



Guide to First Nations Ratification

BUILDING OUR FUTURE

TABLE OF CONTENTS

SECTION ONE: Introduction	3
WELCOME	4
ABOUT THIS GUIDE	5
SECTION TWO: Journey to Ratification	7
EARLY AND ACTIVE ENGAGEMENT	8
Milestones for Treaty Negotiations Timeline.....	9
CONFIRMING THE MANDATE OF THE NEGOTIATION TEAM	10
AGREEMENT IN PRINCIPLE APPROVAL	10
FINAL AGREEMENT VOTE	11
CONSTITUTION VOTE	11
BAND ASSET VOTE	11
IMPORTANCE OF VOTING	12
From Vote to Effective Date: Sample Timeline.....	13
SECTION THREE: Eligibility and Enrolment	15
UNDERSTANDING ELIGIBILITY	16
Sample Eligibility Criteria.....	17
UNDERSTANDING ENROLMENT	18
Creating the Enrolment Register.....	18
SECTION FOUR: Teams and Committees	19
OVERVIEW OF TEAMS AND COMMITTEES	20
Relationships Between Teams and Committees Schematic.....	21
NEGOTIATION TEAM	22
ENGAGEMENT TEAM	23
ENROLMENT COMMITTEE	25
Enrolment Appeal Board.....	26
RATIFICATION COMMITTEE	27
Milestones for Enrolment and Ratification.....	28
SECTION FIVE: Community Engagement	29
COMMUNICATIONS STRATEGIES	30
Developing Your Communications Strategy.....	31
Strategic Considerations.....	32

Locating Your Citizens.....	34
Understanding Your Community Members.....	34
Creating Your Database.....	35
COMMUNICATIONS MATERIALS	35
Considerations for Communications Materials.....	37
New Media Tools.....	38
Using Social Media.....	39
BUILDING COMMUNITY THROUGH COMMUNITY EVENTS	39
Scheduling Meetings.....	41
Facilitating Effective Meetings.....	41
Personal Outreach and Home Visits	42
Living Away from Home.....	42
Keeping a Public Profile	43
MOTIVATING PARTICIPATION	43
Treaty Champions	44
Identifying Alliances.....	44
Testing Support	45
Understanding and Addressing Concerns.....	45
Managing Misinformation.....	45
SECTION SIX: The Vote	47
RATIFICATION CONSIDERATIONS	48
Key Principles of a Strong Ratification Process.....	48
Ensuring Fairness and Transparency in the Voting Process.....	49
Timing	49
CONDUCTING THE VOTE	49
Sharing and Publicizing the List of Eligible Voters.....	50
Building Your Vote Team	50
Coordinating Polling Stations	50
Counting the Vote	51
VOTING DAY CHECKLIST	52
SECTION SEVEN: Building on Experience	53
REFLECTING ON THE MEANING OF THE FINAL VOTE	54
SUBSEQUENT VOTES	55



Introduction

SECTION

1

SECTION 1

INTRODUCTION

WELCOME

Ratification requires engaging community around shared values, and is a key expression of community will. Successful ratification is a reflection of successful governance.

Treaty negotiations are about a new relationship of reconciliation, as articulated in the *British Columbia Claims Task Force Report*, 1991:

As history shows, the relationship between First Nations and the Crown has been a troubled one. This relationship must be cast aside. In its place, a new relationship which recognizes the unique place of aboriginal people and First Nations in Canada must be developed and nurtured. Recognition and respect for First Nations as self-determining and distinct nations with their own spiritual values, histories, languages, territories, political institutions and ways of life must be the hallmark of this new relationship (16).

The treaty negotiations process — including ratification — is as important to this new relationship as the treaty itself. Integral to the self-determination of First Nations is the ability to define citizenship, articulate who is eligible to vote, and collectively shape a common future. Building this new future begins with a committed membership and continues through the enrolment process. It crystallizes through the will of the First Nations citizenship, as expressed through the ratification vote.

ABOUT THIS GUIDE

This *Guide to First Nations Ratification* was developed by the British Columbia Treaty Commission (“Treaty Commission” or “BCTC”) to assist First Nations in BC with agreement in principle (AIP) approvals and ratification votes for modern treaties. Many of the principles contained in this guide can be applied to other First Nations’ community approval processes.

This is a practical and flexible tool with information that can be adapted to meet the unique needs of First Nations across BC with diverse circumstances, priorities, and forms of governance.

For additional resources, please visit www.bctreaty.ca.

First Nations Ratification Forum

On February 18–19, 2014, BCTC hosted the *First Nations Ratification Forum: Building Free, Fair, and Informed Consent*. This forum brought together 80 representatives from 24 First Nations to discuss their approval processes, learn from each other's experiences advancing and completing a treaty, and participate in panel presentations on key ratification topics.

The diversity of experiences represented at this forum resulted in a rich sharing of wisdom, best practices, and tools, which informed this guide.

We had our own government. We had our own way of governing ourselves through the potlatch system, through our big house, and through our people. One of the reasons we [are in the treaty negotiations process] is because we believe that there's something better for our people than we have today at present in terms of economic certainty, in terms of education, of better education, in terms of our health — mental, physical, emotional, spiritual.

ALEXANDER CHARTRAND | WUIKINUXV FIRST NATION

Principle of Free, Fair, and Informed Consent

Consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and its principle of free, prior, and informed consent, the overarching theme articulated at the *First Nations Ratification Forum* was that each treaty in BC must be the result of the *free, fair, and informed consent* of First Nation citizens. The term "fair" is considered more fitting to ratification processes than "prior." The ratification vote is itself the articulation of prior consent; a treaty will not proceed without an affirmative vote.

Ratification must be achieved through an effective and transparent community engagement process that includes all community members of a First Nation. When grounded in the free, fair, and informed consent of the First Nation, modern treaties result in a new relationship of reconciliation between First Nations and the Crown.

First Nations insist that in the treaty process the Crown has nothing to do with defining our Nations. We must define our Nations in terms of territory and in terms of citizenship. That's a tough task. Some have addressed it through building their own constitutions. Some have embellished and modernized their traditional governance system, their Hereditary Chief system. Some have chosen to modify and legitimately authorize a decision-making process similar to a band council process, but authorized by the First Nation. These are challenges that human societies all over the world face.

MILES RICHARDSON | HAIDA FIRST NATION





Journey to Ratification

SECTION

2

SECTION 2

JOURNEY TO RATIFICATION

Ratification of a treaty is more than just the outcome of the final vote. It is a community journey that involves creating a forward-looking process, building community around shared values, and defining a system of accountable governance that will carry on.

The First Nation was given a mandate by the community to negotiate a treaty with Canada and British Columbia — to build a new relationship of reconciliation through negotiations. Significant time and resources have been expended by the First Nation — sometimes over a generation — to get to a final agreement. Completing this mandate requires the leadership to stand behind the agreement that has been negotiated and brought to the community for a ratification vote. Support from leadership is essential.

Without leadership support, ratification stands little chance of success.

