

**- DRAFT -**

TSAWWASSEN FIRST NATION  
LANDS and ECONOMIC DEVELOPMENT DEPARTMENT  
**ACTION PLAN**

this draft: May 30, 2005

# **Tsawwassen First Nation**

## **LANDS and ECONOMIC DEVELOPMENT DEPARTMENT**

### **CONTENTS**

1. Introduction and Overview	3
2. Operational Flow Diagram	7
3. Responsibilities	
3.1 Lands Committee	8
3.2 Lands Department	9
4. Critical Timelines	
4.1 Staffing	11
4.2 Lands Committee	12
4.3 Lands Department	13
5. Conclusion - Key questions for Chief and Council	14
Appendices	
A - Position description - Lands, Taxation and Housing Administrator	15
B - Position description - Lands and Economic Development Manager	18
C - Land Department Budget, Salaries and Honoraria	21

# **Tsawwassen First Nation Land Management Transition Plan**

## **1. INTRODUCTION and OVERVIEW**

This draft Land Management Transition Plan highlights the activities required for the Tsawwassen First Nation to make the transition from the present DIAND lands management regime to a self-managed land reality. To a great extent, the Plan takes into consideration the TFN Land Code and the First Nation Land Management Act, both of which include a series of land management activities that are mandatory for land management transition to take place. At the same time, the Plan takes into consideration present TFN policies, Treaty progress, and a general goal of Economic Development.

There are two main sets of activities that need to take place as the land management transition is made; taking a gradual approach is recommended as there are unknowns that will have to be dealt with, particularly as related to development. The first set of activities relates to new or revised policies that involve community planning activities such as zoning, heritage and development, among other items. They should involve consensus, probably through committee work. The second set of activities is connected to these planning activities, but is administrative in nature, relating to functions presently carried out within the Lands Department and to new functions such as development applications and permitting. They are process driven and while they should involve consensus, they should be designed with administrative efficiency and equity in mind. The two sets of activities are closely linked and one should not be designed without the other. This is why they are not separated within this Plan.

The Plan and the activities related to the transition appear more complex than they really are. There is no need to hire a battery of consultants. The Land Code Drafting

Committee has worked well over the past several months and as a formalized Lands Committee it should continue to be effective. The key to the successful implementation of the land management initiative lies in the links between the Land Committee and two entities: Chief and Council, and the Lands Department. The Lands Committee will satisfy many aspects of community involvement and by virtue of its makeup, will link with Chief and Council (one member of the Lands Committee will be a Council member) and the Lands Department (one member of the Lands Committee will be the Lands, Taxation and Housing Administrator). It will be imperative that the latter be part of the Lands Committee and attend all meetings.

While the funding calculation for the annual contribution from Canada is based primarily on two positions -- a Lands Manager (henceforth referred to as “Lands and Economic Development Manager”) and a Lands Clerk (henceforth referred to as the “Lands, Taxation and Housing Administrator”) -- there should be no immediate need to fill both, as long as the Lands, Taxation and Housing Administrator is equipped<sup>1</sup> and has the will to take on new or modified responsibilities. (See Appendix “A” for the position description). All discussions related to the Lands and Economic Development Manager could therefore be omitted from this Plan. However, the Plan proposes that a Lands and Economic Development Manager be hired in the medium term (three to five years) to fulfill two functions: Managing the Lands Department which will become busier in the next five years, and managing Economic Development initiatives, which should also increase dramatically in the next five years. The two functions go hand in hand and are reflected in the Lands and Economic Development Manager’s position description. (See Appendix “B” for position description).

In terms of educational requirements, those of the Lands, Taxation and Housing

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<sup>1</sup> There may be a need for new computer software for the Lands Department; a report will be prepared when this becomes clear.

