

Indigenous-Local Intergovernmental Relationships: Snuneymuxw First Nation and Islands Trust

Student: Alex Hallbom

Professional: Ian Cox, Planner 1, Islands Trust Northern Region, Gabriola Island, BC.



1. Introduction

Local and First Nation governments in Canada are increasingly interacting on issues related to land-use and resource planning. These interactions create challenging governance questions because, while "the relationship between First Nations and the federal government is more formalized," the relationship between First Nations and local planning authority is relatively ungoverned by legislation and is "open to greater flexibility and case-by-case interpretation, opening up uncertainty and trepidation at times and in places where the experience is unknown to municipal officials and citizens" (Walker, 2008, p. 33).

Recognizing this, the Canadian Institute of Planners released a *Planning Practice and Reconciliation Policy* in 2019, and both the Federation of Canadian Municipalities and the Union of BC Municipalities have developed resources and programs to support and collaborative

relationships between their member municipalities and First Nations (Canadian Institute of Planners, 2019, Federation of Canadian Municipalities 2011, 2015, Union of British Columbia Municipalities, 2000). These initiatives are framed by an increasing national and international recognition of Indigenous rights, and explicitly reference the *United Nations Declaration on the Rights of Indigenous People* (2007) and the Truth and Reconciliation Commission's *Calls to Action* (2015).

This document is a case study of the intergovernmental relationship that has developed between the Snuneymuxw First Nation and the Gabriola Island Local Trust Committee (LTC) in coastal British Columbia. The following sections provide background information on the two parties, a summary of their interactions between 2008 and 2019, and lessons for other First Nation and local planning authorities looking to build positive relationships.

2. Islands Trust

The Islands Trust was established by the BC provincial government in 1974 as a response to rapid development, with an explicit mandate to preserve and protect the natural environment and unique culture of the Trust Area. The Trust Area includes 13 major and 450 smaller islands within the Salish Sea between Vancouver Island and mainland BC.

The *Islands Trust Act* establishes the Islands Trust as a land use planning authority for the Trust Area. The Islands Trust has a mandate to use its land use planning authority to respond to "extreme pressure from population growth and tourism (Islands Trust, 2003, p. ii)". Guided by the Islands Trust Policy Statement, the Executive Committee of Trust Council reviews plans and bylaws to ensure compliance with the following objective:

"The object of the Trust is to preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia (Islands Trust, 2003, p. 5)".

3. First Nation Interests in the Trust Area

The Trust Area has been an important economic and cultural landscape for First Nations for at least 14,000 years. There was an estimated Indigenous population of 50,000 – 200,000 as recently as 1780 (Islands Trust, n.d.). However, First Nations populations were reduced by 80-90% during the mid-1800s through successive waves of imported European diseases. This massive death-toll was compounded by policies of forced assimilation, including the Kuper Island Residential School, operated by the Catholic Church with Canadian government support between 1890 and 1978.

Nonetheless, First Nations remain key political players within the Trust Area. There are approximately 37 First Nations with either reserve lands, asserted Aboriginal rights and title, Douglas Treaty rights, or modern treaty rights within or adjacent to the Trust Area. Recognizing the importance of maintaining respectful relationships with First Nations neighbours, and in response to significant uncertainty regarding the BC treaty-making process and Supreme Court decisions regarding Aboriginal rights and title, the Islands Trust developed First Nations Engagement Principles in 2016 (Islands Trust, 2016). These engagement principles are meant to “underpin every activity of Islands Trust in order to have an enduring relationship with First Nations based on trust, honour, and goodwill” (Islands Trust, 2016, p. 2).

The Gabriola Island Local Trust Area (LTA) consists of Gabriola Island and 19 other islands. The LTA is within the traditional territory of 8 Hul’q’umi’num-speaking Nations (Islands Trust, 2019):

- Snuneymuxw (Nanaimo) First Nation,
- Snaw-naw-as (Nanoose) First Nation,
- Stz’uminus (Chemainus) First Nation,
- Lyackson First Nation,
- Halalt First Nation,
- Cowichan Tribes,
- Penelakut Tribe, and
- Lake Cowichan First Nation.