We have had community members examine and play leadership roles in the development of every piece of legislation; we have community votes on our most major decisions that will impact our people; and we have a functioning legislature and advisory process that incorporates more opinions and perspectives into the decision process than we have ever had. There is no doubt that we are stronger now because we took the time to engage with everyone — that has allowed us to move forward and to rebuild our community based on our community's values and priorities.

KIM BAIRD | TSAWASSEN FIRST NATION

EARLY AND ACTIVE ENGAGEMENT

Treaty ratification requires active community engagement throughout the treaty negotiations process. Start communications early. Meaningful engagement is the basis of free, fair, and informed consent, and will lead to a successful vote.

Keep in mind a successful vote is not limited to a “yes” result; meaningful community engagement and high voter turnout are the true measures of a successful vote.

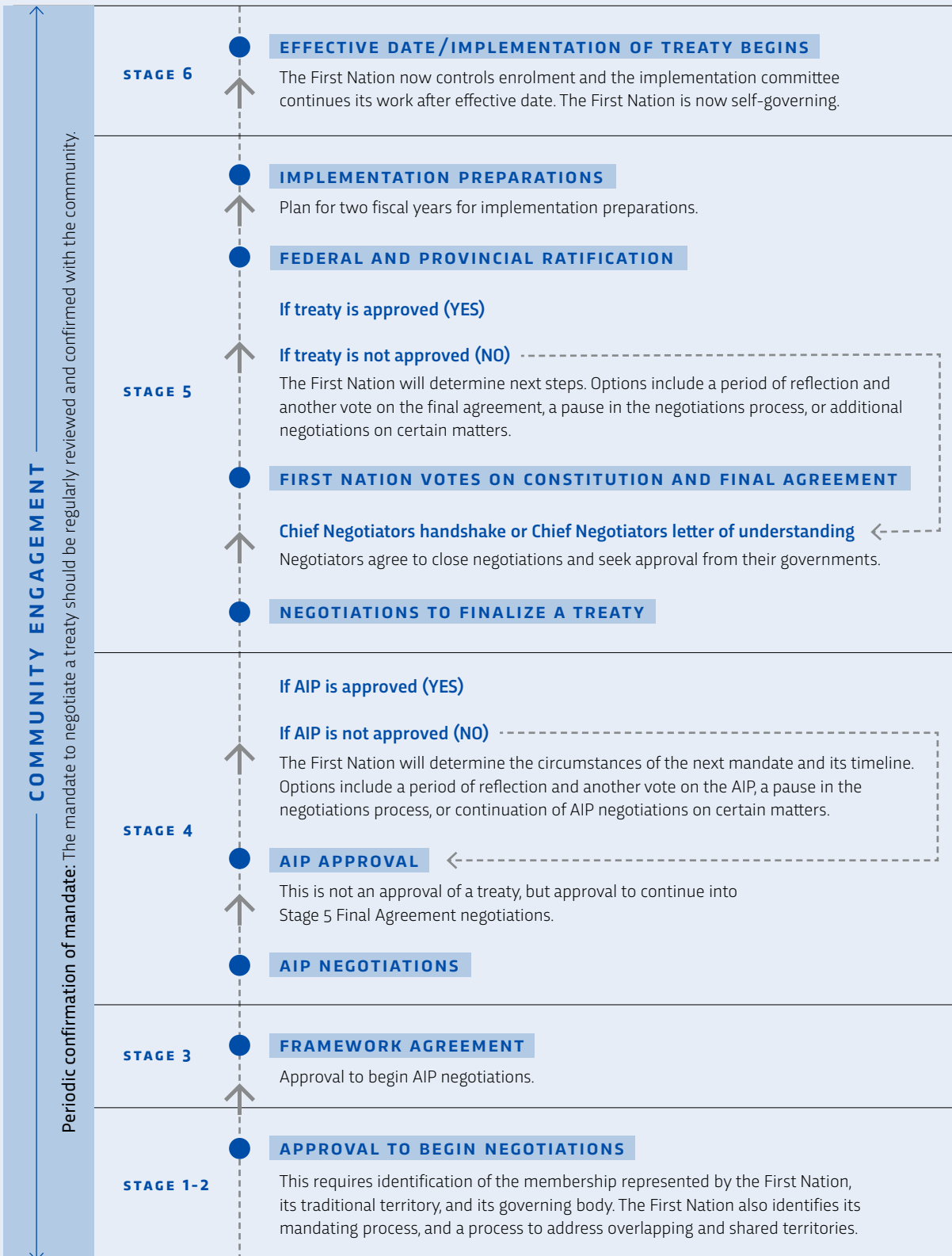
Change takes courage. Myths, misunderstandings, and fears must be addressed in an assertive and positive campaign to support the mandate of the First Nation to achieve a treaty.

Ratification goes right to the heart of a fair and balanced agreement. This is the instrument for First Nation citizens, through their leaders, to ensure the agreement is fair and pursuant to their interests. Some of us may like what others have done, or not, but in terms of ratification, that is irrelevant. It is up to the citizens to say “yea” or “nay” to their own agreement. The standard of free, fair, and informed consent, adopted by the UN, sets a high bar for ratification and fairness of these treaties.

MILES RICHARDSON | HAIDA FIRST NATION

Milestones for Treaty Negotiations

The following are key mandates and approvals milestones of the treaty negotiations journey. Each step requires differing levels of engagement, outreach, and education.



CONFIRMING THE MANDATE OF THE NEGOTIATION TEAM

A treaty mandate is confirmation by community members that the First Nation will engage in treaty negotiations with Canada and BC. This mandate and the Nation's vision will guide the ratification process.

The treaty mandate should be reviewed and confirmed regularly, both to address changes in circumstances and as an opportunity to update and consult the community.

This review can be accomplished in various ways. For example, many First Nations renew their mandates at annual general assemblies or other treaty meetings. Changes in leadership may also be good opportunities to confirm the mandate.

TIPS

- + At annual assemblies, update and confirm the mandate for treaty negotiations.
- + Annual commitments to take negotiation funding is another form of mandate confirmation.
- + Keep asking, "Does this action support our Nation's vision?"

If you have a strong vision for your treaty early on, your vote will be just a formality – you will know if the treaty achieves your vision.

AGREEMENT IN PRINCIPLE APPROVAL

An AIP is a forward-looking document that sets the stage for future negotiations. It signals the collective will of a First Nation to complete negotiations and continue the work of creating the unique constitutional agreement that will be ratified as the final agreement.

An AIP is not a legally binding agreement, and it looks different for every community.

AIP approval can occur in many ways: through a community vote or referendum, at a community meeting or annual assembly, through a band council resolution, or by approval from families or hereditary leaders.

Some First Nations use an AIP vote as a dry-run for the final vote and a way to test their processes of community engagement.

In my view, the AIP is a difficult stage because it can create a stumbling block for Nations if they don't understand that the AIP is not the treaty, and that the treaty is negotiated in Stage 5 with the final agreement.

