related measures with 300 different initiatives. We are also aware of the growing number of successful examples of partnerships and of people building new relationships and taking risks. I look around the room and see that we are all basically on the same path, and the challenge is how to broaden the successes talked about and meet the challenges to reach those successes.

I look forward to the forum participants sharing their relationship-building experiences as they relate to treaty-building, to governance, to cooperative management, to taxation arrangements, to joint ventures and to education initiatives. We all know that there is a great deal of work remaining to be done in order to achieve mutual recognition and lasting agreements and relationships. As a

Treaty Commissioner, we are facilitators and the keepers of the process and we consider that the best way to achieve this kind of sharing among First Nations, governments and the private sector is really important. This also increases the opportunity to develop education, training and business partnerships. As the saying goes, "let a thousand flowers bloom." I would like to see a thousand Aboriginal entrepreneurs bloom and it is going to be important to make that happen.

In conclusion, I want to thank you for coming and I would like you to spend some time today helping Tony Penikett and me to determine the key challenges, the factors to success, the tools necessary to develop intercultural, intergovernmental and organizational relationships, and answering the question, "where do we go from here?" We look upon this as the start of a very vigorous focus on community plans and intergovernmental cooperation amongst First Nations, as well as the economic development we want to see take place. We are hoping to see this focused at the Union of British Columbia Municipalities (UBCM) meeting later this month. The Treaty Commission and Simon Fraser University will play a role in advancing new relationships.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

Welcome to the forum. Mike Harcourt and I will be co-chairing today's event. By way of introduction, I am the Senior Fellow on treaty issues at the Centre for Dialogue. I was formerly the Minister Responsible for Treaty Negotiations in the Yukon, and BC's Deputy Minister for Negotiations.

Today's event is the fourth in a series on treaty-related discussions held at the Centre for Dialogue. The first two involved mainly senior negotiators from First Nations, the provincial and federal governments, and representatives from the Treaty Commission. The third involved a session on self-government with people representing all sides of that debate. The transcripts of these three dialogues are available on the Morris J Wosk Centre for Dialogue website. This is the fourth forum and this one we are conducting in cooperation with the BC Treaty Commission. Today's discussion will be transcribed and forwarded to the participants electronically to be corrected according to Hansard rules and returned to the editor. The final transcript will be posted on the Centre for Dialogue website, with a link to the BC Treaty Commission to allow for easy access. The treaty commission will also publish a short summary of today's discussion for wide distribution.

I am going to ask that the presenters' opening comments be restricted to five to ten minutes in order to allow sufficient time for dialogue. If you wish to speak, please indicate that by raising your hand and I will make a list of speakers. At the Centre for Dialogue, we observe the rule of respectful listening. Here, we try to engage at the level of ideas, not personalities or partisan biases. Lunch will be served at noon and, depending on time constraints, we may or may not take a break from our discussion.

At the outset I would like to thank the Treaty Commission staff, particularly Nancy Olding, Isabel Budke, Peter Colenbrander and Brian Mitchell for all their help in organizing this forum. I would also thank Pat Graca, Nicole Mah and Brenda Tang, from the Centre of Dialogue, who helped to make this event possible.

By temperament, Mike Harcourt a very positive individual and we are going to begin in that spirit. My interest is in dispute resolution and problem solving so I will be encouraging people to look at both sides of every discussion. Together, we shall aim for a positive but balanced dialogue.

This morning we shall begin with two people who will talk about the positive aspects of treaties that are already in place for both Yukon First Nations and the Nisga'a Nation. We shall begin with

Barry Stuart, who was formerly chief judge of the territorial court, and chief treaty negotiator for the Yukon Government. I would ask Barry to begin by reflecting on that experience. Following Barry Stuart we will ask Edmond Wright to make a presentation. After that, we will open the floor for discussion.

SESSION 1- INTERGOVERNMENTAL RELATIONSHIPS AND TREATIES: LESSONS LEARNED

SUCCESS STORIES FROM NISGA'A AND YUKON FIRST NATIONS

Barry Stuart, Former Chief Judge and Chief Negotiator, Government of the Yukon Territory

I have been asked to select two stories and reflect the optimism about land claims. These two stories have certainly sustained my confidence that land claims offers all Canadians the best opportunities for acknowledging and respecting First Nations since Confederation. Let me set the background for the Yukon by explaining that, after thirteen years of negotiating land claims, the agreement reached in 1983 was rejected. The Yukon was tired of land claims. In 1984 it was a politician's demise to publicly utter support for "self-government." In the Yukon, a small community, our two local newspapers contained stories about land claims on a daily basis – and all of the stories were negative. The population of the Yukon is approximately 80% non First Nations and 20% First Nations. In 13 rural communities, the population is predominantly First Nation people. Into this mix, we initiated in 1985 a new approach: we identified the substantive issues, but initially spent most of our time talking about the process; we talked about how we were going to communicate to each other at the table, to our principals and to the press; we talked about how we could respect each other; how we could share risks with each other, and what we could do to enable us to understand the constraints and challenges each negotiating team faced.

The first story is about the Association of Yukon Communities, a Yukon-wide association of all mayors and councillors. These local politicians were for the most part very fearful of land claims and were often the source of negative stories published by the press. The first time I attended the association meeting, I encountered widespread hostility. However, we had initiated something that made them stop and think. We had decided that all three negotiating teams (feds, First Nation and Yukon) were going to work together and that we would jointly meet with third-party interests. I recall when all three representatives met with the Association in the morning, it was not pleasant. In the afternoon, we broke the association members into three separate teams and asked them to role-play negotiations. We randomly selected the First Nations, federal and provincial government representatives. We limited the role play to the most controversial issues; land quantum and selection. Three-and-half hours later, in debriefing the mock negotiation sessions, we were surprised to discover that all three separate role play groups projected twice as much land in their settlement, than we had on the table with the First Nations. The association members in their role play came up with suggestions for ways to divide the land that offered a much larger quantum to First Nations than any of the governments had offered in negotiations.

The media reports had accurately recorded the amount of land that Government had offered in negotiations, but the way the stories were reported in the media led many to believe the First Nations were getting far too much. The role plays revealed that the greater the degree of public involvement, the greater the degree of accurate knowledge, and thereby the greater the extent of public support. The local politicians had been reading the headlines but did not appreciate that the amount of land being negotiated was at least half of what they considered would make a fair settlement. It was a revelation for them to see the actual amount of lands that were being discussed at the negotiation tables. From that exercise, our next meeting found the Association of Yukon

Communities much more open and ready to listen and be constructively involved. It is also fair to say that, for the most part, the AYC became one of the strongest supporters of the claims as we went through the process.

In order to understand the second story, I have to impart a piece of the Yukon mentality. In the good old days everybody in the Yukon had guns in the back of their pickup trucks. Among many non First Nation people there is a belief that they have an inherent right to harvest wild game. They believed they had as much a right as Aboriginal people to hunt and fish in the Yukon and were not about to permit the Aboriginal people to have special harvesting rights. The first public meeting with the Fish and Wildlife Association turned into a verbal and physical donnybrook. In the aftermath of this very destructive public meeting we worked with them and involved them in the process through regular briefings and through direct contact with their representatives. This experience again resulted in recognizing that the degree of involvement raised levels of understanding, which ultimately generated higher degrees of support and mutual respect.

During the final stages of the land claims process, when we were trying to engage a wide range of public support, the executive and members of the Fish and Wildlife Association produced a professional video supporting land claims. Their support led to one of the major breakthroughs dealing with wildlife management. We had designed joint wildlife management boards that would have 50% Aboriginal people and 50% non-Aboriginal people and be charged with making the key decisions about the hunting and fishing. This was thought to be a preposterous idea considering that the First Nations only represented 20% of the population and questions were asked why they should be given 50% representation. The fight at the table and in the public reflected that many considered this to be a crazy idea that wouldn't work and the worst possible scenarios were imagined. We convinced one community to initiate a Wildlife Management Board, with 50% non First Nations and 50% First Nations, to determine what would happen. There were two interesting features about this story that fundamentally shaped our final agreement. First, the First Nations appointed their representatives based on their assessment of who had the best understanding of wildlife. Of their five representatives, one of them was not First Nations. Second, the work of that joint management board over a period of two years proved that when people come to the table representing different parties but share a common responsibility, they focus less on partisan interests and more on their shared responsibilities; to manage wildlife resources in the best interests of all and in accord with an agreed set of principles. Their example was a significant reason why acceptance of a Joint Management regime can work and why there is now a Joint Management Wildlife Board in the Yukon. Again, involvement enhanced knowledge and support.

My advice to those struggling with land claims is to look at process as product. How differences are dealt with fundamentally affects the outcome. In the Yukon we spent six months talking about how we were going to run the process before we actually dealt with the substance. We talked about building relationships before we talked about problems. Designing a process to fit the conflict is, in my experience in all negotiations, and especially in land claims, where all negotiations should start.

Edmond Wright, Secretary-Treasurer Nisga'a Lisims Government

I would like to extend my thanks for this opportunity to be here and I am pleased to see there are a number of negotiators present. I would like to go back to 1881 when our people, unsuccessfully, made representation to Victoria in trying to build a relationship after having surveyors on lands in our area. It was on February 3, 1887, when our people and the Tsimshian chiefs met with Premier William Smithe, our representative advised the Premier that we had come to see about the land and to settle what was rightfully ours. All of the Nations of the Nass River had counselled together that they were not intending to cause any problems and only wished to bring harmony and peace.

That was instilled in us by generations of Nisga'a negotiators. We were taught, from one generation to the next, to be respectful in dealing with government officials. As a part of that respect, we would dress like the white man and found ourselves criticized for doing so.

Some of the things I will present may already be familiar to you and I am going to relate these events to certain other outcomes. The Nisga'a Treaty is the first treaty or land claims agreement to provide certainty with respect to the First Nation's Section 35 right to self-government, and that was the section that allowed us to include all self-government provisions in our agreement. The Nisga'a Nation and each Nisga'a Village are separate and distinct legal entities. Our Nation acts through Nisga'a Lisims Government and each village acts through their village government to exercise their rights, powers and privileges in carrying out their duties, functions and obligations. We have now been functioning under the jurisdiction of the Nisga'a Final Agreement and the Constitution of the Nisga'a Nation for four years and four months. There are presently, as of August 31st, 5,812 people registered as participants in our treaty. We mainly live in seven communities comprising four villages and three urban areas – Greater Vancouver, Prince Rupert/Port Edward, and Terrace. We also live in 66 other British Columbia communities, in the Yukon Territory and in six other provinces. We have 158 Nisga'a living in the United States.

Let me touch on the topic of effectively achieving and building intergovernmental relations and good governance. Before details were developed at the treaty negotiations table, the Nisga'a Nation representatives met with federal and provincial government ministers and officials either in Ottawa, Victoria or at our annual assemblies, to brief them on our developments and concerns. I am not sure if all of you are aware but by the time we had completed our agreement, we had over 40 annual assemblies. We had continuous contact with our people to get direction. We also developed public education programs that included printed materials, interaction with the media, public meetings, both within our own nation and outside. We went even further and formed a coalition with other treaty negotiators in the 1970's and 80's and brought the message out to the public right across Canada. That coalition has reunited for other purposes, which I will touch on later.

Concluding the treaty is probably the most effective way to build intergovernmental relationships with Canada and British Columbia. Of course, agreeable resources and jurisdictions in the treaty is what will create good intergovernmental relationships. Under our final agreement, Nisga'a government does not have exclusive jurisdictions; the relationship of federal, provincial and Nisga'a laws are well developed and Nisga'a jurisdiction is always concurrent with federal and provincial jurisdictions. This means that, for every Nisga'a law, there is a possibility, if not a likelihood, that there is a federal or provincial law that deals with the same subject matter. Therefore, it is necessary to include a rule that determines which law prevails if there is an inconsistency. I consider this to be a very important part of building good intergovernmental relationships. If you have three parties willing to share, not only in governing, but also to share their jurisdiction, I think that means a great deal.

I also want to mention that, after the effective date, we had to be in court defending the treaty along with British Columbia and Canada. The Judge concurred with our argument that there was room in Sections 91 and 92 for us to be able to create laws and govern ourselves. That is why I mention Section 35 rights. We, in British Columbia, have to continue to advocate for that, rather than having self-government community based models. The law today, after Campbell lost his case against us, clearly indicates that we have a right to self-government.

I also wanted to mention – and it is important to note – that in building our relationships as they pertain to the Nisga'a government chapter, Nisga'a laws prevail in fourteen subject matters and the federal and provincial laws prevail in eight subject matters. In other chapters of the final agreement, Nisga'a laws prevail in seven subject matters and federal provincial laws prevail in five subject matters. For your information, to date our legislative house has met 17 times and we will be meeting again in October. We have enacted 47 laws, passed a number of resolutions and debated many items. In those 47 laws are 20 statute amendment acts that have amended or repealed sections of various acts. In other words, we have 27 core laws. This is incredible progress and I don't consider that we have disturbed or destroyed the lives of the people who said we would – we go about our business that relates to our own people.

Referring to our negotiation experience and the continuity, the core of Nisga'a negotiating team remained constant for 20-25 years and that was a major asset for us. Our people put faith in that group of people and in the negotiating team. In looking at the pictures in the 1880's and the early 1900's we are all direct descendents of the people who fought for the treaty, and it was enshrined in us to continue that work. The Nisga'a political leaders were present at the negotiating table and during the subsequent ratification process and later when British Columbia and Canada ratified the agreement. When involved in the negotiation process, the Nisga'a leadership acquired an expertise in laws related to all chapters of the Nisga'a Treaty as well as to local politics, the workings at the highest level in the federal and provincial governments, and the traditional laws and cultures. One of the challenges facing the treaty negotiations across Canada is how to ensure that the process does not result in the alienation of First Nations from their traditional culture. The fundamental concepts and rules underlying the particular traditional legal system, of a particular First Nations, informs the basis for other important issues such as the accountability of various land regimes, the proper use and management of renewable resources, the existence and resolution of overlap disputes, and the structure of First Nations government. The Nisga'a Nations is united in the role of our traditional laws and culture.

ROUNDTABLE DISCUSSION

Jack Ebbels, Deputy Minister, Ministry of Energy and Mines, Province of British Columbia.

I have a couple of bits of advice. I don't agree that process equals product and consider that may have been a British Columbia failing where we had so much process, without any results, until such time as we eliminated the process and established a dedicated team that received instructions directly from the provincial decision-makers. There are lots of practical constraints, to issues that arise at the table, which are the source of a lot of the general public's fears – particularly around self-government – and it is important not to lose sight of the practical constraints of one position or another. Two examples would be jurisdiction over health or education. What First Nation is going to take on some of the negotiated authorities and then incur the monumental expense of having it delivered? This would also apply to policing. Every municipality in BC is trying to get out from under their obligations to pay for policing and First Nations are going to find themselves in the same boat should they take up some of the jurisdictions being proposed. The point I am making is that there are practical constraints and hurdles and, no matter what is negotiated, those constraints will affect the outcome. If you lose sight of those you will end up with principle and ideology without achieving your objective. It is necessary to adopt the adage that "no means no" and I don't think there is enough of that going on. It is essential to know why "no means no" because all of the parties at the table deserve to know the truth. If you don't know why "no means no" you can't come up with alternatives and there are always alternatives. Continuity is incredibly important. We didn't have continuity on the provincial or the federal sides let alone the politicians. Continuity is tremendously important and only works if there is the ability to receive instructions

from your members or masters and to be honest or a negotiated settlement will never be achieved.

Tim Raybould, Negotiator, Westbank First Nation

I am interested in knowing what areas of jurisdiction have been drawn down in the Yukon; areas where communities are exercising significant law making or developing policy and areas where they are not? I would echo – but just state it differently – Jack Ebbels's comment that self-government is as much about *not* governing as it is about governing and, as a negotiator for Westbank, my instructions from the community members were to stay away from assuming jurisdiction in some areas such as health care and social services.

Barry Stuart, Former Chief Judge and Chief Negotiator, Government of the Yukon Territory

Jurisdiction over many self-government functions was a major part of negotiations. Most recognized at our table that very small communities, with populations of 400-500 people, cannot run their own police force, or their own health service or educational system, but what was really important to them was to have the legally recognized power to do so. For example, in education a First Nation power to run their own school provides the basis for negotiating sharing decisions over the design of curriculum and hiring teachers. Many First Nations are leaving their powers on the shelf in the umbrella agreement. They take the position that, as long cooperative arrangements can be worked out to meet their needs, they will continue not to run their own systems. This is the basis upon which most First Nations are pursuing their interests. This approach avoids intensifying racial tensions arising from separate services. In most instances separate services like a separate fire department unnecessarily and heavily drain down First Nations finances.

There have been exceptions to this approach. One exception at the present time is Teslin, currently pressing for substantial control over the justice system. Justice is a wonderful example of a service crying out for an holistic approach. The core justice problems require more than justice powers. To effectively deal with the issues surfacing in justice agencies there is an urgent need for education, health and economic development services to be engaged. Therefore, like many other issues First Nation face, they need the power to influence policy and outcomes across a broad spectrum, but not in every case need the ability to run all or most of the services exclusively. I hope most First Nations will recognize they need to be very practical about what they can do and what they can't do alone. The power to act alone if needed gives them the capacity to effectively influence joint initiatives and to ensure their interests are included in the programs other governments deliver. This power forces a shared conversation that leads to negotiations with other governments about how the services will be delivered.

Jack Ebbels, Deputy Minister, Ministry of Energy and Mines, Province of British Columbia

On that point, I should say that it doesn't mean that a First Nation isn't interested in having that power, because it may be their choice.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

One of the areas that worked best in the Yukon self-government agreement was the education aspect. First Nations have the power to establish their own schools and receive the equivalent per capita funding from the territorial government but not one First Nation has chosen to do so. There is one reason they have not done so. Parallel to the treaty negotiations, there was a process of educational reform. This resulted in First Nations' teachers being hired into the schools and the First Nations' elders being hired as Aboriginal language instructors. Legislation was also enacted that required the Aboriginal elders to be members of the teachers' union with teachers' salaries and teachers' benefits. A wholesale change took place in the curriculum which meant that 20% of the curriculum was controlled by the local parent councils. Therefore, the self-governing power was used to lever changes in the school system without having to actually exercise it. If the school

system ever became unfriendly to the Aboriginal minority, I suspect there would be communities that would exercise the option to set up their own schools but none, as yet, have done so. That is an example of exercising the self-government power without actually legislating, taxing or managing programs.

Edmond Wright, Secretary-Treasurer, Nisga'a Lisims Government

We have been able to develop jurisdictions in forestry, fisheries and wildlife. In regard to education, we have remained with our provincial school district and we have the option of developing our own system, but have chosen not to. We have discussed this within our assembly and we can't get upset about it and get rid of it without going to the people. I have heard it mentioned that 2,000 square kilometres is small and I don't consider it to be small. The Nass Valley has one of the most prime mushroom areas in the whole of British Columbia and I would ask you to visualize 2,000 square kilometres and 5,000 to 10,000 people come into the valley at this time of the year. We are regulating the mushroom trade, and licensing and permitting the activity. When asked why we don't do more, we remind our people that, initially, they considered 2,000 square kilometres was too small. It is costly to carry out enforcement in an area like that and I think that is also something that people have to be aware of. As Jack Ebbels has stated, we have the powers for developing a court under the provincial system and a police service and have chosen not to implement those for exactly the reasons stated – that it is too costly.

Dan Smith, Chief Negotiator, Hamatla Treaty Society

As we go through this exercise of dialogue, to better understand one another and look at prosperity and the theme of what we are talking about, I would like to mention the systemic barriers, the artificial barriers and the attitudinal barriers that First Nations have to confront in the system itself, which was referred to previously by Edmond Wright. Those barriers are so ingrained in governments that it makes it very difficult for them to have a flexible mandate that provides First Nations with equal footing in the negotiations. I just want to mention the cultural connection to the land and the resources, when the respective governments are identifying land quantum as being no more than 5% or 10%. We still have a cultural connection to the land and the resources outside of that settlement area. If we are going to take a holistic approach, then I am questioning whether or not that holistic approach would involve the First Nations who want to protect the cultural integrity of the environment and lands because that is what we are closely tied to. The challenges that we face include industry, governments and the general public and the need for education and knowledge in order to understand the First Nations perspective and their cultural connection to the land and the resources and why it is so important to resolve ignorance. The other systemic barrier that we have is this notion that 1846 is the magic date and that First Nations have to prove their existence prior to that date. We have carbon-dated evidence that our First Nations have been in this land for over 10,000 years. The question that we all have to come together to answer is: How do we educate the general public and the government to ensure that, when we talk about fair treaties, it is fair? The way we look at it right now is, if we are involved in treaties and choose, as a First Nation, to litigate and try to negotiate, the governments are saying you can't do both and the question is why? I like what Jack Ebbels stated, that "no means no" and to be honest and to respect that. I question whether, when we ask government if there is a formula driven process and they are saying no, they are being honest when the indicators, with respect to the AIP offers, continue to be right within that indicator.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

If there are formulas on land and money, which we know there are, and if there is a taxation template, and the wildlife provisions are standard, how does anyone justify asking negotiators for First Nations to sit down at the table for 20 years, when the broad outlines of that treaty are predictable from day one?

Barry Stuart, Former Chief Judge and Chief Negotiator, Government of the Yukon Territory

The ability to reach final agreements in treaties has been hampered by how parties reach resolute "nos." Every new government that comes along has a new "no means no" position. First Nations have learned in the Yukon that if they just hold out for the next election, the next government will turn some "nos" into "maybes." Federally, that was the case over and over again. These changes in government policies were often needed to get agreements but as well they were a big reason for prolonged negotiations.

I agree with 80% of what was said. I certainly agree about continuity, about honesty and about practicality. However, the difficulty about "no means no" is, if the government says no without getting into an engagement of what the basis is for that "no," then I disagree. However, if they take the time to gain an understanding of all interests and look at the basis for what it takes for a fair outcome then the "no" limits must be clearly established on both sides. While First Nations need to accept a fairly and fully considered "no" from government, government needs to accept a fairly and fully considered "no" from First Nations. When First Nations had fairly and fully considered extinguishment of Aboriginal title in the Yukon and indicated that they were not going to extinguish Aboriginal title, we had to accept that as a "no" and thoroughly explore if our interests could accept and live with their "no." We found a way to revisit our "no" and to meld our interests in a mutually acceptable way. We did not accept "no" from both sides as a sign that the issue was not worthy of much more mutual exploration. We did not disrespect the "no" from either side but we did invest much more in discovering how to move ahead by digging into the reasons and interest both parties offered for their respective "nos." We did find a way to accommodate both fairly and fully considered "nos." In the Yukon claim, treaty land is not subject to an extinguishment clause. How you get to "no" is as important as respecting the "no."

