

2020/06/24

# PENTICTON INDIAN BAND NEWSLETTER

WE ARE STRONGER  
TOGETHER

June 24, 2020

Message to PIB Membership regarding the draft Custom Election Code engagement;

“It has come to the Council’s attention, that the article in the Newsletter of May 26th related to the Custom Election Code engagement, specifically, the phrase “Custom Election Code, does not require Member Ratification”, requires correction. This was a miscommunication and as such, Council has, directed staff to correct the message. Attached is the signed BCR, that ensures that Community is fully engaged and provided the opportunity to give their feedback. Ultimately, Council trusts in the collective wisdom of all Community Members, to exercise their equal right to vote in favour, or not in favour, of the final proposed Draft Election Code on August 6, 2020. Further, to ensure the referendum is conducted in a transparent and fair manner, an independent Electoral Officer, has been engaged, to independently, manage the vote.”

PIB Communications has conducted three engagement sessions; June 11, 15 and 23rd, where edits to the draft PIB Custom Election Code were submitted by participating members. These edits will be made to the document and submitted for a legal review by the end of day on June 24th and distributed to PIB Membership for review on or about July 2, 2020. PIB Communications will continue information sharing with membership prior to the referendum date of, August 6, 2020.

## Catering Opportunity



Now accepting complete sealed bids for a small private event on reserve August 29th. Due to Provincial Health restrictions we are needing caterers to dish out 6 plates at a time to the designated “pick-up” table, providing a no-contact service.

Serving 47 people, charcuterie appetizer service at 4:30pm with dinner service at 5:30pm. Menu: pulled pork Indian tacos, pulled chicken Indian tacos, with 2 sides, and all condiments. Plates, cutlery etc will be provided by rental service.

Please send sealed bids to: [haley\\_tina\\_regan@hotmail.com](mailto:haley_tina_regan@hotmail.com) no later than July 3rd at 5pm.

### PIB ADMINISTRATION

841 Westhills Dr  
Penticton, BC V2A 0E8

Phone: 250-493-0048  
Fax: 250-493-2882  
Email: [newsletter@pib.ca](mailto:newsletter@pib.ca)

# Draft Custom Election Code - Engagement

**On Thursday, June 11, PIB Communications Coordinator, Dawn Russell, assisted by Victoria Jaenig, hosted a virtual engagement session through Zoom and Facebook Live.**

Some of the feedback regarding the draft code was as follows;

- instead of the CAO deciding on the Chief Electoral Officer, Deputy Electoral Officer and the Adjudicator, how about having the Elders and Youth group make the selection?
- Where it refers to “discrimination” include, as defined by the “Canadian Human Rights Act”
- Have a term limit (2 terms)
- If a nominee for Chief or Councillor had resigned from their position, they should be disqualified from running in the next election
- The CAO should be disqualified from consideration for either Councillor or Chief due to conflict of interest
- Chief and Council should swear their oaths of office in a PIB Member ceremony.
- The clause about a candidate having a history of being terminated by PIB should be removed. Convicted in court needs to be added.
- Spell out CEO as Chief Electoral Officer so that people don't get confused.
- prohibit candidates who have outstanding Child Support Payments.


**On Monday, June 15, PIB Communications Coordinator, Dawn Russell, assisted by Victoria Jaenig, hosted a virtual engagement session through Zoom and Facebook Live. Here are items brought forward to edit;**

