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Corporate Services

**REPORT TO THE ELECTORAL AREA SERVICES COMMITTEE
MEETING OF WEDNESDAY, 06 FEBRUARY 2008**

SUBJECT Voting Opportunities for Non-Aboriginals Residing on First Nations Lands

PURPOSE/ISSUE

The purpose of this report is to provide information regarding voting rights for non-aboriginals residing on reserve/treaty lands based on the final treaty for the Tsawwassen First Nation (TFN) lands. The TFN agreement may be a pre-cursor to what may happen in other treaty settlements.

BACKGROUND

There are several First Nations Reserves within the boundaries of the electoral areas. The reserve with the highest population of non-aboriginal residents is the Songhees. Currently both aboriginals and non-aboriginals have the right to vote for a CRD director during a local election.

Legislation

The TFN agreement was contained in Bill 40 – *Tsawwassen First National Final Agreement Act* and consequential amendments to the *Community Charter* and *Local Government Act* which was introduced in the BC Legislature on October 15, 2007.

Currently the local government system, established by the Province, recognizes two types of members on regional districts:

- An independent jurisdiction that has a governing body (i.e. Mayor and Council for a municipality); and
- A dependent jurisdiction that has no governing body and is represented by one representative (e.g. Director for the electoral area).

According to the Ministry of Aboriginal Relations and Reconciliation, Bill 40 creates a new member category representing “the governing body of the treaty first nation”. The drafting approach for Bill 40 has been to create a separate section in the *Local Government Act* to enable TFN membership on the Metro Vancouver Board of Directors. Only the relevant *Local Government Act* provisions, and applicable *Community Charter* provisions, related to regional district membership will apply to TFN. In addition to legislative amendments, the provincial government will be required to issue Supplementary Letters Patent identifying the TFN as a member of the Metro Vancouver.

Voting

The TFN will represent all residents (aboriginal and non-aboriginal) living on future Tsawwassen Lands. The TFN Members will be voting for the Chief and Council Members. Non-TFN members (i.e. leaseholders) will have representation in institutions with respect to issues that impact them directly (e.g. taxation). The institutions will be created as part of the Treaty implementation process.

Non-TFN members will not have either the right to vote for the TFN Chief and Council, nor vote in local government elections such as in a neighbouring municipality or electoral area as they have in the past.

The current Indian Reserve area and the additional lands negotiated as part of the Treaty that are contiguous to the Reserve will, for Letters Patent purposes, be removed from within the boundaries of the Corporation of Delta and added to the boundaries of Metro Vancouver. By joining the regional district, TFN will be a “First Nation Member” or “treaty First Nation Member of the regional district and not a “local government” or “municipality”. This is the intergovernmental arrangement worked out at the TFN treaty table. It may be a very different arrangement at another treaty table depending on the particular circumstances that exist in relationships between First Nations and local governments.

ALTERNATIVES

N/A

FINANCIAL IMPLICATIONS

N/A

SUMMARY/CONCLUSIONS

The committee had requested that the topic of voting opportunities for non-aboriginals residing on reserves/treaty lands be explored, especially as it might apply to the Songhees. The most recent information available is with regard to the Tsawwassen Treaty in Metro Vancouver. The treaty settlement provides for changes to the *Local Government Act* and *Community Charter* in a way that creates a third category of member to the regional district being a “First Nation Member”. In the case of the TFN, non-aboriginals will not have the right to vote for the first nation member nor vote in local government elections. Other institutions will be created to allow for representation with respect to issues that impact non-aboriginals directly.

It is important to remember that any other treaty settlement could be different than the TFN.

RECOMMENDATION(S)

That the committee receive this report for information.

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