Edmond Wright, Secretary-Treasurer, Nisga'a Lisims Government

What has just been said is important when reviewing your historical stance on settling the land questions. We were fortunate, when looking back at 1913, that we recognized the sovereignty of the crown and our people did not have a problem with that. It wasn't until several generations later that a First Nations' member questioned that sovereignty, and we went through a process of being well informed. In treaty negotiations, people focus on Aboriginal rights and title and what is forgotten are the acquired rights and those acquired rights become jurisdictions and no one has ever measured that. When managing issues, which were thought to be 100% related to rights and title, it is more than likely that First Nations are probably benefiting from acquired rights. In most cases those are contemporary rights and that measurement is not being carried out. One of our former presidents stated that the minute we sit down with the government to sign that framework agreement, we no longer own 100% of our lands, and we knew that and we proceeded on the basis of that, and I consider that to be very important.

PLANNING TOGETHER: EXPERIENCES ON THE WAY TO TREATIES – PART I***Mayor Colin Kinsley, City of Prince George***

I would like to thank Tony Penikett for including Prince George in this important dialogue. As well as Mayor, I am also Chair of the Prince George Regional District and that is where a lot of our dialogue takes place at a more personal level, even though the City is very much involved. Finlay Sinclair, the Manager of Special Projects and Communications at the Regional District, is also present and he is completely committed to his main task of dealing with First Nations' issues. I am pleased to be here along with my good friend Dan Smith, whom I sat with for the last two years on the Softwood Industry Community Adjustment Advisory Group, and learned a great deal from him about First Nations' issues. He is a pleasure to work with and a great representative of

his people. Also present is Tim Raybould of the Westbank First Nations and I have worked with Tim through the Municipal Finance Authority of BC. We have also worked for many years on the First Nations' Finance Authority to develop a similar model for financing opportunities for First Nations, not just in British Columbia, but nationally. Last fall we were at the Rating Agencies in New York and armed with the instructions put together by the FMFA. We think we were successful in convincing them to award a single A credit bond rating, which is better than a triple B or 4. We were very close to passing legislation before the calling of an election. First Nations have a wonderful opportunity to determine what they want and will have the ability to finance on their own lands.

A lot of what I am going to say today, the people around this table already know about and have been practising for a longer period of time. From our experience, I am going to talk about Prince George, Fraser Fort-George, MacKenzie, McBride and Valemount. What we found was that the number one key to successful relationships between First Nations and local government is political leadership buy in. That is where it starts. From our experience, successful relationships between First Nations and local government, boils down to three basic principles – equity, quality and fiscal responsibilities. In order to effectively build intergovernmental relations and good governance, both the City of Prince George and the Regional District of Fraser Fort-George signed protocols on cooperation and communication with the Lheidli T'enneh band that recognized the importance of strong, committed working relationships, of open communication, and of dialogue, as the building blocks towards strong and continuous relationships. I have distributed copies of two protocols.

In addition to the aforementioned protocols, MOU's were also signed that outlined the following: The Regional District, the City of Prince George and the Lheidli T'enneh share a common interest in a successful and timely conclusion of treaties. Once this treaty is finalized there will be great economic benefits, not only for our region but a very large part of British Columbia and will, hopefully, provide an example for other areas of the province. Collaborative action, in the areas of economic development and natural resource management, contribute directly to the health and well being of all communities alike – Aboriginal and non-Aboriginal. Other important aspects of the MOU, includes the promotion of mutual understanding and the promotion of dispute resolutions. During the agreement-in-principle discussions, our local governments and the First Nations developed key sections of the AIP, between the Lheidli T'enneh band, the Province of BC and the Government of Canada that included land use, taxation and environmental assessment. In order for both First Nations and the local government to be prosperous, the focus must be equally focused on the following key factors: community integration for First Nations' people and social and economic sustainability and viability, and the local First Nations' community must be seen as a working partner. At the end of the treaty process, the remaining players are the local First Nations, the community and its local government. The entire process will evolve over time as many of you have experienced.

What has this approach accomplished to date at the Fraser Fort-George Regional District and the City of Prince George? Our development services staff and the Lheidli T'enneh staff have participated in joint sessions to learn and understand each other's responsibilities and roles in the day-to-day functioning of the respective organizations. Staff lists, including job responsibilities with descriptions, allow quick and accurate contact between the organizations. Some of the tools and suggestions we would share with you is the importance to establish a relationship before there is an issue, to hone some learning about each other's districts, and to recognize and understand that history and past experience impact current perceptions and opinions. Further tools and suggestions are that the process involves slow incremental steps. Success cannot be measured in the short-term. Remember that for First Nations, this process has taken generations.

We believe in our organization, that Section 879 in the local Government Act is not necessary and it states, by law that we must consult with First Nations. If, collectively, we are doing our jobs, we would carry that out automatically as a matter of respect and due process. In the area of cooperative planning, we recognize First Nations' capacity on issues relating to land use referrals and processing time lines. I notice that the laws have been changed to allow First Nations to make application to the Land Commission for exclusion of farmlands. An example that we are very proud of, in the City of Prince George and in talking with Chief Seymour in regard to his wishes and dreams for his people, he wished for some federal lands as a part of the process. There is now a 640-acre section of federal experimental farm parallel to the new Prince George International Airport, which is currently being debated for inclusion as settlement land. When we revised our official community plan, we included this as treaty settlement lands and it can't be changed without a by-law and public hearing.

In corporate planning, we emphasize the use of the land versus the ownership of the land and we stress that site visits are critical in dealing with land issues. We recognize and respect the importance of the First Nations' chief and their council. In creating a cooperative planning relationship, we have to be prepared to resolve disputes and disagreements and work toward the corporate agenda, after individual relationships are solidified and unified. As I have said many times, we have to respect each other's differences and not try to change each other and trust, of course, is earned. Further, what can this cooperative planning approach accomplish? It can create a template for having First Nations sit as full voting members on the Regional District of Fraser-Fort George Board and that is what we want to see happen. Chief Seymour is probably the only person more excited than Finlay Sinclair and me to see that happen. What we have accomplished, to date, includes the protocol and the MOU's where the cooperation and communication is a very important step for us. Last year the Regional District of Fraser-Fort George was awarded the Fraser Basin Council Strengthening Communities Award, based on the work in Prince George. We are very proud of that and the Chief and I received a handsome engraved paddle.

Chief Barry Seymour, Lheidli T'enneh, First Nation

It is a pleasure to be here today and participating in this important activity. I have been involved in the Aboriginal business aspects for twenty-three years and a lot of my background has been involved with the Friendship Centre Movement and United Native Nations. I have been the elected Chief of our First Nation for the last ten years. Our community has been in the negotiations since the initiation of the process and in serious negotiations for the last ten years. We have achieved an agreement-in-principle and are currently one of the lead tables on the way to a final treaty. We have signed protocols with the City of Prince George and the Regional District and have also signed protocols and MOU's with the Nisga'a, the Nanaimo First Nation, the Saik'uz and Nazko First Nations and the Nanai First Nation, which is the indigenous group in Eastern Russia with whom we have enjoyed a cultural and economic protocol for the last seven years. During the period of negotiation, our table has moved forward and, although it seems slow at times, we consider we are moving ahead. We don't consider this move forward is, primarily, due to agreement by the three parties but consider it was the result of a common goal to work towards the establishment of a treaty. Several provincial elections, several band elections and federal elections have taken place during the negotiation period. I consider the primary reason that our table has achieved success was because all the parties involved agreed upon the common goal at the outset. Another contributing factor to our success has been the continuity of the people at the table. This has been invaluable to the success of our negotiations. One of the initial documents agreed upon by the three parties was the "openness document," which covered information sharing and was another important key to our success and provided for public involvement in our negotiations. We have also had a very open internal process whereby the community itself drives the process. As a part of this process, we established a group called the Community Treaty

Council, which comprises representation from the families and meets on a weekly or bi-weekly basis, and has done so for the past ten years. The Community Treaty Council has been a very significant factor in regard to our community's ability to understand the treaty making process and has been a further contributing factor to our success. We have also been consistent in our deliberations, throughout the process, which has provided us with the ability to move forward in a very effective manner.

Primarily, the goal for Lheidli T'enneh is, firstly, to improve the quality of life. Our history has been one of tragedy and there are many outstanding negative issues that our community has acknowledged and accepted and now wishes to move forward in a positive and productive manner. This change of attitude has also contributed to our success and allowed us to move forward in the negotiations. Another of our goals, for the Lheidli T'enneh, is to secure our rightful place in the governance structure of this country. We have spent quite a number of years in negotiating and we have made extensive efforts in relationship building - not only politically but also with organizations and other First Nations around us. We have established relationships with committees, such as the White Mountain Apaches, people who have excelled in certain areas, which we have found to be consistent with our own way of thinking and would like to adopt. We work extensively in building trust, not only within our own community, but also outside our community and consider this to be one of the cornerstones in building rapport and participating effectively with others in the future. We have also spent a lot of time in learning and trying to understand others, which is not without its challenges. We have taken the approach of cooperating to achieve our goals and found that the confrontational approach doesn't achieve success and only results in people becoming more entrenched and less able to move forward. To be successful in the future, as mentioned by others this morning, it is necessary to take calculated risks and everyone involved has to be willing to do that. We require openness and honesty with each other. I believe that it is necessary for everyone to move forward into the future in a productive manner and I look forward to participating at that level with the Regional District.

Some of our discussions, at the regional level, that I would like to see move forward in the short-term, are issues such as mutual service agreements between the parties. I believe that, in some instances, we are better equipped to provide fire protection because of our location and we are ready to move forward and discuss that. There has also been discussion and offerings, by the Regional District and the City, to assist us in building our own capacity, from an organizational sense and a human resource perspective. We enjoy very open communications with the City and the Regional District both at the political and staff levels.

Some of our challenging issues, from the First Nations' perspective, include our limited human resources at the band level and our inability to strengthen our relationship with others while we are in negotiations. All of our efforts are concentrated on negotiations and it is very difficult to establish and strengthen relationships with other organizations. That does not mean it is not a priority but it is extremely difficult. Other challenges include the need for First Nations and local government to work cooperatively towards economic development and to include First Nations participation. This is made even more challenging because of the sense that we are competing with each other and I see that as an area that we have to work through. The other challenging area is a taxation base and First Nations involvement. There are issues around taxation and I consider that, as long as we are aware of them, we can resolve them. With First Nations productive participation, I feel we can work through this challenge.

Over the last hundred or so years, the First Nations' people have been subjected to a lot of negative damage and a great deal of internal healing has to take place. Not only are we dealing with internal mindsets and negativity but the organizational capacity to deliver is challenging. The current way

of thinking, for the most part, is designed to suppress and disconnect First Nations from participating and we have to develop a capacity to effectively participate and become a positive, contributing factor to society. To say that internal healing has to take place, it also has to be realized that, for the First Nations, those years of suppression have become a part of our way of life and to change will take time, and may take generations of time. My hope is that will not be the case but it is the reality of the situation. Again, where do we go from here? I think sessions like this are very important and we need to share and we have to brainstorm together to problem solve and I think over time, as a group, we can get to where we are going together.

Finlay Sinclair, Manager of Special Projects and Communications, Regional District Fraser-Fort George

It is a substantial opportunity to be here today in a group and in an environment that is moving forward on issues that are challenging in this province and in our country and I think this province is taking a huge leadership role in providing these types of sessions. I find it a deep privilege in working with First Nations in British Columbia and directly with the Lheidli T'enneh, the McLeod Lake Indian Band and other First Nations. It is a respect issue in dealing with First Nations and I think that, if we want to start building relationships, it is about three things, which are trust, engagement and empowerment. We need to trust each other, as has been said numerous times, and trust is very difficult thing to achieve and takes an enormous individual commitment, corporate commitment and political commitment to move forward and salvage that trust. Engagement is a critical component in that we actually have to engage, discuss and be open and frank and create dialogue as well as the availability and opportunity to dialogue, with each other, at a very substantive level. The "no means no" etc. It is very important to be able to discuss the issues with people face-to-face and have them believe that, what is being said is from you, as an individual, and is a personal commitment to bring yourself to the table as much as you bring the organization that you represent.

Referring to empowerment, we need to create government structures that allow these relationships to continue and foster through time. We need to empower the process and create goals and objectives that are, fundamentally, founded in moving forward in a new way. It has to be a new way – the old way does not work and, if we don't create an empowerment process, we won't move forward. We have to recognize how history influences the present and, what I found with being involved in the process, is that I didn't really recognize or understand First Nations as I thought I did, until I actually met with elders and engaged in discussion with elders and had the opportunity to know how they feel and why they feel a certain way, as well as to recognize the importance in the First Nations' communities the input of elders. I believe it is fundamental, in working with First Nations, to recognize and understand their history and to put people into that context. It isn't necessary to recognize the globalness of issues but to talk to people and to recognize why they feel the way they do and to understand why they feel a certain way. We are all presented with opportunities to work with each other and try to change each other and I don't think change is an appropriate mechanism and what we need to do is understand each other. Creating environments for understanding gives us an opportunity to mould each other versus trying to change.

I am trained as a planner and one of the more interesting comments, that I would like to discuss, is building communities. I firmly believe in building communities but I firmly believe that the foundation is building people. If we are going to build relationships and we are going to move forward, we have to build healthy people. This is first and foremost an essential individual discussion. We cannot build communities and have that as the driver, we need to build people and the people will build the communities. Mayor Colin Kinsley spoke about equity, quality and fiscal responsibility and these are negotiated processes that need to be harmonized. Anytime we have government above us, at any level, telling us what to do, we are not appreciative of being told

what to do. What I find interesting, in regard to First Nations and being around the environment, is recognizing their value systems and what they value as individuals versus what we value. We cannot change what someone else values: a value is an individual belief and is inherited from family or upbringing and if something is of value to another person, then we need to celebrate it and understand its uniqueness and fit the uniqueness into the larger picture and create it as a momentum. Changing values becomes the end of a process and will not succeed. I found that trying to change someone's values is interfering with their value system and their very foundations and will result in a loss of trust. I believe those value systems are a critical component of the discussions.

In regards to the government structure in the treaty process, one piece of advice I extend to local government politicians present and to Chief Barry Seymour of the Lheidli T'enneh First Nation, concerns a critical decision, by the Regional District of Fraser Fort-George, early in the process when dealing with the tripartite negotiations. The federal government and the province sat across from the First Nations. The Regional District Board believed that the Regional District needed to sit beside the First Nations and would not sit as a subsidiary or a partner to the province or the federal government and this was based on a long-term commitment to establish a relationship. They fundamentally rocked the boat at the negotiations because the federal government and the province were familiar with the former type of relationship and believed that they represented the local governments' interests in treaty negotiations. Our Board's position is that the Regional District Board represents its constituents and will provide governance and leadership in accordance with that and will sit at the table according to its own choice. My advice, to anyone in the local government realm, would be that sitting beside First Nations is creating a partnership at the table. We are not a party to the tripartite negotiations but a partner to the First Nations. The Board stance, in that regard, has contributed great success in facilitating general discussion, forward thinking and long-term commitment to work with each other. At the end of the day, as Mayor Kinsley and Chief Seymour stated, everybody goes away except the First Nation and the local people. That is the reality and the foundation that Mayor Kinsley and Chief Seymour have laid for a long substantive future.

Community integration, I don't believe is a political issue: If we work together and are committed to the principles, goals and objectives of the treaty process and local government relationships, community integration will happen based on people. It is not about telling people to integrate and it is not about telling them to do certain things. Working together can be difficult and when I have the opportunity to speak to local government, it is a bit of a joke with the Regional District that we actually know how to fight. We know how to have arguments, we know how to have disagreements and we know that process and are not afraid of confronting a position that we don't agree with or don't understand. We recognize that dispute resolution is part of any good process. Any good adult relationship requires a dispute mechanism and is the key to a basic foundation.

Sustainability is a word that is thrown around all of the time such as community sustainability and economic sustainability. Politically, the Lheidli T'enneh, the Regional District and the City of Prince George define sustainability as a commitment to a common goal. That is the key focus in regard to how these entities move forward and is a commitment towards a common goal. Sustainability is a result of different processes and is not the process in itself but is the result of a committed effort.

I liked hearing the quote this morning that the "process is more important than the plan" and the process is not the bureaucracy but it is the commitment to creating the process that will allow it to be successful. Jack Ebbels stated this morning that, by fixing the bureaucratic problems and process problems, the planning process could be achieved. That is a commitment that everyone

needs to work towards by defining the process allowing the plan to be a part of a natural progression of that.

ROUNDTABLE DISCUSSION

Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

Two points I would like to make. I think the issue of sharing services or what services are going to be addressed between a municipality, a region and a First Nations is an important area to look at and should be addressed by the UBCM and other organizations. An example that comes to mind is the one put together between the Musqueam and the City of Vancouver over thirty years ago. This was sewer, water, waste management, police, fire, sidewalks, streetlights and a range of services similar to that. Although that is not the issue – the issue is that it is changing, qualitatively, from a hard rock type of discussion to the city now adopting a different approach starting with cooperation. This is an important evolution, which has been highlighted by Mayor Colin Kinsley, Chief Barry Seymour and Finlay Sinclair. There is a fundamental change in the way we need to approach local servicing and cooperative agreements.

Secondly, we should not just look at the successes, taking place in the Prince George area, but look at examples of where we seem to have failed, which appears to be when we try to change or threaten people's values. I heard an example, when in Prince George recently celebrating the 10th anniversary of the University of Northern British Columbia, where a political scientist, by the name of Tom Flanagan from Calgary, came to conduct a lecture, and a faculty member of the UNBC, naively, thrust this into an academic intellectual exercise. There was a large audience to hear this lecture by Tom Flanagan, who basically gave the assimilationist viewpoint – you don't have a history, just use a simple fee system for your lands, own your own land and forget your culture. This was the intellectual argument that he used, which, if it isn't ones own values that are being threatened, one can listen to objectively and intellectually. The harm that he did to the First Nations' students present in that room was almost incalculable. The suffering they went through, personally, listening and being part of this, caused havoc in that university for a long period of time. I think the issue of respect for values isn't just an abstract term: it is very real. The reverberations of that particular exercise are still being felt at the University of Northern British Columbia. I just want to reinforce what has been said – that respecting and understanding values are the basis of the new relationship.

Dan Smith, Chief Negotiator, Hamatla Treaty Society

I think it is important to note the competing effects, which someone previously mentioned, in economic development and other areas. When we talk about municipalities, regional districts and treaties in the same breath, it is necessary to be very clear that First Nations are negotiating with Canada and British Columbia and not with regional districts and not with municipalities – but the competition for land is still there. There are policies and regulations, at the regional district level and at the municipal level as well as within First Nations itself.

We, as a Hamatla Treaty Society invited over 100 plus people from all of the regional districts and the municipalities within our territory. Mike Harcourt was present and gave an excellent presentation. During this meeting it became clear that many of the municipal leaders did not have full knowledge of Aboriginal issues or Aboriginal history with respect to who owns these lands. Someone mentioned stewardship, as opposed to ownership, and that is basically how we view the land. We still have competing factors, within the regional districts, where they have their own authority and the ability to pass bylaws, including jurisdiction one-half mile off the shoreline, which is an example of a further competing factor with respect to the policies and acts of the local

governing authorities in the area. How do we resolve that, as a First Nations, when First Nations don't have the same capacity, people power or ability to pass along responsibility as local governments do? When we talk about community integration, the question is whose community are we integrating into our lands in our particular areas? I think it is very important that we seek the assistance of the province and Canada and the BCTC to educate the public, with respect to First Nations and the occupation of those lands. Even after a treaty, it will still be our traditional territory and, again, there are some policies that exist that states First Nations can only own land up to the high water mark. We have evidence in Comox, where carbon-dated material back to 1070 was present, where fish weirs were being used and the size of this particular fish weir indicated there was a large population in that area. I want to reinforce the fact that there is a need to meet regularly with regional districts, municipalities and local governing bodies. We found our Mount Washington workshop with the local authority participation was a revelation for them.

Mayor Colin Kinsley, City of Prince George

From our perspective, I think what Dan Smith has stated was needed in the areas in which he represents and that is what we have tried to do to some degree, and to a greater degree we think we have achieved. As Finlay Sinclair pointed out in his presentation, the governments of Canada and British Columbia have never seen the situation before, where local governments sat with the First Nations rather than sitting off to the side, in order to highlight our partnership stance with First Nations. To some small degree, I am hoping that has helped our process and the education, the protocol, and the MOU's were all things that were leading edge a couple of years ago. What Dan Smith has shared with us is what needs to happen in all regions of the province.

Alison McNeil, Senior Policy Analyst, Union of British Columbia Municipalities (UBCM)

I would like to pick up on this point about the servicing agreements between First Nations and local government communities as a form of relationship building, which is a very practical form. Working for local governments, I am interested in practical aspects of relationships such as the on-the-ground aspects of how buildings and structures regulations and business licensing are dealt with. I don't consider these to be peripheral issues and consider them to be central issues. Environmental assessment protection and processes for land planning and management – all those things are practical day-to-day issues of what local governments are involved in, as are First Nations, and they need to come together around those issues.

In mid-June of this year, the UBCM ran a series of servicing agreement workshops for the benefit of our members around BC. I invited Freda Jules, from the Kamloops First Nation, to talk about the First Nation government perspective on negotiating servicing agreements. We also had a lawyer speak about the legal context of negotiating and what is, essentially, a legal contract, and a local government person speak to what would be the do's and don'ts in the negotiations from their point of view. What I found was a large demand among our membership for this kind of workshop and that people were really hungry to come together and gain a better understanding of what was evolving in dealing with First Nation governments. There is a whole new generation of people coming along within local government and First Nations who need and want to come up to speed. In many cases First Nations are doing more development and planning on their reserve lands. There is a whole new wave of servicing agreements that will be required at a new level of sophistication and a new level of cooperation. I think there is a need for First Nations and local governments to sit in the same room and negotiate and discuss how they will support communities, over the long term, and to learn more about each other than just negotiating the contract.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

It is also apparent that public works projects on reserves represent significant opportunities for

urban-based private sector contractors.

Tom Mann, Director, Regional District of Central Kootenay

It is an interesting dilemma and local government has to learn where its role is in the treaty process because within the province, reserves are within the defined boundaries of electoral areas and First Nations can vote in regional district elections. There is an element of perception that an electoral area director, in the regional district, has a responsibility to the citizens with respect to service agreements and that whole scenario. Where there appears to be a problem is when the attitude that we sometimes have in local government, that we are smarter than everyone else, and if we carry this to the treaty table and try to save the world, we will find that is not our role. Our role is to ensure that the concerns of local government are addressed when there may be an impact on the ability of local government to provide services to its citizens. The representatives sitting at the table from local government, in my view, do not have a role to play on the discussions of eligibility and enrolment in health care systems. Those are systems that other people have responsibility for. The local government representatives should remain clear on their own mandate and responsibilities and focus on relationship building between the First Nation and local government, and anything defined as not being within their mandate should be recognized as the responsibility of other levels of government.

