

# We Wai Kai Nation Law Development Update

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Community Meeting  
February 12<sup>th</sup> 2011

# Development of Local Government Laws

- Need for the development of local laws/bylaws to ensure the orderly and controlled development of We Wai Kai lands through stable and predictable government and with community control in order to maximize opportunity and resources and to provide for local services.
- Laws/bylaws are being developed under a number of authorities:
  - We Wai Kai Land Code
  - *Indian Act*
  - *First Nations Fiscal and Statistical Management Act.*

# The Need to Provide Local Services

- Local Services includes (water and waste water, fire protection, road maintenance, etc.)
- Services are provided to Members and to support commercial development (on leased land).
- We Wai Kai provides some local services directly and others are contracted.
- We Wai Kai and the City of Campbell River entered into a Service Agreement in 2004 which was renewed in 2010.
- We Wai Kai is in continued discussions with the City on the provision of local services.

# Community Laws in Development or Proposed to be Developed

- Financial Management Law (FAL)
- Property Assessment and Taxation Laws (for commercial development/leased lands)
- Development Cost Charges Law
- Environmental Management Law
- Matrimonial Property Law
- Water and Wastewater Management Bylaw
- Fire Protection Bylaw
- Land Use Law
- Building Permit Law

# *First Nations Fiscal and Statistical Management Act (FSMA)*

- Provides legal authority to make laws in relation to Financial Administration
- Also provides legal authority to make local revenues laws over:
  - property taxation, assessment, expenditure and borrowing
  - development cost charges,
  - business taxes
- We Wai Kai is scheduled under the FSMA

# Development of the We Wai Kai -- Financial Administration Law (FAL)

- The FAL will address all aspects of We Wai Kai's financial administration system and provide the legal basis for accountability and transparency.
- The FAL will provide assurances to Members and third parties that the Nation's finances are governed in accordance with national standards (set by the Financial Management Board).
- The FAL adopts best practices and includes rules concerning:
  - Roles and Responsibilities (Chief & Council and Staff)
  - Budgeting
  - Reporting and Audits
  - Investing and Borrowing
  - Planning

# First Nations Financial Management Board (FMB) Process

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FMB Role	Description	First Nation Outcome
<b>Financial Administration Law Standards</b>	<u>Set of rules</u> of the how First Nation manages it financial affairs.	Financial Administration Law
<b>Financial Management System Standards</b>	Identifies <u>how</u> the rules will be met.	Policies, procedures
<b>Financial Management System Certification</b>	<u>Demonstrate compliance</u> with the rules and the System supporting the rules. Used for borrowing through the First Nations Finance Authority	Certificate
<b>Financial Performance Standards and Certification</b>	A point in time assessment of financial condition using 7 ratios. Used for borrowing through the First Nations Finance Authority	Certificate

# Development of the FAL

- A small technical team has been established (combination of staff and Councillors) that serves as the Financial Administration Law (FAL) development team.
- Using legal council/consultants to assist in a clause by clause review, drafting, and revisions to FAL.
- The Financial Management Board (FMB) is available to assist and to provide our team with guidance and to answer questions.
- FMB is also supporting the process by way of funding the costs of developing the FAL (legal and other).

# Development of Local Revenue Laws - Property Taxation

- Property taxes are a major source of revenue for local governments.
- Property taxes are the main source of funding for the provision of local services, such as roads, water, sewage, sanitation, snow removal, fire and police protection, building and plans inspection.
- Property taxes provide an independent, stable and flexible source of revenue, which can be invested in build economic infrastructure, attract investment, and promote economic growth. Property taxation also establishes jurisdiction and provides First Nations with improved powers to control land development.

# How Many First Nations Levy Property Taxes On Reserve?

- First Nations exercising taxation jurisdiction continue to increase annually. Currently, approximately 120 First Nations in Canada are now levying property taxes on reserve.
- Annual revenues to First Nations from taxation exceeded \$49 million for 2005-2006. Since 1989, more than \$294 million has been generated through property taxation on reserve.
- Revenues on We Wai Kai lands will be minimal until economic development takes place. Members will not be taxed.

# What can be Taxed?

- Agricultural Permits and Leases
- Oil, Gas, Timber and Resource Leases
- Commercial Land Use Lease
- Rental Leases
- Utilities
- Government entities – (Grants in lieu of Taxes)
- *We Wai Kai Member's interests in land will not be taxed*

# What are the Steps in Taxing over Tax Jurisdiction?

There are five stages to exercising tax jurisdiction:

## 1. *Decision to Tax*

- Determination of benefits/reason to tax
- Council requests Governor in Council (GIC) to be added to the FSMA schedule

## 2. Development of Tax Jurisdiction

- Preparation of local revenue laws (property assessment and taxation laws) under the FSMA.
- Local revenue laws submitted to FNTC for review.

### 3. *Communications*

Affected parties informed of the decision to tax to ensure a smooth transition:

- Province
- potential taxpayers
- City of Campbell River (from which We Wai Kai will be assuming tax jurisdiction)
- MP and MLA for the riding
- BC Assessment Authority

#### 4. *FNTC Review and Analysis*

- Local Revenue laws submitted to FNTC and analyzed to ensure legally sound. If revisions required then made.

#### 5. *Approvals*

- Law made by Chief and Council. Once satisfied all criteria have been met, the FNTC will approve the law.

# Next Steps

- Review of policy issues in developing laws (local review; laws and the FAL) and confirm We Wai Kai approach. Complete draft of FAL.
- Introduce Local Revenue Laws/FAL at community meeting.
- Send draft Local Revenue Laws/FAL to FNTC and FMB respectively to confirm they meet legal requirements.
- Consult with affected parties.
- Council to enact Local Revenue Laws/FAL.
- Develop required polices to fill any gaps.
- Implement Local Revenue Laws/FAL and associated administration systems.