TOM HAPPYNOOK | HUU-AY-AHT FIRST NATIONS



FINAL AGREEMENT VOTE

The final agreement vote is the vote on the treaty. A treaty, or final agreement, is a legal document that sets out a new relationship of reconciliation with Canada and British Columbia. It is protected under section 35 of the Canadian Constitution.

A treaty includes self-governance for the First Nation, ends the application of the *Indian Act*, and transfers significant treaty assets to the First Nation (e.g. lands, cash, resource revenues). In addition, the First Nation's Section 35 Aboriginal rights to hunt, fish, and harvest throughout its traditional territory are clarified, governance authorities are set out, and citizenship is defined.

Because of the importance of the treaty, its effects on rights, and its legal and constitutional nature, a vote, passed by fifty per cent plus one of all eligible and enrolled members, must approve the treaty.

CONSTITUTION VOTE

A First Nation's constitution vote is one of two votes required to ratify the treaty. A constitution provides for the institutions and division of responsibilities that are key to any government. The constitution vote is typically conducted at or slightly before the final agreement vote.

A constitution defines the relationship between citizens and the Nation, sets out the broad rights and freedoms of citizens, and regulates the relationships between the institutions of the Nation. It includes basic rules dealing with how the governing body is chosen, how laws are made and enforced, and how accountability to citizens is maintained.

The constitution, along with certain aspects of the treaty, governs the relationship of the First Nation with other governments, the general public, businesses, and other third parties.

A well-designed constitution provides consistency, stability, and accountability to a First Nations government.

Experience in past ratifications has shown that holding a vote on the constitution in close proximity but prior to the ratification vote greatly assists the First Nation in preparing for the final agreement vote.

BAND ASSET VOTE

Depending on how membership is defined in the treaty, a band asset vote may be required. If the "Eligibility and Enrolment" chapter of the final agreement does not specify that current band members are automatically eligible, then a band asset vote must take place at the same time as the ratification vote on the treaty. This vote will approve the transfer of the assets and liabilities of the *Indian Act* band to the self-governing First Nation, and approve the dissolution of the *Indian Act* band. All persons who are 16 years of age or older and are registered members of the *Indian Act* band are eligible to vote in the band asset vote. Approval by fifty per cent plus one of all persons on the *Indian Act* band list is required.



IMPORTANCE OF VOTING

Treaty ratification is a moment of community decision-making about self-government and recognition of constitutionally protected collective rights to lands and resources. The participation of every community member is ideal.

The treaty ratification process requires that all eligible members of a First Nation, living on- and off-reserve, be identified and have the opportunity to enrol.

The ratification threshold is designed to require a high level of participation. It requires that fifty per cent plus one of eligible and enrolled members who are old enough to vote approve the constitution and final agreement. Some Nations may choose to set a higher threshold for their votes.

This formula counts a person on the list of eligible voters as voting **not** to approve the final agreement **unless** they actually cast a ballot to approve it.

Ratification of a treaty is not an individual vote as found in other elections. It is a communal vote on constitutionally protected collective rights to lands, self-government, and resources. No other vote involves collective rights to land and resources, so the voting threshold is meant to establish clear evidence of collective will. As a result, the ratification threshold for a First Nation for treaty is higher than any other voting process in the country.

The federal government requires this threshold because the federal Crown holds reserve and financial assets on behalf of *Indian Act* bands. The fifty per cent plus one threshold ensures that members agree that assets held by the Crown can be transferred to the new self-governing First Nation.

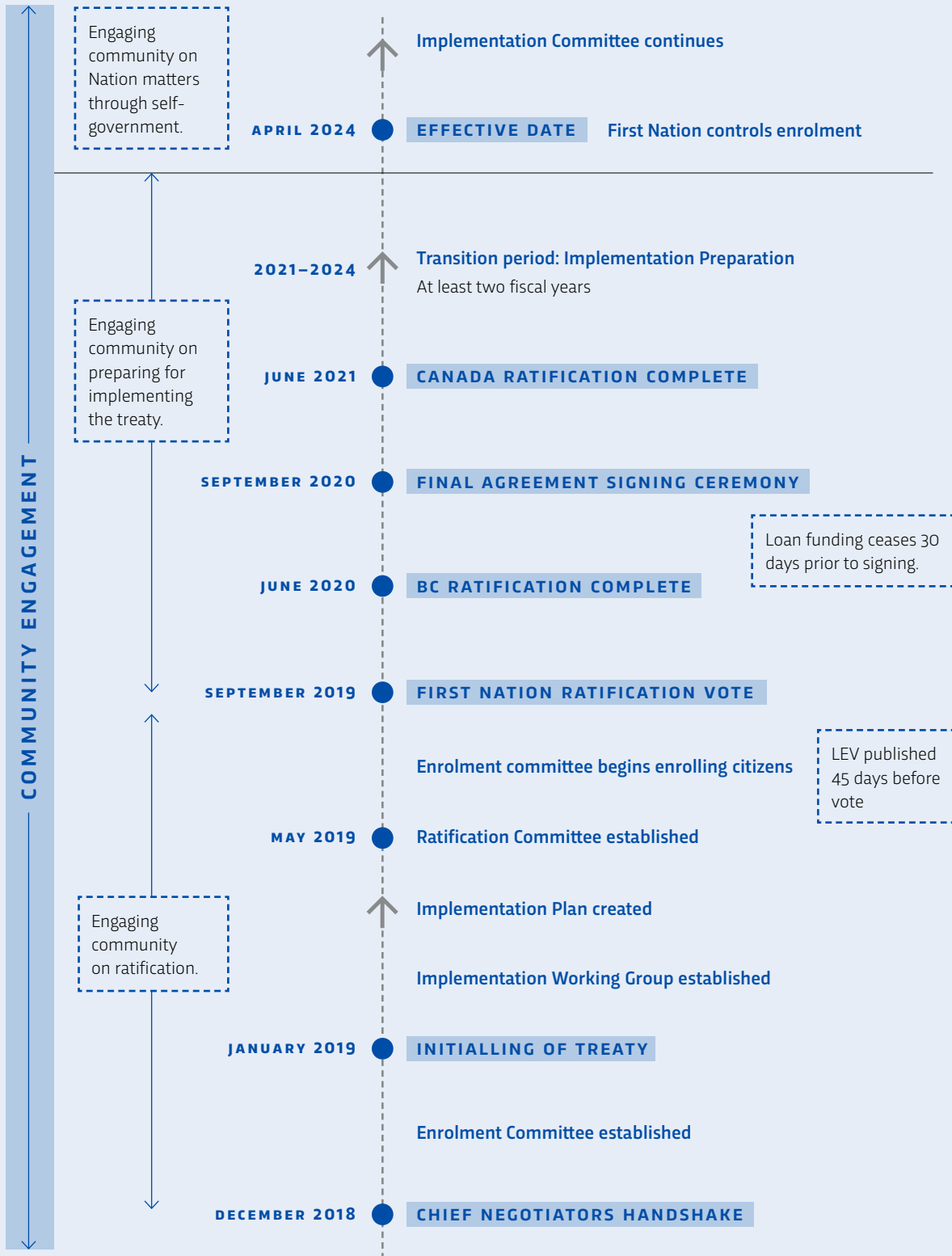
Frequently engaging community members through clear communications and opportunities to participate in treaty negotiations — from early days, through AIP approval, to the ratification of the final agreement — is critical. Providing space for dialogue and taking ownership of new decisions strengthens governance and ensures community engagement carries far beyond the vote.