- seek out ways to protect voter identity fraud in the mail-in ballot section. By including important information like; full name, date of birth, address and status number, we are potentially exposing members to risk of identity theft.
  - add “Custom” to “Code” any areas pertinent to the word “Code”.
  - in any area which pertains to either one or more council member, use the “Council(lors)” to ensure the point can be applied to one or more members of the council.
  - ensure consistency in the number of days, choose either 3 or 5, but don't go back and forth.
  - Section 136, remove the \$100 application fee as it is a barrier to the member's ability to be heard.
  - Remove the word “May” in the Code as it promotes ambiguity in the application of the Custom Code
  - Change “Ordinarily Resident on Reserve” to “Primary Residence”
  - Section 87, change “nominate” to “appoint”
  - Section 120 (a), indicate a “Public inauguration ceremony on PIB IR#1
  - rather than a non-gender specific term of “they” being used, change all “He, she or they” to “PIB Member”.
  - Section 142, change “whether or not the information would be admissible in a court of Law” to “would be admissible (if necessary) in a court of law.
  - Section 156, change “Community Meeting” to “Band Meeting”
  - Section 152 (d), change “10 days” to “20 days”
- There are three items in the Parking Lot which can be developed and addressed through further engagement. These items require a discussion on the threshold for the following;
- Amendments, what makes an amendment minor or major?
  - eligibility of a candidate, what historical conduct of a candidate would make them ineligible to run for an elected seat. It would not be an indictable offence, but it would impact the Memberships decision in casting a ballot for them.
  - grounds for an appeal. This needs to be determined to avoid unnecessary appeals and lengthy transitions.

Info	Discussion
<p><b>Okanagan Nation Alliance/EnowkinWixw</b></p>	<p>Dr. Armstrong has been engaged by the ONA, to coordinate and conduct an EnowkinWixw, to be undertaken by the elected leadership of all the Member Communities</p> <p>This is an opportunity for the Nation Leadership, to engage each other in a four (4) day session. All costs will be covered by the ONA</p>
<p><b>Improved Community Engagement</b></p>	<p>Staff presented to Council the option of opening all Council meetings, currently conducted on Zoom, to the general PIB Membership.</p> <p>Council directed staff to investigate the option further and report back at the next Council meeting, further refining the idea to address concerns raised around, Streaming Requirements, Security and Managing the participation thorough Zoom.</p> <p>Staff were also directed to advance the development of Safety Plans for the Outma Gym as a priority, in order to move toward larger Membership Meetings as soon as the opportunity, within the environment of the Covid-19 Pandemic presents itself.</p> <p>Council discussed a miscommunication in the May 26, 2020 Newsletter and the confusion in the community it has created, and have directed staff to correct the Newsletter and clarify that:</p>
	<ol style="list-style-type: none"> <li>1. Council has, by BCR (attached), approved a referendum date, question and for transparency of process, an Electoral Officer (<i>Marcus Hadley</i>), and Deputy Electoral Officer (<i>Dawn Russell</i>)</li> <li>2. Council has directed staff to engage the PIB Membership in the drafting of an Election Code, to be presented to the PIB Membership for review and ratification</li> </ol>
<p><b>Skaha Hills Lot Transfer</b></p>	<p>Staff presented a Briefing Note to Council, supporting a Kul request, to transfer lots to Greyback Construction, to pay off an debt owed by Kul, resulting from the transfer of Phase III from SHLP over to SHRDLP control.</p> <p>The Finance &amp; Audit Committee Chair spoke in support of the Briefing Note and Council approved in Principle, pending final Legal Review by PIB's legal council.</p>
<p><b>Community Garden</b></p>	<p>Staff presented a Briefing Note to Council, noting the challenges related to continuing the Community Garden in its current format, and recommended the Garden be moved to another location, on PIB land.</p> <p>Council wanted to ensure Staff expressed the Administration and Council's appreciation to the family, who graciously permitted the use of their land over all of these years, for the roll-out of the Community Garden.</p>

Info	Discussion
FCRSA	Staff presented a Briefing Note and letter to the First Minister, as a follow-up to the FCRSA process that was reviewed and not approved by Council on March 31, 2020. The letter to the First Minister was approved with amendments and Chief was the identified signatory to the letter.
Subdivision Bylaw	Staff presented a Briefing Note and updated Subdivision Bylaw to Council. The Bylaw was discussed and approved as presented, with the direction to Staff, to inform the PIB Membership and Community at Large of the new Bylaw and provide an opportunity for Membership to ask any questions.

