

**REPORT TO THE LFN COUNCIL  
ON  
THE RESULTS OF A WORKSHOP ON CONSTITUTIONS**

**March 26-28, 2019**

**Purpose of Report**

The principal purpose of this report is to present the major conclusions and recommendations of a workshop held in late March on Constitutions. Given that there were only some dozen or so participants at the workshop (see Annex A for a list), this report reflects the views of only a small portion of the Liard First Nation and consequently does not purport to represent community-wide opinions. Nonetheless we hope that the Council finds the ideas in the report useful.

The genesis of this workshop relates to a recommendation made at a Governance Workshop held about a year ago in Watson Lake. The Workshop produced a Governance Improvement Plan, one recommendation of which was to develop a LFN Constitution.

The facilitator of the Workshop was John Graham, a governance consultant from Ottawa, who has worked with the LFN over a number of years.

**Three Basic Questions**

The first half-day of the workshop focused on three questions:

- What is a Constitution?
- Why have a Constitution? and
- What are the risks involved in developing a Constitution?

In terms of the first question, participants agreed that a Constitution is “the supreme law of the Nation”. Any laws that are inconsistent with the provisions of the Constitution, to the extent of the inconsistency, have no force or affect. The facilitator noted that, when asked to draw a symbol of a Constitution, participants in other workshops drew a basket containing a number of eggs. The basket represented the Constitution, the eggs, the elements of a governance system such as the structure of government encompassed by the Constitution, the Nation’s laws etc.

One participant noted the phrase “Gukeyeh Guk’eh Gu’sani” in the Kaska language meant roughly the same idea as the English word Constitution and can be translated as “Following our Peoples’ way on our Land”. Thus the effort to develop a Constitution at the LFN can be seen as an initiative to restore something that has always been part of the Kaska way of life.

The question, why have a Constitution, drew roughly three answers: it is a requirement of a self-government agreement; it is the basis for good governance; and it is a declaration to the world that the Nation exists, its people have occupied a traditional territory since time immemorial and they have rights relating to their land. The facilitator then reviewed a number of studies

that point to the importance of good governance for realizing positive socio-economic outcomes for a Nation.

The facilitator outlined a number of risks involved in developing a Constitution. Because a Constitution usually encompasses basic beliefs, values and worldviews and because it deals with critical questions of citizenship and the role and structure of government, the development of a Constitution, if not done in a careful and inclusive manner, can produce deep rifts in a Nation, rifts that can prevent, among other things, community acceptance of the Constitution. To manage these risks there was general agreement that the process for developing the LFN Constitution must be inclusive and move slowly in order to achieve a broad-based community consensus.

### **What should be in a Constitution?**

The facilitator presented a list of the topics normally found in a Constitution of a First Nation. Later in Day Two, participants compared this list to the Table of Contents of the draft 1998 Liard First Nation Constitution, which included the following topics:

- Preamble
- Definitions
- Citizenship
- Government structures and roles
- Citizen Rights
- *Administration of Land Resources*
- *Administration of Financial Compensation*
- Financial Administration
- Transition

With the exception of the two items in italic, which were likely products of a possible lands claims agreement, this list compares favorably with the initial list the facilitator produced. Nonetheless, a few items were missing from this draft 1998 list including “land tenure and management” and “law making jurisdiction”.

There was some discussion on what should not be included in a Constitution. Organization charts, detailed procedures, job descriptions, committee structures and mandates – all of these items are questionable, given the difficulty of changing a Constitution. Thus the 17 page “Election Regulations”, attached to the 1998 draft, should be carefully assessed as to whether it has too much procedural detail, which could be better captured in a law flowing from the Constitution.

### **Structure of the LFN Government in a new Constitution**

The facilitator reviewed the structure of government in three First Nation Constitutions, all of which contained the following:

- A legislative or law-making Branch
- An Executive Branch including the public service
- An Accountability body or bodies
- Advisory bodies

In addition, one First Nation had incorporated a Judicial Council, another Urban locals for their off-reserve citizens and another had a body with an ombudsman type role.

The structure in the 1998 draft LFN contained five bodies:

- General Assembly of all Citizens, which was the law-making body with an additional role of approving the annual budget
- Chief and Council with a role associated with an Executive Branch
- Elders' Council composed of all Citizens 50 or above with an advisory role but one that also provided for choosing three of its members to sit on Council
- Youth Council composed of all Youth between the ages of 13 to 17, with an advisory role but one that also provided for choosing one of its members to sit on Council
- Judicial Council composed of 5 members from the various residential areas making up the LFN with a dispute resolution role.

