

UFA BOARDS AND COMMITTEES FORUM



THE KWANLIN DÜN
CULTURAL CENTER
MARCH 9-10, 2017



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UMBRELLA FINAL AGREEMENT (UFA)

Draft SUMMARY DOCUMENT

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Opening Message

It is with great pleasure that I present the opening message for the summary document of the Umbrella Final Agreement (UFA) Boards and Committees Forum, March 10th and 11th, 2017. The Council took on the task of organizing this gathering because it believed that much would be gained by having agencies with a similar origin sharing their experiences as they have fulfilled the roles envisioned in the agreements.

This forum was long overdue, happening some 24 years after the signing of the Umbrella Final Agreement. The opening panel session that included land claim negotiator and implementers was very much appreciated by all those in attendance. The panel answered many of the questions people had about their origin document.

As the first such gathering, there was much information sharing and relationship building. The Council hopes that similar gatherings will occur and that they focus on examining and addressing the issues that were raised. Hopefully it will not be in another 24 years!

Finally, the Council's thanks the facilitator Florian Lemphers, the panelists Dave Joe, Daryn Leas, Joe Linklater and Eric Morris, presenters Mark Cliffe-Phillips, Tom Nesbitt, Monica Nordling, Michel Leger, recorder Rhoda Merkel, the staff of the Kwanlin Dun Centre/ MacBride Museum and all the participants that helped make this event a success.

Sincerely,

Pearl Callaghan,
Chair, YLUPC



**UMBRELLA FINAL AGREEMENT (UFA)
BOARDS AND COMMITTEES FORUM REPORT**

March 9-10, 2017

Introduction

The Umbrella Final Agreement Boards and Committees Forum was hosted by the Yukon Land Use Planning Council at the Kwanlin dun Centre and the McBride Museum. Over 50 people attended from the UFA Boards and included observers from the Yukon Government and Yukon First Nations. The purpose of UFA Board and Committee Gathering was to give organizations involved in land use planning, environmental assessment, land and water regulation and resource management (including cultural resources) an opportunity to learn from one another and to coordinate activities.

List of Participating Agencies: Yukon Environmental and Socio-economic Assessment Board, Yukon Fish and Wildlife Management Board, Salmon Sub-Committee, Dispute Resolution Board, Surface Rights Board, Yukon Land Use Planning Council, Alsek Renewable Resource Council, Carmacks Renewable Resource Council, Dan Keyi Renewable Resource Council, Mayo Renewable Resource Council, Laberge Renewable Resource Council, Selkirk Renewable Resource Council Yukon Heritage Resources Board, Yukon Geographic Place Names Board, Yukon Water Board, Training Policy Committee, Porcupine Caribou Management Board

Representatives of Yukon First Nations, Yukon and Canada are invited as observers on the morning of day one (9th).

DAY 1, March 9th Morning Session: Kwanlin Dun Cultural Centre:

Opening Prayer - Joe Copper Jack, Yukon Land Use Planning Council (YLUPC)

Event Introduction - Florian Lemphers, Facilitator

Agenda Introduction (*Appendix A: UFA Boards and Committees Forum Agenda March 9, 10, 2017*) – Florian Lemphers introduced the agenda for the event and asked the audience to examine a draft chart showing the Legal Framework for Board and Committees (Appendix B: Draft Yukon Land Claims: Framework for Yukon Land Claims Boards and Committees). He encouraged comments.

Opening Remarks - Why This Gathering Was Called

George Nassiopoulos, Chair, YLUPC

George welcomed the delegates and acknowledged that this gathering is in the traditional territory of the Ta'an Kwachin and Kwanlin Dun First Nations.

- We are meeting to discuss our struggles with the implementation of the Umbrella Final Agreement Land Claim Agreement (LCA).
- We would like to work together with other UFA Boards and Committees regarding the interpretation of the UFA-LCA's and with other common challenges we face in implementing it.
- At this forum, we would like to hear from you, and compare our experiences, we would like to work together to come up with solutions.

Pearl Callaghan, Yukon Land Use Planning Board Member (Appendix C Full text: Pearl Callaghan's speech)

- UFA Boards and Committees feel as though they are working in isolation, raising the question of why we are not all working together in a common secretariat.
- We need to work together to understand our roles and responsibilities under the UFA. Let's make a list of concerns, suggestions and recommendations; and, if we conclude this forum was beneficial, we can look to holding it on an annual basis.
- I believe the success of the Boards & Committees are crucial to the success of implementing the agreements and to the ongoing reconciliation that is at the heart of it. We are working for our present and future generations. 'Together Today for Our Children Tomorrow.'