200-2020-05-05-00  
 BCR No. \_\_\_\_\_



**BAND COUNCIL RESOLUTION**  
**PENTICTON IND**   UNR    RES    PRO

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**NOTE:**      The words, "From our Band Funds" "Capital" or "Revenue" whichever is the case, must appear in all resolutions requesting expenditures from Band Funds

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THE COUNCIL OF THE	PENTICTON INDIAN BAND	PIB Capital Fund Balance    \$ _____
DISTRICT	BRITISH COLUMBIA REGION	PIB Revenue Fund Balance    \$ _____
PLACE	ADMINISTRATION BUILDING	
DATE	May 5, 2020	
PROGRAM	PIB Lands Department, JBC Governance	

**WHEREAS:**      the Chief and Council of the Penticton Indian Band are empowered to act on behalf of the Penticton Indian Band (PIB), and Council met in quorum at duly convened Council meeting this 5th day of May, 2020;

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**WHEREAS:**      The Penticton Indian Band Membership have determined that an updated Election Code is to be developed and presented to the Membership for their consideration;

**WHEREAS:**      The Penticton Band Council has determined that in order to ensure the process to complete the referendum process is conducted in a manner that is beyond refute an Electoral Officer be appointed to conduct the referendum;

**WHEREAS:**      The Penticton Band Council has determined that in order to ensure maximum Community engagement and transparency, the Communications Coordinator be appointed as Deputy Electoral Officer;

**WHEREAS:**      The Penticton Band Council approves the Ballot stating "Do you approve of the Penticton Indian Band Custom Election Code, 2020 as published and distributed on July 2, 2020"

**WHEREAS:**      The Penticton Band Council wishes the referendum process be completed in the most expedited manner as possible;

**THEREFORE, BE IT RESOLVED:** that The Penticton Band Council appoint Marcus Hadley as Electoral Officer, with the full authority to carry out the Custom Election Code referendum; and

**FURTHER BE IT RESOLVED:** that the Penticton Band Council appoint Communications Coordinator Dawn Russell as Deputy Electoral Officer for the Custom Election Code Referendum;

**FINALLY BE IT RESOLVED:** that the Penticton Band Council declare the Custom Election Code referendum take place on, or about, August 6, 2020, at a location to be determined, and that an approval of 50% plus 1 vote, of all votes cast, is required for the approval of the new Election Code;

# Declaration on the Rights of Indigenous Peoples Act

The provincial government passed legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), which the Truth and Reconciliation Commission confirms as the framework for reconciliation. The new *Declaration on the Rights of Indigenous Peoples Act* creates a path forward that respects the human rights of Indigenous peoples while introducing better transparency and predictability in the work we do together.

The Province worked with the First Nations Leadership Council (BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs), who were directed by First Nations Chiefs of B.C., to develop the legislation.

The legislation requires:

- alignment of B.C.'s laws with the UN Declaration; and
- an action plan that includes consistent public reporting.

Over time as laws are modified or built, they will be aligned with the UN Declaration.

In addition to these core components, the legislation allows for flexibility for the Province to enter into agreements with a broader range of Indigenous governments. An additional component creates a mechanism for decision-making opportunities for Indigenous governments on matters that impact their citizens. This work has already started with environmental assessment and child welfare.

## WHY LEGISLATE?

The Province recognizes its role in the enduring oppression and harms faced by Indigenous peoples due to colonialism – including vast numbers of Indigenous children in government care, and disturbing levels of poverty, suicide and discrimination – and the need for real solutions.

B.C.'s relationship with Indigenous peoples has often been rife with conflict. First Nations have pursued litigation as their only recourse to protect their rights. The Constitution of Canada recognizes and protects Indigenous peoples' rights on their territories, and the courts have clearly upheld those rights.

The *Declaration on the Rights of Indigenous Peoples Act* provides a legislative framework for recognizing the constitutional and human rights of Indigenous peoples and aligning B.C.'s laws with the internationally recognized standards of the UN Declaration, as well as the legal rights of Canadian Indigenous peoples.