Administrator could be assumed by the Band directly: That is to say that training could be supported by the Band, providing you have a fully committed candidate willing to study while working. There is a discussion note that follows the “education requirements” section of the position description. The “part-time” aspect to studies would make the position accessible to more Community Members. Since the position description included in this Plan has changed from the existing “Lands, Taxation and Housing Director” description, Chief and Council may or may not opt to undertake a competition for the position. Related to this same position, moving the land-based component of the Geographic Information System (GIS) from the Treaty Department to the Lands Department in the next three to five years should be considered and planned for. On the one hand, almost all of the functions of this position can be managed through GIS.<sup>2</sup> On the other hand, municipalities and other governments are almost all depending on GIS to manage their lands: Servicing, land transactions, taxation, appraisals, locational analysis are all done with GIS in order to communicate and interface with neighboring governments, and in order to compete for economic development activity.

For the Lands and Economic Development Manager, there are two options:<sup>3</sup> It may be cheaper and more efficient for Chief and Council to hire a Lands and Economic Development Manager who comes fully loaded with the appropriate educational background and direct experience in land management and economic development activities in the lower mainland, or Chief and Council may choose to support, in the spirit of capacity building, a candidate -- an “intern” -- who would be willing to go through a solid program of study and would be ready to assume the related responsibilities in the next three to five years when you will really need such a manager. Ideally, the Lands, Taxation and Housing Administrator should aspire to become Lands and Economic

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<sup>2</sup> GIS training should probably not be attempted in-house.

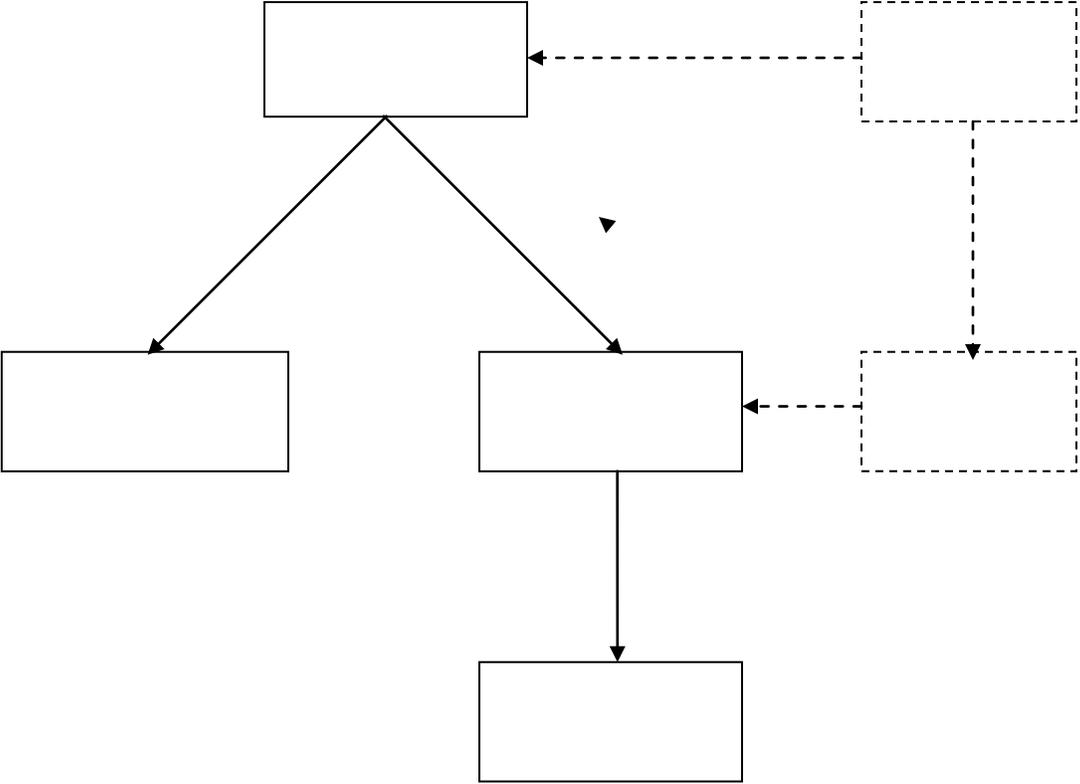
<sup>3</sup> Another option, not recommended, would be to hire a Lands and Economic Development Manager immediately after ratification and leave the present Lands, Taxation and Housing position unchanged.

