Miawpukek First Nation

Community Governance Workshops

Final Report

November 2000

Conne River, Mi'kmaq Territory
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1 Introduction

Miawpukek Tribal Nation has undertaken a unique, community-based, exploratory process to determine and assess the implications and challenges of exercising its Inherent Right to Self-Governance. Through a joint initiative with Indian and Northern Affairs Canada, the community has designed and implemented a series of activities, preliminary to making a decision whether to enter more formal and structured self-government negotiations. Chief and Council directed that this exploration be community-based and community-driven. As part of that commitment, a series of community workshops were designed and delivered in November, 2000. The workshops were designed as community self-governance consultation sessions to provide community members:

- the historical and contemporary information required to assess the self-government initiative in context
- the opportunity to explore the implications of self-governance from political, program and financial perspectives
- the opportunity of providing input and direction to the self-governance initiative

The workshops were structured as community self-governance consultation sessions to provide relevant information to participants and to solicit feedback with respect to concerns, challenges and advice on both a program and comprehensive basis. Four one-day workshops were held focusing on key program areas including Health and Social Services, Education, Public Works, Capital, Lands & Environment, Finance, and Land Claims. A youth self-governance workshop was also held and a separate report on that session is available.

Attendees included the Deputy Chief, Band Councillors, program directors and staff, community members, elders, and youth representatives and was consistently above thirty participants for each session. Representatives from the federal Department of Indian Affairs and the Provincial Aboriginal Affairs Directorate attended as observers at all sessions.

Workshop handbooks were prepared for each session containing the agenda, workshop slides and relevant background information with respect to self-governance drawn from current research, the report of the Royal Commission on Aboriginal Peoples, and existing self-government agreements across Canada.
During the workshop presentations were made on:

- Historical context of self-government
- Principles of self-government
- Federal/Provincial jurisdiction
- Inherent Right to self-government
- Existing self-governance models
- Governance impacts
- Self-government negotiation process
- Main stumbling blocks in current negotiations

Program Directors provided written reports in accordance with a prescribed format on their program areas. These summaries are available under separate cover from the director of the Governance initiative or directly from the programs and are therefore not included in this report. Following an opportunity to question program directors on their presentation, participants were asked to consider the key issues facing the program area and then reflect on how self-government might impact those challenges. Finally, participants were asked to consider governance models for the major program jurisdictional areas.

The participants were divided into groups and spent significant time discussing and debating the issues at hand, recording their conclusions and then presenting these conclusions in plenary session. The level of participation in the working groups was excellent and the results of those deliberations as recorded in this report are reflective of the wisdom shared.

The evaluation of the workshops was very positive. Participants found the information useful and felt better informed about self-government and on specific program areas. It was recognized that these workshops were only a first step in community involvement and that there exists a need for more sessions and broader community participation before a decision on proceeding further with self-government can be made.
2 Plenary Activities

2.1 Opening Activities

Deputy Chief Rembert Jeddore opened the workshop by welcoming everyone and expressing Band Council’s expectation that the workshops would prove valuable in providing participants with much needed information on the self-government process. Judy White introduced representatives from Indian Affairs and the Province of Newfoundland and Labrador and then turned the meeting over to facilitator Gerry Kerr.

2.2 Introductions, Review of Agenda & Workshop Handbook

Participants introduced each other and spent some time considering, and then sharing, their expectations for the workshop. Most wanted to learn more about self-government and to find out how they could be involved in the process. Specific areas raised included:

- How traditions and values will fit into program
- Where Conne River is in self-government process
- How prepared Conne River is to assume self-government
- Programs available
- Program capacity
- Options for self-government
- Impacts and affects of self-government on community
- Experience of existing self-government agreements

The workshop agenda was reviewed and an overview of the workshop handbook was presented.

2.3 Historical View of Self-Government

The workshop began with an examination of the basic terms “governance” and “jurisdiction”. This was followed by a presentation on the historical view of self-government based on work by Dr. Emily Faries, a renowned Canadian aboriginal educator currently a professor at Laurentian University. The presentation examined the characteristics of aboriginal society during the Pre-Contact, Contact, Post-Contact and Future eras. The main conclusion of the presentation was that positive aboriginal social, health and economic conditions are directly related to the degree that aboriginal peoples have real and meaningful control over their lives and communities.
2.4 Indian Act Governments vs. Inherent Right Governments

The participants were exposed to a comparative analysis of Indian Act governments and Inherent Right governments. The characteristics of the Indian Act governments were outlined including the delegated nature and resulting complete control that Canada can exercise on First Nation governments through application of the Indian Act. The paternalistic or parent-child relationship was explained. This was contrasted with the government to government relationship that exists for Inherent Right governments.