The Land Claim Negotiation Period and the Origin of the UFA Boards

Panel Session: Dave Joe Lawyer, Dave Joe Law Corp; Daryn Leas, Lawyer, Aboriginal Group
Joe Linklater, former Chief, Vuntut Gwitchin Government; Eric Morris, former Chief
Teslin Tlingit Council

The Land Claim Negotiation Period and the Origin of UFA Boards

Dave Joe: Lawyer, Dave Joe Law Corp.

- In 1973, with the 'Together Today for Our Children Tomorrow' Yukon First Nations (YFNs) attempted to gain support and constitutional powers.
- In 1979, we wrote a proposal for settlement that proposed Yukon, Canada, and YFNs share constitutional power in Yukon. We said, "Yukon is a Territory that we can be creative in." We wanted Yukon to have power over our renewable resources; it was rejected by Canada.

- In 1984, we proposed sharing through an administrative power - it was not accepted by YFNs (YFNs) because there was an absence of decision making power and it did not give them land title.
- A broader structure had to be developed. There was a lack of trust with Canada regarding renewable resources especially in the area of access. We wanted the neutrality of a Board to solve problems and to exercise treaty rights. It was set up with a degree of neutrality because we did not trust to adjudicate.
- At the time, we were witnessing a huge migration of people into the Yukon because of gold and because of the highway. We saw haphazard planning where YFNs were being left out. We wanted a structured planning process that included all Yukoner's, YFNs, and Government, this is why the Yukon Land Use Planning Council was created.
- In 1979, with the concept of sharing power, a single window approach for environmental was needed to review projects being proposed. We needed a single process to review all processes on crown and YFN land, subject to land use planning and conforming to the land use plan. State of authority – we looked at all administrative structures in Canada, and wanted some the associated authority. For example, we also did not want Yukon Government and Canada to decide quotas on harvesting salmon and for us to be subject to the whims of Canada's assessments. YFNs wanted a neutral Board to advise on quotas. This idea took hold over all the UFA Chapters.
- I can see a comprehensive listing of all your mandates is set out. Boards and Committees are intended to be neutral. YFN thinking of Board procedures was hands off, maybe too much. It was also a way we could ensure YFNs had input into traditional knowledge, or family law matters or justice. When a Board ruled on something it could not go back to review. Boards & Committees have processes to hear procedure and law in various functions of implementation of the UFA – that process helps the success of Boards.

Daryn Leas, Lawyer, Co-Head of the Aboriginal Group

- The purpose of Treaties is to promote reconciliation. It is a way for us to come together to recognise aboriginal rights and to ensure First Nations ability to be involved. We felt excluded, we wanted to have a say in managing. Communities did not think the UFA was a good idea as they would have to give up 90% of their land. But, with Boards and Committees, YFNs could have a say.
- Reconciliation brings people together. In the 1980's, YFNs and non-First Nations were living separately, now we are living together. In the 1990's, we saw videos about people who were fighting for rights - twenty years later we are educating on how the UFA has affected us all. The basis is the idea of reconciliation. This meeting is positive for the UFA Boards and Committees – we will feel more comfortable reaching out and working together.

- The Council for Yukon First Nations is reviewing and intervening in the Peel Court Case in the Supreme Court to help provide support and guidance in principle about how the work of Boards and Committees are being treated by Government, especially when they reject their recommendations. The LCA created Boards and Committees for dialogue and collaboration, it is a way to work things out and not rely on the courts to make final decisions. Now we need principles to ensure Government and the Courts recognize the work of Boards and Committees and that they understand the objective and the intent of the UFA. Certainty was the key promise under the agreement.

Questions and Comments:

Q: *What is the most important question in implementing Chapter 16, Fish and Wildlife – how do you integrate renewable resource management in working together as a whole?*

A: We knew this agreement would live on forever, it is not to be held in the abstract. We knew there would be issues interpreting the spirit and intent and the intention of the agreement. Chapter 16 - Fish and Wildlife is an important chapter. You have to view it in a holistic way, it is not intended to be viewed independently, and we also have to look at the land use plans.

We have to recognize rights and treaties of YFNs through the reconciliation process initiated by the UFA and ensure the agreement is implemented to benefit everyone. We need to look at how the UFA is implemented and how it benefiting everyone. We have to trust the process we have established and we have to trust the agreements.

Comment: Is there capacity building? The challenge for us is - how do we come prepared to fulfill the obligation through Boards and Committees and to understand it as a way of life for us here in Yukon? Ultimately it is not just about the land, it is about a way of life we live here in the Yukon. We want to know, after we make decisions in our Boards and Committees, that we met the spirit and intent of the LCA and to ensure the land will be there for our future generations. It is so critical to our way of life. It is a challenge because of political processes. It impacts what we want to do. If the current government does not agree, it hinders our implementation.