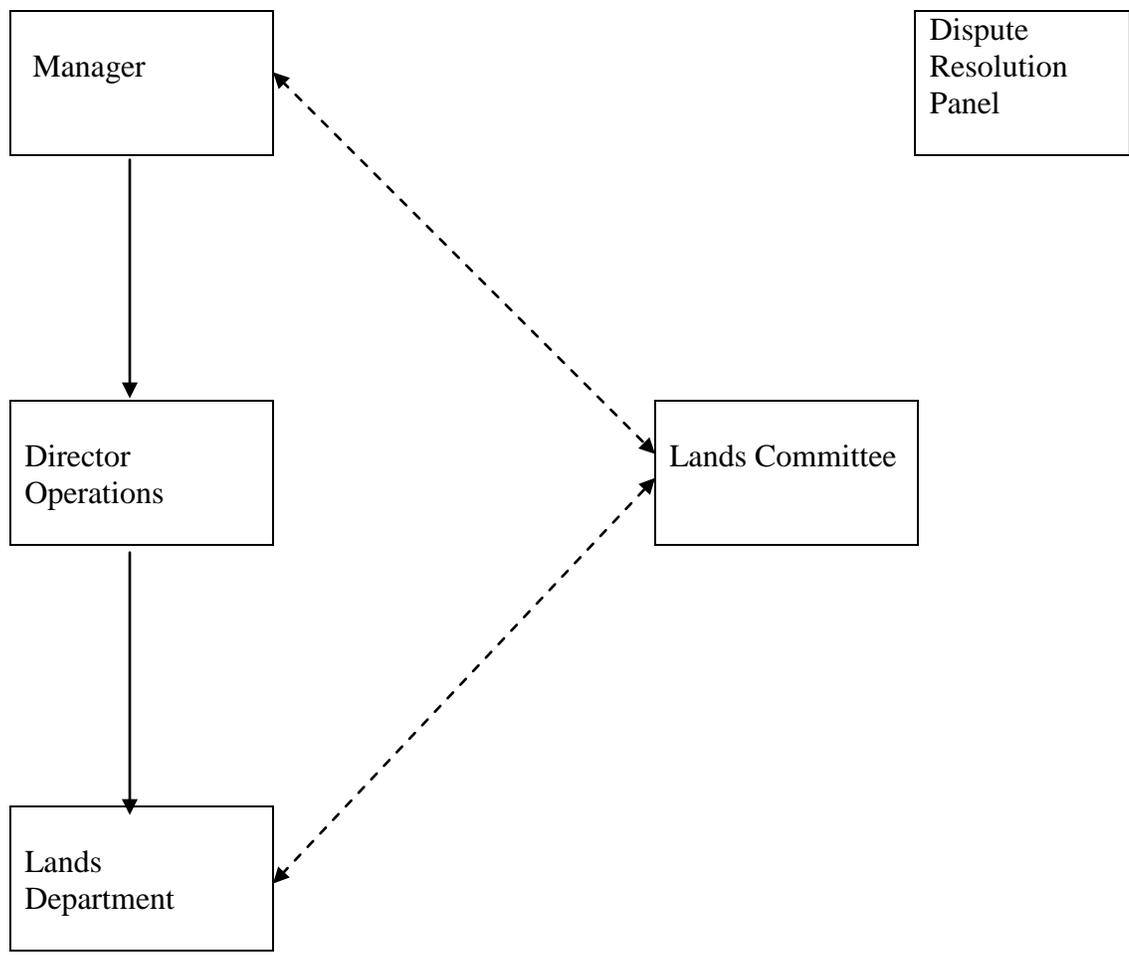
Development Manager and should thus be encouraged to continue with educational projects. There are risks associated with selecting a Community Member for relatively long term training (2 years of college or 4 years of university), but the gains in terms of capacity building would be worthwhile. Both position descriptions should be considered as discussion documents only.

There are “unknowns” related to the way development activities will take place on the lands and to the way Treaty will evolve. For these reasons, it is possible that Chief and Council will want to accelerate some aspects of the Plan, such as the development of a Zoning By-law and a Heritage By-law, as well as associated policies and procedures. Separate draft “Terms of Reference” have been prepared to address the former and a separate discussion paper addresses the latter. To avoid conflicts with Land Code implementation, all of these should involve the Land Code Coordinator and the Land Code Drafting Committee. Funding for these activities is addressed in Appendix “C”, “Lands Department Budget, Salaries and Honoraria”.