The Snuneymuxw First Nation has the closest historic and ongoing ties to the Gabriola Island Local Trust Area. Snuneymuxw has reserve lands, asserted aboriginal rights and title, and Douglas Treaty rights within the Gabriola Island LTA (Islands Trust, 2019).

4. Gabriola Local Trust Committee and Snuneymuxw First Nation

The intergovernmental relationship between the Gabriola Island Local Trust Committee (LTC) and Snuneymuxw First Nation originally emerged in reaction to Snuneymuxw treaty negotiations. In 2003 a draft agreement-in-principle was developed between Snuneymuxw, British Columbia, and Canada, which provides “the foundation for final agreement negotiations” and describes preliminary provisions for “the full and final settlement of Snuneymuxw’s Douglas Treaty rights, aboriginal land rights, and any other aboriginal rights related to the rights set out in the treaty and modified into treaty rights” (Snuneymuxw First Nation, British Columbia, Canada, 2013, p. 2). Snuneymuxw First Nation is currently in stage 4 of the 6-stage BC treaty process, and will potentially acquire up to 12,000 acres of treaty land, as well as significant self-governing law-making authority.

Significantly, the draft agreement-in-principle also lays out an expectation that “prior to final agreement and in consultation with the Islands Trust and residents, Snuneymuxw will develop a land-use plan for treaty land on Gabriola Island (p. 7)”. Similarly, the Islands Trust released *A Guide to Islands Trust Interests in Treaty Negotiations in the Islands Trust Area* in 2003, which laid out a vision for intergovernmental coordination in pursuit of “common objectives and values related to preservation and protection of the natural environment and unique amenities of the area (Islands Trust, 2013, p. 2)”.

The Gabriola LTC and Snuneymuxw First Nation signed a protocol agreement in 2008, which acknowledged their overlapping jurisdiction relating to lands and resources and committed the parties to establishing “a government-to-government relationship of mutual respect and cooperation with respect to planning, land use management, and heritage conservation (Snuneymuxw First Nation & Islands Trust, 2008, p. 2)”. The protocol agreement was meant to

establish a joint working group and to guide the parties in developing a continuing relationship, with twice-yearly meetings and bi-lateral review and development of planning policy.

However, despite the strong language and best intentions contained within the 2008 protocol agreement, no significant government-to-government relationship has developed between Snuneymuxw First Nation and the Gabriola LTC. This is despite the LTC passing 30 resolutions on 22 occasions with the purpose of improving the relationship with local First Nations.

In May, 2018, Islands Trust staff delivered a memo to update the Gabriola LTC on outreach to Snuneymuxw First Nation over recent years, explaining the larger governance issues which have preoccupied the First Nation and which have led to their minimal response at times on certain matters such as bylaw referrals, for example, no matter how important staff or the LTC may have felt their input to be. These issues included the successful negotiation of a \$49M specific claim for land in downtown Nanaimo (Pawson, 2016, November 13), substantial commercial development on Newcastle Island (Holmes, 2018, April 13), and the construction of a new health centre and elementary school. The information in this memo is in line with the findings of the findings of a 1999 Final Report from the Post-*Delgamuukw* Capacity Panel, which saw significant need for supporting capacity among BC First Nations who were simultaneously engaging in the treaty process, responding to referrals relating to the Duty to Consult, and pursuing on-reserve community development projects, all with limited staffing resources (BC Capacity Initiative, 1999). However, continuing communications between Islands Trust and Snuneymuxw First Nation staff and elected officials suggested that both parties were still interested in relationship-building and potential collaborative work.