Jimmy Johnny Comments:

One thing, I talk about what I know – the traditional use and traditional values. I am talking about the berries, plants, animals, fish – all these things that we need. They have been alive for years and years. We need to recognize that much has been lost as they have searched for silver and gold. Thank you to our ancestors who taught us how to live on the land, we have to keep doing that. A lot of traditional YFN land is destroyed. We want to keep the land safe for our future generations. We have to stand up strong and protect our YFN history for future generations.

Q: *The Training Policy Committee (TPC): Can you talk about your historical memories of the spirit and intent behind Chapter 20?*

A: Dave Joe: The concept built into that chapter recognized there would be capacity issues in implementing the agreement. We wanted reassurance that all eleven First Nations had access to training people. Twenty-five percent of Yukon's population is YFNs. The goal is that YFNs hold 25% of the jobs. We wanted that chapter to do the job of training.

In 1969, the White Paper Policy was the only paper guiding decision making. We wanted a better deal. We looked at and compared other jurisdictions, we wanted a better deal. We wanted to initiate a solid process in Yukon. We did not want treaties, we wanted to develop an agreement that turned the land over to the Yukon First Nations.

Daryn Leas: The UFA along with Financial Transfer Agreements was a new breed of land claim agreement. Our agreement was a high-water mark that still works within Federal Law and Yukon Law. When negotiating, we knew the Boards and Committees would assume a great responsibility and would face the challenge of significant capacity issues, we wanted to set up a training fund that would train employees to implement the agreements.

Comment – Frank Patterson: Agreements are about the land, not about money. Our health and wealth is about the land, we can live on and off the land, it is the native way. In the 1980's what was the spirit and intent – young people don't know! Old-timers need to help put that into the curriculum. We need to participate so young people can know that the spirit and intent is to protect the land. The Renewable Resource Council is a good tool out of the Land Claim Agreement. We knew something had to be done about the fish and the wildlife, now the land-use plan for the Peel is on hold – it did not put the Yukon Government on hold! They are putting roads everywhere! And, this is giving people access to the fish and to the wildlife and they are giving out claims and access permits. This is where we go to get our traditional food, it is devastating.

Boards and Committees are a good way to assist in protection. We know the land is for all and that we have to work together: 'Together Today for Our Children Tomorrow'. When we turn out the light bulb we are all the same. We make recommendations, and if they don't like our work it's rejected, it is a NO! We don't have anywhere to go when our decisions are rejected. We have to look at our mandate – the Conservation Officers have the authority, not Yukon First Nations. It does not make sense. Mother Nature is being destroyed. I do this for my children – I teach them, "Do not be biased against your brother." In the early days, we wanted rights and title to our fish and wildlife and we wanted the land left pure for our children and we need to tell our future generations the spirit and intent intended in the Land Claim Agreement.

Joe Linklater, former Chief, Vuntut Gwitchin Government

- What was the spirit and intent behind the 1973, 'Together Today for Our Children Tomorrow' document? I had to look it over with that question in mind and I found it is a list of grievances. It is a list of what Yukon First Nations wanted to see changed – now we have the Land Claim Agreement, it is our best investment.
- The potential for Old Crow in the Land Claim Agreement was that we could have a say on how oil and gas would impact our fish and wildlife and our way of life. When you look through old documents they are written with a non-First Nation perspective. In the Land Claim Agreement, our first goal is consensus reached through Boards and Committees with all the Parties involved to gain consensus.
- It took us twenty-two years to get out from under Indian Affairs, now Indian Affairs are implementing the Land Claim Agreements. More work needs to be done to recognize that the LCA is a tri-party agreement. This meeting is important. It forces us to take a step backwards and see the big picture, and to understand where we want to go as a Territory and to see where we can help Boards and Committees to do their work.
- Traditional Knowledge has to be apart of decision making in the assessment process. We were the first in Canada to do this. Impact of decisions make an impact on the way people live in local areas, this is acknowledged in the LCA.
- Inuvialuit has an economic based land claim agreement. In Yukon, it is land-based. First Nations have a say in how lands are managed through Boards and Committees. But, the speed of government is slow. It took ten-years to develop the North Yukon Land Use Plan. The North Yukon only had one interest, other First Nations have many more: how long will their processes take? Why didn't other First Nations intervene in the Peel case? This process assures land use with a land use plan.
- When you look at the evolution of the self government of the LCA through implementation, the influence of Yukon First Nation is growing. We need to recognize this. As self-governing First Nations, we are not using the Boards and Committees to its full extent, nor is government respecting Board and Committee decisions.
- This 'Together Today for Our Children Tomorrow' book needs to be updated and taught in school curriculum, current leaders are coming into their positions without a knowledge of what the LCA say, and they do not know the spirit and intent of why UFA boards were created.