Finally, this is a draft and we have plenty of time to adjust it in the next few months.

**2. OPERATIONAL FLOW DIAGRAM**





Lands and Economic Development Manager (in 3 to 5 years?)  
 Lands, Taxation and Housing Administrator

### **3. RESPONSIBILITIES**

#### **3.1 Lands Committee**

The primary roles of the Lands Committee are to:

- hold regular and special meetings (closed or with community members present) to discuss land issues.
- recommend land-related by-laws, policies and practices to Chief and Council.
- make recommendations to Chief and Council on the resolution of “problematic” land issues.
- assist with the development of the land administration policies and procedures.
- facilitate land-related information flow between Chief and Council, the Lands Department, and the community.
- oversee required Community Approvals under the Land Code.

Other responsibilities of the Lands Committee include the presentation to the Community, or to Chief and Council, proposed policies and procedures related to:

- environmental protection and assessment.
- the resolution of disputes in relation to land.
- land use planning and zoning, and heritage.
- process and criteria for granting interests in land.
- process and criteria for appeals from a decision to grant or refuse to grant land.

## **3.2 Lands Department**

The primary roles of the Lands Department are:

### **Land related:**

- manage all land related functions of the Tsawwassen First Nation (TFN), including:
  - negotiate, on behalf of the TFN, leases or similar agreements.
  - negotiate, on behalf of TFN, land and servicing agreements with other governments.
  - oversee variances to existing by-laws.
  - conduct analysis on land uses and values.
  - oversee land appraisals.
  - advise and recommending, to Chief and Council, on land tenure, leases, certificates of possession, easements and rights-of-ways.
  - investigate and advising, to Chief and Council, on boundary, land tenure and land use disputes and zoning variances and infractions.
  - maintain a “duplicate land register” for DIAND, under the First Nation Land Management Act.
  - ensure overall compliancy with the First Nation Land Management Act.
  - actively participate in Lands Committee activities.

### **Policy related:**

Develop, maintain, interpret and enforce policies related to:

- environmental reviews and audits.
- land transactions.
- heritage and heritage by-laws.
- development applications.
- zoning variances.
- other land-related by-laws and procedures.

### **Taxation, Property Assessment and Housing Related:**

- manage all taxation functions, including policies, assessments, notices, collection and revenue sharing.
- manage all Property Assessment functions.
- manage all Housing Policy functions.

### **Economic Development:**

- manage all economic development studies.
- manage all economic development aspects of the community.
- actively seeks business opportunities.

#### **4.1 CRITICAL TIMELINE - STAFFING**

##### **Lands, Taxation and Housing Administrator:**

**Within 1 month** of Ratification, Chief and Council to:

Option 1:

Inform present Lands, Taxation and Housing Director of new duties as “Administrator”.

Facilitate three to four weeks of training at DIAND.<sup>4</sup>

Set out a course of study with the incumbent (see position description).<sup>5</sup>

Option 2:

Inform present Lands, Taxation and Housing Director that the position has changed to Lands, Taxation and Housing Administrator and that a competition will be held, due to changes in functions.

Set up competition and hire Lands, Taxation and Housing Administrator.

Facilitate three to four weeks of training at DIAND.

Set a course of study with the incumbent (see position description).<sup>6</sup>

##### **Lands and Economic Development Manager<sup>7</sup>:**

Option 1:

**Within 12 months** of Ratification, Chief and Council to:

Set up competition and hire “Lands and Economic Development Manager Intern”.

Set a course of study with the incumbent (see position description).

Option 2:

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<sup>4</sup> DIAND has confirmed this activity.

<sup>5</sup> Keeping in mind that application to related programs must be done in the month of March, preceding a September start date of school.

<sup>6</sup> Keeping in mind that application to related programs must be done in the month of March, preceding a September start date of school.

<sup>7</sup> See position description; this assumes that the Band would want the Lands Manager to be involved in Band Economic Development initiatives.