TIPS

- + Clearly communicate to the community that enrolling to vote comes with a responsibility to show up on vote day.
- + Remind community members that voting is an opportunity to voice their vision for the future.



From Vote to Effective Date: Sample Timeline





Eligibility and Enrolment

SECTION

3

SECTION 3

ELIGIBILITY AND ENROLMENT

Eligibility and enrolment are fundamental to the ratification process. Eligibility is the criteria for citizenship in the Nation, as set out in the treaty; enrolment is the legal process of becoming a citizen of a First Nation.

For ratification the greater community will be engaged, including First Nations, non-First Nations that live in the area, business owners, and school boards. However, only those who are eligible to enrol and have enrolled can vote.

WHAT IS CITIZENSHIP TO YOU?

Ask your community what it means to be a citizen of your Nation. Encourage people to reflect on the benefits of enrolling in a self-governing Nation versus remaining a status Indian governed by the *Indian Act*.

HARMONIZING GOVERNANCE MODELS

For First Nations basing citizenship on traditional or hereditary systems, harmonizing this with *Indian Act* band lists is an added layer of complexity that will be addressed in the treaty.

UNDERSTANDING ELIGIBILITY

For most First Nations — and for all modern treaties ratified in Canada to date — the *Indian Act* band list forms the foundation of the list of members eligible to enrol. The eligibility criteria of the final agreement may provide for the inclusion of additional people who are not on the band list, such as those who may qualify through ancestry or acceptance into the community by traditional legal processes. These additional criteria are sometimes referred to as demonstrated attachment.

It is vital that all those whose rights will be affected by the treaty have the opportunity to vote. By articulating criteria that reflect the community, the “Eligibility and Enrolment” chapter of the final agreement ensures that all legitimate community members have the opportunity to enrol and vote. At the same time, individuals who are not recognized as part of the community are not eligible to vote.

ELIGIBILITY, ENROLMENT, AND VOTING

Eligibility to enrol and eligibility to vote are separated only by an age restriction. Everyone who enrolls is added to the **enrolment register**. The **list of eligible voters (LEV)** is all those on the enrolment register who have reached voting age by the last scheduled day of voting. Post-effective date, all those on the enrolment register are eligible to become citizens.

Sample Eligibility Criteria

Nations define citizenship in different ways. The following are examples of eligibility criteria from treaties in BC.

TLA'AMIN ELIGIBILITY CRITERIA

1. An individual is eligible for enrolment under this Agreement where that individual:
 - a. is of Tla'amin ancestry;
 - b. is registered, or is eligible to be registered, on the Sliammon Indian Band list as of the day before the Effective Date;
 - c. was adopted as a Child under the laws recognized in Canada or by Tla'amin custom by an individual eligible for enrolment under subparagraphs 1.a, 1.b or 1.d;
 - d. is a descendant of an individual eligible for enrolment under subparagraphs 1.a, 1.b or 1.c; or
 - e. after the Effective Date, is accepted according to a community acceptance process set out in Tla'amin Law.
2. Notwithstanding subparagraph 1.d, where an individual having no aboriginal ancestry became a member of the Sliammon Indian Band prior to April 17, 1985 because of marriage to a Sliammon Indian Band member, and that individual subsequently has a Child with another individual having no Tla'amin ancestry, that Child will not be entitled to be enrolled.

TSAWWASSEN ELIGIBILITY CRITERIA

2. An individual is eligible to be enrolled under this Agreement if that individual:
 - a. was a member or was entitled to be a member of the Tsawwassen First Nation band under the *Indian Act* as of the day before the Effective Date;
 - b. is of Tsawwassen First Nation ancestry;
 - c. was adopted under a law recognized in Canada, or under Tsawwassen First Nation customs, by an individual eligible to be enrolled; or
 - d. is a descendant of an individual eligible to be enrolled under subclause 2.a, 2.b or 2.c.
3. Despite subclause 2.d, where an individual having no aboriginal ancestry became a member of the Tsawwassen First Nation band under the *Indian Act* before April 17, 1985, because of marriage to a member of the Tsawwassen First Nation band under the *Indian Act*, and that individual subsequently has a child with another individual who is not eligible under clause 2, that child is not eligible to be enrolled.



MAA-NULTH ELIGIBILITY CRITERIA

As regards a Maa-nulth First Nation, an individual is eligible for enrolment under this Agreement if that individual:

- a. is of that Maa-nulth First Nation ancestry;
- b. was adopted under laws recognized in Canada or in accordance with the custom of that Maa-nulth First Nation by an individual of that applicable Maa-nulth First Nation who is eligible for enrolment under a., b. or c.;
- c. is a descendant of an individual of that Maa-nulth First Nation who is eligible for enrolment under a. or b.; or
- d. is accepted by that Maa-nulth First Nation as a member of that Maa-nulth First Nation in accordance with the custom of the Maa-nulth First Nation and has a demonstrated attachment to that Maa-nulth First Nation community.

UNDERSTANDING ENROLMENT

When enrolling your citizens, it is vital they understand the importance of showing up to vote, and the impacts of not voting. Once enrolled, if an individual does not show up to vote they will be counted as a “no” vote.

During the ratification process all parties have a role in the enrolment process, although the First Nation has the primary role. The enrolment committee, enrolment appeal board, and ratification committee work closely together to determine the final list of eligible voters.

After effective date the responsibility for citizenship is transferred to the First Nation, including the creation of an enrolment process and the maintenance of an enrolment register. While the First Nation controls enrolment post-effective date, the criteria for citizenship can only be changed by an amendment to the treaty with agreement of all three parties.

There could be two enrolment processes, one for voting and one for becoming a citizen. In practice, Nations that have ratified treaties decided it is in the best interest of the community to have one process for both. Choosing a single process requires members who do not want to be citizens of the treaty Nation to disenrol.

At any time during or after the ratification process, people can choose not to enrol or to disenrol for a variety of reasons. If the individual is a status Indian they will retain their status, but will be placed on the general roll as the *Indian Act* band is dissolved through the enactment of the treaty.

Creating the Enrolment Register

Starting early with eligibility and enrolment is critical. Ensuring a complete and comprehensive enrolment register is one of the most important tasks your team will carry out.

The treaty voting process allows for last minute “walk-in” enrolment applications to give every potential voter the opportunity to participate in the ratification process. To act on these last minute enrolments, close coordination is required between the enrolment committee, the ratification committee, and the Chief Electoral Officer.



Teams and Committees

SECTION

4

SECTION 4

TEAMS AND COMMITTEES

OVERVIEW OF TEAMS AND COMMITTEES

There are two teams and two committees instrumental for the journey to ratification. Having community members in leading roles on these teams and committees is an excellent way to build capacity and strengthen the community.