Eric Morris, Former Chief, Teslin Tlingit Council; Assembly of First Nation Representative, Yukon

- When I started on this path, I listened to all who were involved. When we come into these roles in our communities we come in with little experience. We don't understand Boards and Committees or their goals. The LCA sets the picture of what is in our life time. I believe it is about building relationships and partnerships that ensure that the economy is strong and healthy. This is my land, this is your land.
- Shared jurisdiction – how will we develop a community plan to manage our resources with everyone in mind. We are fighting for every bit of what we are going to get. The challenge when implementing the LCA in our communities is the tremendous

undertaking and capacity has so much to do with it to fulfill our obligations. Is there capacity building? The challenge for us is how do we come prepared to fulfill the obligation through Boards and Committees and to understand the spirit and intent. It is a way of life for us here in Yukon; ultimately, it is not just about the land, it is about a way of life we live here in the Yukon.

- We want to know after we make decisions in our Boards and Committees that we met the spirit and intent of the LCA and to ensure the land will be there for our future generations. It is so critical to our way of life. It is a challenge because of political process. It impacts what we want to do. If the current government does not agree, it hinders our implementation.
- I was asked, “Eric, do you want to be a Chief?” Was I ready? My experience and knowledge needs to be transferred. Even the electoral process in our communities hinders our process. When we look at the Yukon’s economy in mining, tourism, education, and government we are building a strong economy – but – what is our contribution back to Canada? They gave us the LCA and it has given us a tremendous amount of wealth. It is important to incorporate it into the school system. The insights taught to children will impact how we select Boards and Committee members and ensure that they are ready to make decisions
- The LCA is about the land. Land Use Plans were created to help us make positive decisions regarding the land...and how many LUP’s do we have? Only one! WE need LUP’s to make decisions. LUP’s will compliment the Teslin Renewable Resource Council and how they make decision regarding issues in Teslin. I am grateful for experienced people who help me understand the holistic side of the process – from the past and the ones now, and the ones who will come in the future.
- My Uncle George Johnson owned the first car in Teslin. He bought the car for \$1,700 with fur. Charlie Taylor gave him two hours of driving lessons. It was brought to Teslin on a barge. There were no roads so they build a three-mile road and charge \$1 a ride. In the winter, they drove on the ice. He had aspirations of what we could do in Yukon. All the LCA is meant to bring a better life for ourselves, for the economy, for wellness, and health.
- I was told, “My dear Boy, you take your culture in your right hand and hold it close to your heart – and – in your left, take the white mans ways - it is a balanced approach - about how we are going to progress in Yukon.” We have some of the most successful development corporations in Canada. Do what you think we need...set out and do it!

A quote from the Conference:

“There is a negotiation generation and an implementation generation. The implementation generation needs guidance from the negotiation generation”.

Interpreting the Agreements and Implementation Plans

Chapter 11, Interpretation: Progress and Challenges

Ron Cruikshank, Director, YLUPC (Appendix D – Interpreting the Agreements)

- Ross Burnett from the Yukon Government used to come in and help us interpret the agreements - Boards and Committees need this. Ross showed us how to get used to reading legal clauses. We aren't lawyers yet we need to get training on how to read the LCA through a legal perspective.
- YLUPC reviewed Chapter 11 to determine what was lacking that would allow the chapter to be implemented. Some examples: what is the decision making after YLUPC makes a recommendation? What is the true organization structure for decision making and how is it different for financial agreements and for Commissions?
- Without an agreed upon interpretations of terms, differences of opinion can arise when implementing the agreement. One example was the interpretation of *Sustainable Development* that occurred during the Peel. In the end, the Peel commission decided not to include a definition of sustainable development in its principles as there was no agreement on its meaning between the Commission and the Parties. We don't have an avenue for settling LCA interpretation issues other than going to court. We have to make these decisions independently. The more we have had agreement in advance, the quicker we could implement the LCA. We need some way to help with interpretation, and it has to involve the signatories to the agreements.

Celebrating UFA Boards and Committees and Getting to Know You Session

Held at the McBride Museum: March 10th

Each board and committee contributed their history to a giant “timeline wall” starting with the settlement of the land claims. Important events and happenings in your history were identified and the goal was for us all to understand and appreciate each other’s work.