There was discussion about the appropriateness of having the General Assembly assume a law-making role with some participants strongly opposed. Similarly having an Elders Council assign three members to Council was also questioned. In addition there was agreement that the age of the Elders' Council should be 60 plus but with some provision to have a mentoring program for individuals approaching the minimum Elder age. Finally several participants noted that the ages to define youth needed adjustment.

### **Constitutional Commission for Leading the Development of a Constitution**

There was agreement among participants that that the LFN should establish a Constitutional Commission to lead the development of a new Constitution. Such a Commission should include members with the following characteristics:

- Opinion leaders in the Nation
- A range of ages (Elders, Youth and those in between)
- A gender balance
- An outside person who might bring skills not available in the LFN e.g. drafting skills. Such a person might act as a neutral chair and assume a mentoring role
- Regional representation from the four principal residential areas
- Interest and commitment in developing a Constitution
- Certain expertise including legal, drafting skills, oral and written communication skills, dispute resolution capacities, interpersonal skills
- Include a representative from Council

The appointment of members of the Constitutional Commission should be a transparent process where

- the requirements and mandate of the Commission are publicized,
- the desired characteristics of the members are widely communicated
- nominations are solicited, and
- there is a transparent screening and appointment process

The Commission should have between 6 to 10 members.

## **Recommendations**

1. The LFN should continue its efforts to develop and ratify a Constitution as an important step in establishing sound governance for the Nation and in moving towards self-government. It is also a critical step in re-establishing a part of its culture and governance system that existed long before contact
2. In creating its new Constitution, the LFN should establish as its goal the achievement of a broad-based community consensus on the final result. Consequently the process for establishing the Constitution may be as important as its content
3. To lead the development of a new Constitution, the LFN should establish a Constitutional Commission made up of members meeting the characteristics outlined in this report. The process for establishing the members of this Commission should be as transparent as possible
4. The draft 1998 Constitution likely provides a good starting point for the Commission but it should give careful consideration, among other things, to the appropriateness of
  - Having the General Assembly with a role of law making and approving an annual budget
  - The ages defining Elders and youth
  - Including a 17 page Electoral Regulations as a part of the Constitution, and
  - Having the Elders Council choose three representatives for Council.

## **Workshop Evaluation**

Results of the workshop evaluation by participants is contained in Annex B. participants gave the workshop an overall rating of 4 on a scale of 1 (Terrible) to 5 (Excellent). Suggestions for improvement centred principally on increasing the number of LFN citizens attending the workshop through better advertising of the event.

## **ANNEX: A LIST OF PARTICIPANTS AT THE CONSTITUTIONS WORKSHOP<sup>1</sup>**

Susan Magun  
Mary Porter  
Aggie Magun  
Midge Donnessey  
Milissa Magun  
Ann Maje Raider  
Alice Donnessey  
Wilson Lutz  
Sheldon Lutz  
Gordon Charlie  
Phoebe Lewis  
Eugene Jules  
Jonathon Caesar  
Debbie Donnessey  
Emma Donnessey  
Alfred Chief  
Shirley Lutz  
Kristina Dickson  
Eugene Jules  
Wilson Lutz  
Danny Boya  
Martina Donnessey  
George Morgan  
Hilda Zammit

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<sup>1</sup> Some participants did not attend all three sessions of the workshop

## ANNEX B: Workshop Evaluation

	<i>Terrible</i>	<i>Poor</i>	<i>Satisfactory</i>	<i>Good</i>	<i>Excellent</i>
	1	2	3	4	5
Overall Rating of Workshop			4.0		
Facilities & location			4.0		
Workshop design/approach & delivery			4.0		
Facilitator knowledge & experience			4.2		
Workshop materials			3.8		

### What stands out as the most valuable aspect(s) of the workshop?

- Simple
- Discussion on why constitution not passed at a G.A – not enough people interested in attending G.A. and meeting to discuss draft Constitution
- We are able to speak our minds
- Is there a conflict of interest here?
- We are on our way to create a constitution for our people
- Learn more about Constitutions
- Everything
- Draft Constitution
- To try to get LFN members to get a Constitution
- Getting the constitution on track and hopefully get it done. This is just the start of the process

### How could the course be improved?

- More Participants
- Membership needs to attend to hear their comments, complaints etc. Workshop announcement should be on radio, Facebook, prior to meeting. Posters need to be seen in different locations in the community and town of Watson Lake for people to read and inform themselves of meetings
- If there was more people attending
- More input for our people
- Hmmm...not sure how
- Better advertisements

- To have a Special G.A. for LFN members to revise our 1998 Constitution and our 2019 recommendations at a G.A.
- Not enough people were at this workshop. Getting more of the members involved in this important document