Here is a brief outline of the teams and committees involved in the journey to ratification. Each of these will be further explored in this section.

Negotiation Team

The negotiation team is responsible for representing your First Nation at the negotiation table. The team varies in size and composition from Nation to Nation and is led by a Chief Negotiator.

Early in the process, the negotiation team bears the responsibility for community engagement. The community must be informed of what is being discussed at the table in order to ensure the end result reflects the community vision.

Engagement Team

The engagement team is tasked with supporting the ratification vote and communicating with members in the lead-up to the vote. The engagement and negotiation teams may have some of the same members, but the teams have different roles. The engagement team has the distinct and important job of preparing the community for the ratification vote.

Enrolment Committee (EC)

The EC is comprised of representatives selected by the First Nation to oversee and make determinations on enrolment applications. It reviews and assesses applications against the criteria set out in the treaty to determine whether or not an individual is eligible to be enrolled. The EC establishes and maintains the enrolment register.

While the EC and RC are independent bodies, they work together to ensure accurate and reliable information. In particular, the enrolment register created by the EC is used by the RC to create the list of eligible voters.

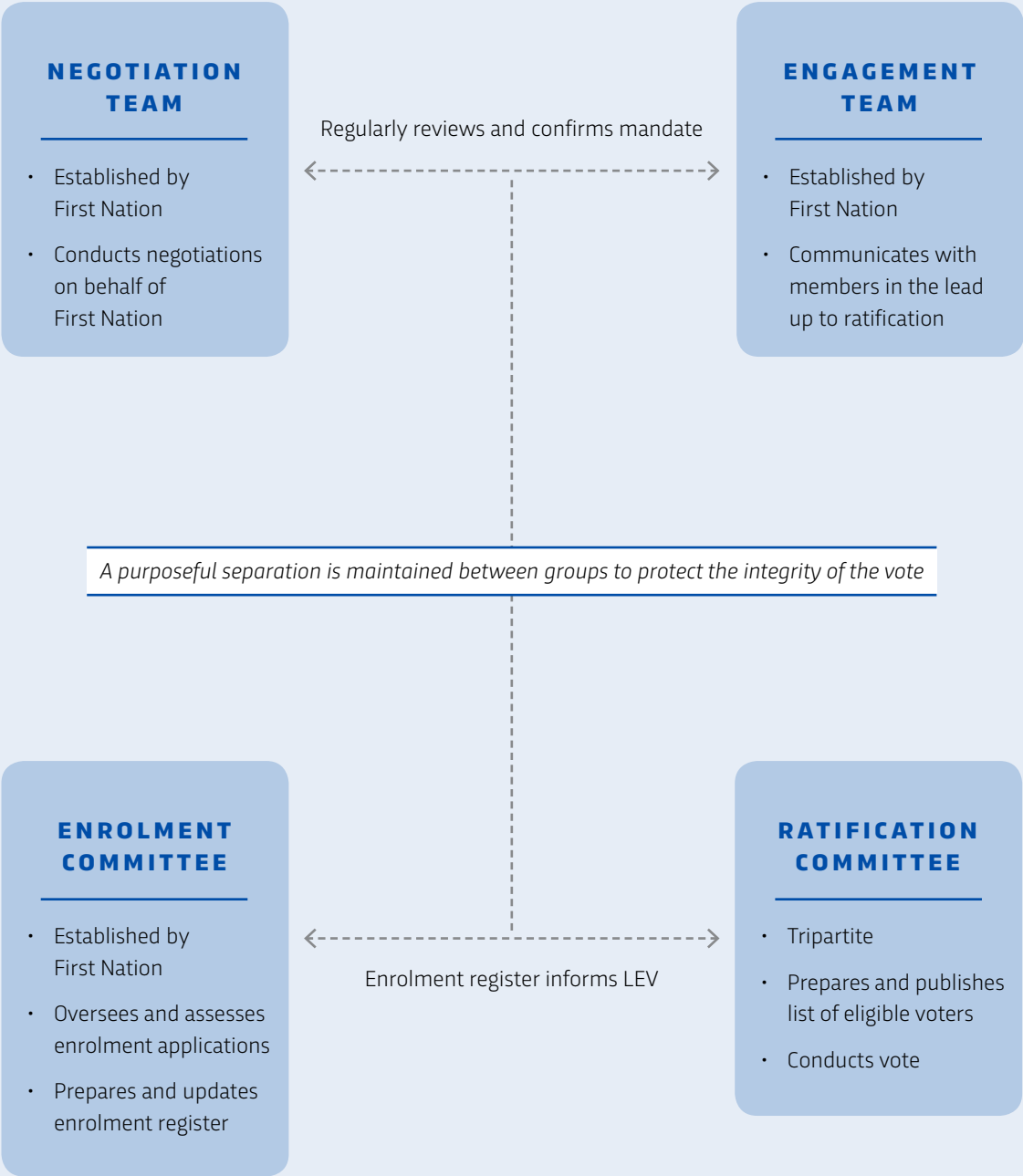
Ratification Committee (RC)

The RC is a tripartite committee with one representative from each party at the negotiation table — the First Nation, Canada, and BC. The RC administers the voting process required to ratify the treaty, including the creation of the list of eligible voters.

The RC applies the eligibility to vote criteria that is outlined in the treaty. Age is the key criterion — some agreements designate 18, and some 16. To vote on the final agreement, a voter must have reached voting age by the last scheduled day of voting.

For information on the roles and responsibilities of the Principals and Parties, visit www.bctreaty.ca.

Relationships Between Teams and Committees



NEGOTIATION TEAM

The negotiation team is responsible for representing your First Nation at the negotiation table. The establishment of the negotiation team happens early in the process as one of the “readiness” requirements of Stage 2: that the First Nation establishes a negotiation team led by a Chief Negotiator. Due to its early establishment, the negotiation team is essential to community engagement.

The composition of the team varies from Nation to Nation, but it is led by the Chief Negotiator who is supported by the rest of the team. Some key roles include: assistant negotiators, treaty manager, and communications coordinator. Many Nations also include issue-specific roles on their negotiation team, such as a fisheries coordinator or self-government coordinator. Sometimes the Chief Councillor also acts as the Chief Negotiator, or the Nation may choose a community leader or an outside consultant.

It is important that your negotiation team be built from within your First Nation, so that the investment in negotiations becomes an added investment in the community. Member participation in all stages builds community support and capacity for the future. Ensure that different groups within the community — such as elders and youth — are part of or liaise with the team. Make sure you have the right people to move the process forward as this is a long and challenging journey.

The negotiation team bears a high degree of responsibility for community engagement and needs to be constantly confirming and strengthening the mandate for negotiations. Section 5 of this guide may serve as a useful tool for supporting the negotiation team’s communication efforts.

Roles and Responsibilities

The central role of the negotiation team is to conduct negotiations on behalf of your Nation.