Questions and Comments that followed the presentations:

Record Keeping Management:

Q: *What is the long-term obligation for Boards and Committees to keep our records?*

TPC: We shipped our records down south to be digitized. They use the software – SharePoint.

Training Comments:

I researched who is responsible for training and found out no one is.

Yukon College developed curriculum but did not find anyone to deliver it. Their training included: Cross Cultural Training, understanding your own mandate, policy and procedures, and the history of the UFA.

Volunteer Yukon delivers ‘What is Being a Board and a Board Member’ Training, that is directed towards societies.

Board Appointments:

We feel as though we are not being heard and that we aren’t accomplishing anything. The Government does not have to go through the same process we have to, and they have veto power. And then we wonder why we aren’t getting things done. We have a 7-person Board, and only have 4-members. What is the point of all the process if we aren’t being heard?

Q: *Should YLUPC have gone to the Dispute Resolution Board for help with the Peel court case?*

A: In the dispute resolution, all the Parties have to consent to mediation. We provide the first four hours of mediation free. We did send letters to the Parties, the offer was declined.

Surface Rights:

We have created a ‘Guide for Applying to the Board’ to help disputes get settled. We provide four free hours of mediation. We provide a sense of security. It is in the best interest of the Parties to settle their disputes out of court.

Comment:

If Elijah Smith was here he wouldn’t understand all this budget and workplan work. The UFA/LCA process started with a letter from Chief Isaac from Dawson, who sent a letter to the Queen of England. When Ron Chambers was the Indian Agent he had more power than the Chief, and that position was a low-level bureaucrat.

We need to see how far we have come. We need to understand who made things happen. We had no idea of what would be here today; but, we knew it had to be done! Look how far we've come!!! If we can create something out of nothing, look what you can do now!

Comments:

- Have a forum to decide and review what affect the Peel case will have on all Boards and Committees.
- We need to give people credit who stick with it. Respect them for devoting their time and life's work to implementing the UFA in their Boards and Committees.
- This exercise is good for seeing the big picture. It melds where we were with who we are, and with where we are going. Seeing where we have been will help us decide where we are going.
- We can see the vision of our original members. We can see how the spirit and intent of the LCA was meant to evolve, and to gain understanding and trust within all the Parties – when you evolve, it will take you to new heights.
- Government people also need to understand the UFA
- This exercise defines our growth. It defines an exciting time when we will make recommendations, they will get addressed, and we are all getting to know what our jobs are. We are all working together at the table with amazing, talented people. As Art Johns said, "We have to stop fighting and start leading."
- We are not all here by accident, we all have a purpose on Boards and Committees. We need to appreciate each other and why we are all here.

Handouts (Appendix E):

History of the Enrollment Commission

History of the Dispute Resolution Board

YESAB (Yukon Environmental and Socio-economic Assessment Board) *THE VOICE special addition – Celebrating 10 years – yesab.ca*

YLUPC History

Day 2, March 10th

Northwest Territory Board Forum - Land and Resource Management in the NWT

Mark Cliffe-Phillips, Executive Director, Mackenzie Valley Review Board

www.nwtboardforum.com (Appendix F)

The purpose of this information is to provide a general overview of land and resource management in the NWT.

The NWT Board Forum (BF) was established in 2004. We focus on 4 key initiatives.

1. Training. We ensure Board members and staff orientation have the best training.
2. Administrative Law
3. Public Hearings
4. Website

We use our website to communicate, it is a one stop shop. It has resources, history, and priorities of the Board Forum, and we use it for sharing map information.

Q: *Is the Mackenzie Valley Agreement a Federal piece of Legislation?*

A: Yes

Q: *What about transboundary areas?*

A: They have not been dealt with; these areas are being discussed with individual boards.

Q: *How does the BF work at the governance level to make constitutional amendments? How do decisions from the BF get approved in legislation?*

A: When amendments to legislation are made at the legislative level, we redid them at the governance level, and make changes over all governance structures involved. Work was then delegated to working groups, and Executive Directors of lead organizations.

Q: *What is your overall annual budget to support this Forum?*

A: For the annual meeting: \$35,000 to \$50,000. It depends on the venue, which influences travel, and then there is report written.

Board Forum Training: \$100,000 to \$150,000. We hold two training courses a year. We pay travel, training, and accommodation.

Regarding decision making: we assume individuals can make decisions for their Boards.

The BF is not replacing mandated work, we look for commonality then provide a joint response to provide more weight. We do not get-into-day to day operations.