**Within three to four years** after Ratification, Chief and Council to:

Hire a Lands and Economic Development Manager who is already trained.

#### **4.2 CRITICAL TIMELINE - LANDS COMMITTEE**

**Within 1 month** of Ratification:

Chief and Council to:

- establish general guidelines for Lands Committee.
- facilitate the selection of Lands Committee.
- facilitate the selection of the Dispute Resolution Panel.

**Within 6 months** of Ratification:

Lands Committee to oversee, for Chief and Council's consideration:

- Community Consultation Process for land-related issues.
- land administration feedback mechanism.
- the development of a Land Use Plan.<sup>8</sup>
- the development of a Zoning By-law.<sup>9</sup>
- the development of a Heritage By-law.<sup>10</sup>

**Within 12 months** of Ratification:

Lands Committee to develop, for Chief and Council's consideration:

- environmental protection and assessment policy.<sup>11</sup>
- a process and criteria for granting land.
- a process and criteria for appeals from a decision to grant or refuse land.
- secondary by-laws.

**Beyond 12 months** after Ratification:

Lands Committee to oversee, for Chief and Council's consideration:

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<sup>8</sup> While expert advice will be required to develop policies and by-laws, it is imperative that the Lands Committee be involved, preferably in the role of "Steering Committee".

<sup>9</sup> This includes related policies, procedures and application processes.

<sup>10</sup> This includes related policies, procedures and variance application processes.

<sup>11</sup> This will have to be linked to treaty research.

- the development of a Taxation by-law.
- the development of a Expropriation Law.
- the development of a Spousal Property Law.

### **4.3 CRITICAL TIMELINE - LANDS DEPARTMENT**

**Within 2 months of Ratification:**

Lands, Taxation and Housing Administrator to:

- establish new links with DIAND.
- become familiar with existing Indian Land Registry System (ILRS).
- establish processes and procedures for the transfer of lands.<sup>12</sup>
- oversee the development of “development applications”.<sup>13</sup>
- complete lot transfer documents inventory.

and, if a new Lands, Taxation and Housing Administrator is hired:

- become familiar with existing TFN policies related to taxation and other items.

#### **When a Lands and Economic Development Manager is Hired:**

Lands and Economic Development Manager to:

- establish clear links with outside business community.
- prepare short and long-term Economic Development Plan, or
- reconcile existing ones with new realities.
- oversee the transfer of the land-related GIS function from the Treaty Department to the Lands Department.
- review all land and economic development policies.<sup>14</sup>

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<sup>12</sup> This work should be done once Lands Clerk has received training with DIAND should be done in concert with existing DIAND procedures, later transformed according to TFN’s needs.

<sup>13</sup> This work should be done in concert with the Lands Committee, and the Land Use Plan and Zoning By-law.

<sup>14</sup> Keeping in mind that by the time a Lands and Economic Development Manager is hired, many new policies will have been implemented and will require revisiting.

## **5. CONCLUSION - Key Questions for Chief and Council**

There are key questions that require Chief and Council's consideration:

1. Given on the one hand that the Land Code has not yet been ratified and that there is therefore no assured transfers of monies from Canada, and given on the other hand that the Band will soon be in need of a revised Zoning By-law and probably a Heritage By-law, would you like to proceed with the development of these? This relates to the previously drafted "Zoning By-law Terms of Reference" and a previously drafted Heritage discussion paper; The cost of re-visiting the Zoning by-law and developing development applications is approximately \$12,500, and the cost of developing a new Heritage by-law is approximately \$5,000.
2. Given that the position description and duties of the Lands, Taxation and Housing Director will change (namely to "Administrator", but also in form and duties), you will need to decide if the existing incumbent will be appointed or if you want to hold a competition to fill the position.
3. Given that you do not need a Lands and Economic Development Manager immediately, do you want to begin looking for a trainable person who will require support for a few years, or wait and hire a pre-trained individual in a few years?

## APPENDIX A

### **Position Description - DRAFT**

Lands Department

### **Lands, Taxation and Housing Administrator**

Note: The functions that are added (or substantially altered) to the existing “Lands, Taxation and Housing Director” position are highlighted in *italics*.