The negotiation team will:

- confirm there is a comprehensive and clear mandate from the community, and have a timely and effective process to modify that mandate
- represent and advocate for the best interests of your community in the negotiations
- assist the Nation in addressing overlapping and shared territories
- engage community throughout the treaty negotiations process to keep them apprised of what is being discussed at the table
- prepare for negotiations by conducting internal meetings and researching positions
- conduct studies on topics discussed at the treaty table
- maintain records of the treaty negotiations process

TIPS

- + Chief and Council will field many questions about the treaty negotiations process from the community. Having the Chief and at least one of the Councillors continuously engaged and/or on the negotiation team will ensure they are fully aware of what is occurring at the table.
- + The negotiation team is an opportunity to build capacity within your Nation — try to limit reliance on outside consultants.



ENGAGEMENT TEAM

The job of the engagement team is to take the work of the negotiation team back to the community for input and approval. You could also call this the community engagement team, communications team, or ratification team. This team should be established with ample time to engage your community before the vote.

You might have qualified people on your negotiation team who could have a role on the engagement team; however, it is likely that a different group of people with diverse skills will be needed to engage the community as you move toward ratification.

Complement the skills found in your First Nation by hiring people who can support the team to effectively engage the community on complex and difficult topics.

Section 5 of this guide will expand on ways to engage and prepare your community for the vote.

Roles and Responsibilities

The central role of the engagement team is to contact and engage members on the AIP or treaty.

The engagement team will:

- define and communicate key treaty messages to members, including the changes and opportunities that will be created with a treaty
- convene and facilitate issue-oriented meetings aimed at raising awareness
- develop and implement a communications plan

TIPS

- + Include or liaise closely with senior administration so that decisions can be made quickly and resources can be accessed efficiently.
- + Develop a code of conduct to guide the team.
- + Provide training, tools, and support for both paid and volunteer staff. Consider applying for Treaty Related Measure (TRM) funding for capacity building, communication, computer skills, membership tracking, and meeting and event coordination.
- + Train team members to conduct home visits, specifically how to ask/answer questions in a home environment and how to deal with challenging situations and people.
- + Keep a careful record of community questions and follow-up.
- + Build a network of volunteers.
- + Check in often on communication efforts to ensure the team is on the same page.
- + Host gatherings such as “lunch & learns” to update on the status of negotiations, provide opportunities for informal engagement, and build community.
- + Maintain a high level of professionalism with carefully documented plans and protocols.



Qualities of an Effective Engagement Team

A successful engagement team needs to connect with its community. The following are some of the skills and approaches for an effective team:

Approaches

- A willingness to work hard
- Accountability to the community and other team members
- Enthusiasm, perseverance, and confidence
- Tough skin — the capacity to move beyond criticism
- Willingness to challenge entrenched opinions
- Respect for other points of view
- A strong desire to understand the treaty and share knowledge

Skills

- Listens respectfully and carries forward the concerns and wishes of others
- Communicates easily with — and between — diverse constituents, including leaders, allies, and opponents
- Communicates effectively in writing and verbally
- Stays organized
- Absorbs and restates technical and legal information to different kinds of listeners

STRATEGIES FOR ENGAGEMENT

Co-operation strategies: The team builds collaboration in the community and with people and interests outside the community.

Education strategies: The team builds community awareness on treaty and how life will change in a post-treaty, self-governing First Nation.

Persuasion strategies: The team may decide an assertive “yes” campaign is best. To do this, persuasion and lobbying strategies are important and might include leaders and influential members being active in supporting a “yes” vote.

Diffusion strategies: Remember to be hard on issues, not on people. The team should avoid personal association with the campaign. This is especially important if some of the engagement team is also on the negotiation team.

Our treaty team had a passion for communicating about the future of our Nation, and the path to get there. They engaged community and worked long and hard.

SPEAKER | 2014 RATIFICATION FORUM

**Look beyond the negotiation team.
Find qualified community members
who can provide leadership and
guidance for the vote.**



ENROLMENT COMMITTEE

The EC is established by the First Nation and has an important function, as set out in the treaty. It provides the First Nation's due diligence in identifying, contacting, and enrolling potential citizens prior to the vote on the constitution and final agreement. It is made up of three representatives appointed by the First Nation.

The EC and the RC are separate entities, but they should work together to create standard forms and methods of communication. The EC does the majority of its work prior to the vote on the final agreement and creates an enrolment register of citizens based on the eligibility criteria in the treaty.

TIPS

- + Attention to detail is critical when enrolling people.
- + Collect enough information to ensure that a voter who uses a name different than their legal name can be identified (ask, "In addition to your legal name, do you use a different name?").
- + Collect enough information to distinguish between voters who have the same first and/or last name.
- + Collect a photocopy of ID during the enrolment process to provide proof of identity.
- + Confirm the age of the voter.
- + Create a means to identify a person voting by mail-in ballot.
- + Ensure that each application is signed.

HELPING VOTERS VOTE

For Maa-nulth there were approximately 17 walk-in enrolments on vote day, highlighting the importance of having the entire EC present at the polling stations.

Roles and Responsibilities

In fulfilling its obligation to oversee the enrolment process, the EC will review and assess applications against the criteria set out in the treaty to determine whether or not an individual is eligible to be enrolled.

The enrolment committee will:

- develop application forms
- gather complete contact information
- review and assess applications
- create and maintain the enrolment register
- establish procedures for how and when it will communicate with the RC and enrolment appeal board, and how personal information will be kept confidential

The EC also plays a role on vote day and works closely with the RC to plan the best location of polling stations. The EC is responsible for planning how enrolment applications submitted on voting day will be processed and reviewed. It is possible to enrol as an eligible voter up to and including on voting day. However, to simplify voting day as much as possible it is a good idea to encourage registration well ahead of the vote.

TIPS

- + Try to have EC members at all community events leading up to the vote.
- + During events and meetings, gather information to keep your database up to date.
- + Enrolment committee forms need to be user friendly. Keep them simple and ask only for the information you need.

Enrolment Appeal Board

The enrolment appeal board is a small team with members appointed by the First Nation and Canada. It identifies its own internal processes, including procedures, time limits for decisions, and record-keeping. Individuals may seek judicial review of decisions of the enrolment appeal board through the Supreme Court of British Columbia.

WORKING TOGETHER

To ensure an effective voting process at multiple geographic locations, the entire Tsawwassen enrolment committee attended each poll to process last-minute enrollees on the spot. Because of their knowledge of the community, the Tsawwassen ratification committee had first-hand information on finding the whereabouts of voters who had not voted yet by late afternoon. Consequent follow-up was usually successful in bringing the voter to the poll.

TSAWWASSEN RATIFICATION COMMITTEE REPORT

SAMPLE TIMELINE

Tsawwassen First Nation (TFN) Ratification Process

FEBRUARY 2007

Ratification committee is established.

APRIL 2007

Enrolment committee begins enrolling citizens.

9 MAY 2007

Rules and procedures are developed and approved.

10 MAY 2007

List of eligible voters is published.

11 MAY 2007

Rules are posted on the TFN website — 9 days ahead of the 60-day requirement for posting.