Sandi Tremblay, Councillor, District of Powell River

I would like to respond to Tom Mann's statement that, when at the treaty table, we are totally representing the municipality to ensure that it is protected from certain things being negotiated at the table. I am a representative from the Powell River municipality at the treaty table and I see my role quite differently. Firstly, it is true that we are there to ensure that, whatever is negotiated at the table, the municipality can play a role in that as well as making sure that it protects the citizens – but it goes deeper than that. We have to ensure that whatever happens under the treaty is best for all parties: it is first of all best for First Nations and it has to be best for us as a community. We don't see Sliammon as a community, the regional district as a community and Powell River municipality as community – we are the community. We have to thrive to do the best we can to ensure our community has certainty and stability and goes forward. While, I agree with a small part, I think our role extends beyond that and I don't hesitate for a moment when the province or Canada puts something on the table that I totally disagree with even although I am supposed to be there on their side. If I see an item that is being discussed that is a huge disadvantage to Sliammon, I say so.

Tom Mann, Director, Regional District of Central Kootenay

I just want to respond to one portion of my comment and the terminology used. I don't believe that we are there to protect local government from anything. We are there to share our concerns in the developing of the emerging society, and it is not our role to protect the local government from something, which implies that there is something negative being done to us. That is not our role. We are there to contribute to the process and to educate, so that what we are doing is working together to find solutions, rather than protecting either entity from some bad form of government.

Rick Krehbiel, Lheidli T'enneh First Nation

I have no idea what was in Mike Harcourt's vision when he signed the protocol with UBCM many years ago that actually brought local government formally to the treaty table as a part of the provincial team. Clearly that part backfired, in our case, when the lines were redrawn. However, one of the things that resulted from that relationship was the Treaty Advisory Committees, and most of those have gone the way of many other things, but the Prince George committee continues to be up and running and has largely self-financed itself for the past two years, along with a provincial contribution. The representative from that Treaty Advisory Committee in Prince George

has consistently been of great assistance to our negotiations. This person, Don Bassermann, has consistently been at our table for even the most boring and mundane working groups and has assisted in many things above and beyond the issues that would normally be assigned to local government representatives. I agree with Sandi Tremblay and with Tom Mann, that the local government participation, as almost a negotiator at the treaty table, has been immeasurably invaluable to us. We, as individuals, are inclined to get on our high horses and indulge in long tangents and are pulled back to reality very quickly. Our local government representative has shared many of our important sessions lately. The representation present today from Prince George, Mayor Colin Kinsley and Finlay Sinclair, will hear my praises and I have to say that their representative from that advisory group, who has been sharing our tripartite negotiations, has participated far and above what is required and I wanted to acknowledge that.

PLANNING TOGETHER: EXPERIENCES ON THE WAY TO TREATIES – PART II

L. Maynard Harry, Chief Councillor, Sliammon First Nation

I would like to acknowledge Musqueam and Squamish Nations for allowing this session to take place in their territory; Tony Penikett of the Morris J. Wosk Centre for Dialogue at Simon Fraser University, the Honourable Mike Harcourt; Mayor Stewart Alsgard and Councillor Sandi Tremblay of the Corporation of the District of Powell River (CDPR). I also acknowledge Sliammon's contingent present today – David Formosa, Sliammon's Joint Venture Partner in the Historic Lund Hotel, Kevin Blaney, President of Sliammon Development Corporation (SDC) and Steve Gallagher, Sliammon's Intergovernmental Coordinator. I also acknowledge Lyn Brown of NorskeCanada.

I have heard many good points made today and have observed that the language today is so different from what it was ten years ago. My presentation will touch on what has already been talked about. We have a good relationship in Powell River, which was, initially, controversial but with the approach taken by both Councils, we really have to acknowledge that this contributed to a complete reversal and turned something that was potentially negative into something that is at the forefront of the federal and provincial levels. Lots of interesting things have happened over the course of the last two years. We established a government-to-government committee comprising of councillors, the Mayor, staff, and myself, to talk about issues important to the Powell River and Sliammon region. We recognized the importance of looking at the area as a region, rather than Powell River or Sliammon as separate entities. This is a unique, joint, shared committee with everyone sharing in the creation of the agenda. Subcommittees have also been formed in the following areas: cultural and heritage protection; land selection (within the CDPR) and forestry.

In May 2003, SFN and CDPR signed a Community Accord, which is more significant today than the actual day it was signed. This was also a very important day for me. I was officially awarded my traditional name, *Qwastenatu*. On Saturday, September 4, 2004, the Mayor honoured us by accepting a traditional name from Sliammon. In my opinion, Mayor Alsgard will always be a positive ambassador of the SFN. Dave Formosa was honoured as well for his endless contributions to my community. The language in negotiations today has changed dramatically from many years ago and a forum like this is a proactive step and can only lead to positive results for First Nations.

Over the last couple of years we have done a number of things. One of those was the establishment of the community accord and enhancing our visibility in other communities. CDPR has made significant efforts to ensure the SFN is present to welcome dignitaries at all major PR functions. This simple welcome I consider symbolic and it has created a growing awareness and friendship that has benefited the Sliammon community. In turn the Mayor has been invited to

events in Sliammon which symbolically, acknowledge the bond between the two communities. We use the media, the local Powell River newspaper, the local TV channel and we participate in radio interviews to publicize our activities.

In June 2004, SFN and CDPR signed a Protocol Agreement which works to build on the principles established by the Community Accord. These two documents enable talk about working together positively, acknowledging each other's culture and different heritage, process and timelines. These simple principles help set a positive tone at many negotiating tables. SFN recognized the fact that there are opportunities out there and to access them, one has to be at the table. Treaty negotiations are an example of this.

I really acknowledge the BC Treaty Commission (BCTC) for the significant role they have played to date. I fully expect SFN to go to a Final Agreement Treaty Negotiation Ratification Vote within two years. Whatever the outcome, SFN will continue to move forward. It would be very interesting to see SFN step into a post-treaty world. What SFN has accomplished to date is very courageous. I acknowledge the Nisga'a for taking a leadership role in this area. The language and the process have changed significantly over the past ten years ago. Then, things were more aggressive and frustrating. Today, more capacity is evident within First Nation communities. There are more and more accomplishments. Grand Chief Phil Fontaine was into my community last year and talked about treaties. He spoke about all parties sharing and negotiating in good faith. These advances are a result of attitudinal changes and have led us to where we are today.

A part of the protocol agreement covers the protection of archaeological and traditional land and resource use sites, identifying economic development opportunities and working together. These agreements commit both sides to learning about the other's culture and the unique challenges faced by each Council. The Community Accord and Protocol Agreement have enabled SFN to come to the table with industry. On September 3, 2004, SFN signed a Protocol Agreement with NorskeCanada, which mirrors our relationship with Sliammon and Powell River and acknowledges the need to work together. There has been a pulp mill in Powell River for 120 years and with this signed protocol agreement there may be opportunities for partnering. To take this a step forward would be to bring Weyerhaeuser to the table. To be frank, Weyerhaeuser seems to be not as open and transparent as NorskeCanada.

Prior to the Community Accord, SFN and CDPR were discussing the Powell River Seawalk. CDPR stepped forward and worked very positively with SFN in seeing that this project was successfully completed. Sliammon Construction Ltd. built this Seawalk in the end. The viewpoint above this Seawalk is very significant in that CDPR has erected a flag pole which carries the flag of the SFN and sits alongside a just as large Canadian flag. Two large 40' yellow cedar totems welcome people to this very historic site – historic for many reasons and years to come. This area is remarkable in that it symbolises that positive working relationships are possible and can bear fruit to both parties.

Over the past two years, SFN has ratified two significant agreements: Agreement in Principle (October, 2003) and a Land Code (March, 2004). These two agreements will enable SFN to access more economic development opportunities which will translate into more jobs for my people.

SFN has also made headway in the area of good governance. SFN has opened council meetings to the community and adopted minutes are consistently circulated throughout the community. I would recommend that future council meetings are opened up to the media as well. Minutes are also available online.

Over the past few months, SFN and SDC have initialled discussions with both NorskeCanada and CDPR regarding a progressive potential Joint Venture between the three parties. SDC Director David Formosa played a crucial role in getting this initiative off the ground. In July of this year, NorskeCanada signed off on a letter of intent committing to pursue this initiative further. It is important to note that this discussion started from something negative and may evolve into something cutting edge, which will benefit not only SFN and CDPR, but maybe the shareholder's of NorskeCanada.

I will conclude by talking about community awareness and the significance of the symbolic steps, such as protocol agreements, and the need for our constituents to see the benefits at the grass roots level. Our position has always been to access meaningful benefit, provide meaningful input when necessary, work positively and be creative. Meetings like today's play a role in fostering positive working relationships between First Nations, municipalities and industry. We are also monitoring what is happening around the province and acknowledge those First Nations who are involved in some very innovative things. I want to end by saying congratulations to Powell River for the precedent setting acknowledgement and award to be presented at the UBCM annual meeting in September.

Mayor Stewart Alsgard, Corporation of the District of Powell River

I acknowledge today the honoured elders, Chief Maynard Harry, First Nations' Peoples and all other participants. I acknowledge the traditional lands of the Musqueam and the Squamish Nations. *Emote cun nun nah peh* – I am happy to see you! *Cha cha ton neh petch* – I praise you all!

My traditional name is *qoqohq* – Snow Owl – an honour bestowed upon me at a naming ceremony on the 5th of September in the great hall of the Sliammon people and in the presence of the Chief Councillor Maynard Harry, the Elders and the people of the Sliammon Nation. I wear this beautiful cedar bark and eagle feather headdress with humility and respect. The Chief Councillor tells me it is good for at least 300 years!

Bonjour, je suis le maire, la ville du Powell River, Colombie Britannique, une capitale culturelle du Canada 2004-2005.

This is a significant occasion. It is not an occasion where one imposes an experience upon others. It is an open forum where we feel comfortable, uninhibited and free to exchange ideas unfettered by narrow concerns.

Our relationship evolved from the potentially adversarial and historical neglect of the Sliammon Nation, by our municipality, over a serious matter of cultural and heritage insensitivity; the construction of a seawalk and ignorant destruction of historic artefacts and cultural markers.

The relationship developed into an open, frank and honest stream of government-to-government communication – which we have been hearing around this table all morning – and it did so because of the desire, the will, the intent and commitment of the local governments involved. Out of this, came an Accord in May of 2003, between the Municipality of Powell River and the Sliammon Nation, followed by the Protocol Agreement in June 2004, which was mentioned by Chief Councillor Maynard Harry.

We, that is, the Sliammon Nation and the Municipality of Powell River, have pushed aside ingrained attitudes of those who, without contribution, harbouring ignorance and bias, held fast to and were unwilling or saw no need nor would make the time or give priority to step forward in

open communication and discussion. It was, and remains, an exciting challenge to overcome. The Chief Councillor has brought huge energy levels to a whole new relationship with Powell River.

The diversity of heritage and culture and the desire to recognize and practise this is what makes Canada a unique and enduring global phenomenon. It is all about getting things "going." People struggle to get into this country.

Let me give you some examples of what our current relationships have presently underway. The Chief Councillor has talked about the joint venture and has mentioned the seawalk. I put to you the international choral festival, *Kathaumixw*, which is the *gathering of peoples* every two years from all over the world to express the universal language of music.

As a former Senator of the University of British Columbia, I see what Sliammon has accomplished: medical doctors, graduate and post graduate accomplishment, teachers, social workers, lawyers, academics in their own right, the House of Learning and the youth achievements.

The great thing about this country we call Canada, is our diversity. We have an intent of purpose and the resolve to make things happen. It is our duty to bring the youth into focus and involvement with our governmental process.

As a small boy growing up in Powell River, before my parents sent me away to sea, I can remember going, with all my little friends, to the local movie theatre. I recall walking into that theatre and taking for granted that what we call, respectfully, First Nations were referred to in those days as "Indians" who were relegated to a balcony and only allowed to enter after everyone else was seated. From my perspective as a young person this was a matter of fact and the way we were. We are not that way anymore. We must never forget that attitude once existed and we must never permit it to happen in the future. There were other examples of that kind of attitude.

Our dialogue is about being effective and about building intergovernmental relationships; about planning initiatives; about economic opportunities, and we shall use our time together well.

Powell River and Sliammon First Nation have signed both an accord and protocol agreements. I acknowledge today the presence of Councillor Sandra Tremblay and Mr. Steve Gallagher of Sliammon First Nation, who, in effect, are principal authors of these significant and historic agreements. Today I reflect, as Chief Councillor Maynard Harry stated a moment ago, on the presence at our Powell River view point, the flag of Canada – the red maple leaf – and the flag of the Sliammon First Nation flying together and overlooking thousands of years of historical significance of First Nations. On that ceremonial occasion, I referred to the late great Chief Dan George when he said, "My heart soars." I said that day, as I looked upon the several hundred people who had taken the time to attend the ceremony, that this is a day when our hearts soar – and I acknowledge the presence today of his son Chief Leonard George of the Tsleil-Waututh First Nation.

In a matter of days Powell River and the Sliammon will welcome the Canada World Youth exchange delegates for the fourth consecutive year. First came participants from Indonesia, then India, followed last year by Brazil and, in just a few weeks, the People's Republic of China. They remain in our communities for over three months. These are exciting opportunities for youth to meet, interact, share experiences and, possibly, maintain future contact. The torch soon passes and we must ensure it burns well. As I was always reminded, as a young mid-shipman in the navy, "fail not – at your peril." I look forward, as I am sure we all do, to the continued deliberations and

discussions of this day. Merci beaucoup. Thank you. Emote.

ROUNDTABLE DISCUSSION

Lyn Brown, Director, Corporate Affairs and Social Responsibility, NorskeCanada

It is absolutely impossible for an industry member of this community not to be caught up in the vision and the courage of two great communities and it has been a real pleasure to be a part of that. We hope we can contribute, as an industry member of that community, to the path, the progress and the platform of cooperation that Chief Maynard Harry and the Mayor Alsgard have already established. Our chief executive officer, Russell Horner, too shares that courage to go forward where others have yet not paved a strong pathway as industry players. I note a sad lack of industry representation in this room and perhaps that will change with time; hopefully our Powell River example will help make that happen.

Dave Formosa, Economic Development Consultant, Sliammon Development Corporation

It is with great pleasure that I am here today. I think that I am more suited for the next discussion on joint ventures, partnerships and business but any governmental relationships and treaties are also a big part of business and, without that, it is not always possible to get to some of those areas. Business plays a role in trying to ensure that the two parties get together, and stay together, in order that business can carry on. In Powell River we have that foresight and the ability to work with the Sliammon First Nation and the Powell River community and do our best, as business leaders in the community, to ensure that both parties are heading in the same direction.

Mel Bevan, Northwest Tribal Treaty Group of Northern British Columbia

I would like to mention a couple of points on planning and working together. The Northwest Tribal Treaty Group, a group of approximately 50 communities, has been able to negotiate an agreement with the Northern Central Municipalities Association. We work with the Northern University of British Columbia and are currently engaged in a three-year project, with the provincial government funding, to study regional economic development and how we can become a part of it. Through the agreements, we signed with the municipalities and the university, we have been able to put together, three times per year, major workshops and invite presentations from industry on such issues as mining, forestry and oil and gas. Next month we are conducting a major workshop to discuss how to encourage investment capital into the north and inviting banks and investment counsellors to participate.

The point I want to make is that the treaty process itself makes that possible. The group would not be able to do that unless the treaty process was moving ahead. One example involves the Kitimat-Stikine Regional District when, about ten years ago, we had a meeting to discuss fire protection and whether or not we needed two separate fire departments. We discussed how to combine the departments and provide better protection for everybody that would be cost effective and those discussions took place ten years ago. What blocked us was the Department of Indian Affairs. The regional district was very receptive. Approximately a year ago, I called the federal treaty office, as the negotiator at the treaty table, and asked if they could help with the problem and explained that we are building a new relationship. Attempting to work together and finding ways to be cost effective. Within twenty-four hours I had a phone call from the departments saying we didn't realize this was a one-time only expenditure. My point is that the federal treaty office and the provincial treaty office can do things that the department cannot, because it is outside of their legislative authority. The treaty process itself really makes a difference and we don't need to have a treaty to get these things done – the process makes things happen and it provides authority.

The other point I wanted to make is, again, based on the topic of the incremental treaty process. In the north we came up with the notion of the Incremental Treaty process, which involved small treaties such as a treaty in fisheries, treaty in forestry and so on and to do that one step at a time. The momentum of this is beginning to build although nobody really knows what it is yet, because nobody has been able to come up with a good description of what it is. Again it is a way to get things done. Industry is part of this process, such as the forest and fishing industry, and we can build better relationships one sector at a time. In the north we are beginning to work with industry and are making progress working in cooperation with the mining industry. We are trying to build these relationships and work together. The main point I wanted to make is that, basically, it is the treaty process that makes those things possible and without it, I don't think we would be talking to each other now. Maybe this is something that needs to be exploited. It is still quite difficult to move ahead because the Provincial Treaty office is quite small and there are some things that they just don't have the capacity to do. The province may need to either expand their operations or give them more authority to do things. Progress is being made and great things are happening all over but it will take a long time because we first have to meet and sit down to reach agreement – and that takes a long time to do.

Cheryl Casimer, Negotiator, Ktunaxa Kinbasket Tribal Council

We are located in the south eastern corner of the province and represent five communities located in British Columbia and two communities in the United States. The five communities in Canada are currently in the treaty process. I would like to talk about, or share with you, what I have learned from the presentations. This has been a wonderful opportunity to hear that there are successes through the province being accomplished between First Nations and local governments. We are not enjoying that kind of success in our part of the province. However, I should state that the regional district has entered into a service agreement with one of our communities and this has been very successful. I have come to recognize that there could be a lot more taking place and that we definitely need to focus on priorities and establishing relationships with local government.

The comment that was made, about the treaty process being a tool for opportunity, and this goes hand in hand with the question posed to us earlier – "If the treaty process is already a template with formulas already in place, why is the process taking twenty years?" Our elders have often told us that there are many factors that we have no control over, whether they are external or internal, and at the end of the day, we may not have a treaty and should be cognizant of that. In the meantime, we need to take advantage of the opportunities to accomplish things amongst ourselves, such as building capacity and establishing relationships, in order to create the mechanisms for decision-making and development within our own territory, with or without a treaty. I agree that the treaty process is an opportunity and a tool for us to use, although I think our First Nations would like to finalize a treaty and that is what we are working towards.

I appreciate what has been shared with us today and I will definitely take this home and, when sitting with tribal councils and negotiating teams, will start talking about how we need to look towards establishing mutual trust and a working relationship with local governments. I have heard the comments that local government and First Nations are the groups inevitably held accountable to their respective communities, whereas the federal and provincial negotiators return to Vancouver or Victoria, and it makes sense that we work together and establish a mutually beneficial relationship. I thank the presenters for sharing those points with us.

Jo-ann Archibald, Associate Professor, Faculty of Education, UBC

I am from the Sto:lo Nation and I work at the University of British Columbia. I have really appreciated hearing about the importance of establishing trusting and respectful relationships and certainly taking time to understand the diverse community values and the histories of the particular

areas that have been talked about this morning. It made me wonder that, as the treaty making process is taking awhile, I recall the Nisga'a presentation and noted that the people now involved in treaties are the descendants of previous generations, and my question is for the presenters: What have you done to think about preparing those younger generations of people to understand the importance of this trust relationship and the understanding of values and histories so that those younger or new people who come in, to be involved in treaty making and post treaty, have those same important values and understandings of those relationships and all those good principles that have been talked about this morning so that momentum keeps going ahead? I also wonder what thought has been given to ensuring that in the school system all of the students get to know more about each other's histories and cultures so that there is a good understanding so that we are not always starting again when we come to a new type of table as leaders. These are two areas that I am wondering what thought and what action has been put into the education?

Martha Anslow, Manager, Local Government-First Nations Relations, Ministry of Community, Aboriginal and Women's Services, Government of BC

I work in local government - First Nations relations for the Provincial Community, Aboriginal and Women's Services ministry. I have worked with the local government system for the past decade and wanted to mention, with regards to the discussion of local government and First Nations relationship building, that I encourage both provincial and federal negotiators to recognize that the local government system, as it stands today, is a system that has evolved over decades. The system of local government is all about working on issues *together* – community-to-community. If local governments can be seen as a resource for First Nations communities, that is a good thing. If some responsibility can be expected from local governments to provide outreach to First Nations, particularly as the First Nations communities and territories grow, there is a wonderful opportunity for cross pollination of views and information-sharing. It is interesting to me that there possibly isn't enough focus on local governments, as a body, to show how relationships can evolve over time and be beneficial.

Rick McDougall, Acting Manager, Aboriginal Relations, BC Hydro

I just wanted to offer some experiences which underscore what Barry said earlier about "process being product" and, at Hydro, we really believe that. We established a Water Use Planning process about five years ago and it is really a story about fisheries issues and our generation facilities. I think we have been successful in engaging First Nations over this period of time. There were over 30 projects across the province and we successfully engaged a large number of First Nations.

Some of the key elements to that success were consulting early on the guidelines by for the process and entering into a partnership with Canada, the province and the First Nations, who would eventually be involved in this process. A First Nations Water Use Planning Committee was established where we sought advice and was used as a forum for discussing issues. Any First Nation which was involved in this planning process was invited to participate on the committee. Also, First Nations were involved in management of the planning process and sat on a management committee with representatives from Hydro, provincial agencies and the Department of Fisheries and Oceans.

Another success element was cross-cultural training. All of the individuals were involved in the process early to ensure that in particular areas of the province people would have a level of understanding of local and cultural issues. A final element was a commitment to provide funding for technical advice, which allowed First Nations to come to the table with the same kind of information that others might have. This is a process that may or may not be related to treaties but is the type of process required in order to improve our existing operations within this environment. Those are the key elements that I would be happy to share with anybody if interested.

Harold Steves, Councillor, City of Richmond, Lower Mainland Treaty Advisory Committee (LMTAC)

I have the unique distinction of wearing two hats and I am the Treaty Advisory Committee representative at both the Musqueam and the Tsawwassen treaty tables. I just wanted to share my experiences, at those tables, and ask a question of Mayor Alsgard and Finlay Sinclair of the Fraser-Fort George Regional District. The reason I am at the Tsawwassen table is because the Delta Council has walked away from negotiations and had taken a very adversarial position and, although I was supposed to be at the Musqueam table, I ended up being at both.