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**Primary Function:** To administer the land, taxation and housing policies of the Lands Department, *including weekly liaison with the Lands Committee.*

### **Responsibilities:**

#### **Land Management:**

Maintains information on:

- by-law regulations.
- permits and inspections.
- maps and surveys.
- land tenure, certificates of possession, easements and rights-of-ways.
- appraisals and leases.
- *Lands Committee status.*
- *geo-referenced data.*

*Maintains land register related to:*

- *Indian Lands Registry System (ILRS).*
- *provide updated Land register information to DIAND.*

*Devises and Proposes procedures related to:*

- *development applications and appeals.*
- *zoning variance applications.*
- *survey requirements related to applications.*
- *permit and application fees.*

*Development applications:*

- *advises and assists community members on development and land transaction applications.*
- *processes land survey requests.*

- *processes development and land transaction applications.*
- *collects associated fees.*
- *conducts development application and zoning compliance verification.*
- *advises Chief and Council (or Lands and Economic Development Manager) on development applications and zoning variance applications.*

### **Taxation and Taxation By-law**

- *maintains information on land and property related taxes.*
- *interprets and implement by-laws.*
- *prepares tax notices.*
- *collects taxes.*
- *prepares service agreements and revenue sharing arrangements.*

### **Property Assessment**

- *liaises with BCAA, lessees, real estate agents and DIAND lease managers.*
- *responds to Assessment Review Panel and other appeal bodies as required.*

### **Rates By-law**

- *proposes amendments as required*

### **Housing**

Administers Social Housing Program:

- *manages maintenance and repairs.*
- *prepares rental Agreements.*
- *collects rents according to Housing Policy.*
- *maintains tenants list.*
- *participates in Housing Committee meetings.*

### *Lands Committee*

- attends all Lands Committee meetings.
- liaises between Lands Committee and Lands Department.
- provides information and brief reports to Lands Committee as required.
- briefs Lands Committee on development applications and procedural changes as required.

### **Other**

- performs other related duties.

### **Authority Relationship**

Reports to Director of Operations (or Lands and Economic Development Manager).

### **Education requirements:**

- Minimum:
- grade 12.
  - specific training with DIAND's ILRS system and DIAND procedures.
  - willingness to learn GIS applications.
- Preferred:
- 2 year college diploma (or evidence of ongoing progress in such a program) in Land Administration, Urban/Regional Planning, or equivalent experience, with a sound knowledge of GIS.
  - specific training with DIAND's ILRS system and DIAND procedures.

Note on the above "Education Requirements"

In the next three to five years (as more land is acquired through Treaty and as more development takes place on reserve lands), it will become increasingly difficult to manage TFN lands without GIS. In the short term, the incumbent must become familiar with DIAND's ILRS system and DIAND procedures related to land transactions, and must be willing to adopt and modify some of these, to make them Tsawwassen-specific. In the medium term -- three to five years -- it will be imperative for the incumbent to learn GIS applications and their links to land management techniques.

A program of study could probably be designed for part-time study.

## APPENDIX B

### **Position Description - DRAFT**

Lands Department

### **Lands and Economic Development Manager**

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#### **Responsibilities:**

##### **Land Management:**

Manages all land related functions of the Tsawwassen First Nation (TFN), including:

- drafting and recommending new or existing by-law changes.
- negotiating, on behalf of the TFN, leases or similar agreements.
- negotiating variances to existing by-laws.
- carrying out primary analysis on land uses and values.
- carrying preliminary land appraisals.
- advising and recommending, to Chief and Council, on land tenure, leases, certificates of possession, easements and rights-of-ways.
- investigating and advising, to Chief and Council, on boundary and land tenure and land use disputes and zoning variances and infractions.
- reporting, as required, to Lands Committee on specific issues .
- maintaining liaison with DIAND representatives on “duplicate land register” and other matters.

Reviews policies and procedures related to:

- environmental reviews and audits.
- land transactions.
- heritage and heritage by-laws.
- development applications.
- zoning variances.
- other land-related by-laws and procedures.

#### **Taxation, Property Assessment and Housing:**

Manages all taxation functions, including policies, assessments, notices, collection and revenue sharing.