JUNE 2007

A Critical Path to the Vote consultation plan is developed to ensure community members are properly and thoroughly informed about the treaty.

25 JULY 2007

Vote on the final agreement is held at the Tsawwassen Recreational Centre on the reserve. Advance polls are held on 20 July 2007 in Vernon and on 23 July 2007 in Bellingham.



RATIFICATION COMMITTEE

The RC is responsible for administering the ratification process for the final agreement and constitution votes. The RC must be independent and ensure that the process is conducted fairly and impartially — it cannot act for or against the treaty. It is made up of one representative from each of the three Parties.

It is important to carefully consider the qualifications of the RC representative. The person should have no political bias, be familiar with the Nation's membership, be a good communicator, and have administrative skills.

Effective and transparent enrolment and ratification processes will minimize the likelihood of a successful legal challenge of the outcome.

Be transparent about the appointment process. Some teams recommend posting the job and having community members apply.

Roles and Responsibilities

The primary role of the RC is to administer the voting process required to ratify the constitution and the treaty. This includes creating the list of eligible voters, which is done by applying the eligibility to vote criteria outlined in the treaty to the enrolment register.

The ratification committee will:

- hire a Chief Electoral Officer
- create and publicize the list of eligible voters
- develop and publicize rules for the vote
- coordinate polling stations
- count and publicize the results

TSAWWASSEN VOTER TURNOUT

Getting out the vote was the main preoccupation in the last month before TFN's ratification vote. The RC and EC went through extraordinary efforts to reach every voter. Each voter was called at least four times. Special ballot collection trips were arranged for voters that could not mail their ballots in on time, or could not vote on the specified date.





Community Engagement

SECTION

5

SECTION 5

COMMUNITY ENGAGEMENT

Engaging the Nation for such an important decision is empowering. It is an opportunity to enhance community participation, answer important questions about the future of the Nation, address concerns and misunderstandings, and prepare for self-government.

Your Nation will have already conducted community engagement throughout the negotiations. The treaty negotiations process is long, involving complex and technical discussions, and people will inevitably become fatigued.

The lead-up to ratification will be an opportunity to reenergize those efforts. Thoughtful planning will make the best use of this opportunity for community participation.

It is recommended that you engage your community members at every opportunity in your ratification journey. Start early by engaging leadership and community members to collaboratively construct a long-term community vision to guide your negotiations and engagement initiatives.

COMMUNICATIONS STRATEGIES

Experience has shown “top down” planning (i.e. undertaken by a small group of people with little to no input from the community) rarely works and can be a source of misunderstanding and conflict within the community. A “bottom up” participatory approach that is open and inclusive creates trust, ensures the credibility of the process, and improves the effectiveness of your communications plan or strategy.

Your plan will be unique to your Nation's vision, grounded in cultural values, practices, and traditions. Each First Nation will determine how to incorporate cultural practices into the plan.

TIPS

Questions to ask as you undertake your plan:

- + Do we have adequate resources — human and financial — to meet our goals?
- + What constitutes completion of a task or activity?
- + How can we reach out to other community members or allies to assist us?
- + What do we do when things are not working?
- + How do we incorporate new information into the plan?
- + How will we monitor progress?



Developing Your Communications Strategy

A communications strategy is a written document that describes how key messages will be communicated to target audiences for a specific purpose or objective. It will normally have an internal audience (e.g. leadership and staff) and an external audience (e.g. the larger community), and will be designed to reach both audiences in different ways. The communications plan will include specific tools, approaches, and activities through which key messages will be communicated to target audiences.

A communications plan is not just an information campaign — it should be built on a long-term engagement strategy. Engagement means people are actively contributing and being heard.

TIPS

When developing your communications plan, include:

- + A situation analysis (SWOT)*
- + Communications goals
- + Creative strategies, materials, and activities
- + Timelines and budgets
- + Responsibilities and duties
- + Analytics (a plan for monitoring results and measuring the impact of your strategies)
- + Strategies for regularly updating materials

* See the "Resources" section of BCTC's *HR Capacity Toolkit* for detailed instructions on conducting SWOTs.

ADDITIONAL RESOURCES

For more information on how to develop an effective communications plan, including templates and examples, refer to INAC's [*First Nations Communications Toolkit*](#) and BCTC's [*Human Resource Capacity Tool for First Nations*](#).

The objectives of a communications strategy are:

- To inform the community about the treaty negotiations process, including its goals and benefits
- To educate the community about the specifics of the AIP or treaty
- To exchange ideas and information with community members about the community vision, objectives, and priorities
- To build strong support for the AIP or treaty

People want a respectful process where everyone knows what to expect, are free to express their opinion, and can problem-solve.

There are a wide range of communications approaches, materials, and tools you can include in your communications strategy. Providing clear, timely and full information is key to building trust, and it ensures people have the information they need to make an informed decision when it comes time to vote.

Some First Nations hired an outside consultant to help write the communications plan, but your team and your leadership need to be closely involved in creating and implementing the plan.

Important! Engagement requires continuous innovation to avoid burnout. Maintain the negotiation and engagement teams' public profile by holding events that are not focused on the treaty so people do not get "treaty fatigue."

Strategic Considerations

Create branding and key messages. It is essential to develop key messages and a brand for your campaign. Branding is the expression of the essential truth or value of something. Branding creates a unique name, message, or image to establish a clear and significant presence. A consistent, recognizable brand establishes trust with your community. Key messages need to be repeated often and included in materials.

Start early. Jointly create a vision with leadership and community members early on to ensure communications are connected to your mandate and speak directly to your Nation's vision.

Each Nation started off with one communication worker and I think the Huu-ay-aht First Nation ended up with 15 at the end. So that was our first step: we made a proposal for funding. The next step that we took was establishing a relationship with a communications expert, and gathering people for a communications strategy. This strategy included leadership, both hereditary leadership and elected leadership. It involved all staff, all of the negotiators, all the technical people, key community people, and anyone else that was interested.

HUU-AY-AHT FIRST NATION | 2014 RATIFICATION FORUM

BRANDING IN ACTION

Examples of branding in two AIP approvals:

- Kitselas branded their campaign: "Countdown to Independence," with the word "Independence" often repeated in other communications.
- Kitsumkalum negotiations were branded as the "Road to Independence."

Avoid engagement fatigue. Plan meetings on focused issues and be strategic with outreach initiatives. For example, making phone calls is a useful outreach initiative, but it needs to be used sparingly. Some Nations reported that phone calls were not always met with enthusiasm, but they are a vital tool for reaching people who live away from home.

Contemplate terminology. Some words can be lightning rods for deeply held emotions, so avoid "hot-button" terms that will create issues.

WORD CHOICE

Should you use the term "community" or "Nation" in your outreach? What is most inclusive of everyone you want to involve in your process?

The "on-reserve"/"off-reserve" distinction might not be helpful as everyone has a vested interest in the treaty and needs to feel part of the process, no matter where they live. Avoid dividing community members by labelling them. It is more effective to talk about your community as one Nation.