The LMTAC and the regional district have sponsored workshops, and have worked hard to regain the confidence of the Tsawwassen First Nation and I think we are doing well at that in spite of the relationship with the Delta Council, which is the area where the Tsawwassen is located. At the Musqueam table we, initially, started badly but have recently agreed to a MOA with the Musqueam over a forested section of land, located near downtown Richmond, and we are working towards building that relationship. I found it interesting, in regard to the two examples we heard this morning of how the city councils and regional districts have been able to work together, and the question I have is: Because of the experience of sitting at two tables, where one city council is objecting to the negotiations and the other where some members of the regional district are taking strong stances, did you have any opposition within your respective councils and regional districts and, if so, how did you overcome them?

We are like Powell River where, originally, we started badly and are trying to overcome that. I am also wondering: are the remnants of the old council that built the sea wall still fighting against your participation and working with the First Nations or was there a total change and about face? The same question I would put to the Prince George area. Did you have everybody on side and what responses did you have and how did you overcome any adversaries from within?

Sandi Tremblay, Councillor, District of Powell River

I would like to go back to the protocol agreement that Powell River and Sliammon signed. While we only endorsed that document, at the end of June of this year, we are already in the process of implementing a large portion of it. I would also like to mention that the municipality is undergoing their review of the OCP and, right from the onset, we acknowledged that the process had to be fair and include mutual respect for the communities. To accomplish this, we put together a Steering Committee, which is comprised of three members of council, one member of Sliammon First Nation and one member of the Regional District. The regional district chose not to participate and we do not have the kind of relationship with the regional district in our area that we would like to have. Certainly, Steven Gallagher is the appointee from Sliammon and the Steering Commission has already decided that a section of the OCP will be dedicated to Sliammon First Nation and they will have the opportunity to include their territorial maps and set out their heritage sites and he will play a role in the public review by the community. We look forward to that and consider this will be one of the best OCPs ever produced by Powell River.

Dan Smith, Chief Negotiator, Hamatla Treaty Society

In answer Dr. Archibald's question, with respect to the youth and what are we doing, we are involved in the schools because we know that the relationship between Aboriginal and non-Aboriginal students has to be improved and strengthened to ensure that there is a better understanding, dialogue and communication that will allow them to understand what is going on in the treaty. If people are misinformed, with respect to the treaty, then the result will be tension in the community and we really need to reach out to those students. We also initiated what we refer to as an internship program for our treaty society and approached each of the five First Nations to ask if the students would be prepared to participate as interns in the office and they were given

specific tasks. They established their youth committee and organized the youth around the treaty in order to be better informed and each of the chiefs acted as their council. We also established other committees in various sectors, such as fisheries, forestry, land etc. This provided the youth with facilitation skills and we brought in a trainer who provided them with the skills to facilitate treaty discussions at our table and others in the area. We also invited Mayor Lynn Nash of Campbell River, to sit at our meeting table working group in order to establish a relationship between the municipality and the First Nation and to ensure that they fully understand what is being negotiated at the main table working group itself. That is how we are looking at cooperating within the community.

Chief Barry Seymour, Lheidli T'enneh First Nation

Thank you I just wanted to respond to Professor Jo-ann Archibald, in regard to some of the things that we are doing to ensure continuity with regards to the treaty and our youths. I mentioned earlier that we had the family representative on the treaty council and we also have an elder and a youth representative at that table. The youth have their own treaty youth group, with participants that range in age from teenagers down to the youngest in the community. Regarding the school system itself, we have included, in our local education agreement, a cultural component that we will work with the school district to develop curriculum in relation to social studies and the development of language courses within the school district. Not only do we involve the youth, but also work with the parents and encouraged them to participate on the PACS so that they are also involved with the system. I would like to go back earlier to where Finlay Sinclair made a comment with regard to TAC involvement at our table and this has been extremely helpful to us, even during the negotiations where there were positions being taken by the province, the federal government and ourselves. It was surprising that TAC supported our position on some of the issues, which was beneficial in regard to our negotiations. Public involvement was also very helpful. One of the biggest challenges we have, as First Nations' people, is our ability to recognize that we are dealing with three levels of government and it is really hard for us to fathom that sometimes when we are dealing with other First Nations' governance. We do have issues with other First Nations and we have to deal with those as well as deal with the provincial and federal governments and local governments in regard to the governance issues associated with them. Sometimes First Nations find it very difficult dealing with all these different levels of governance and it is difficult for us to fathom at times. One of the things I am wrestling with, when we are talking about governance structure internally, is how to work with these other levels of governments with all their differences. That is one of the challenges for First Nations and I would appreciate any recommendations that anyone might have in regard to that.

Mike Furey, Assistant Deputy Minister, Treaty Negotiations Office, Ministry of Attorney and Ministry Responsible for Treaty Negotiations

I am with the BC Treaty Negotiation Office in Victoria and I have also had the opportunity to work with the federal government on treaties and across the table on the federal side. I thank the organizers for putting this together and it is has been quite a learning experience for me hearing all the different viewpoints. If I take anything away from this forum, it is the critical nature of the intergovernmental relations and how important that is to concluding treaties and the final agreement negotiations. Presenters, from both First Nations and the local communities, have taken a courageous step forward and I commend you for all of the hard work that has gone into that because that is what it really comes down to – hard work and the late nights, the evening work and being away from home etc., which is not always recognized by a lot of people but your families certainly are aware of that.

From my perspective in government, the other thing that I take away from this morning is how do we, as government, translate the successes of the various parties, that we heard from today, into

lessons learned and how do we take those and transplant them elsewhere? We have heard a lot of great achievements here today but there are a lot of other places where things are more challenged, in terms of intergovernmental relations, and we have been struggling with how we try and build some bridges and context in a number of other negotiations. A couple of speakers mentioned that, at the end of the day, the negotiators leave and it is First Nations and the local communities who are left and who will be the end participants in future arrangements, which I have always called workable arrangements. That is what we are trying to establish and treaties are the tools to get there. It is not the draft language which we, as government, and a lot of the people here today spend a lot of time looking at different ways to crack words in a treaty – that is just part of it – and it is really taking, from the hard work demonstrated by people here today and their successes building that type of cooperation. No matter what draft words you put in a treaty, you are not going to achieve that unless you find the magical formula that the Lheidli T'enneh in Prince George and the Sliammon in Powell River have come up with to make that happen.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

Even your Minister, Attorney General Geoff Plant's greatest critics have played tribute to the role he has played in respect to the difficult relationship between Tsawwassen and Delta. People here might want to acknowledge that.

WORKING LUNCH

L. Maynard Harry, Chief Councillor, Sliammon First Nation

In regard to industry participation in Powell River, NorskeCanada has offered an academic scholarship to interested SFN Band members wishing to pursue a degree in environmental sciences. Weyerhaeuser, Western Forest Products and the MOF have sponsored students to attend the Nicola Valley Institute of Technology (NVIT).

In the area of public relations, SFN has developed a positive approach in educating others about Sliammon. We have used this as a tool to assist in many projects. Today is very different from the coverage of ten years ago. There are significantly less negative stories about my community. This tells me that we are making progress in many different areas.

Mayor Stewart Alsgard, Corporation of the District of Powell River

The question I believe has to do with the difficulties between a council or councils and the First Nations' negotiations and how Powell River was able to overcome the problems. Initially, this was an adversarial relationship, which began with the municipality's intent to build a seawall in partnership with the Ministry of Transportation and Highways. After the project had commenced, it was discovered that it encroached on a midden and, although this had not been realized by the players involved, one individual did make an issue of it and brought it to the attention of the Chief Councillor, who made it very clear, by standing at the site and stating that the project had to be stopped and could not proceed. We had two options: a confrontational approach or sit down and try to understand what we had gone wrong. We chose to do the latter.

I would like to raise one comment to Dr. Jo-ann Archibald on the issue of youth involvement. The Council of the District of Powell River has granted permanent standing, during its term of office, to the Youth Advisory Council of Powell River. They appear automatically on our Agenda whether they are physically present or not. The youth are free to speak to issues and concerns in a frank fashion. Where possible, if I am travelling, I will invite a youth, as a delegate, to attend such conferences as the Confederation of Canadian Municipalities and the UBCM. I would also suggest that a youth or youths should be present in this room.

Doug McArthur, Professor, Public Policy Program, Simon Fraser University

I apologize for not being present this morning as I had other obligations and was not able to be here. Perhaps Harold Steves, Councillor from the City of Richmond, has already dealt with some of what I will touch on. I have to say it is difficult to talk about the role of local and regional governments and relationships without talking about the situation here in the Lower Mainland, which is a very problematic. There are a large number of people who are, including Harold, who are having difficulty in finding ways to alter the mentality of the local governments who are members of the GVRD. In the case of the GVRD, for instance, the Tsawwassen First Nation has done everything possible to build bridges with respect to cooperation with Delta and the GVRD. Having done everything that is possible, I see little hope for a productive future for the relationship between Tsawwassen and the local government. This lack of cooperation not only involves the Delta municipality but also includes cities like Burnaby where the Mayor spoke out not long ago in no uncertain terms about his opposition to the treaty negotiations with the Tsawwassen First Nation. My question, at a meeting such as this, would be to ask: Why and whose responsibility is it to deal with this important question? It has to be dealt with or our largest population in the province will find itself in a situation of having no functioning relationship in terms of planning, whether formal, informal, legalistic or hereditary, with its nearby regional district and municipality. This seems to me to be a fundamental and critical problem that needs to be dealt with by leaders at a governmental level.

Chief Leonard George, Tsleil-Waututh First Nation

I would just add to what Doug McArthur has stated that we have tried to do everything that we thought possible in terms of dealing with the GVRD. The last thing we tried at our table was to inquire of the province what the ruling or the legal opinion was on the obligation of the GVRD to respond to us, in regard to our traditional territories, and the response was no response. The GVRD does not have any responsibility to consult with us, as a First Nation, and that was their position. We have some differences with the District of North Vancouver but those are minor compared with the big picture and we have always had a good working relationship with them and everyone else that we have dealings with, throughout our territories, including other First Nations.

Marino Piombini, Senior Planner (Aboriginal Affairs), Greater Vancouver Regional District (GVRD)

I am a senior planner with the Greater Vancouver Regional District and have been dealing exclusively with First Nation issues over the last three years. Changes have been taking place over time and I just wanted to add a bit of good news that Aboriginal issues and treaty negotiations are being treated a bit more seriously. In the past, the various mayors were not as knowledgeable about the facts surrounding Aboriginal issues. I can now state, however, that a report published at the end of July has prompted questions from the mayors about realms of governance models that they may be faced with, and it was recommended that this report be taken back to the various communities for a response and feedback to the GVRD. The point I am making is the need to educate the politicians, and I think that is beginning to happen. Some of the more vocal individuals, such as the Mayor of Delta, participated in an intergovernmental relations technical working group with the GVRD, the Tsawwassen First Nation, the Lower Mainland Treaty Advisory Committee and with the senior levels of government, and this was deemed a success by all of the parties involved. They intend to meet again in the fall to review the final report and to examine the technical information we shared at those meetings. The GVRD hosted a couple of these workshops, and I think we are seeing the beginnings of movement at the GVRD level towards more positive changes.

Tim Raybould, Negotiator, Westbank First Nation

I would like to make an observation, for Dr. Jo-ann Archibald, regarding our experiences with

support for negotiating self-government and treaties. We found that, when we conducted community work, the largest group of people who were against self-government and treaties were in the older age range and, in particular within families, it was the younger generation of 20-30 year olds that were talking to their parents and grandparents about the importance of change. With some of the older people, we encountered fear about making change and moving relationship away from the paternalism of the provincial and federal governments. To better understand what the relationship is between a fiduciary and self-determination, in our experience, it was the youth and the younger generation who were leading the push for change with the support from community leaders.

In regard to the government-to-government relationships, between local government and First Nations, there are many positive examples of good government-to-government relationships. The UBCM is acknowledging those examples by establishing Best Practices Awards, which recipients will receive at the AGM in Kelowna in September. The community-to-community forums have been very successful. In terms of dealing with local issues it emerged that the big broad overview of the treaty process has contributed to the confusion about the relationship required for ongoing day-to-day existence, such as service agreements. Whether there is a treaty or otherwise, there is a need to have service agreements, particularly if taxes are being collected, and we will talk about that later this afternoon. There is a need to have a working relationship and, in the eyes of the non-Aboriginal, this is clouded by the un-extinguished Aboriginal title and the reality of the need to jointly work together on common interest projects at a local government level. We have tried to separate this as best we can to ensure that the treaty issues that go along with Aboriginal rights and title are also dealt with. At the same time, over the last twenty years, we have been working with the municipal governments on community servicing, community plans and working together.

I just wanted to make those two observations: about the youth and the elders and about the intergovernmental relationships.

Alison McNeil, Senior Policy Analyst, Union of British Columbia Municipalities (UBCM)

The UBCM signed a MOU with Indian and Northern Affairs and signed a protocol agreement with the First Nations Summit in the same year. Through both agreements, we have undertaken programs, such as a Community to Community Forum and Excellence Awards, and are continuing to receive provincial and federal funding to support people in organizing events at the local level. These are forums where elected First Nations and governments and politicians can come together to work on issues and to start building relationships. With respect to the awards, we have watched this program develop and have seen productive and useful effects emerge out of this that we considered others could learn from. The awards program, which we have in place this year, will recognize such partnerships as Maynard Harry mentioned. The District of Powell River and Sliammon First Nations are recipients this year of a Community Partnership Award which recognizes an outstanding partnership between the First Nation and local government.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

What ought the federal or provincial government do in the case of a dysfunctional relationship, such as that between Delta and Tsawwassen?

Alison McNeil, Senior Policy Analyst, Union of British Columbia Municipalities (UBCM)

I am not convinced there is a lot they can do. One cannot order people to do anything, and from what I have seen through time, it is the personalities that make the difference. When personalities change and we have elections and people get turfed out and new people come in, that can make a huge difference and it becomes a time factor. The length of time it is taking to reach a comprehensive treaty in BC, I don't think is surprising. It is a complex exercise and takes a lot of

time since it is all about building structures that have never been there before. For example, there is no template for building a local government and First Nation relationship structure. Certainly at the GVRD level this is the toughest undertaking and there are multiple levels of government structures to be contended with. I think things can change over time and, as Marino Piombini has said, over the course of a year at the GVRD board level, there has been movement.

Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

I just want to take what Doug McArthur and Marino Piombini have said and elaborate a little. I attended a meeting of the LMTAC committee with the GVRD board of directors last October that I found shocking. I heard statements made from people who should know better. I realized that the struggle in the Lower Mainland, in watching British Columbians writhe in agony in dealing with treaties, that it was out of sync with the rest of the province and that, basically, it was the people in Powell River and Prince George and Nanaimo who were working it out. I was appalled at some of the statements I heard that were racist and came from people who should know better and I think the LMTAC people were shocked at what they were hearing from people who have been involved for years working through this process. This was a wake-up call for all of us that things have to change and Marino indicated that we are making some progress but I still think there is a lot that needs to be done.

This type of session is very helpful in dealing with this frustration and how to deal with the GVRD, which is currently the major challenge in terms of local and regional relationships with First Nations and is something we have to explore over the next couple of years. Jody Wilson and I are involved in most of the Lower Mainland tables and the land allocations, that are going to occur, are significant and will have huge implications whether in the Fraser Valley or the greater Vancouver area and some of the joint venture projects will be huge. For example, Tsawwassen and the Port of Vancouver are going to enter into a joint venture on the back of lands as part of a national imperative necessitated by continued trade with China, which is going to quadruple, in the next number of years, and could go from one million containers to four million containers. I don't know if you understand what the implications are in terms of rail transportation, highways, trucks and the amount of overpasses that need to be built in Langley. This is an immense project that is of particular significance and importance to Canada. We can't close our eyes and envision it going away – it is going to happen and it can either happen the easy way or the hard way, but it is going to happen. That is the scale of the types of projects that we are talking about in the Lower Mainland that will be developed through treaties. I am hoping that we can bring the Regional district directors out of their denial and into the reality of having to come to grips with this and then, hopefully, improving those relationships. Frankly, it is in the Lower Mainland that your wisdom will be very helpful.

Mike Furey, Assistant Deputy Minister, Treaty Negotiations Office, Ministry of Attorney and Ministry Responsible for Treaty Negotiations

I would like to respond to Tony Penikett's question of what the province or the federal government might do in this area. I won't speak specifically about any of the Tsawwassen or Delta situations. Generally speaking, I think that having someone to facilitate elements of critical points and the means by which to sort things out is very helpful. Marino Piombini has mentioned technical working groups. One of the things I have seen over the years has been misconceptions and it really comes down to sharing data, sharing information and sharing facts that are probably known by some but not by all of the participants around the table. In a fisheries context, I recall a number of discussions in the Nisga'a case of retrieving data from the fisheries officials, the local fishermen and the Nisga'a to confirm what was happening there. Once all of the experts were in the room, they agreed on particular situations and were able to build solutions, which I would term an "information protocol," if you want to call it that. The province is well aware that we need to do a

lot more work in preparing for the future and preparing for the post treaty world. There are many relationships that will need to happen and we have to establish principles in the best way we can.

Martha Anslow, Manager, Local Government-First Nations Relations, Ministry of Community, Aboriginal and Women's Services, Government of BC

The last couple of people were saying that, when the political rhetoric fails the process, there is always the technical side to bolster it, and if the technical side can show that there are solutions to problems, it can help change the rhetoric. I think that the results of the Tsawwassen Table's Intergovernmental Relations Technical Working Group (IGRTWG) will be very useful to share with others and I note that it is probably the only technical mechanism, that I have seen, that has been trying to guide these federal/provincial/First Nation negotiations with real, technical solutions. I know that there are treaty related measures at other tables that are assisting with information gathering, cross-pollination and capacity building, but I do think the IGRTWG exercise is particularly useful. It achieved a level of detail that identified other governance and servicing anomalies that exist in the GVRD which could be applied to help achieve different relationships between the First Nation and the local governments, other than the more typical local government-to-local government relationship. One further thing that treaty negotiations can do is to anticipate good future relationships. Even though there may be difficult relations now, this doesn't mean they have to continue into the future. Other people today have said that people are elected in and out of office, and there are changes over time. There is a necessity for some community-to-community continuity, but if we anticipate good future relationships, we can do things in treaties to ensure that there are processes in place for First Nations and local governments to resolve disputes. We can have dispute resolution mechanisms and processes and educate people about them, and entrench them in the treaties and/or side agreements. There are opportunities for future changes to current relationships to help move forward to mutual understanding and cooperation.

Sandi Tremblay, Councillor, District of Powell River

If unsuccessful with governments, I would like to add, to what has been said, an approach to getting around that. My suggestion would be that if you are fighting a losing battle with your local governments, then move forward through another avenue. Move forward by going through your school districts and by trying to establish forums to be held within your schools, where treaties are talked about with young people and debates are conducted and they are educated about the treaty process so that the students have an understanding and that will filter through to parents. As you will recall, when we were doing the recycling education programs, which started in elementary school and eventually worked its way through to the adults doing the same thing. You might also want involve organizations, such as Rotary and Kiwanis, where they will independently arrange forums for educating their own members and families with respect to treaties and relationships. Eventually the community is on side because it is informed and there are no more misunderstandings, myths, and racial connotations. Those past behaviours will start to disappear and eventually the politicians will have to respond to what the community wants and not what they personally want. This concurs with what Mayor Alsgard has said – that if the community attitudes change, the politicians who are unwilling to change will be gone.

Tom Mann, Director, Regional District of Central Kootenay

I would like to mention that when the province stopped funding the RAC process, this had a detrimental effect on the treaty process, and those third party interest groups that the federal and the provincial governments sponsored, was a great tool and the loss has been significantly felt within the process.

Doug McArthur, Professor, Public Policy Program, Simon Fraser University

I would just like to make the observation that unfortunately, we are talking about long-term processes. That is all to the good, and no doubt in many cases can produce good results. I don't want to belabour this situation in the Lower Mainland, but if we are going to pursue all of these processes being talked about then you are talking about a treaty, in the Lower Mainland, that is many years away. That is not what we have heard are the wishes of government and it is certainly not what we have heard in terms of Tsawwassen. We need solutions soon, if we are going to move this process forward. They can include these long-term very healthy working group types of processes that include getting involved with interested organizations and bodies to build relationships. But what is a First Nation to do when it is faced with the proposition of a treaty that the parties say they want completed within a matter of months? I don't even see relationship building exercises succeeding in bringing the Mayor of Delta and the GVRD to the room and into in a warm and wonderful relationship of the sort being referenced. Building states of mind of the kind needed over the next six months looks to me to be impossible. This is a challenge, and a very big challenge, which is why in the treaty process we can't solve some of these problems with the processes being suggested in the time available.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

I do want to finish this session with a short story on the subject we have been talking about. Many years ago, Barry Stuart and I conducted over a hundred public meetings to explain the Yukon self-government agreements. In Dawson City we conducted a four-hour session of explaining the self-government agreements and answering all of the questions. We felt that we had done a really good job in settling most of the community's concerns until, at the end of the meeting a gentleman arose and said, "How are the First Nations going to escape from the self-government if they didn't like it?" Apparently, he thought self-government would mean a barb-wire fence around the First Nation community.

Kirsteen Pirie, Manager, Lower Mainland Treaty Advisory Committee (LMTAC)

Thank you very much. I just want to touch on a couple of things that were said, in regard to the intergovernmental relationships, particularly in the Lower Mainland. I work with the LMTAC. In the last couple of years, the MOU, between UBCM and the province has changed slightly to allow for a more flexible structure for local governments to represent themselves. Rick Krehbiel mentioned earlier that the Prince George TAC has changed how they participate. Only the Lower Mainland TAC is still functioning with a full time office and meets regularly. Councillor Steves sits on both the Tsawwassen and the Musqueam tables to represent local governments. On the other hand the GVRD is a member of LMTAC, whose individual representatives are quite different from those on LMTAC, and this has provided a need for a process and a level of education over a number of years for the members on the board to really understand the issues and understand that, while we are engaged in those issues, we continue to move ahead with treaty negotiations. We find that, over the years, we have seen small changes and our members promote public education and that, by educating the senior levels of governments, as well as their constituents, they themselves have a better understanding of the process. When an issue is raised, it results in a variety of issues coming to the forefront.

The last point, I would make, is in regard to the Intergovernmental Relations Technical Working Group that was mentioned. We found that to be very positive and the LMTAC chair felt that the material collected by the consultants should be shared, not only with our member municipalities but also with the First Nations in the area. In introducing the sharing of technical information, we found it maintains the discussion at a deeper level. I just wanted to offer this as further information and considered it important to clarify those points.

SESSION II: CREATING ECONOMIC OPPORTUNITIES TOGETHER***Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission***

I think we had a good dialogue this morning on the successes that are starting to happen in the Yukon and British Columbia, in terms of intergovernmental relationships and treaties and some of the lessons to be learned from that could be applied elsewhere.