Manages all Property Assessment functions, including:

- carrying out initial assessments.
- liaising with external bodies such as BCAA, lessees, real estate agents and DIAND lease managers.
- responding to Assessment Review Panel and other appeal bodies as required.

Manages all Housing Policy functions, including:

- Social Housing Program.
- Rental and Leasing Agreements.
- rents collecting.

#### **Lands Committee:**

- attends Lands Committee meetings as required.
- provides information and brief reports to Lands Committee as required.

#### **Economic Development:**

- establishes and maintain links with local, regional and broader business interests.
- represents TFN in various local business associations.
- undertakes or oversee economic development studies.
- assesses development applications.
- prepares funding proposals.
- assists community members in establishing business plans and links.

#### **Other**

- perform other related duties.

#### **Authority Relationship**

- reports to Director of Operations (perhaps directly to Chief and Council on major development issues).

## **Education Requirements:**

- Minimum:
- 2 year college diploma in Land Administration, or Urban/Regional Planning, or Urban Economics, or Professional Real Estate Appraiser's license and related experience, all with a knowledge of how these relate to GIS.
  - specific training with DIAND's ILRS system and DIAND procedures
  - knowledge of Geographic Information Systems
- Preferred:
- 4 year university diploma (or evidence of ongoing progress within such a program) in land-related discipline such as Urban or Rural Geography, or Land Use or Community Planning, or Economic Development
  - specific training with DIAND's ILRS system and DIAND procedures
  - proficiency in the use of Geographic Information Systems

### Note on the above "Education Requirements"

In the next few years, there will be an increase in development applications on TFN lands, as well as, through Treaty, an increase in lands to manage. Further, the present need for funding and capital "hunting" will increase. Should the Band decide to hire and train an "intern" for this position, the best option would be to send the person, full time, to university in a community planning, or economic development, or urban economics field. This is costly and risky. Another option would be to send the same person to a 2-year college program which would be more technical in nature, comprising of a less-intense land-management/economic component, and more intense analytical (GIS) aspect. This would depend on the candidate.

A course of study could be designed to suit.

## APPENDIX C

### **LANDS DEPARTMENT BUDGET, SALARIES and HONORARIA**

The total negotiated “Individual Transfer Agreement” amount is approximately \$170,000.00 for the first year of implementation, with an assurance that the amount will not decrease in the following years. The latter has not been confirmed in writing, but should be, in the coming few weeks. This amount includes \$106,658.00 for salaries (\$66,287.00 for a senior position and \$39,344.00 for the more junior position, as well as approximately \$64,000.00 for administration (5%), Lands Committee (5%), legal (25%), appraisals (5%), compliance monitoring (5%), dispute resolution (5%) and registration (5%).

Fiscally, these amounts should adequately address the costs of managing the TFN lands, especially when we consider that there is already a Lands Department budget in place. However, as more lands are acquired (through Treaty, for example), costs will rise. One way to offset development costs will be to have the developers pay for any surveying, land appraisals, legal and registration costs, as well as development permit fees.

In terms of salaries, if the duties and responsibilities of the present “Lands, Taxation and Housing Director” position are increased significantly as they evolve to that of “Administrator”, then the salary would presumably be adjusted accordingly. For the first while, until a Lands and Economic Development Manager is hired, the costs of developing Zoning, Heritage and other by-laws can presumably be offset by the Land and Economic Development Manager’s allotted amount.

In terms of Honoraria, the present Land Code Drafting Committee receives an honoraria of \$50.00 per meeting. Part of the Individual Transfer Agreement has been negotiated

with this in mind. After ratification, the new Lands Committee will have to make a commitment to actively participate in approximately two meetings per month. This Plan recommends continuing honoraria at the same rate with the new Committee,<sup>15</sup> with one exception: Until now the Land Code Drafting Committee has been opened to any community member, in addition to the core Committee members; honoraria has been available to all attendees. Once a new Land Committee is established, however, any community member that decides to attend should not receive honoraria.

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<sup>15</sup> Seven members attending two meetings per month at \$50.00 per meeting = \$700.00 per month.