Q: *What is the most contentious issue you have dealt with collectively?*

A: 1. Amalgamation of the Land and the Water Board.
2. Funding
3. Board Appointments

Q: *How did the BF materialize? Was the pipeline or the potential for a pipeline the catalyst – or was it a meeting of the minds of Boards and Committees or was the BF initiated by Indian and Northern Affairs – Canada?*

A: It was Board motivated, it was not claims motivated. It was set up as a forum for Boards to work together to have candid discussions regarding funding, board training, and board appointments. The participation from government is to listen.

Appointments to UFA Boards and Committees (Appendix G, CYFN appointment process)

A CYFN representative was not able to be present and their Boards and Committee Selection process was presented via a powerpoint summary)

CYFN Summary: *insert*

Monica Nordling, Executive Council Office, Yukon Government, Michel Leger, Indigenous and Northern Affairs Canada

The Yukon Government (YG) advertises six months before an appointment term is completed. We advertise once, if there is no response, we advertise again. We also advertise on the Executive Council website.

In the past, we would remove applications before they would go to Cabinet.

Now, with the new government's new open and transparent process, all resumes go to Cabinet where they are finalized and approved with an official letter from the Cabinet.

Q: *There appears to be bias in political appointments – and no minimum qualifications are required. Are there minimum qualifications to sit on a Board or Committee?*

A: We review the current members' qualifications and ask what skill set already exists. Our goal is to have a well-rounded Board to represent all the Yukon. We are trying decide what skill set is needed for each Board.

Q: *Do the Boards and Committees have the power to set their own criteria for who should be on their own Boards?*

A: Many Boards don't have criteria. We use a panel to decide.

Q: *With the RRC – when First Nations make recommendations for appointments – do the names go through the same process?*

A: Yes, it goes through the same process.

Q: *Timeframe: 6 months in advance/Goal:3 months in Cabinet. Why does it take so long for people to get nominated and appointed?*

The slow process stalls our business, it hinders us from doing our job.

A: This year the election caused a delay. Also, documents were lost along the way - We are working to improve the process.

Comments:

At the community level, we know who we want. We want to be able to recommend our people. It takes too long!

This is being presented as an impartial process. Boards and Committees take appointments and our work very seriously. We would like to find a way to impress on you that Boards and Committees want committed members with various levels of commitment. And we would like to find a way to communicate to who is being appointed, that they are part of a driving force, but when they don't get appointed things change in a bad way.

A: We would be happy to take comments, recommendations on how to improve.

Comments:

Governments are gatekeepers. We don't know how to get past it in each Department.

As a pre-assessment, Government could go through the applicants to see who would be the best candidate for the Board or Committee. Then they could offer training. After the training, they could choose a person based on their interest level and qualifications are noted. And at the end of a term a meaningful evaluation of a person could be completed.

A timely manner is critical for decision making and administration. We need appointments – with no Board we can't pay the bills.

Board members need training, some of them come to us not knowing how to read a financial statement. We tried to work with Yukon College to provide Board and Governance Training.

Michel Leger, Indigenous and Northern Affairs, Canada

- Most of what Monica presented is true for the Federal system. Our office coordinates Boards and Committee applications.

- Since 2016, the new Liberal Government in Canada want a more transparent process. The Prime Minister want his Ministers to adhere to the new process being developed. It is a merit based process. This Prime Minister and Cabinet are trying to choose the best person, not to make a choice based on bias.
- We have moved forward with public advertisement; but, we did have to renew 7 or 8 different processes to be able to do this.
- We expect candidates to do research and to express that in their cover letter. We want to see why they want to be on the Board and to demonstrate their experience.
- We set up a panel to look at resumes. We discuss appropriate criteria and ask the Executive Director for qualifications that are needed. My instructions are to go out and find out what is the appropriate criteria for assessing applicants. We look over the applications and rate them and come up with a list of names of candidates who are qualified.
- Ministers will decide. A part of the process is for individuals to self-identify, this is also considered by the Minister.
- We are trying to reduce timelines, it is still too lengthy. We are beginning the recruitment process early – 8 to 10 months instead of 6 months before they are required. It is our goal to have a Board member come into place immediately upon the opening of a position.
- We want more interaction with Boards and Committees to determine needs. More information will help us make our choices. We are advocating for Yukon at the Canadian level.
- In our process we advertise. Everything has to go through our Communications Department in Ottawa. Once that is okayed, we put the ad in the newspaper, and on our website.
- One week after the submissions, we choose candidates, then applications are sent to Ottawa. The Yukon is where we are working out this new process, it is the Guinea pig, what we do, we will do right across Canada.
- Elections do effect timelines.
- Once it is approved Federally, it has to go the Council for Yukon First Nations and to the Yukon Government.

Q: *Are we getting a pool of qualified people?*

A: Our initiatives have good qualifications. The concern is – HOW we are doing the advertisements. Are we getting the word out so we will get the best responders? We also work with Boards and Committees who help with advertising.