Participants were then asked to examine the Alliance Party Aboriginal Platform and determine whether that party was prepared to recognize the inherent Right to Self-Government. The groups concluded that the Alliance Party unfortunately reflected the way a lot of Canadians view self-government for aboriginal peoples - essentially a delegated municipal style of governance. It was noted that the Alliance Party position does represent the dark side of what aboriginal peoples face in having treaties honoured and aboriginal rights respected.

2.5 Implications of Moving Out of Indian Act

Moving to self-government involves moving out from under the Indian Act to laws enacted and enforced by the community. Participants commented that for Conne River which only recently came under the Indian Act after a long struggle to be recognized, such a move would have to be carefully considered. Groups considered some of the concerns that the community might have in this regard. These concerns can be summarized as:

- Where will the revenues we required come from?
- What will the resource base be and who will control those resources
- Protection of Human Rights
- How will it relate to other governments - federal, provincial, bands?
- What does self-government really mean?
- Funding issues - e.g. post-secondary
- Taxation - what happens to our exemptions under the Indian Act?
- Property - if land is no longer reserve how will it be protected?
- Ultimate authority - protection of Indian persons
- Membership - citizenship
- Community constitution - changes, individual rights
- Capacity and confidence for self-government
- Readiness for self government - infrastructure, human resources
- Community support and buy-in for self-government - 100%?
- Own Source Revenue - what will it mean - local taxation?
3 Health & Social Services

3.1 Presentation by the Director of Health & Social Services

Theresa O'Keefe presented her program report on the Health and Social Services program. She explained each of the services offered and answered questions of clarification from the workshop participants.

Program overviews were provided for:

- Clinical Nursing
- Weekly Doctor's Clinics
- Speciality Clinics
- 24 Hour Emergency
- Dental Therapy
- Drug, Alcohol & Addiction
- Hart Hill Wilderness Retreat
- Community Social Worker
- Community Health
- Continuing Care Nursing
- Home Care
- Nutrition
- Prenatal Nutrition
- Community Support & Family Violence
- Child Protection and Child Welfare
- Child Care
- Brighter Futures Program
- Health Information System
- Non-Insured Health Benefits
- Job Creation

1 Reports from Directors are available from the Governance Office or the appropriate program director.
3.2 *Key Challenges Facing Health & Social Services Programs*

Participants were asked to identify the key challenges facing the delivery of Health and Social Services programs, now and into the future. Working groups considered the issues, recorded their views and presented these in plenary session. The identified challenges can be summarized as follows:

- Continued funding to provide existing services
- Need for more funding for a variety of programs
- Perceptions in the community re. how policies are enforced
- Lack of aboriginal input on policy decisions
- Lack of community knowledge about programs available
- Role of traditional culture in programming is unknown
- Legal issues (liability, insurance, grievance, standards)
- Programs currently under provincial jurisdiction
- Lack of professionals (difficult to attract to the community)
- Role of traditional medicines

3.3 *Self-Government Impact on Health & Social Services*

Participants were then asked to consider the impact that self-government might have upon the Health & Social Services programs. Their conclusions are summarized as:

- Ability to opt out of restrictive regulations
- Option to make guidelines and set standards to meet our needs
- Administer programs at the band level (e.g., NIBH)
- Build community awareness
- Recruit professionals on our own terms
- Option to renegotiate funding agreement
- Opportunities to raise money, share resources, etc.
- Operate some work arrangements through job sharing
- Develop own legislation re. child welfare, NIBH, etc.
3.4 Governance Models

The participants were given the opportunity to review sample governance structures and in their working groups begin to give thought to a model that might be appropriate for Conne River as a self-governing First Nation. It was recognized that this exercise was for discussion purposes only to begin the thinking that would be required should Conne River opt for self-government. The overall structure was considered and then specific reference given to Health & Social Service Governance

3.4.1 Governance Model One

![Diagram of Governance Model One]
3.4.2 Governance Model Two

Community

Band Council

Portfolio Holder Health & Social Services

Director of Health & Social Services

Administrative & Professional Staff

3.4.3 Governance Model Three

Community

Band Council

Program Committee

Director of Health & Social Services

Administrative & Professional Staff
3.4.3 Governance Model Four

- Community
- Band Council
- Band Manager
  - Director of Health Programs
  - Community Health Advisory Committee
  - Administrative & Professional Staff
4 Education

4.1 Presentation by the Director of Education

Edwina Wetzel, Director of Education presented an overview of the community education program and related services under her direction. She described the relationship of the school with the Province with respect to certification and noted the membership of school staff in the Newfoundland Teacher's Association. She answered several questions of clarification with respect to the education program, many of which involved the post-secondary program policy and its application.