This afternoon we are going to talk about some of the further lessons that we can learn about creating economic opportunities and some of the new relationships, between business and First Nations, and particularly around the skills that are going to be required as we go about this new relationship. The first session is about a topic that is near to all our hearts – taxation and, in particular, we have a fine panel to talk about "Growing Communities: Taxation as a Tool." We will start with an old friend of mine who has been a remarkable leader in this province and across Canada, in building those practical tools. I welcome Manny Jules who was a Chief of the Kamloops First Nation and is now the spokesperson on the First Nations Fiscal Institutions Act and board member and is a member of the Indian Taxation Advisory Board, which is a very exciting innovation. Bill 23 is currently before Parliament that will, hopefully, create those sorts of instruments. I think it would be useful for Manny Jules to bring us up to date on what this is, what it will do and what the implications are.

GROWING COMMUNITIES: TAXATION AS A TOOL***Manny Jules, First Nations Fiscal Institutions Initiative, Indian Taxation Advisory Board***

Two days ago was my son's 10th birthday. Clarence Jack Se-eskt Jules is named after my dad Clarence, my wife's father and my grandfather. Se-kest is a Shuswap name that means change in the weather. He came late in my life. I was 42 years when I was blessed with the birth of Clarence and it was an incredible day.

Becoming a parent reinforces this whole notion of life and what that brings to this world and also the responsibilities that we assume. That isn't to say I was not a caring parent to my daughter Sarah who was then 20 years old. However, having another child after 20 years, created scheduling problems. When driving Clarence to school – my wife had lobbied for a Fine Arts School to be established in Kamloops, so this was in essence, his school I was taking him to (we live about 20 kilometres away – and it takes a bit of time to drive from the reserve to the city), and I was telling him, as I like to do, about his birth. I like to tell him little stories about what it means to be alive. On one occasion, we were walking – and I walk a lot and think, and walk and think, and walk some more and think little thoughts and big thoughts, and one day he said, "*Dad, why do I exist?*" My response was that was an incredible thought to have and it is a difficult question to answer. The fundamental answer is that we are all here to try to make this world a little bit better place for all of us to live in. About two years ago, I was putting him to bed and it was time for him to go to sleep, and he was afraid of the dark and didn't want the door closed and to be left by himself. I tried to reassure him that there was nothing to be afraid of and asked him why he was afraid. His response was – his imagination. We can all imagine a better world for all of us, but at the same time, we all can also imagine all of the bad stuff that can happen to us and it can make us afraid to move ahead.

When I listened to the discussion about Tsawwassen and Delta, I remembered how we had a similar situation in Kamloops. When I was first elected to Council in 1974, we had a terrible relationship with the City of Kamloops. The City of Kamloops didn't really want the band to exist. As a matter of fact, at one hearing, they actually made a presentation to the federal and provincial

governments saying that the band should be moved away from the city and away from all of its influences. Their stated reasoning was that we being close to them would subject them to all kinds of problems, such as drinking and creating a nuisance. Of course, they'd also determined that we had the best land in the valley but it was from that realization that our relationship with the City developed. Back then, when the City of Kamloops talked about economic development there was no face to face discussion about how the only industrial park established in the Kamloops region was located on the Kamloops Indian Reserve. About how the best sites for future development were on the Kamloops Indian Band reserve and how developing those lands would help the economy of the whole region. If they couldn't move us off it, they needed us. These facts led to a lot of interesting discussions – but not face-to-face. It was always through the media, through the radio and through the television. And this type of communication created a situation which really was untenable for all of us.

At the end of the day, we realized neither of us could afford to communicate through hearsay and suspicion. We needed each other. And so we met directly and created a model protocol to ensure good, harmonious relations that have proved beneficial to both sides. At the end of the day, we all choose to live in the area where we continue to reside. In my particular case, I have always – and probably always will – choose to live in Kamloops.

Flash forward about a decade and I am elected as a Chief and involved in lobbying for real property tax jurisdiction. The provincial government was maintaining that this was an area over which they had clear jurisdictional authority. The Federal Government had virtually vacated that jurisdiction on reserve land and lost court cases. The province was collecting the property taxes but providing us virtually no services. We had to pay for garbage collection out of other revenues. When I asked the province what they did for us with the property tax collected from our community, they said, "We provide good government."

Well that wasn't good enough. The land was never going to be developed under that regime. So we looked at a lot of options with the province such as municipal authority and revenue sharing and the like to try and get a workable solution. None of them happened. Only when we moved to have an amendment to the Indian Act, which explicitly allowed us to have clear jurisdiction over our own lands – or designated lands as they are now called did we succeed.

When this amendment passed, one of the things we created was our own institution, we built this, in part, to help parties resolve their conflicts and realize their mutual interests more quickly. And we found that conflict happened with more than just local governments. It was happening with and Crown Corporations such as BC Hydro and BC Rail. All these conflicts had to be solved in a manner that delivered mutual gains. This is reflected in the numerous agreements with municipalities we have helped negotiate, the grant in lieu agreements with BC Hydro and the railway regulations we developed with CPR.

Now the majority of First Nations' communities have local service agreements with municipalities. That is not going to change in the foreseeable future, and municipalities will be providing water, sewer and a whole myriad of services for First Nations' communities. We might ask ourselves, why that will happen? Well, sometimes it just makes sense. It's the most cost effective way. A lot of times it doesn't make sense. It only happens because First Nations do not have access to dollars to build the right infrastructure and have to rely on a meagre allocation from the Department of Indian Affairs. Can you imagine spending in the range of \$100 million a year for infrastructure and economic development in this country? \$100 million could be all spent in just one community, and you can do the math when there are 633 communities involved. If we feel that ultimately the federal, provincial or municipal governments are going to write us a cheque, in

order for us to build the kind of infrastructure and houses needed in our communities, I can say that we are all at the end of our fiduciary road.

There is no legal road that is going to get us there. We have to make up our minds about whether we want First Nations to be a productive part of this federation. I myself have concluded that we have to be, and that Canadians and the Canadian governments have to accommodate our hopes and aspirations for *their* success as much as our success. If you ask why this is, I would answer because of simple economics. We can't afford not to be productive and not to have all our land productive. That is why ultimately the GVRD and Delta and Tsawwassen have to come to an accommodation. That is why over the last number of months, Salmon Arm and Adams Lake Indian Bands reached an accommodation for local service agreements, regarding a situation which is similar to Tsawwassen.

Adams Lake went to court because Salmon Arm had refused to provide them with water service to Adams Lake. At the same time, there was a proposal for a Wal-Mart, to be constructed in the Adams Lake reserve which lies within the District Municipality of Salmon Arm. Adams Lake needed the development for revenues, Salmon Arm stood to benefit from jobs and yet the water issue stood in the way. To resolve the impasse, we met with the city council, met with the band council and then called a meeting together so that the parties could talk face to face – sometimes it is only a matter of allowing people to vent. What we found was that there were many service issues and we needed a formula that addressed them all. We came up with the idea of a protocol agreement that covered all these and created an environment for further development. There were political meetings held between the mayor and the chief and meetings between the administration staff, to address areas of common concern, outside of the political process. That is the basis by which these two communities will both improve prosperity in the area that they have all chosen to live. And that type of arrangement is what we have accomplished all over British Columbia.

These issues happen all over the country. When we deal with treaty land entitlements in Saskatchewan, we find they are facing the same issues. I met with the Saskatoon City Council, who has Muskeg Lake and a number of other First Nation communities within their municipal boundaries, and they are facing the same kinds of problems. Service delivery issues, political issues made worse by personality conflicts. In some cases these issues have been present for many generations.

On reflection of the young girl missing in Regina, this has galvanized the two communities that were two solitudes devoid of any discussions between them. As a matter of fact, I attended the last day of the RCMP hearing into the killing of a young First Nations man in Saskatoon, who was left outside of the city boundaries to die. This was argued by a really good friend of mine, Don Worme, who is probably right now one of the most successful criminal lawyers in Canada.

These issues are national in scope and what we need is to develop First Nations' institutions that are national, provincial and regional in order to help facilitate communication and break down the economic barriers preventing us from being a player. We cannot be a ward of the federal government, we cannot have somebody else dictate what we will do, and it is my responsibility to tell you that. That era is gone and we now have to look towards doing things ourselves as Kamloops and many other communities have done, such as Westbank, Burrard, Squamish, Musqueam.

Let me give an example. In Kamloops, we had a land claim dispute with the federal and provincial governments going back 130 years over what we called "the hole in the middle of the table." There was a piece of land that had been taken away from us and given to third parties by way of a

"certificate of indefeasible title," even though this land was right in the middle of what was our clearly our land. We wanted it back. There was no argument that we were the people occupying that land. There was no doubt that people over the years were coming to our community to ask permission to use that particular piece of land. The judge who heard the case actually remembered and acknowledged that he too thought it was a part of the Kamloops Indian Reserve. But to go to court and fight for title was going to cost money. We approached the federal government, as our fiduciary, to explain the need for protection of our interest on that land and the need for funds to ensure we could do that. They advised us that if we took our case to the Court of Appeal and, subsequently, to the Supreme Court, we would receive only \$25,000. The provincial government was already advocating that this was a "Chicken Little" argument, and that if they lost the case, the whole land tenure system in the province would collapse so we knew they were going to fight us. What we ended up doing was digging in our own pockets and contributing our own funds to protect that land – and that was not universally popular. I had many phone calls and even death threats because it was perceived that we were taking away an individuals right to the tax exemption.

People who opposed this approach believed that they didn't need to contribute to their own betterment because somebody else was responsible for their life. They believed that the federal or provincial governments should be the ones writing them a cheque. That is not how this real world operates. We would not have won the case with that attitude. Because we didn't, we have had that 320 acres returned to us.

We have used this approach elsewhere. Our total reserve is 33,000 acres, but we recently bought a 45,000 acre ranch and will one day have it included in the reserve. In doing that deal we had to deal with many third party interests. Our neighbour would not shake my hand after the court case, but eventually, when he had cooled down, we were able to deal with this issue as neighbours, and he conceded that the ownership of the land was appropriate for the First Nations' community. This is what we have accomplished by buying the land using our own revenues. We effectively bypassed the 20 years or so land claim process and resolved the matter between ourselves. This is what our own revenue jurisdictions mean. It means we can resolve our issues ourselves at a far lower cost than having other governments involved.

Our community has taken the steps necessary and assumed responsibility for making our lives better. As of January of this year, we expanded our commodity tax to include all of the GST room, so we will be imposing our own First Nations' commodity tax on all goods and items on the reserve. This will generate \$4 million annually for our community, and the rest of the Shuswap communities are looking at that precedent. Because we have realized there may be a federal cap on how much tax a single First Nation can receive, we are exploring whether we might have a Shuswap tax instead of a KIB tax. We want to pool tax revenues with other Shuswap communities and ensure that no commodity tax money goes back to the federal government. Instead it will stay with Shuswaps and all monies will be circulated within our tribal council. That could, potentially, mean that within the next decade, we will raise \$9 million on an annual basis. We are looking at creating our own marketable housing program because the federal government is not going to remedy that problem. I believe in home ownership where a person can buy and sell their home, and as far as they are concerned, it is a social housing problem.

In order for us to move forward on the First Nation Fiscal and Statistical Management Act (and I have to say this because of Tony Penikett and Mike Harcourt's presence), we worked to achieve legislative changes with the Conservative Government with all party support in 1988 and we have been trying to get the follow-up legislation to that now. The NDP has not been supportive of First Nation led changes that they supported previously. We need to overcome this obstacle for us to

move forward.

I characterize what we are doing in this room, and in particular what is happening in British Columbia, as the cutting edge of First Nation relations in this country. When I hear someone standing up and telling me they know what is best for me, I wonder where he is coming from.

What I would like is for Tony Penikett and Mike Harcourt to take a clear message back to Prime Minister Martin, and advise him that he should be supporting the First Nations' Fiscal and Statistical Management Act. This Act will enable First Nations, for the first time, to create their own agenda and develop institutions where we can generate bonds and debentures, and negotiate with our municipal counterparts for services, such as sewer systems, good water systems and roads, etc.

We are losing \$98,000 per day because that piece of legislation has not been passed. We estimate that our communities could be raising in excess of \$100 million for infrastructure improvements under that legislation and these improvements would translate into thousands of jobs being created. Under this legislation, we will create our own management board, which will deal with our own accountability and transparency issues. We will have our own Statistical Institute, because without adequate data, we can't plan for the future, we can't provide our people or investors with the information they need. Right now it is all about trust. How can we build trust and how can we make sure that trust creates a momentum in this country that allows us to forget all about the past, and forget all about the hurts that our people have endured, so that we can use our imaginations to look forward and create a better world for all of us.

Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

Our next presenter Harold Calla is unable to be present and we are very fortunate that Chief Maureen Thomas, of the Tsleil-Waututh First Nation, has agreed on very short notice to be present today, which is very gracious. Chief Thomas is also the Administrative Director of the First Nations' Financial Management Board and will be able to give a perspective on the taxation rates being considered by the Tsleil-Waututh and will touch on some very successful enterprises that I had the good fortune to look at, along with Chief Leonard George, over the last couple of months and was very impressed by the activities taking place.

Chief Maureen Thomas, Tsleil-Waututh First Nation

I am Maureen Thomas and I am the elected Chief of the Tsleil-Waututh First Nation and this is my first term in the political arena but I have worked with politicians for many years. I worked with the late Chief Joe Mathias for 28 years at the Squamish Band and recently I have been doing a lot of work, not necessarily alongside people such as Manny Jules, Tim Raybould and Diana Hamilton, in understanding a lot of the issues that can help our community. I know, in the past few years, that Chief Leonard George has brought to Tsleil-Waututh Nation up to point where we can now function efficiently within our community and have progressed to a level where we can sit around this table and talk to each other on a one-to-one basis. Chief Leonard George brought our community to the point where we have established relationships with the municipalities and other governments. Over the past ten years, we have successfully developed 600 residential units on our lands on the North Shore and, in the past five years, we have been collecting taxes from that source. Although there is substantial revenue collected from the real property taxation, the majority of that money goes back into the neighbouring municipalities for services, leaving us with, approximately, one third to be used in our community to develop programs and services and to create jobs and economic opportunities. At the end of year, we have \$150,000 net remaining from our taxation and we are very limited as to what we can do by way of putting it back into the infrastructure of our community. With the institutions that we are currently trying to legislate,

there will be an opportunity to increase that \$150,000 by going into a borrowing pool to increase the monies to \$500,000, which would allow us to develop infrastructure in our communities. Currently, for many of the projects in our community, headed by Chief Leonard George, the infrastructure comes off the top of our lease and monies are directed back into projects, resulting in our community members not receiving the full benefit of those dollars, which are designated for the next phase of development. One of the problems, that we encountered early on, was with a development in North Vancouver, where a group of people halted a development connecting to a major route. In order to facilitate those residents, our community was required to redirect dollars, from that lease, and construct a road at a cost of \$4 million. If we were living the reality with these institutions in place, we could have borrowed for the long term through the finance authority, and paid back the monies for that road over 25 years. As it was we had to take the funds from our prepaid leases to construct that road. This is where I see the value of these institutions, and we really do have challenges.

I would like to give you another example. Originally I am from Semiahmoo, which is a small reserve along the border of the Peace Arch. There are approximately 70 members who neighbour with White Rock municipality and with Surrey and there are many residential leases that have problems with water and sewer. The water line has only recently been installed and they live on septic tanks. INAC would only contribute 20% of the cost of the infrastructure because a portion of it is on residential and lease holding land. INAC does not have a mandate for taxation but they would be able to benefit if they were involved in that process and, if the institutions were established, they would be able to borrow, for the long term, to immediately install that infrastructure for the residents. Where do the residents go to find the other 80% for the installation of water and sewer services? Septic tanks can only be used, in a small area, for so long before they become health problems. These are the realities that we live with and I see taxation as a powerful tool where we could take those dollars to benefit our people as well as the neighbouring communities. The Tsleil-Waututh has 600 residents that are contributing to the neighbouring municipalities and are bringing economic growth to the North Shore and not just to our community. This is one reason why I think we really need to look to these institutions in order to become a part of the main stream and be able to come participate at the same table and have the same opportunities. People like Tim Raybould and Manny Jules are familiar with those institutions and I understand the concept. Approximately one year ago in June, I sat in the House of Commons and for a week I witnessed the debate and all the background and research garnered by these people, it astounded me that it would not go forward because I couldn't see anything for people not to address and pass this issue. I honestly don't know where there would be anything negative to the whole of Canada if that went through. The value and the knowledge that the technicians have contributed and the experts was not just a fly by night, there was in excess of ten years of expertise that supported and have developed it to make it work. I don't know all the details or exactly how it works but after witnessing that week, I have the faith and trust in knowing what was put forward would work for our communities and it gives First Nations an opportunity to access these tools. Everybody knows that taxation is a certainty in this world for everybody, and why can't we take over that certainty and help our community because we have no other area to go. Nowadays there is no more land, there are no more resources and the economy is our only alternative. We are growing so rapidly within our own community that we are running out of space; our dollars are always shortfall and we need to access every opportunity and taxation is a powerful tool and we need to make the most of it and these institutions will give us that opportunity and I believe that from the bottom of my heart.

Tim Raybould, Negotiator, Westbank First Nation

I would like to acknowledge the Tsleil-Waututh, the Musqueam and Squamish Nations for allowing us to have this meeting. I wanted to provide a little bit of background on Westbank First

Nation and how taxation has proven to be a force to be reckoned with, in terms of creating economic development on the Westbank reserves.

I started working for Westbank in 1989, and we took over property taxation in 1990, and in 1991, the assessed value of properties on the Westbank reserves was somewhere in the neighbourhood of \$80 million. In 2004 it is just shy of \$310 million. Our tax revenues have increased from 1990 to 2004 by 317%, which is significant. When I first started working for Westbank, I would have estimated that our own-source revenues for running local government and also revenues for running all aspects of government, was probably in the 15% to 20% mark, which was still high for many First Nations. Today, Westbank government generates and pays for its own government in excess of 65%; the balance comes from federal transfers. When the federal transfers are analyzed and adjusted for monies that are applied to social assistance – the Westbank government provides social assistance to people who are non-members of the Westbank First Nations; only 25% are Westbank members – and monies that go towards an intermediate care facility, we are looking at a much higher own-source revenue to federal transfers ratio.

When sitting down at a negotiating table on a government-to-government basis, in the case of local government, if there is cash at the table it is a definite advantage. In the Central Okanagan, the relationship that we have developed with the Regional District has been ongoing and has strongly developed over the years. In 1990 we negotiated a service agreement with the Regional District, which was actually the subject of a lawsuit. The Regional District actually sued us saying that the agreement was unfair. The Court upheld the agreement as being a contract. When the agreement was being negotiated at the table, there were certain items taken into consideration which were: we didn't have any infrastructure; we didn't have the institutions locally for government and needed to create a public works office; we didn't have a fully functioning land office; we didn't have a planner; we didn't have an engineer; we didn't have a water system. In terms of those negotiations, we were able to negotiate room to benefit from our tax resources and we promptly built a water system, which we own and operate. We purchased sewer from the regional district, we purchased fire protection from the local fire improvement district and we started to establish the local government office for providing local services within the community. Along with stable predictable government, we began to see tremendous growth. There were housing developments and other improvements. Community members began to question how to control this growth and the type of community they wanted to live in.

At the same time as we introduced property tax, we were beginning to look at self-government. Initially, we looked at self-government in the early 1980's when there was a crisis at the Westbank First Nation, which led to a full-blown federal inquiry. The result of the inquiry was a recommendation that the existing system of government was not appropriate for Westbank. It was not appropriate for a semi-urban or urban community to have a government run under the Indian Act. It was considered to be too open and not accountable to the community members for whom it was supposed to serve and it needed to change. When growth emerged, the members wanted control over their own community and defined self-government as meaning taking local control; which the community did. They developed their own Constitution and it became cemented in the community.

In 1998, Westbank First Nations established a commodity tax and began collecting a 7% FNT on all tobacco sales on the reserve, and in 1999, under the Budget Implementation Act, began to collect 7% on alcohol products and fuel products as well as tobacco. In 1999, that represented approximately \$300,000 of revenue and today it represents \$880,000. This is own-source revenue and everyone is paying the tax. At the community meetings, when going through the budget, it was this particular budget line – and the expenditure of these monies – that the community

members were the most interested in. This was because they were the contributors. The commodity tax led to a great political debate and some political leaders lost their election as a result of implementing this tax. As an aside, at the time the tax went through the local newspaper telephoned a Councillor and asked if a party would be held now that the GST had been established. The reporter was asked whether Canadians had a party when GST was introduced nationally.

The commodity tax focused people's attention as here were spending decisions made with the tax that the community was not happy with. Questions were being asked about how to control this money and where was the law on how it should be managed? The response was that there is no law and that it is simply up to the discretion of the council from week-to-week – there is common law but there is no statutory law. Questions were also asked about the transfer monies from Canada and it was determined that those monies are under a contract with rules about how those monies are spent. The community had to determine how they were going to manage their own-source revenue, which resulted in focused community working groups being established to develop a constitution, a summary of which is provided in your folder along with a summary of the self-government agreement.

The impetus locally for the development of the community constitution was to establish how the community would run its affairs and also includes the requirement for a land use plan. The property taxation and the rapid growth focused on the need for a land use plan. The constitution provides for a comprehensive land use plan, which is more like an OCP and a community plan, rather than simply a land plan, and which has to be presented to the community and voted on within two years.

We have seen a lot of economic development at Westbank and incredible growth in the last 15 years, which has been the reason for the impetus to take control of the community and to put the proper tools in place for self-government. The fiscal institutions and the finance authority will be involved and this is where the need to work together with other First Nations and other communities is realized in order to be sustainable. Even successful communities and larger communities realize the need to work with other communities in order to further community growth. We have created a model, which is in the form a bill right now (First Nations Fiscal and Statistical Management Act) which we hope will go back before the House this fall.

Finally I just wanted to reiterate that we have enjoyed a 317% increase in property tax at Westbank from 1990 to 2004, by virtually taking over jurisdiction and administering self-government.

Doug McArthur, Professor, Public Policy Program, Simon Fraser University

Thank you for the opportunity to be here. I want to say that my day job is teaching at Simon Fraser University and I also work with Tsawwassen First Nations. I wanted to declare my interest in this and my role in assisting them with negotiations, both on treaty and some other critical negotiations, and with the Vancouver Port Authority in particular. It is important that you know I have that association as well as my teaching one.

I am going to speak to you today, however, not from the perspective of someone who is working with or supporting the Tsawwassen First Nation or the First Nation case generally, but more from my position as a professor and teacher, at Simon Fraser University, of public finance and taxation as subjects. Not all of my teaching would be appreciated or liked by First Nations and some of that I am going to touch upon.