Comment:

In August 2015, Parties decided that appointments would be staggered. With Canada, it is only a one-year term.

A: We are moving to three-year terms.

Comment:

Now, Council for Yukon First Nations' process is quick but then it has to go through Canada – that is where it is taking too long. In the past, we have had to use political pressure in Ottawa to get decisions. People hired to work in Yukon, for Canada do not know the histories. This can be a problem. Be careful with self-identification and its definition. We have one idea and the government has another. We come up with great solutions but Indian and Northern Affairs Canada can't help because it is not their department.

Challenges of Orientation and Training of Members

Ron Cruikshank, Director, YLUPC

The YLUPC delivers our own orientation sessions for new council members. We also assist with the orientation of the new commission members. In the Commission's orientation for members:

1. Design the interior of log cabin. It is a fun activity that demonstrates group dynamics.
2. Have a private group discussion with other members from other Commissions.
3. Follow-up training occurs throughout members' terms.

Ongoing training is a challenge beyond what is given at the orientation.

Q: *Is it the responsibility of the Training Policy Committee or the College to provide training?*

A: TPC Coordinator: We could have a coordination role. We are developing a new website with resources available to Board and Committees. We do have an orientation and governance manual we are willing to share.

Comment from Frank Patterson:

In the Mayo Renewable Resource Council, we have young people involved so we can have alternates – we are training them. You have to make sure your community is involved in training. Orientation is very important. Use a book to identify the roles and responsibilities of the Council/Commission. Scramble for what fits best for each community. Put this book into the schools, in the curriculum so people know what they have to do, and what they are trying to

achieve in Boards and Committees. SEE THE LAND! It will help when you are making land use planning decisions.

Comments:

Quiet Members who do not have confidence to speak up is a challenge for the Chairperson. If everyone agrees something is wrong – a pushy aggressive person can over-rule decision making. This is not good.

Chairperson training is recommended.

Speaking to the media would be excellent training.

It is important to stay connected with the community. We encourage our Members to be conduits between Boards & Committees. At the end of the meeting we provide a summary of our meeting to present to their community, we pay one-day honorarium for them to do this.

There are serious implementation issues among the Parties. On the administrative side, the Financial Transfer Agreement indicates we can only carry forward a certain percent, and that we can't carry forward training. We could offer joint training by developing a 101 Training to help Boards and Committees.

Comment from Jimmy Johnny:

Traditional focus on the land includes training on the old ways of respecting the land. Traditional DOOLE law.

Elders are trying to develop a book to show how to make snowshoes; what plants do.

Everything comes from the land, as First Nations we try to respect that. We try not to destroy the earth; we respect our traditional land.

When we have illness due to pollution and chemicals, it is scary! I have seen through years guiding in the Peel many changes due to climate changes...creeks are drying up, so are willows. Caribou and moose are starting to change their habitat because creeks are drying up.

We have to start listening. We have to start using traditional knowledge on how to cope with the land and climate change. Elders say, in the past, "Watch - Yukon is going to get hot and the water is going to dry up." We have to be careful and stay focused and get guidance. We all have different jobs doing this. In the end, it will all come down to using traditional knowledge.

UFA Boards and Committees Contribution to Reconciliation: Successes and Challenges

*Reconciliation as Consensus Based Decision Making? Tom Nesbitt, Lawyer and Mediator
(Appendix H)*

- I prefer to use my lawyer skills to assist others to solve their own problems, negotiate, and draft of protected area agreements at board tables where final decisions are made. I assist others with their negotiations and am currently working on my 19th agreement.
- Applying consensus-based-decision-making is not a cookie cutter process. I am there to make suggestions regarding reconciliation and consensus-based-decision making– the expertise lies with you, not me.
- Can consensus-based decision making be applied to the UFA? Can we achieve reconciliation with consensus-based-decision-making rather than consultation?
- In 1996, Canada turned to this concept of reconciliation. From a legal perspective, it is about consultation. Reconciliation means to reconcile: to heal, harmonize, be compatible and make space for co-existence. The definition is okay if not too defined – there needs to be flexibility. This process has no end. Reconciliation seems to be the overarching goal of the UFA.
- Consensus based decision making (CBDM) is an aboriginal concept and practise. It is a way of life - the heart of it is traditional law and traditional knowledge. The key is to find a way to interlink all interests.
- Our job as negotiators is to look at what the family of interests are within this culture. CBDM is inclusive! After I Chair a meeting, I write briefing notes for members to take back to use. We are trying to weave together the ideas of all other qualified people at the table. We paint a mood of respect at the meeting. The Chair reiterates to test consensus. There are many rewards and there are also challenges.
- The Ministers are given authority through legislation. Public servants are given the power to fulfill the authority the Minister has to meet legislation.