In 2018, with guidance from Fiona MacRaid, Senior Intergovernmental Policy Advisor for Islands Trust, the Gabriola LTC began a new approach to building a government-to-government relationship with Snuneymuxw First Nation. Acknowledging that there is a cultural gap between the parties that must be bridged, as well as many layers of conflict that must be addressed, the LTC adopted a *Standing Resolution with Respect to First Nation Relationship Building*. Rather than committing to substantial shared decision-making around land-use planning in shared

territory, the *Standing Resolution* lays out a more gradual process of intercultural learning, relationship building, and eventually the establishment of a new protocol agreement with Snuneymuxw based on mutually agreed-upon processes of meaningful engagement in land issues in the Gabriola Local Trust Area.

5. Lessons Learned

Although this new approach to government-to-government relationship building is still in its early stages, there are nonetheless lessons to be learned for local governments looking to develop intergovernmental planning relationships with neighbouring First Nations. The following sub-sections lay out three key lessons and discuss how they relate to the Canadian Institute of Planners' (CIP) recently published *Planning Practice and Reconciliation Policy* (the *Reconciliation Policy*):

5.1. Relationship-Building is Hard Work

Intergovernmental planning relationships are not created through signing an agreement – even one with flowery and progressive language – they are developed over time and through the commitment of substantial effort and resources. In the case of the protocol agreement between Snuneymuxw and the Gabriola LTA, good intentions were not enough to catalyze a positive working relationship. The CIP *Reconciliation Policy* (2019) acknowledges that working towards more positive relationships between local and Indigenous planning authorities will be “slow, challenging, and generational” (p.10) and that planners must “commit sufficient time and resources to support these ongoing relationships” (p. 9).

5.2. Capacity Issues

First Nations in BC have limited financial resources and significant governance responsibilities relating to the Duty to Consult, treaty negotiations, and community development. Intergovernmental agreements should recognize and accommodate for imbalances in governance capacity between the parties. Local government planners or elected officials who are interested in beginning a working relationship with an adjacent First Nation should try to

understand how the financial and time requirements of negotiating and implementing an intergovernmental agreement fits in with the rest of the First Nation's commitments. The CIP *Reconciliation Policy* (2019) is clear that planners need to acknowledge that "Indigenous communities can be administratively overburdened and under-resourced, which can restrict a community's ability to carry out their planning processes and respond to consultation requests in pre-determined time frames" (p. 9).

However, as evidenced by the LTC's adoption of the *Standing Resolution with Respect to First Nation Relationship Building* – which is intended to help bridge a cultural gap between Gabriola LTC and Snuneymuxw staff and elected officials – local government planners should not be quick to assume that capacity issues are only a problem of time and money, or that addressing capacity deficits is only relevant for the First Nation governments. The CIP *Reconciliation Policy* (2019) is clear that professional planners in Canada have an obligation to "understand that the harmful legacy of colonialism has continuing, intergenerational impacts on Indigenous peoples and communities," (p. 7) and to use "active listening, learning, and understanding to confront and eliminate biases in their own practice and in the planning profession" (p. 7).

5.3. Competing Priorities

In light of other significant commitments and responsibilities, First Nations may consider building relationships with adjacent local governments to be a low priority. In light of uncertainties around treaty negotiations and evolving recognition of the impact of Aboriginal and Treaty Rights on local governments, there is a clear pragmatic reason for the Gabriola LTC to open up a conversation with Snuneymuxw and other First Nation governments with whom they share overlapping planning authority. Additionally, there is evidence in the bylaws and policies passed by the Gabriola LTC that staff and elected officials are interested in fulfilling ethical obligations concerning reconciliation between Indigenous and settler communities in Canada.

However, Snuneymuxw does not have the same practical and ethical reasons for building relationships with the Gabriola LTC. Given the above-mentioned financial and time requirements of negotiating and implementing an intergovernmental agreement – and in light of the capacity

issues facing many First Nations in BC – there is no reason to assume that the Snuneymuxw First Nation would feel the need to rush to accommodate settler desires for improved relationships. The CIP *Reconciliation Policy* (2019) states that planners should understand that First Nations governments’ ongoing legal struggles and community healing processes “may take priority over a long-term planning process” (p. 8).

Resources:

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