I am going to take a few minutes to give an overview of the issue of taxation with respect to First Nations. The first thing I want to say is that self-government is the future – it may be slow or it may happen different ways but it is the way of the future. When we started looking at and talking about self-sufficiency, the Indian Act doesn't work, it can't work and it won't work and that has to be accepted.

Not all First Nations are in a situation where they can leave behind the Indian Act or move on to other forms of arrangements immediately. However, over the long term, we must recognize and concede this point – the Indian Act cannot and will not work. As part of the modernization of government, and government process in First Nations' communities and amongst First Nations, change is essential toward effective self-government. How First Nations get there will differ greatly and will happen over a different period of time. We have many First Nations moving towards self-government, in various steps and various ways, of which the treaty is one.

The primary reason I say today that self-government matters, is because self-government and self-sufficiency are completely aligned in my view. Self-sufficiency is one of the most important things that will have to be realized amongst First Nations if First Nations are to be successful in closing the terrible gap in social and economic conditions. I noticed a quote by Chief Baird in the Treaty Commission Update, circulated in your folder, and she said, "*The socio-economic conditions that currently exist for a once-wealthy Tsawwassen First Nation are totally unacceptable.*" Self-government is, in her view, and many people's view and in my view, part of moving forward.

Why is that? It is because self-government will mean modernization of governance and will bring the modern tools of governance to bear on First Nations' lands, and it will lead to the kinds of things that will accomplish what it is we are talking about here.

About three or four years ago, I did a study of self-sufficiency of First Nations communities. Self-sufficiency does not mean that First Nations no longer get governments services and no longer get government support, including transfers from other governments. It simply means that First Nations communities reach a state of development that puts them on a similar basis to other communities, of like kind, in the province and the country. One of the things that was interesting from the results is what I call the capital gap – the gap between what would be required in terms of capital stock in First Nations' communities to reflect a comparable level of investment on economic activity. Even with the most conservative assumptions, there is a \$15 billion capital stock gap in British Columbia alone between First Nations and comparable communities, and that can be multiplied many times over across the country. Until that \$15 billion capital gap is closed, we will not have a condition of self-sufficiency, in the form of substantive, qualitative economically viable First Nations compared to other communities and other areas of the province.

Self-government will mean, hopefully, and certainly I am convinced it will, in part providing the tools for closing that gap. It will mean modernizing and ensuring modern quality services. It will mean creating the needed infrastructure for development. It will mean wealth creation. And self-government can and will contribute to wealth creation.

Taking on wealth creation directly and taking on issues of investment, taking on issues of infrastructure, in the context of First Nations' realities, which self-government can, and it means that First Nations will be playing an ever-increasing part in the closing that capital stock gap – not the whole of it but a part of it as time progresses – and governance can and will directly affect wealth creation and not just the structure of government but actually the substantive dimensions of government.

In this respect, I will go on to the next item and that is taxation. If modern self-governments are going to be established and be meaningful self-government, taxation will be a part of that equation. Chief Thomas said that taxation is a powerful tool to build infrastructure, to build people and skills and the types of things that are needed to make a contribution. I agree. If it is to be part of the developing society it is important to financing and encouraging investment and all of those sorts of things. In my view, self-government can never credibly be said to be exerted and exercised, if the government involved does not take on responsibility for taxation and taxation responsibility as a means of public financing and supporting the things that need to be done in order to get to where the community wants to go. Taxes are an integral part of modern governance.

The perspective on the government, by outsiders who are very important, will be shaped and formed by whether or not the First Nations' government involved, is exercising taxation authority and responsibility. Taxes, as have already been mentioned, are one of the sources of substantial amounts of revenue that can be used by governments. Taxes are a means of providing quality of services; taxes are a means of financing development; taxes are a means of steering development; taxes are a means of influencing development. Taxes are complex but taxation matters tremendously. The current system, I would argue, does not provide, even with the amendments to the Indian Act and the due processes we have, the degree of flexibility and the degree of comprehensiveness that is needed in order to have an effective tax regime. A regime that not only allows governance to be carried out, but benefits the community and is returned and used for infrastructure and capital that is needed. I would also say that not just that taxation matters, but that the scope of taxation authority matters. That is to say that the kinds of taxation authority matters. A lot of people ask why First Nations need to have recognition of the full range of taxing authority. Why should they be a party to broad based taxing authority? Why don't we just limit their authority to property tax, which is considered by many to be good enough? Property tax is viewed as a relatively decent taxation and sufficient to support First Nations. I would argue that, if we are going to look forward and work with some of these models on how to reach the goal of self-sufficiency and development down the road, with quality services and effective wealth creation demands, that there needs to be a broad scope of taxation. This means not just property tax but it means consumption taxes and it means wealth taxes and income taxes and resources taxes and can include a broad scope of taxes.

This does not mean exclusive authority. Concurrent authority is fine and I don't think there is any reason why this needs to be exclusive authority. First Nations have shown their willingness, and their ability, to work with sophisticated tax regimes in order to tax room and sharing tax room is the name of the game today in any government relationships. Most governments can figure out ways to effectively share tax rooms when there is a balance of taxes already legally confirmed. I would say to all those government people, and particularly those who are responsible for policy, that they should be supporting and should be pushing for a future that sees direct taxation powers and scope over all forms of direct taxation, being in the hands of First Nations. And it should not be delegated through discretionary agreements. It should be recognized in treaties and self government legislation, so that First Nations can exercise some independence within the concurrent model. This is not about a power grab. This is in order to give First Nations the room to use taxes effectively to achieve what they want and to capture a fair and substantial share of what is happening economically on their lands.

This leads me to the next thing that matters that people sometimes look puzzled about. If there is taxation authority, then tax policy decisions have to be made. Public financing will be a concern, and this is a tax policy matter. What I mean by that, is the way you use your tax dollars, the way you shape and form those tax dollars and the kinds of distribution of the burden of tax and the

kinds of weight you put on some taxes over others, the balance you have in taxation – all of that matters. First Nations cannot exercise that under the policy status quo, because of the need for a broad scope of powers with respect to taxation, which is one of the reasons I say that First Nations should remind the provincial and federal governments that this is important and hasn't yet been recognized at the treaty tables.

How should that responsibility be distributed amongst governments, including First Nations? That is a decision that will be made by First Nations. In some circumstances First Nations may say for instance, that it is desirable and necessary to tax income on their lands from all sources. Tony Penikett can advise you on what is taking place in Yukon right now where we have five First Nations collecting income tax. I don't know if many people know about those five First Nations in Canada today and I don't know if I can use the term "collect" – the federal still government picks the pocket of the taxpayer on behalf of the First Nations– but it is the first First Nations tax that comes in the form of income tax. The federal government has backed out and given that tax room to First Nations. This is an excellent policy that I hope we will see more of.

What kind of personal income taxes regime are you going to set; what kind of corporate tax regime are you going to set; what should be the relative burden on property tax and what should be the relative burden on consumption tax? Most tax experts would say that the best tax, from the point of view of wealth creation – which is largely what we are speaking about here – is consumption tax. The good old GST is the best tax if you want to create wealth. Interestingly enough, this also has its difficulties because the First Nation that is going to collect GST on its lands will have difficulty if the tax is a higher rate than what is being charged by the community next door, which will lead to people shopping at the community next door. However, there is nothing to stop a First Nation from charging a slightly lower rate and that would be interesting because governments today, in giving the authority for taxes, are not letting First Nations do this and this is a policy matter to be worked out. The point is that there are a lot of details in policy and there are things that we can do. Income tax is generally considered to have greater Canadian impacts on investment than a consumption tax or a GST. Generally, the tax policy people would suggest taking it easy on the income tax and try to achieve a balance, but if First Nations decides to proceed, they should recognize they are only going to be able to charge the rate that the federal government sets because of the protectionist policy.

Property tax is a tax that First Nations have become familiar with and let me tell you something from the point of view of wealth enrichment. Property taxes on businesses are too high, relative to other properties, and that seems contrary to what the politicians are saying. Property taxes, in British Columbia and across Canada, have a relatively negative impact on investments. I see no reason why First Nations, when they take on property tax, should not be able to reduce property taxes relative to the businesses property taxes and the neighbouring community's property taxes. However, at the tables, there is a danger of governments insisting they have to be the same. If they do, this is bad policy. First Nations should fight for good policy and should enter into their taxation regimes on the basis of good policy, regardless of what their neighbours are doing if their neighbours are pursuing bad policy. Another matter is the treatment of exemptions. All tax experts will say that exemptions are generally bad within a tax system – they don't work well and there is a sense of unfairness and they distort investment. All First Nations will have to deal and wrestle with the question of exemptions. We all know about the Section 87 exemption issue and the problem that creates and, as we introduce property tax regimes I think you know that the provincial government will require that there be non-discrimination in the exercise of property tax regimes under the treaties. That means that residential taxation rates will have to be the same for First Nations' people, on resident First Nation lands, as for non-First Nations people. That doesn't mean you can't increase or decrease the level, generally, but you can't discriminate and this is

going to raise questions about the dealing with exemptions. I would argue that this is a policy matter that should really be wrestled with by First Nations because it is going to be a reality as part of exercises in taxation.

This takes us to a policy issue that governments have inappropriately introduced into tax discussions and a real issue in terms of First Nations' assuming taxation responsibility. Non-First Nations people, resident on First Nations' land, should be required to pay taxes to the First Nations, and the First Nations should have that taxing authority. This should not be used by governments to undermine the integrity of the First Nation self government. Governments have been putting forward positions on behalf of non First Nations residents quite inconsistent with aboriginal self government, and using taxing authority as a bargaining chip to try to get their way. This issue is being handled badly right now in terms of the policies we are seeing coming forward from government. The issue involves First Nations governing according to the right to self-government, based on history, culture and the integrity of the aboriginal lands and resources, and the sustaining and building of culture and community. Setting rates for residential property tax, the consumption taxes and GST type taxes is part of what these First Nations governments will do. But of course not all.

No government can relinquish the power, to set those taxes, over to some other body – and why would it when they have First Nations' people and non-First Nations' people paying non-discriminatory taxes in respect to those situations. Somebody needs to turn their mind to this, at the government level, and certainly First Nations are turning their mind to it. This is an important tax policy issue and not to be treated frivolously – as I am afraid it is being treated by the federal and provincial governments at the moment from the things I have seen at the tables.

One last thing I will touch on is own-source revenue taxes. It may sound funny to refer to an own-source revenue tax but within the context of the current federal government proposals with respect to treatment of own-source revenue, it is very apt. As First Nations wealth increases and as their economy develops, own-source revenue should become an ever greater source of funding for services and infrastructure. This is what self-government and self-sufficiency is all about. The current own-source revenue policy includes an own source revenue tax back, which means it is a tax - it acts like a tax, it works like a tax and it is a tax in all of its effects. I know there is reason for this and that is to relieve the government of responsibility of costs of services as First Nations become better off. But the negative disincentive and financial affects in terms of building self-sufficient communities have been ignored. There will be powerful and unhelpful negative affects on wealth creation, from this tax back structure, as there would be from any other tax on wealth and wealth creation in communities. There are ways to fix this. The federal government should pay attention and listen to the First Nations at the treaty tables. They have committed to a new future, in which they take the responsibility for taxation and the raising of revenue. They have committed to modern responsible governance. They have committed to a robust, vigorous vision of governance. It would be a tragedy if this were to be undermined by short sighted and poorly thought out positions of the federal and provincial governments.

My plea, in the end, would be for governments to pay attention to these facts, because taxes are coming and, as First Nations modernize and take on self-government, they are going to be taking on taxes. This is inevitable and my hope is that First Nations will be like all other governments and form good effective, meaningful tax policy to achieve fairness and to achieve financing of what they need for development and to support wealth creation for private and public within their First Nations. Taxes really, really do matter. In listening to people, who deal with investment and investment generation all the time and who do research, they will tell you that tax matters. The significance is the balance achieved and the types of things taxed and how they are taxed and how

the tax burden is distributed and own-source revenues really do matter.

Let's all pay attention to tax policy in all of its dimensions. In particular, I would ask that provincial and federal governments take seriously their responsibility to make good decisions that recognize that taxation and future self-sufficiency are intimately connected.

ROUNDTABLE DISCUSSION

Finlay Sinclair, Manager of Special Projects and Communications, Regional District of Fraser-Fort George

It is a huge issue that needs to be managed with long-term implications in mind. Doug McArthur made the comment that one First Nation has a tax rate and the neighbouring local governments should be equal and that there are some issues around that. I think there is a long-term sustainability issue where First Nations and local governments don't have a harmonized tax regime, within their communities and don't have a long-term plan in place to ensure that all of the community residents have harmonized tax, versus that of First Nations, or that of local government. I can see the policies being established in the next ten years will have to incorporate First Nations' needs in local government budgeting and vice-versa, and I think that because we are in such an infancy in this area, there appears to be no banging of heads. Hopefully over time, discussion along policy and creation of policy will happen between the parties and the need of all of the constituents in the area will be recognized. I know that there are good and bad examples out there and I hope we can move forward to find the good and move forward in that regard.

Tim Raybould, Negotiator, Westbank First Nation

I am responding to Doug McArthur's comments and I think that harmonizing property taxes, good relations between local governments and First Nations, and the levels of taxes in the systems developed are very close. This is not because people have consciously harmonized but because they are consciously providing the same types of services or buying services from one another and so forth. Where we had difficulty at Westbank First Nation, from the treaty negotiations perspective, involved the policy issues that the federal and provincial governments had not worked out before they came to the table. Bilateral self-government was one of the things that Doug McArthur was talking about where there is a certain way of looking at issues and this created difficulty in entering into any constructive discussion at treaty. I am not being disrespectful to the people who were at the treaty table. The problem lay in the fact that the policy was deficient in this area. The own-source revenue policy is very significant because it acts almost like a 100% tax; one dollar transfer and one dollar of OSR means one dollar less of transfer and that is not the way that government should work. There is a whole series of issues that need to be developed and this is one of the stumbling blocks right now to define fiscal relations, and this needs to be worked through.

Dan Smith, Chief Negotiator, Hamatla Treaty Society

From a First Nations point of view, I am just wondering how you dealt with First Nations citizens? Are they shareholders of the corporation when you generate a net profit from the organization? What I am referring to is the area of distribution and how you handled that and if there was a query by your citizens for distribution itself? The other question would be for Doug McArthur – are Canada and British Columbia prepared to initiate policy change in those areas that require First Nations to move forward and when do we start lobbying and how do we do that? I am thinking about the Canadian Tax Federation and how they have come out so strongly against First Nations.

Doug McArthur, Professor, Public Policy Program, Simon Fraser University

I really want to make one point about harmonization. Harmonization is generally a good thing but harmonization is not always a good thing and we should remember that. I hope that the governments, as well as First Nations, will remember that exceptions to harmonization can be good ones and let me give you an example: if the property business tax is at a level that is significantly discouraging business investment, then I see no reason why a First Nation should have the same heavy lead millstone hung around its neck simply because other people can't change the policies. I see know reason why there should not be flexibility, for First Nations, in that respect and I think they have to put their thinking caps on and think seriously about self-sufficiency and wealth creation and not get stuck in these kinds of harmonization arguments that take us to places that we shouldn't go. I am all for all kinds of harmonization. Harmonization makes it simpler for the collectors and we want as much ease and simplicity. Secondly, a comment on the last question and that is whether the policy work is forthcoming on these important issues as we particularly go to the treaty negotiations and other self-government negotiations? My answer would be, no it is not, and I would argue that most of the work being done to date, on these issues, is being done by First Nations and mostly what we have is governments, unfortunately, responding with almost simplistically negative responses. We are getting these un-researched and poorly developed proposals and ideas, put before First Nations and, unfortunately, with the comments: "well if you don't like this you can't have a treaty."

Kevin Blaney, President, Sliammon Development Corporation/Tax Land Manager, Councillor Sliammon First Nation

Sliammon became a taxing authority in April of 1995. Sliammon sees the value of managing its own jurisdiction (tax and land) and as a side note would like to point out that the Sliammon Nation is a supporter of the Fiscal Institutions Act and the work that has been going on with Deanna Hamilton, Harold Calla, Manny Jules and so on. It's encouraging to see this initiative getting the attention it so justly deserves and I give credit to all the wonderful individuals pushing that envelope. It really comes down to Sliammon having more meaningful participation in terms of the management of its lands and resources. We have seen this property tax regime extended to First Nations' communities back in the early 1990's. We acted on it and developed a relationship with local governments; particularly the Powell River Regional District which we currently have a service agreement; and is in its second term of a five-year contract. We have not had any conflict or issue with the service agreement. However, this relationship is limited in that we don't go anywhere beyond sitting once a year, with the Regional District, simply to hand them a check and see them the following year, in terms of purchasing the services to our taxpayers. That is unfortunate because I think the relationship could be better and we are certainly open-minded to creating a better relationship with the Powell River Regional District. I think it is probably a good opportunity for them to tear a page out of Powell River Municipal Mayor and Council's book, in terms of relationship building with Sliammon. I raise my hat to Mayor Stewart Alsgard and his council for the work to date on the protocol agreement and the accord between Sliammon First Nations and Corporation of the District of Powell River.

I think the bottom line is "truth" when it comes to relationship building between First Nations and their respective local government with-in their traditional territory; and truth plays a key part; but it can also be painful and I think history will reflect that when it comes to the relationship of First Nation people and non-First Nation people in our region; be it residential school or other. We need to understand that, we need to visit and digest it and understand the old adage, where First Nations' people know more about non-First Nation people than the opposite, it is a fact. With the curriculum system K-12, we learn about European history and when I was going to school we did not have any history of First Nations. When we talk about cross-cultural awareness, Steve Gallagher arranged a workshop several months ago and we had gone through some of the trials

and tribulations of that history and we talked about residential schools and, in order for the relationship to really take a strong hold, non-native communities need to go back and try to understand and feel the pain of what had happened in history and need to understand where First Nations are coming from before we can move forward together and build good sound relationships. I think it is so very important that we understand each other and understand where we each came from in order for our respective regions to prosper in to the future.

As far as the own-source revenue and looking at real property taxation again, I am an admirer and supporter of what has happened historically with Kamloops and Westbank as examples of pioneers for setting the bench mark in jurisdictional control over their tax base and so on; as a result of that work Sliammon became involved with the commodity tax program in 1998 (First Nation Tax) where we had one commercial outlet selling fuel products and several tobacco licences, which had generated in excess of \$100,000 annually. We had sceptics, within our membership, but at the end of the day those sceptics turned into supporters because they were the first ones to receive the benefits from that program. The main areas of financial support from our CIF program go toward elders, youth and community development. Today the program is alive and well. Where it goes is the next topic of economic development. If we have a good sound governance structure, with those programs, and tools called property taxation and commodity tax programs, land code and so on; then we can all benefit from good sound economic development activity as they are all interconnected; they all go hand in hand in stimulating economic and employment growth. Again, the relationship is certainly strong with the Corporation of the District of Powell River and the Sliammon Nation; discussions regarding integrated programs whether it is land use planning and so on, takes open-mindedness, courage and willingness with the leadership today that will lend itself to a prosperous community into the future.

Mayor John Slater, Town of Osoyoos

I have a question on the property tax. There is usually four parts to it: healthcare or hospital district, the school district, protective services – policing fire etc. – and the rest is local government issues. On a fairness issue, don't you think that BC assessment goes in and assesses a house on native land and off native land and they say that each is \$100,000, shouldn't those functions be the same? I don't see why you would say that those shared functions, of everybody that is paying the bill, should be the same and I can see the rest of municipal taxes having to change the same as DCC's. There are a number of communities in British Columbia that have a high DCC rate, which chases away investment and business opportunities and then there are other communities that say we are not going to have any DCC's and we want old growth to pay for new growth because we want more people here and it is a real tough thing to battle with.

Doug McArthur, Professor, Public Policy Program, Simon Fraser University

I think everyone should accept the principle of what we call non-discrimination and that means that, within a particular tax base, let's say residential then everyone within that taxing authority should pay the same rate and assume the same general rate. But should all those in the Lower Mainland be paying the same rate on residential? I would say that is not necessary and you don't need to force that and the same principle applies to First Nations. There is no reason why a First Nation should have to levy the same residential rate on the First Nation lands as the neighbouring municipality. There is no reason that they should have to. There are some arguments for not letting it get too far out of line and I don't disagree with that and that is a policy issue. I will just make this final point, if a First Nation can solve this problem, of re-distributing some of the property tax burdens away from business to residential, let them go and get it done and why stand in the way of them doing that simply because they are not in conformity with Delta or Richmond or wherever.

Manny Jules, First Nations Fiscal Institutions Initiative, Indian Taxation Advisory Board

I would like to make a couple of comments. Harmonization does not mean everyone is the same and that is an important comment because I do believe in harmonization. I just don't believe it means everyone is exactly the same. I do believe that the federal and provincial governments, in turning their attention to this whole notion of personal property exemptions and all of the other items in Section 89 and Section 87 of the Indian Act, need look no further than the Roger Obonsawin case that was lost. All of this has been changing as a result of the Glen Williams case in terms of what are called the "connecting factors." Ultimately you are going to be ending up with just a personal property exemption along reserve lines, and anybody who is off reserve, such as fishermen, will have to deal with that issue. They are now looking at organizing themselves to deal with that question here on the west coast. It is an east coast issue as well and so people on both coasts will have to move forward and find a solution for this country to be successful. Part of the problem is that we are dealing with a philosophical divide in this country, not only amongst First Nations' people but amongst Canadians on how to resolve this matter. A lot of people put their hope and faith that First Nation questions are simply a social policy issue and this isn't the case. We are an economic issue. The real issue is how to make our economies work and our issues need to be addressed in that manner, because if we are not, we are going to be outside of the economy of this country, which is a global economy and the social costs will only rise. If we are going to be preparing ourselves for this new dynamic millennium then we have to begin to address these matters in a very organized manner.

Tom Mann, Director, Regional District of Central Kootenay

I just want to ask Doug, does he also advocate that municipal governments should have access to those other sources of revenue, because we have limited access to revenue to provide services, user fees and divert water tax? And does he also advocate that local government should have access to the same tax regime as he is suggesting would be worthwhile for First Nations?

Doug McArthur, Professor, Public Policy Program, Simon Fraser University

Absolutely. I think that should be the case and I think that the experience with the community charter, and the backlash to the community charter, which tried to open up some greater flexibility for local governments and taxation, was really unfortunate. I think that local government should have access to a broader based tax income. Do it on the concurrent basis, which means that they don't have exclusive authority. Consumption taxes are the best taxes and they are currently really hard to impose so don't lose any sleep over the fact that municipalities are suddenly going to rip off the public. They apply locally all over the states and all over Europe so why can we have them here? I don't understand it.