Q: *How do you move to a CBDM? What is the process? How can we create trust that the Minister knows the designated person will make the right decision?*

A: Remove identity and issues. With experience, people will see that if we put our collective experience together we can work in a CBDM. It is a gradual trying it out to establish trust.

Q: *Does the agreement give veto power?*

A: The Government of Canada has agreed it wants to advance reconciliation - that can be used in our favour as it requires consensus amongst participants.

Q: *How does jurisdictions play a role?*

A: Ministers have power in their jurisdiction and these vary from territory to territory.

Comment:

Our agreements are signed by Canada, Yukon, and First Nations; Canada devolved authority to INAC to uphold. We are fighting the colonial mindset with INAC.

A: How we react is important: fight or flight reaction and a fast response. In CBDM we don't quickly react. When something is said that is a challenge – don't give a fast response. Think about the family of facts that affect the decision. Discuss what the issues are. We need to build consensus.

Comment:

Form, Storm, Norm and Perform are the four stages to reach a high performing organization that can achieve consensus. It is important to bring the Parties together in the process throughout. The North Yukon Planning Commission and the Yukon Government used a 'Joint Press Release', it was there biggest struggle; but that plan went through the approval process quickly because consensus had been built as the process unfolded.

Wrap-up: Round Table Closing Remarks

- This Forum reminded us to meet and to talk.
- We need training for government as well.
- We need to refer the LCA agreements, and we need help with what the spirit and intent was.
- History means a lot! I know in my heart and in my mind that Board and Committees are important. With the right people, it will work.
- The UFA is based on leadership of Elijah Smith, it is Yukon wide – for all people, for all generations.
- The spirit and intent needs to be taught in schools. We must protect our land, our water, the animals, the air! We mix science with traditional knowledge and it will always work, the Creator makes it so.
- Traditional Knowledge is NOT in the minds today. Educate to get a good sounding job. You don't educate to learn to listen, to know traditional knowledge you must listen.

- Since the LCA we have been fighting to protect the land and to not just thinking about money.
- Technology is taking over our kids lives. As kids, we had to think real hard to know how we could spend the day, it is not like that anymore.
- Elijah had a team of hand selected people and he had to sell the idea of land claims. He came back from England and said:
 “No matter where you go there was a fence, there was no land. We don’t want to see that in the Yukon. We want to see a place for the fish, for the animals. I want YFNs to have a 50/50 say on what goes on in the Yukon Territory. We are not treaty Indians, we have always been self governing. We have been colonized. We need to take back our independence. It took 30 years for colonization to pollute our water”.
- My Grandma said,
 “Fish people live in the water because they like to be clean – we need to keep the water clean.”
- How do we get people to respect the land over other interests? Today is not the only day that matters. We need to look back and see the trail we are leaving for future generations. Do we do that? NO – they want to make money from the land. Our work here is about ensuring our land is here for the future. The four legged, the swimmers in the water, and the fliers, who speaks for them? We are the stewards.
- This event was like walking through old times.
- The NWT listed 3 major issues that they worked together to solve. Here – we are working together. This meeting is a wonderful example for us to hear the issues we are facing. How visionary of the YLUPC; all the messages were set up to focus on how we can work together as a team. It is people and vision and the message they delivered. Yukon Fish and Wildlife Board would t like to host next year.
- Everyone who works or serves can do something to create a Yukon for everyone, the Boards and Committees are how to do that. When a question needs an answer,” how do we do our work when they throw road blocks up?” As a group, we can put the questions to the Parties, we might get a better response. Now we have a way to move forward to fight for this. We work in isolation. After this forum, I don’t feel alone.

Jimmy Johnny Comment:

We all need to respect how each of us speaks and our knowledge of the land. Both people from schools and people from the land have knowledge to contribute and we need to work with each other. As a young person, I listened to Elders, “the strongest medicine is water.” Yet, people

don't realize that. We were told when we were young to respect water because it can give you life or take it away.

I heard talk, and talk, and talk...then I heard someone say, "Crown Land." We were cutting wood and a forestry guy said, "What are you doing?" We said, "we are cutting wood." He said, "NO – you are on Crown land." I did not like that word from then on.

I like Elijah Smith, he had a vision. Old timers have a vision in their sleep, it comes through and they tell you what they see and see how to help future generations.

The biggest work we can remember is Respect. With Respect in mind we can get there. Our elders know we need to keep the air and the water and the animals with care for our future generations in mind.