With the legislation, the Province, Indigenous peoples, businesses and local governments will have better tools to build effective relationships and a robust and sustainable economy together.

There are many examples in B.C. of how working together creates benefits for First Nations, business and industry and the Province. These include forestry with shishálh Nation near Sechelt and land-use planning with Tahltan Nation in Northwestern B.C.

The legislation will help create more opportunities for Indigenous peoples, families, businesses and communities in B.C. It aims to establish a more secure, predictable and collaborative path forward – which will help develop B.C.'s economy and create good jobs, and protect Indigenous rights and the environment.

## HOW WILL IT SUPPORT INDIGENOUS GOVERNMENT AGREEMENTS WITH B.C.?

B.C. already makes some agreements with various kinds of Indigenous governments, and this legislation will simply provide a clearer mechanism to do so. The Declaration Act will allow the Province to enter into agreements with Indigenous governments besides Indian Act Bands and incorporated organizations (such as societies). This means the provincial government could enter into agreements with other forms of Indigenous governments – for example multiple Nations working together as a collective, or hereditary governments – where those Nations so choose. An important criteria is that the Indigenous government or entity is recognized by its citizens as representing their Nation.





## WHAT WILL IT MEAN FOR DECISION-MAKING?

The *Declaration on the Rights of Indigenous Peoples Act* provides discretion for new decision-making agreements between the provincial government and Indigenous governments, where decisions directly affect Indigenous peoples.

A number of current pieces of legislation reference First Nations government involvement in provincial government statutory decision-making, such as the *Heritage Conservation Act* and *Haida Gwaii Reconciliation Act*. In addition, the 2018 *Environmental Assessment Act* includes collaborative decision-making. But many types of collaborative decision-making between the Province and First Nations have been informal and difficult to implement.

The Declaration Act will provide structure and add clear processes for how joint decision-making would happen, with administrative fairness and transparency. Like any other government, Indigenous governments exercising decision-making authority have clear processes and rules, as well as accountability for any decisions.

Such agreements can support predictability for good projects to move ahead, and a mechanism for Indigenous peoples to fully participate in decisions that affect them.

Legislative amendments would be required to enable joint decision-making if such mechanisms are not already in place within the other relevant legislation.

## ENGAGEMENT

In 2017, every Cabinet minister in the provincial government was tasked with a mandate to implement the UN Declaration and the Truth and Reconciliation Commission's Calls to Action. The provincial government subsequently announced in 2018 its commitment to legislation that implements the UN Declaration.

Adopting the UN Declaration in B.C. is a component of the Confidence and Supply Agreement with the B.C. Green Party.



The organizations of the First Nations Leadership Council received mandates through resolutions from First Nations Chiefs in B.C. to work with the Province to implement the UN Declaration in B.C. The legislation is the first objective of the 2018 Joint Agenda: Implementing the Commitment Document – Concrete Actions: Transforming Laws, Policies, Processes and Structures ([news.gov.bc.ca/files/BC\\_FNLCActions.pdf](https://news.gov.bc.ca/files/BC_FNLCActions.pdf)), and was reiterated in the 2019 Throne Speech and Budget 2019.

The provincial government and the First Nations Leadership Council started engaging with Indigenous leaders and organizations, business and labour leaders and municipalities throughout the province in 2019, in anticipation of the legislation being introduced in the fall of 2019. Engagement with First Nations and stakeholders will continue throughout the fall and beyond as the action plan mandated by the Act is developed.

## UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

In 2007, the United Nations General Assembly adopted the UN Declaration. It includes 46 articles covering all facets of the rights of Indigenous peoples such as culture, identity, religion, language, health, education and community.

The UN Declaration emphasizes the Indigenous rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations.

The UN Declaration does not create new rights. It upholds the same human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

The UN Declaration has been adopted by 148 countries, including Canada.

The Truth and Reconciliation Commission called on all governments in Canada to fully adopt and implement the UN Declaration as a framework for reconciliation.