Manny Jules, First Nations Fiscal Institutions Initiative, Indian Taxation Advisory Board

One of the things that all of the municipalities representatives and the First Nation representatives have to keep in mind is that, in my view, they are natural allies. Municipalities, regional districts and First Nations face common issues. We are the guys on the ground having to resolve nuts and bolts issues, and those guys in Victoria and Ottawa, a lot of times philosophize.

BUSINESS PARTNERSHIPS AND TRAINING***Jo-ann Archibald, Associate Professor, Faculty of Education, UBC***

It is an honour today to speak to you in the traditional territory of Squamish, Tsleil-Waututh and Musqueam peoples and to sit among all of the leaders around the table as we think together about this idea of planning for prosperity and First Nations' intergovernmental cooperation and treaties. I wanted to focus on education and capacity building in my presentation, in ways that, in essence,

could create economic opportunities. I want to highlight four things in my presentation today which links education, capacity building and this idea of creating economic opportunities. I am going to give a very brief Aboriginal education overview, highlight some lessons from a program called, the Native Indian Teacher Education Program (NITEP); highlight a new initiative called, Chinook, which focuses on Aboriginal business education, and then finish with a challenge and an opportunity.

With the education overview, we have worked long and hard to make some improvements in Aboriginal education over the years. However, today we know from the Ministry of Education data from high school graduation rates for Aboriginal students, 42% of Aboriginal students complete Grade 12 with the Dogwood Certificate and that 79% of non-Aboriginal students complete that certificate. When I went through high school, in the late 1960's, the drop out rate was 96% for Aboriginal students. Over these years we have made some progress and it was a 96% dropout rate when I attended high school and today it is 58%. The province certainly takes a look at the math, reading and achievements of all children but we find that, with Grades 4, 7 and 10, the years when these tests are administered, that the failure rate of Aboriginal students is double that of non-Aboriginal students.

As I said earlier, there is some progress compared to when I went to public school but I want to emphasize that Aboriginal education must be seen as a crisis and we really need to do a lot more to improve Aboriginal education. We have had attempts to do this and I want to highlight that, although I have painted a dismal picture to begin with. As we have talked about today, some of the successes that are shared about treaty discussions started with a problem. We have to recognize that we have a serious problem before us today and that is a result of the history that our First Nations' people have experienced in this province. To improve education in 1974, at the time of an NDP government, NITEP started and, at that point, there were probably fewer than 25 Aboriginal teachers in the province. It was thought that to have parity, as far as population and representation that we should have had 1,200 teachers, and at that time we only had 25 Aboriginal teachers. NITEP was created by Aboriginal leaders and interested non-Aboriginal faculty at UBC. Thirty years later, there are now 400 Aboriginal teachers in the province. It is probably just short of 1% of the total teacher population but when we think of 400, we celebrate that number and I think of these numbers as people.

When we look at what is happening in this province, as far as education and many other areas of our life are concerned, we find that people who have gone through NITEP, or other First Nations' programs or completed a university degree, are the people out there in some of those leadership positions that are making a difference and trying to change some of the systems to ensure that Aboriginal culture is included in the curriculum and that we have more Aboriginal people in leadership roles. We continue to look for ways to work with non-Aboriginal teachers to ensure that there is more sensitivity to understanding some of the history that the parents have experienced in the schools. People who have gone through programs, such as NITEP or to university and who have a commitment in their heart to change matters, are the people out there making a difference in these leadership positions. Certainly, there has been some good progress made. We know that there are more examples of First Nations curriculum that have been developed at the local level and some of that is used in the schools. We certainly have more teachers and the graduation rate is slowly improving, but clearly, we still have not solved what we call the Aboriginal education problem. We find that part of this problem, for example with NITEP, is that funding for that program has declined over the years when there is a great need to have more Aboriginal teachers now in the province.

Some of the lessons that we can learn, from 30 years of the NITEP program in trying to offer a

good quality program, are these various principles shown here. NITEP began from the leadership of people who were the very few 25 teachers at the time and they felt it was important to have a program that was a degree program from a university, and a program that also addressed Aboriginal values and culture. In a way, today, I would call this a way to bring together what we might call "heart and mind" education and that maybe the "heart" education does come from the values and the Aboriginal knowledge together with some of the "mind" education that we might need in a particular field such as business as an example. With this, we certainly need to have the involvement of the community. NITEP started with some centre sites in regional areas of the province. Over the years, there have been sites developed at Williams Lake, Prince George, Chilliwack, North Vancouver and Kamloops where there has been a long-standing centre. With each of these, there has been community involvement in helping to shape the program.

I talked about the values and concepts and, with this program, there are courses now that are very much based in Indigenous knowledge or Aboriginal culture and perspectives and taught by Aboriginal people. We have had opportunities to think about preparation and improvements in math, English and communications, and most of the individuals who come into post-secondary education have probably dropped out of school and have come through a route, which is maybe adult upgrading and maybe through a community college, and there are attempts made to develop some of the academic skill areas. We find that the majority of people, coming into post-secondary programs especially teacher education, are women and usually single women with children and we find that these individuals do the best because they certainly know how to organize their time and are very committed. With additional skill building, they close the gap for the skills they are missing and complete their program.

I have already talked about the importance of ensuring that the programs are delivered closer to home so individuals don't have to leave their community for the entire program. I know that there are some programs that can offer a complete program, within the community, with the increased numbers of community and university colleges in the province and with internet for distance delivery programs. Certainly, with these programs there is a need for some support services and it has been talked about already today that individuals are in a healing process, be it from residential schools or colonization. Support services are needed to deal with some of the emotional healing that needs to take place and to also find a way to ensure that students are cared for, while studying in such institutions as UBC, where it can be cold and it can be a different world. It is important to have opportunities for students to be able to feel that somebody cares about them. These are some of the lessons that we have learned from 30 years of experience with NITEP.

I want to go to another story, more of a current one, dealing with the Chinook initiative that has taken some of the lessons from NITEP and established a way to create business education opportunities for Aboriginal people. We took the name Chinook and used this as the language of trade and also thinking about salmon, as a trade resource, and with the Chinook initiative, an advisory council has been formed and we have received some funding from Terasen Gas and the Vancouver Foundation and we established partnerships with five community colleges.

I will talk, very briefly, about some of these education opportunities. We took a look at this very broadly and we recognized, first of all, that there was a lack of Aboriginal students in degree business programs at UBC and we had to look at what we could do to ensure that we had more people who would take courses at a community college and, maybe, we could find ways that we could partner with the community college where students could take their first two years at one of these sites and then go on to the UBC campus to complete a Chinook specialization, which would have attention to Aboriginal business matters and would also have an internship as a part of that. That was the first pathway and then we also felt that we needed to go back to the high school level

because, again, high school should feed into the university and the college. We then started to experiment with ways that we could raise awareness, about business education, to high school students. Many thought that business meant working in a bank that was financed with business and there have been various awareness sessions with high school students, over the years. I will now talk about a very recent program, we call the Entrepreneurship Leadership Forum, that included high school students. We also looked at another area, with community people who were already working or trying to create some business of their own at the community level, and some who were thinking that they could make use of learning some business basics. We designed a workshop to create some awareness and to think about business basics and also to give individuals an opportunity to know where they could go for different types of education. Although this is a UBC based program, what we want to see is that the Chinook program is more province-wide and could have partnerships at different sites. We feel that the important thing is that people would be able to address business education, in various ways and in various parts of the province, and it would be a way that we could further reach out. Our next endeavour, based on a few community business basics workshops, is development of a business certificate for people at the community level. Lastly, is the Chinook Trading Company, which is going to be linked to the high school students. At the end of August, we brought together a dozen Grade 11 and 12 students from around the province, and these students were recommended by principals, or some of the teachers of their schools, as individuals who might be keen about thinking about business or being in a business education. For me, this was a really enjoyable experience and it is important to think about our young people and it was a positive experience because I think that sometimes our Aboriginal youth in the high schools - especially those who might be doing well - don't get the attention that we should be giving them to encourage them into areas such as business. These were grades 11 and 12 who were doing well in school and were very keen to explore what business is all about. What we hope to do with this program, is set up the Chinook Trading Company where these 12 youths, and hopefully some more, will work with us over the next year or more where we bring them together, throughout the year, to look at their ideas about various things such as customers and financing, and to explore some other ideas, to be tried out, as part of the Chinook Trading Company. This is what we have undertaken in the Chinook initiative and I will pass out a card that has information on the back about these initiatives for anyone who is really interested in any of this, I would be happy to chat with you about our involvement in Chinook. My role is being an education advisor but, through this, I am learning a bit more about business.

To complete my presentation, it is important to think about challenge and opportunity and, through 30 years of NITEP experience and two to three years of the Chinook program, we are wondering about how we can work together to achieve greater impact. I started out by saying that Aboriginal education is in a crisis and we know that the Aboriginal children and youth population is the fastest growing segment of the Aboriginal population so we really have to address this. We know that there really are some good programs but, more importantly, there are some good people out there who are creating some changes and working on programs. Perhaps, in this opportunity to improve Aboriginal education, we can get more Aboriginal people involved in business, which creates economic opportunities. We should also think about identifying programs with clear potential for impact and emphasizing potential for impact. With this we could create partnerships with the goal of going from good to great. We need to recognize that we do have some good programs throughout the province, at various high schools in the communities, at universities and at colleges and we could identify those that would really have some clear impact and work together where we can move some of those good ones into being great ones. I think that would really get us a lot further ahead.

Mayor John Slater, Town of Osoyoos

I really feel honoured that I have been asked to make a presentation today and I would like to

thank Mike Harcourt and Tony Penikett for inviting me and I have to say this is a great forum.

The Town of Osoyoos takes a great deal of pride in strong relationships that have been jointly forged over the years with our friends and neighbours, the Osoyoos Indian Band. The relationships reach far beyond cooperation between governing bodies and include the various groups and organizations, businesses that interact with each other on a regular basis. The pursuit of many common interests, be it environmental protection and enhancement, economic development opportunities and tourism and marketing initiatives, bring about an understanding that transcends municipal, cultural or racial boundaries.

The Osoyoos Indian Band and the Town of Osoyoos are both presently enjoying significant growth and development, such as residential, agriculture and commercial. The partnerships being created will lay the foundation for continued growth and the ability to support each other's communities in a seamless manner. When we speak of cooperation and friendship, we have forged it over many years establishing relationships with Chief Louie and Council that have evolved into the partnerships of today and tomorrow.

I would like to briefly share with you some of the projects that we have been able to participate in. They may not always appear to be very significant to the rest of the world but let me assure you, they form the basis of much more to come. They have taught us how to come together in understanding and in a level of comfort that only comes about when dealing with the insignificant hurdles as intently as the significant ones. One of the projects we are working on that demonstrates a pursuit of common goals, and a joint action approach that extends beyond the Osoyoos Indian Band and the Town of Osoyoos, includes a portion of the Regional District of Okanagan-Similkameen as well as the Town of Oliver. The desert wine country tourism marketing initiative is based on the statement that, "By ourselves, we have something; together we have it all." The desert wine country theme was a natural choice beginning in 1999 with the "Welcome to Desert Wine Country" billboards of the four entrances to the area and jointly funded by the same players. The three economic development officers of the area have been working diligently towards the launch of desert wine country into a marketing program representing five municipal, regional and First Nations' governments, who have agreed that it is time to join together to showcase our unique region instead of trying to go it alone. The councils and board member representative jurisdictions have had numerous meetings over the five years, where ideas are exchanged and understanding is pursued in an effort to become closer neighbours and partners.

The Osoyoos Indian Band also has agreements with the Town of Oliver to provide fire protection, sewer and irrigation and share the cost of operating parks and recreation facilities at the north end of their reserve. Another example of projects that we have been able to participate in with the Osoyoos Indian Band is the annual salmon bake in the fall, in celebration of being successful in the return of salmon to Okanagan lakes and streams. The ability of the Town of Osoyoos to participate in this event began a few years ago when municipal council determined that it was time that Osoyoos take some strong steps to enhance the delivery of economic development and tourism. One of the fundamental concerns of council was that, in attracting new business and economic development opportunities to our community, they did not want to lose sight of the value of the existing businesses. This basic value, combined with the commitment to support our active volunteer groups in the community who annually host dynamic festivals and events, was enough to convince ourselves that we needed a business revitalization coordinator who could take on both these tasks to create new vibrancy for both residents and visitors alike. The first year of the business revitalization coordinator began as a pilot project with the assistance from HRDC. The first annual salmon bake at the Osoyoos Indian Band was one of the shoulder events that the business revitalization coordinator undertook in partnership with the Osoyoos Indian Band. With

over 400 people attending these traditionally cooked salmon over open an open fire pit, they also experienced traditions of our local natives from blessing of the meal to colourful and entertaining dancing. We are now in the fourth year of this very successful event and our coordinator also works with the Osoyoos Indian Band on their events including Pow Wows and many other festivals.

The Osoyoos Indian Band is also a significant partner in the operations of our tourist Information facility. They put both capital and manpower into these non-native lands. We want visitors to know that we are one community. The development by the Osoyoos Indian Band, adjacent to the town boundaries to the west, brought some new challenges for the Band which they had not previously had a great deal of involvement in. One of those challenges was the provision of utility services, including water and sewer to the new year-round RV park, the winery, the Desert Interpretive Centres, the new golf course club house as well the exciting new Spirit Ridge Vineyard Resort and Spa. The Town and the Osoyoos Indian Band entered into negotiations for the town to provide sanitary sewer services to the OIB developments and, in the spring of 2002, signed an agreement for the provision of those services. That agreement is the basis for all services that we provide to OIB lands. The council of the Town of Osoyoos and the Osoyoos Indian Band council both recognized the importance of Osoyoos Lake to the region's economic well being and to the environment. Therefore, anything we can do to help each other by being better stewards of our lake water – quality is utmost – and without the lakes in the Okanagan, we would not survive. The interest, by both municipal and First Nations governments, to protect and preserve our unique pocket desert ecosystem is evident in that Desert Interpretive Centres have been established on both sides of Osoyoos Lake. The two Interpretive Centres have established strong links early by participating in joint training sessions and workshops, which facilitated the exchange of information and ideas. The Osoyoos Desert Society's Interpretive Centre focuses on scientific and research based interpretation with the ultimate goal of establishing more opportunities for research in the future. The Osoyoos Indian Band Interpretive Centre focuses on historic and culture-based interpretation but plans to build a permanent centre that will blend into the desert environment. The Osoyoos Indian Band is currently spending almost \$2 million on improving this attraction. The two Interpretive Centres compliment each other in ways that encourage a wide array of visitors with differing interests to visit both locations and learn from both about the unique pocket-desert ecosystem. A significant number of red listed species in the area increases the importance of government and First Nations being jointly and cooperatively involved in protecting these areas.

The key in creating and maintaining strong links and partnerships finds its routes in understanding the unique culture that we live in. In a sense, it embodies what Canada symbolizes as a nation to the rest of the world. The vast mix of cultures, religions, ethnic origins, languages and beliefs that represent Canada, all represent the micro-cultures of our region that we live in. Being able to work, live, laugh and play in harmony with our neighbours, makes peaceful resolution to the challenges that arise from time to time, so much easier to accomplish. This is the age-old concept of give and take, compromise, respectfulness and treating each other as equals that creates the framework for successful partnerships and countless opportunities for future partnerships. There can't be winners and losers – everyone has to benefit.

The Osoyoos Indian Band has this year embarked on two new partnerships with private corporations. We already mentioned Spirit Ridge Vineyard Resort and Spa and this exciting new project is a partnership with the Osoyoos Indian Band Development Corporation and Bellstar Hotels and Resorts Limited. They are one of western Canada's leading resort companies. Spirit Ridge will include 94 resort residences, a spa and many other quality attractions and facilities. Sales in this project have far exceeded expectations and largely due to investor confidence of the great working relationships with the Osoyoos Indian Band. Another partnership that is in the

works is not on Band lands but is at the Mount Baldy Ski Area. The Osoyoos Indian Band Development Corporation has joined the Mount Baldy Ski Corporation to develop a new destination ski area near Osoyoos that will, according to plans, rank up there is Apex, Silver Star and Big White. This partnership is the first of its kind in North America.

These are examples of partnerships and opportunities working with the Osoyoos Indian Band. We also have servicing agreement for sewer, water, fire protection and other joint issues. The rising issue currently is the addition to reserves. Under the Haynes's Settlement that was made about five or six years ago, the Osoyoos Indian Band received about \$11 million for the purchase of fee simple lands to add to reserves. Most of these lands are going to be in the regional district or the town of Osoyoos or the town of Oliver. Of course, we get back to Doug McArthur's point, that taxation is such an important item. For the regional government it is a little different because if they want the services, they will have to pay for them but I wonder about school taxes, hospital taxes and policing etc. It is an issue and is in front of all of the members our council and the band council and will be dealt with because we know we have to be proactive.

I first met Clarence 25 years ago and played fastball in a league in Oliver and Osoyoos and Chief Clarence Louie was a pitcher for the Nk'Mip team and I remember him and the way he operated as a pitcher and it was one pitch at a time, one inning at a time, one game at a time and one season at a time. He operates that way today and he is very methodical in everything he does, whether it is to build a school, a health centre, gas station, recreation facilities, golf courses and all of the rest that I have already mentioned. He is very astute and, if you analyze life like a ball game, you have home runs and strikeouts but in between are falls, errors and even some wild pitches, and he deals with those in life as they arise. If his Band members don't like what is going on – such as 4,000 acres of grapes growing on the east side of the lake because when they grew up it was all sage brush and scrub and why the Band is doing this – he explains that their children and their grandchildren are getting better health services, better social assistance, go to school, are educated, can be managers in the golf courses and in the vineyards and the wineries as well as the Interpretation Centres and now the ski resort. Osoyoos Indian Band has the lowest unemployment rate of any band in British Columbia and they are working now during the winter because of the new Baldy Ski hill operation. Chief Clarence Louie has carried out his responsibilities perfectly and has the support of his Band members and his council, and when he doesn't, he takes the time to explain the issues and ensuring that they are on side.

This forum today has shown everyone to be passionate in this room about what is trying to be achieved but I see the need to get the message out. I talked about winners and losers earlier and, right now, if we go to "Joe Public" and to our councils and regional directors and ask them what they think about treaty negotiations, their response would be that they are going to lose or we are going to win. That is not the way it should be and we need to educate our peers. We all think we know what is going on and, because we are passionate about this, we know a lot more than other councils and other directors, and I would even say some of the Band members who also refer to winning and losing. Through the Ministry and through UBCM, I think we need to make sure that we get the message out to the public and ensure that everyone is aware of what is going on because it is very important and we don't want to wait another 20 years for the next treaty. Without public support, I don't think we can make substantial progress.

I just want to express what an honour and pleasure it has been playing ball on and off the field with Chief Clarence Louie and I really do look forward to our future. In closing, I would like to mention that Clarence told me about a book published in 2002 by Cole Harris entitled, *Making Native Space*, and it states, "It seems obvious that, as we try to repair a relationship impregnated with a particular colonialism that unfolded in this province, it would be helpful to understand how

that relationship came about." I would recommend to everybody to read that book, which contains some valuable information. Thank you very much for this opportunity.

Lyn Brown, Director, Corporate Affairs and Social Responsibility, NorskeCanada

It is a real pleasure to be here. I am humbled when I think about questions such as, "Why do I exist?" coming from young children. It makes me reflect on how "small and narrow" our thinking as business people can be. The experiences we are having as a company, as we develop our relationships with First Nations people, are enriching in many different ways. It is fair to say that our understanding of how to go about building a holistic and enduring business partnership with First Nations is in the very early stage. That said, we are guided, as a company, by our social responsibility values that boil down to three simple words – do what's right.

We see that, establishing a working relationship with First Nations is central to who we are and to what we need to do to move forward as people, as communities and as a business. The truth is we are papermakers and that is what we know as NorskeCanada. We can talk comfortably and confidently about the reliable delivery of 230,000 tons of newsprint or 240,000 tons of specialty papers from the Powell River mill. We are also not bashful that our organization, as our CEO puts it, "is a commercial enterprise; it exists, in part, to earn a financial return for its investors and we are not embarrassed that we use the resources of forests to produce paper. This is the reality of who we are and of what we do. At the same time, in the conduct of our day to day business, there are many individual and collective decisions that we can take that are better choices and choices that are measured against social, loyalty and ethical factors. Those decisions don't have to necessarily cost more but they sometimes do and that is a conscious decision made by this company."

Before I get into the details, I want to acknowledge those present who have been working with us on the cooperation protocol and joint venture – Chief Maynard Harry, Mayor Alsgard, Kevin Blaney, Dave Formosa and Steve Gallagher – and I invite you to add your comments

NorskeCanada has five manufacturing facilities, one of which is in Powell River. Let me share a bit about our presence. Our division pays about \$70 million in wages and benefits to 700 employees in the Powell River region. As an economic partner in the region, we do have a valuable contribution to make to the development of a better future for us all. We are small by global standards. Some people have commented, in their own way, on the pressures that they face. We face pressures too. Despite the fact that we are not bashful about our commercial focus, we have to acknowledge being a 'not for profit' organization at the moment. Regrettably, we had three years of very difficult markets for the pulp and paper business. That is a reality as we have to deal with as we develop our relationships together. We have had the good fortune to work with partners in Powell River who are generous with their knowledge and patient with their time when we stumble. Chief Maynard Harry and others have commented about how cooperation comes out of controversy and conflict and, regrettably, some of our greatest gains came from stumbles in the early stages.

I will start with what we learned as a result of our business relations with First Nations. One of the things that we learned is that earlier recognition of non-business factors is critical to the success of any business initiatives. As business people, we get into the nuts and bolts of cash flow, financial statements and so forth. But simple things, such as how time is measured, is not necessarily the same when we talk about business with First Nations who look at time spans from generation to generation, not quarter to quarter. As business people, we need to understand that in the ventures we might undertake.

In the case of the joint venture we knew it was important to make an early commitment that we would not act unilaterally on the sale of our surplus property. We learned to look for the advice and to listen very carefully to the advice of those with deeper insights in terms of working with the Sliammon First Nation and, indeed, with any of the First Nations in the vicinity of our mills. People like Councillor Sandi Tremblay or Dave Formosa and others were very import to helping us recover from early missteps. The progress we have been able to make is really building on a foundation of cooperation and trust that was established by the leaders of the Sliammon First Nation and the Corporation of the District of Powell River. The leadership of these communities has been a catalyst for us an industrial citizen and resident of the area to get on board.

As well, the Sliammon Development Corporation is a very well developed economic development arm for the Sliammon First Nation. This has been very helpful in terms of building business relationships. It gives us a common language familiar to those inside our organization who are less schooled in matters of capacity building, culture or social responsibility.