4.2 Key Challenges Facing the Education Program

Participants worked in groups to determine the key challenges facing the education program. Their conclusions can be summarized as:

- Lack of space in which to deliver programs
- Lack of qualified personnel
- Few linkages between Band departments
- Need more community and parental involvement
- Few people speaking Mi'kmaq language
- Not enough funding to meet needs
- Unable to meet needs of special needs students.
- Teachers lack cultural and community awareness
- Our children need to know more about Mi'kmaq culture
- Need to incorporate tradition and language into curriculum

4.3 Self-Government Impact on Education

Participants were then asked to consider the impact that self-government might have upon the Education program. Their conclusions are summarized as:

- We'll have legislation to make decisions and enforce them
- Reconsider education facilities and infrastructure
- Increased accountability at the band level
- Renegotiate the funding agreement
- Responsibility for the nominal roll will rest with the Band
- Negotiate for new capital and operational resources
- Develop own Education Act
- Develop curriculum including Mi'kmaw culture and language
- How would off-reserve members be included?
- Reassess education needs and work to meet them
4.4 Governance Model for Education

In general, the same considerations for governance models for Education were considered as presented in the Health and Social Services discussion (see Section 3.3). However, there was near consensus among the groups that a Board of Education should be included in the governance model for education. As well, a parent/student advisory committee to work with the school principals was recommended. This composite model differs slightly from those models presented earlier in the report.

The Director of Education under this model would have a line reporting relationship to the Band Manager for administrative and supervisory purposes, and a functional reporting relationship to the Board of Education for program direction, policy and governance.
5 Public Works

5.1 Presentation by Director of Public Works

The Director of Public Works, Rembert Jeddore provided an overview of his program which includes public works, student employment, recreation and parks, and policing services. He noted the progress that had been made in several areas but acknowledged that certain programs, recreation for example are suffering from restricted funding. With respect to jurisdiction, he noted the excellent relationship and cooperation that exists between the Conne River police and the RCMP.

The Director answered several questions relating to maintenance issues in the community including road marking, issuance of building permits and funding sources and priority setting. An interesting discussion ensued on the liabilities of local governments with respect to maintenance of public roads and facilities.

5.2 Governance of Public Works

The consensus of the participants was that, unlike some other program areas like education and health where Boards were being recommended, public works should remain a program directly under Band Council. No specific model was recommended and the options remain those detailed in Section 3.3.
6 Capital Projects Department

6.1 Presentation by Capital Projects Department

The capital works presentation was made by Brian who reviewed the projects underway and planned. This included:

- New housing program
- Section 96 CMHC housing
- Subdivision Phase II
- RRAP program
- Band Office Extension

Brian then responded to a number of questions related to the housing program including issues of available land base, supply of materials and debt financing.

6.2 Governance of Capital Projects

There was general consensus that capital projects would continue under the direction of Band Council under any self-government model. However an interesting discussion took place with reference to the applicable laws that would apply under self-government.

In response to a question on which building codes Conne River currently used - federal or provincial building codes, Brian responded that national codes are currently utilized and the Conne River homes are built above the minimum. He correctly suggested that part of the self government process could include the development of laws and building codes which could exceed current federal or provincial standards.

It was noted that archeological evidence of Mi'kmaq occupation in Conne River may be important for the land claims process. In that regard, the question was asked whether laws would be necessary to ensure that appropriate archeological examination is undertaken on building sites prior to capital projects being constructed.
7 Miawpukek Fisheries

7.1 Miawpukek Fisheries Presentation

Ross presented the Miawpukek Fisheries program presentation giving an overview of the program including:

- Salmon enhancement program which involves two major projects, Conne Enhancement and Little River Salmon Enhancement
- Commercial fishery which will be cooperative venture operated under licences granted to the Band with shared profits between the fishers and the Band
- Native guardian program
- Food fishery

Gary gave the presentation on Miawpukek Aquaculture Inc. including a detailed overview of the project as an economic development initiative.

7.2 Governance Issues - Miawpukek Fisheries

It was noted the food fishery is an exercise of the aboriginal right of Conne River First Nation members. However, the commercial fishery is currently operating under federal licences and guidelines not through a recognition of Mi'kmaq treaty rights.