We also learned that we needed to take positive action to acknowledge and honour the heritage of the Sliammon First Nation in Powell River. That said, our first step is to try to learn as much as quickly as possible, to build our internal sensitivity and understanding of more global concerns and to look for ways, whether through social responsibility programs, or day-to-day operations, or a joint venture, to address issues of culture capacity and commerce together. Simple ways exist such as making sure our summer student programs are open and that aboriginal students are aware those opportunities are there. We do have a summer student on board from Sliammon First Nation and similar opportunities are developing in our other mill communities.

We are really moving along two parallel paths. One is focused on relationship building and the other on commerce. On the relationships side, the cooperation protocol between NorskeCanada and Sliammon First Nation that Chief Maynard Harry mentioned earlier is a vehicle to ensure we stay focused on communication, on opportunity development, on cross-cultural understanding, on removing barriers and streamlining processes and on setting milestones against which we can both measure our progress. We set those milestones together and we can assess whether we are making progress together.

In terms of commerce, the joint venture is a bold and ambitious step and because it is the first for us as a company, I have to say we are a bit nervous about whether we can take it from concept into reality. It is a three-way partnership with the Sliammon Development Corporation, and the Corporation of the District of Powell River and NorskeCanada and it revolves around our desire to sell about 800 acres of surplus property. We are not in the timber business so all we really need is the property that houses our mill operation. But, we're not commercial developers and that is where the expertise of our partners at Sliammon Development Corporation comes to bear in making that idea, which is really an exciting one, take shape.

Through the cooperation protocol, we hope to establish a more of a coordinated approach that ensures the knowledge any one person gains through interaction with Sliammon First Nation, remains with the company. We hope to establish a working group that will focus on cross-cultural awareness building, identify business opportunities and look at how, jointly, we can create better opportunities for the region as a whole.

We were very deliberate in choosing the words cooperation protocol, and I can recall that we had quite a discussion about why such an agreement needed to have a dispute resolution clause. This seemed contradictory. Through those discussions we came to an understanding and we resolved to sort out our differences in the true spirit of respect. The joint venture is a very parallel effort. If

you visualize what we're doing as a railroad track, if you look far enough into the horizon, the parallel tracks come together to form one point on the horizon. We worked hard to make our goal a shared goal that was big enough to accommodate the interests of very different partners.

Through the joint venture we committed to sell surplus property and establish a business venture to redevelop it for optimal regional use. We need to be able to raise prudent but patient capital to make this idea work; that need to pool operational knowledge and information – everyone at the table has different expertise and we can all learn together from that. We committed to share governance expertise by developing the governance structure for the joint venture in dealing with such things as what type of a legal structure works best for three such different parties and what kinds of financial arrangements makes sense to make the venture more than an idea. We committed to support capacity building through the implementation of the joint venture relying on local resources wherever practical. We want to achieve tax diversification, which is important for the regional district and to us as a major industrial taxpayer.

We aim to create a new model for successful business. When we looked for ideas, Osoyoos was certainly a good example but, as an industry player, we didn't have many places to look for the check-list of what to do so we are hoping that, together, we will learn and, what we learn, we will share with others, who share the desire and courage of the parties we are working with, to build a better business model for the future.

We are making steady progress in this joint venture. I need to point out that we didn't dream the concept up ourselves. It was presented to us by the Sliammon Development Corporation and the District of Powell River who led a delegation that presented us with the proposal and we had the good sense to pay attention. We formed a working group which has been meeting since mid April on the technical details to be worked through. Our letter of intent was signed in July and our cooperation protocol was signed last week. We have lots left to do but I think that not only is the spirit willing, a commitment is there. We don't have a Plan B; we don't have a fall back. We are committed to make this venture work; our commitment starts at the top of our organization and it filters right through to the front lines of our Powell River Division.

Dave Formosa, Economic Development Consultant, Sliammon Development Corporation

As far as the joint venture between NorskeCanada, Sliammon First Nations and the District of Powell River, it was considered to be an "outside of the box" issue. We were trying to establish a relationship with NorskeCanada that was not going so well, but the willingness by NorskeCanada was there. The land in question is located within First Nations traditional lands and comprises over 800 acres on prime waterfront, prime industrial land and prime residential lands with some forest. We saw it slipping away and were advised of interest by outside buyers. I decided to develop a plan and asked NorskeCanada if they were interested in stepping outside the box and entering into a joint venture where Sliammon Development Corporation would take over the management of land, develop the land and, subsequently sell the land and reimburse NorskeCanada. The idea is that everyone works together in a win-win situation and highlights the entire community working together – Sliammon First Nations, District of Powell River and NorskeCanada. This extravagant scheme was initially presented to NorskeCanada in Powell River, who requested a proposal by a particular date. We subsequently presented them with an extensive, well thought out plan, which was acceptable to NorskeCanada.

Michael Uehara, President, King Pacific Lodge

I want to pay my respects to the Tsleil-Waututh, the Musqueam and Squamish for allowing us to gather here today. There is an old Japanese saying that Japanese always start a presentation with an apology and westerners always start a presentation with a joke. I am Japanese American so I

am going to apologize for my jokes up front.

I sent a lot of information to the people organizing this fabulous conference and I got a message back saying that it was much too long and Mike Harcourt called and said, "Maybe you should cut it down a little." It occurred to me that when Mike Harcourt tells you that you are talking too much, you probably really do have to cut it back a little. I have cut it back.

I am the President of King Pacific Lodge and I am new to Canada and came to Canada in 1997 after 17 years in Japan. While I was in Japan, I was a creative director of an ad agency, the editor of a magazine and, for 16 years, I worked for a family known as the Morita family. They are the owners of King Pacific Lodge, Mr. Akia Morita, the father of the owner of King Pacific Lodge was the founder of the Sony Corporation. Before you started asking for money, we have nothing to do with Sony and they are not even customers of the Lodge but we do have that pedigree if you will.

King Pacific Lodge has been called the most exclusive resort in all of Canada. It is the most expensive resort and averages about \$1750 to \$1800 a night per person. This is the cover of the 2003 Accommodations Guide, which is published for all of BC, and this is a great honour. We have enjoyed lots of coverage, in various publications, and have read many great things about the Lodge, which we never get tired of hearing. There is another way of looking at King Pacific Lodge being the first tourism operator to sign an operating protocol with the First Nation and we did that at Hartley Bay, which isn't very to get there. As a matter of fact, when we started the process before building the King Pacific Lodge, I was writing to the Board of Directors in Japan explaining that I was taking a wide step into an abyss in search of certainty and they suggested that was a challenge I would have to explain to them. What was happening, on the land base in Northern British Columbia and Princess Royal Island, were land claims in the LRNP process and they were trying to determine such things as who can do what on the land base.

When we started the process, I explained the multi-million dollar investment in a particular property and asked what kind of certainty I could expect, every answer I received was vague and not the kind of response I could take back to businessmen in Tokyo with. The clear route to me was to form a partnership with a true partner who was going to be there on the ground. No one had any idea how to approach this and I contacted many people in the industry as well as business people and the advice that I got, in the end, was probably more suggestive and nothing had happened that would show how this would work. What I did – and it was just my approach – I wrote the following letter, in 1998, addressed to Chief Patricia Sterritt, the Chief Councillor at Hartley Bay,

Dear Chief Sterritt

King Pacific Lodge moors in Barnard Harbour from May to September. Under current provincial laws we are required to secure permission, from the provincial and federal governments and their agencies, to operate here.

We have done so, however, we understand the compliance with these rules do not fully meet our obligations as guests in your territory. It is our belief and indeed it is our hope that in the very near future your claim to the land will be sustained. We feel very privileged to be destined and very fortunate to share with your family in this beautiful land and this magical area.

We pledge the following to you: we will always be respectful of your land, we will not abuse it and we will as little impact as possible on it; we will never forget that we are guests on

your land and it is our expressed desire to be good guests; we will respect your culture and history and vow to learn your ways in order to enhance our respect and understanding for the abundant nature that your land has to offer.

In recognition of our guest status on your land, we wish to present you with the enclosed cheque. The amount is what we pay the province for the annual foreshore lease. We wish to give you that amount until the province recognizes your claim to your land. I hope you accept this as a token of our pledges and our promises of cooperation.

I look forward to crafting a deeper agreement in the near future.

What we determined was that this was the first time anyone, upfront and without being prodded, had come to Hartley Bay and to the Gitga'at First Nation to recognize their rights and title. One year later we signed the agreement and it became a protocol and that protocol, first of all, recognizes Aboriginal rights and title and First Nations in the Gitga'at Territory and it also fully recognizes King Pacific Lodge's business interest in that territory. It also created employment opportunities and required a co-management fee from King Pacific Lodge. This resulted in negative responses from the tourism industry with the connotation that we had sold out. As it turns out later on, we had not sold out; we had bought in.

The head tax is about \$15 per guest and every penny of that goes to the development of tourism resources within the Gitga'at Territory. In short, we are the major beneficiaries of that tax. The Gitga'at and the King Pacific Lodge relationship has blossomed and has become the model for other agreements between First Nations and tourism operators, particularly in the north and southeast coast. The King Pacific Lodge and the Gitga'at has gone beyond the agreement and have formed a relationship of cooperation and friendship. When we have job openings we look first to Hartley Bay, which is a very small community of 200 inhabitants. Of the 30 people working at Kings Pacific Lodge, 9 are from Hartley Bay. We have personal friendships, we have cooperated with Hartley Bay on a variety of stances – some of them political some of them cultural – and we have been allowed to be a part of the day-day activities of the community to the extent that John Clifton, who is the former hereditary chief of Hartley Bay, adopted me and invited me to enter his clan, whose crest I wear today as a directive. My Gitga'at name is (*unclear on tape*) and it means "the man from far away on the ocean" or some derivation thereof. It is a name that I am very proud of but, as those of you who have also been honoured with names will understand, it is not just a name but what that name signifies. I honour my name by understanding the obligations I have with my community of Hartley Bay. I noted, from the previous presentation, that there are things that can be done and how it comes down to doing the right thing. The biggest lesson we have learned is, when we look at the distinction between making profit and doing the right things, that doing the right thing is generally what will generate profit especially in business-like partners.

There is another way of looking at King Pacific Lodge and as a practising business innovator we looked at business aspect of lodges and the thinking that lodges involve only fishing. We are a wilderness lodge, which encompasses the whole experience of being in a place such as the Great Bear Rain-Forrest and, if you have ever been in that area, it is just phenomenal. When I came here in 1997, I began asking industry experts – and guys who drank a lot of beer – just how I was going to make this happen and their advice was, "Don't ask for permission – ask for forgiveness because you are in the middle of nowhere and Victoria can't see you and no one really cares." I was also advised that there was no room at the high end of the market; not to aim too high; focus on men because women don't fish; don't offer anything other than fishing – it is a waste of time, and, of course, don't do anything with First Nations they will just keep demanding more. The truth of the matter is, I did not take anybody's advice and, as a matter of fact, I did totally the opposite. I

developed King Pacific Lodge according to all of the standards out of respect for the investors, the Morita family, and the Sony connection and having all the money to build a first class project. I also couldn't imagine the repercussions if the headline in the Asahi newspaper was "*Food Poisoning at Morita Lodge.*" I was also told not to aim too high because there was no room at the high end of the market. The clear indications were that the middle of the market was saturated and that the logical place to build was at the high end of the market. We also focused our marketing at women – women make all the decisions in our lives – and we structured the lodge in a way that was going to fill the rooms. The rooms are 400 square feet and each room has a bath with a window that looks out to the ocean as well as complete spa facilities. You know that guys are not going to be doing these kinds of things when they go fishing! We also established a multi-adventure lodge, which did not focus entirely on fishing and we found that 50% of the visitors who come to the Lodge actually went fishing.

We also signed the first protocol, between First Nations, as a tourism operator. The latter was the most important activity and is what gave us the access and is what gave us the capacity to actually go out into the wilderness and do the things that we wanted to do. I would like to say to Dr. Archibald that we have an interesting mentoring program at King Pacific Lodge. When we went to Hartley Bay two years ago, we interviewed everyone in the schools and what we found was a great deal of interest in working in the industry but there was very little capacity for this desire because there was no training. We didn't have a lot of training available for them at the Lodge and the educational institutions that were out there were not close enough to industry to do any kind of training that was in any way relevant to the kinds of jobs they would be doing. What we did was put together a program where we have youths coming, from Hartley Bay to the Lodge, for a period of two weeks and they shadow someone else who is doing the job. We worked with the Hartley Bay School on this project because we wanted to deliver educational messages to the children as to why we were doing this. Organizations, such as the Skeena Regional Development Corporation, volunteered some funding and, so far, we have not found it necessary to access that would like to see how the project evolves and, if successful, we would be willing to share with other organizations. The other thing that we have, in terms of developing capacity, is that we are a part of Hotels and Resorts and Rosewood has some amazing opportunities for all of their employees. They have 12 resorts, spread throughout the world with the majority in the Caribbean, and have 15 city hotels including the Pow Wow in New York and the Mansion on Turtle Creek in Dallas and some other fabulous places. It looks like this year, for the first time, there will be someone who has worked at King Pacific Lodge from Hartley Bay, who will be transferred to one of these other properties. That kind of opportunity is truly something that would be difficult to work through the formal educational systems and various colleges.

When we look at the King Pacific lodge model, we look at it as leading the market rather than following it and maybe somewhat of a risky proposition but we have always moved forward with that philosophy, for corporate reasons, in Canada. What we try to do is create unforgettable experiences, which is what tourism is all about and is not about catching fish and seeing bears. We developed a standard of service that cannot be imitated and is an inimitable standard of service that people will remember and that is our product. We continuously meet our own expectations and corporately we are always exploring the next step. To explain some of the very important bedrock type of things that we do, we changed everything around what was the old lodge and looked at the industry in a completely different way and I will give you some of the indicators as a result of those changes. Under the old King Pacific Lodge the saltwater fishers were 90% and the new Lodge 50%; male percentage 85% and the new Lodge 50% male and 50% female; Canadian visitors 75% on a regional marketing field and the new Lodge 15% Canadian and the remainder is from an international field; number of guests under old lodge 201 people staying one week and the new Lodge 650 guests and one reason for that is the expanded season to take advantage of whale

watching, bear viewing, cultural activities and other activities, which have created a better product. The average household income of the old King Pacific Lodge guests was \$80,000 US and the new lodge \$425,000 US to give you some idea of the market. The number of employees has virtually doubled. The real thing is the bottom line, revenue in the old King Pacific Lodge was \$1million and the new King Pacific lodge is \$4 million.

King Pacific Lodge was an opportunity and we looked at that opportunity and although it was a big investment and took a while to try to work out, it did pay off in the end. Given these results, and given what we are looking at, the Turning Point First Nations, which are an affiliation of First Nations from the Canada's central coast to Alaskan borders including Haida Gwaii, have asked us to look at their territories with an eye to establishing high end tourism. They are involved in a variety of economic development initiatives and King Pacific Lodge will act as the operator. What we have proposed to them, and they have accepted, is a collective ownership of new lodges through something called Turning Point Lodge Development. In other words, these First Nations would own various lodges and King Pacific Lodge would then manage them. This projected image shows King Pacific Lodge with a marine theme and the other lodges, owned by First Nations, would have different themes and would be dramatically different under the same brand – the brand being the issue here. There would also be a small stock slot between the two companies. All of this would be managed by something like King Pacific Lodge Brand Co. or some name that would be determined. The ownership of that branding company would probably be 50-50 Kings Pacific Lodge and Turning Point First Nations. The value is that this model can be taken and, if there are other areas outside the province or the region, the same ownership structure could be maintained and the same kind of product developed.

ROUNDTABLE DISCUSSION

Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

I think this is an example of the kind of projects and successful cooperative arrangements that don't fall within the traditional textbook approach and there are a whole range of approaches we can see as we move towards these new relationships and creation of economic opportunities and corporate training.

Dave Formosa, Economic Development Consultant, Sliammon Development Corporation

It is an honour to be here and I acknowledge the First Nations who have jurisdiction here, the elders, chiefs, mayors and the Honourable Mike Harcourt. Approximately nine years ago, I was canvassed by Chief Brian Hackett to join the Sliammon Development Corporation Board of Directors, as the only non-native director. They had been trying to establish the development corporation and the structure was in place but they wanted to take it to the next level. Kevin Blaney, knowing me through family routes in Powell River and entrepreneurial activities in Powell River, had previously introduced me to the Chief and I accepted the opportunity to be a board member of the Sliammon Development Corporation. This has been a great experience and when the corporation became more established we developed different business opportunities for the First Nations.

One of these opportunities included a partnership between the First Nations and me in the purchase of the Lund Hotel, which had experienced bankruptcy on a couple of occasions. Located at a port of call community, this is a late 1800's building that served as the heart of the Lund community and I was the only director who voted *against* the purchase of this property, with the remainder of the directors voting in favour of purchasing it. After purchasing the building, the Development Corporation, considering that I had the expertise, handed the portfolio to me to deal

with. The Sliammon Indian Band invited me to become a partner and invest money along with them and rehabilitate this bankrupt condemned building. I took some time out of work and drove out to Lund, looked around and saw the sun come up over the ocean and there was this beautiful heritage building sitting there in disrepair and crying out for a new benefactor. I then fell in love with the property and I knew the real problem at that point was to go home and tell my wife when I had promised that I would not purchase any more companies or get involved in any more business. However, I agreed to become a partner with Sliammon and we created 51% ownership for Sliammon and 49% ownership for Formosa joint venture partnership.

I am going to talk about some issues and offer some advice on how you make this situation work and on what type of person you may need to be to get involved in such a venture or ventures. We took this old hotel and with 90% native labourers rebuilt it. It became a labour of love and a project where everyone showed up for work every day, five days a week and seven days if they had to, and we were on schedule. This hotel was completely rebuilt from the foundation to the rooftops, completely redoing the entire post and beam structure, without compromising the historical integrity of the building. This business now employs 35 people off season and 50 on season and is now upwards of close to \$4 million in sales and growing. We find it teaches us lessons every year and continues to grow and we find ourselves learning new ways of dealing with this success. Having said that, from the Sliammon Development Corporation Board perspective, I have had the pleasure of working with this group in forming other joint ventures, with non-native people, in the short-term and the long-term.

I would like to share some notes on what I feel and what I have seen and what I have learned, and they are not necessarily in order. Firstly, joint ventures with First Nations take a completely different mindset than the regularly found non First Nations partnerships. If I am in a partnership with a non-native group, the mindset in doing a partnership with First Nations is entirely different. Firstly, I find that there must be mutual respect and meaningful participation for the First Nations and that has to be established from the onset and is an important issue. Secondly looking at any new venture from the eyes of your partner is equally important. In discussion with one of the forum participants, we concurred that it is essential to look at any venture from the perspective of First Nations' people when trying to understand their position. Understanding your partner's history, culture and issues are very important for successful long term relationships. Both parties must exercise trust, patience, courage and understanding. I found that once we established this initial process, it resulted in a fast pace at the commencement of the projects. It may not be possible to maintain this pace when realities set in and emotions come into play. This is similar to our NorskeCanada joint venture, wherein all of the pressure initially came from NorskeCanada with regard to deadlines for decisions, which we met, and five months later we are still going through the issues. I think what was necessary was a commitment from Sliammon First Nations and we have now delivered that commitment.

There are wonderful benefits created from working with First Nations, and I have found great satisfaction in being a pioneer in a new and unknown industry encompassing a spectrum of excitement. There are deep holes but great rewards and great opportunities. Listening first hand to the gratitude of First Nations' people and standing on a podium with them hand-in-hand in a great pioneering move into a whole new area of opportunity that has always been in their sights but, in many cases, frustratingly out of their reach is one such reward. I was able to help them, in my community, to see some of those goals and had the privilege to contribute towards them meeting those goals. It is difficult to understand INAC and it is necessary to respectfully outsmart them, challenge them and then work with them. As a businessman who loves what he does, the advantages and opportunities that could be available by working in partnership with First Nations are too numerous to mention; they are plentiful.

If you happen to go to a team with buy-in and an informed and a trusting, legally binding relationship – the sky's the limit. Structure, set-up, contracts are key and politics must be removed to create the joint-venture opportunities. Wise business people will not do business with Indian Band Councils but I know they will do business with duly approved and properly structured business development corporations. It is necessary to remove politics from the business table but the joint venture partner must not be so naïve as not to know that business involves politics. In the business venture, the joint venture partner must respect the cultural aspects of the partner.

Lastly, it is necessary to plan for the joint venture partners governmental change of elected officials and all these changes will, and can, affect your joint venture on a negative or positive note if there has not been pre-planning for all joint venture structures and set-up from the beginning.

Commissioner Mike Harcourt, Acting Chief Commissioner, BC Treaty Commission

I think what this shows is that this is just the start of a much more intense set of meetings and gatherings about the successes, about the partnerships, about the business opportunities and about the capacity building that needs to take place. I suggest to Tony Penikett that we bring this meeting to a close and I consider that this is a very good beginning of where this new relationship is taking us and it is pioneering and there are not guidebooks available to show us how to accomplish this. The new relationship is being created in this room and it is a tribute to all that we are seeing so many successes starting to happen. How we can take these pearls of wisdom and drop them into the pond in the broader sense? I would be really intrigued by what you think Tony Penikett and I, SFU and the Treaty Commission and others that are here, can do to carry this on. We have some activities taking place soon, such as the UBCM Conference in a few weeks that will be honouring the Powell River and Sliammon partnership and also talking about intergovernmental relationships. The BC Real Estate Foundation and the BC Treaty Commission are working on ways to accelerate and expand the successful relationships we have heard about. There are other initiatives, such as the intergovernmental technical committees, that are dealing with technical aspects. I think we can take these other opportunities to keep this dialogue building.

If you want to get in touch with Tony Penikett or myself about advice you have from today or thoughts you might have, please feel free to get in touch with us. We, at the Treaty Commission, feel this is part of our role as the keepers of the Treaty process and to facilitate these kinds of dialogues. Chief Leonard George sends his Opening and Closing prayers to us and we thank him for having us in his territory. With that, I would like to reiterate what Tony Penikett has said about all of the people at SFU and the BC Treaty Commission, including Pat Graca and Isabel Budke, who have contributed an immense amount of work, time and effort to pull this together and I thank you.

Tony Penikett, Gordon Foundation Senior Fellow, Centre for Dialogue, SFU

I want to thank Mike Harcourt for co-chairing this conference and the Walter and Duncan Gordon Foundation for funding it. On behalf of everyone here, I would also like to express our thanks to the Treaty Commission staff for their considerable contribution in time. As you know the proceedings will be transcribed, edited electronically and posted on the Centre for Dialogue website with a link to the BC Treaty Commission website. There will also be a short working summary produced by the BC Treaty Commission.