An interesting discussion took place when Gary was asked how self-government impact would impact his program. He responded that there would be an opportunity to exert greater control over the commercial fisheries by passing Mi'kmaq laws. He noted however, that it would make good commercial and business sense to mirror standards of other agencies as this will aid in harmonizing regulations. He felt that the Band under self-government will become like a DFO.

Gary was asked about cooperation with the provincial government when they do not even acknowledge Conne River as a recognized reserve? Gary responded that because Miawpukek Fisheries have to transport through the province to get to markets, there is an obligation to adhere to provincial regulations in their territory. As well he noted, that buyers will want evidence of adherence to accepted commercial fishery standards.
8 Finance and Administration

8.1 Presentation by Director of Finance and Administration

Tammy Drew, Director of Finance provided an overview of the Band's organization and primary functions for management of the Finance and Administration programs. She pointed out that unlike other First Nations in Canada, funding for Conne River is voted on as a specific line item by the Parliament of Canada. As a result, Conne River enjoys more flexibility in the utilization of their funding than do other First Nations.

She reviewed the current organizational structure for the Finance and Administration program and noted the key roles involved. Conne River currently manages funding of the following types:

- Grants
- Contributions
- Own Source Revenue
- Debt

8.2 Key Challenges - Finance and Administration

Participants worked in groups to identify the key challenges facing the finance and administration programs. Their conclusions include:

- Never enough funding for what we need
- Funding is required to create more jobs
- Capacity for Self-Government - do we have the human resources
- Need for advance planning in this area for self-government
- Local businesses need to make profits but prices need to be reasonable
- Level of service and business approach in band businesses
- Providing timely financial information to community
- Community involvement in budgeting
- Challenge of determining how much funding will be required in the future to support the community programs
- Improving accountability
- Improving communications between program directors and community
- Providing rewards for good management - not punishments by cutting budgets
- Need for a back-up plan - financial pillow
8.3 **Self-Government Impacts on Finance and Administration**

Concerns over funding under self-government were raised in almost every discussion for every program area. These concerns focussed on guarantees for funding under self-government and on the level of funding that would be required to support programs and services for future generations.

Working groups summarized the projected impacts of self-government on Band finance and administration as:

- Self-government will mean we will have to be totally responsible - cannot blame other governments
- More accountability will be required
- Need for stronger policies
- Need to develop own source revenue to raise our own funding
- Requirement to find innovative ways to create more jobs, revenue, profits etc.
- User fees for services that are now free may be necessary
- Laws will have to be in place to protect Band funds and resources
- Financial back up plan will have to be in place
- Liability of Band Council will increase
- Band will have to have strong policies to stay within budgets
- Band businesses will have to independent from Band administration to ensure no drain on program funds
- Policies and profit targets will have to be developed for band businesses
- Will need a redress system and complaints officer

8.4 **Finance and Administration Governance Model**

The consensus was that the current model of direct responsibility of the finance and administration program to Band Council would have to continue under self-government regardless of the balance of the government structure for the program areas.
9  Land Rights and Negotiations

9.1  Director of Land Rights and Negotiations Presentation

Shayne McDonald provided an overview of his department and the current processes underway to advance the Miawpukek Mi'kmaq collective, aboriginal, treaty, self-government and land rights in Ktaqamakuk through political and legal forums.

He cited the strong foundation of existing knowledge supporting these processes but noted that significant gaps exist in documentation of historical Mi'kmaq use and occupancy in Newfoundland. Lack of funding and the inherently slow pace of the court and claims processes means resolution of many of these fundamental issues is not imminent.

9.2  Impact of Self-Government on Land Rights and Negotiations

Shayne pointed out that reaching a final agreement on self-government, will have to include resolution of land and rights issues. This will include issues of land base and the recognition and exercise of rights in the traditional territory.

Self-government must be defined both in terms of jurisdiction over people and lands and resources. Settlement of land and rights issues is therefore critical to reaching and exercising effective self-government. Care must be taken in any self-government agreement not compromise or adversely impact any collective, aboriginal, treaty or land rights of the Miawpukek Mi'kmaq.
Summary

The Community Governance Workshops achieved the purpose of providing historical and contemporary information on self-government, providing participants the opportunity to explore the implications of self-governance and of seeking and recording community input and direction to the self-governance initiative.

But the workshops represent only a starting point - the beginning of a dialogue among community leaders, staff and members on the future of the community and the role that self-government might play in that future. The exploratory process should continue in a manner that will allow the community the time to build a consensus with respect to a decision on entering self-government negotiations. This will not be an easy decision. The input provided by the participants in the Governance Workshops as reflected in this report and that offered by the Program Directors in their individual reports, represents critical information that will assist the community and its leadership in reaching that decision.