Use milestones to guide content. Pay special attention to the timing of your communications as it should always relate to the First Nation's progress in treaty negotiations. There are key milestones in negotiations, and different strategies are required for each.

KEY MILESTONES

The AIP sets the stage for further negotiations. Although it is not legally binding, the AIP is a significant accomplishment. At this stage the First Nation is seeking a mandate from the community to keep negotiating and complete the work on the treaty.

The final agreement is the end of the negotiations process and marks the beginning of a new relationship. The final agreement consolidates the lands, resources, capital transfer, and self-governance powers that will be the basis for this new relationship. Communicating for the final agreement ratification vote means seeking a mandate from the community to move into the future in this new relationship.

Set goals. Identify key goals to be met in the lead-up to the AIP approval or treaty ratification vote. Setting goals builds on and strengthens the community vision by providing a checklist of important issues or concerns that will be addressed in the communications plan. Goals also help the engagement team make choices and build consensus.

Conduct community surveys. Community input is a valuable source of information that helps build support for the ratification process and improve the communications plan.

TSAWWASSEN POST-RATIFICATION SURVEY

TFN found that printed material was the preferred way to receive information, no matter where people lived. Family meetings were the second favourite way of receiving information, especially for those living in the US. Community meetings were third, followed by email. Only 3 per cent considered the website a preferred source.

SET SMART GOALS

Communications goals consist of short action statements with specific outcomes.

Goals should be **SMART**:

- S**pecific – not too general
- M**easurable – easily evaluated
- A**chievable – can be done
- R**elevant – applicable
- T**ime Dated – clear time frame



Locating Your Citizens

Making best efforts to locate community members is a required step to ensure that all eligible citizens are adequately engaged and have a reasonable opportunity to review the treaty.

Contact information is needed for everybody living both on-reserve and away from home. It is important to gather all types of contact information (email, phone, addresses, etc.). Be sure to designate sufficient — and substantial — resources to this project.

A first step is ensuring you have an up-to-date band list from Indigenous and Northern Affairs Canada. Social media can also be a useful tool for locating people living away from home. Many First Nations that have gone through treaty ratification describe an intense process of “sleuthing” to find and contact all of their eligible citizens. It is important to be creative with strategies and persistent with outreach.

TIPS

- + Use data from censuses or historical lineage databases.
- + Contact people through family members.
- + Use social media to help find community members living away from home.

Understanding Your Community Members

It is important to understand your community members: Who are they? What are their interests? Who has influence on decisions? Who is eligible to vote?

It is useful to note peoples' preferences on contacting them since these preferences will inform your future strategies and follow-up for individual questions and concerns about the treaty. It can also provide insight on voter support.

This list provides a number of characteristics to consider when planning communications. It will be helpful in identifying your First Nation's demographics:

- Elders
- Youth
- Students
- Elected leaders, hereditary/traditional leaders, and unofficial leaders
- On-reserve members and those living away from home
- Status and non-status
- Band members and other members as defined by the community
- Family groups
- People who were adopted out or removed from the community
- Business owners
- Land owners
- Education and literacy levels
- People dependent on social assistance
- Dissenters



Creating Your Database

Once community members are located, setting up and managing a database is crucial. It should be a living source of information that is constantly updated. The database is like a team member.

You will need to designate at least one person to create and manage the database. Do not underestimate the time and resources required for this task.

The database should include people's contact information, as well as their preferences for being contacted and frequency of communication: Who has been called and when? Who was visited and when? Who came to what meeting? Who has additional questions? When were those questions answered?

POTENTIAL DATABASE SOFTWARE PROGRAMS

There are numerous software programs that can be used, including:

- Consultation Manager
- Highrise
- Xyntax
- Excel
- Access

Our voting population hit 700. We were using Excel but it became too cumbersome. So we designed a database in a system called Access. It categorized citizen demographics and could track and analyze the various age groups, participation in meetings, and input, etc. Then we could formulate a strategy on how we could get to specific people if they were not attending meetings.

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COMMUNICATIONS MATERIALS

For communications materials, one size does not fit all. People learn differently, therefore different methods of communicating are necessary.

Materials and tools commonly used:

- Informational videos
- Graphics, photos, and other visuals
- Telephone campaigns (personal contact, notification of meetings, seeking opinions, scheduling home visits, etc.)
- Brochures
- Newsletters and bulletins
- Discussion papers and plain language summaries (of meetings, the treaty, etc.)
- Treaty summary charts
- Maps
- Banners for key components (land, cash, governance, etc.)
- Frequently asked questions (FAQs)
- Radio and newspaper advertisements
- Promotional items
- Surveys and feedback forms
- PowerPoint presentations
- Toll-free informational phone line

TIPS

- + Consider hiring writers and designers to prepare materials.
- + Borrow ideas for materials from other Nations (with permission).
- + Make sure materials are always up to date.

Compile FAQs. Create a list of common concerns (hunting and fishing rights, healthcare, housing, taxes, etc.) and answers to go with them. Post these on the treaty website and on bulletin boards.

Develop fact sheets. Create posters that dispel common myths about the treaty and display them at each community meeting.

Create videos. Use videos to effectively tell a story. Interviews with elders and young people can be really effective. Ask them what they think about the treaty and their vision for the future. Use different visual formats (informal videos as well as high-production videos).

Write summaries. Life before and after treaty summaries are useful to show people the practical effects of the treaty on their lives. Frame messages according to practical impacts for individuals: "How will I benefit from treaty?" "How will the whole community benefit from treaty?"

POTENTIAL PROMOTIONAL MATERIALS

- Branded USBs containing an AIP or final agreement fact book or plain language summary
- Tote bags
- Pens
- Pins
- Phone cases
- Clothing (shirts, sweaters, hats, etc.)
- Water bottles and travel mugs

Make a pros and cons list. Dissenting opinions are valuable. Listen to all opinions at community meetings, and make a list of pros and cons for particular topics. Tackle the cons head-on and acknowledge the tradeoffs and compromises needed to reach an agreement. Presenting the whole picture will help the engagement team gain credibility.

Conduct surveys. Ask your community key questions using their preferred method of communication (e.g. newsletters, emails, website, social media, etc.). See the "Resources" section of BCTC's *HR Capacity Toolkit* for detailed instructions on conducting surveys.

BE CONSISTENT IN MESSAGING

- Have a strategy (including communications materials) for each topic.
- Have materials ready before the start of the campaign.
- Provide training on talking about specific topics and answering questions.
- Clarify facts at every opportunity.
- Be prepared to respond quickly to negative messages and misinformation.



Considerations for Communications Materials

Be visual. Pictures and graphs are helpful to communicate complicated information, such as financials and lands. Visually depicting complex information can be helpful in addition to written materials.

Be creative. Try taking your vision statement and turning it into a picture or a map of where your community wants to go. One Nation converted its vision into a beautiful picture and then laminated a smaller version of the picture to give out to community members at events where the treaty negotiations process was being discussed.

Be specific. When preparing presentations and handouts for meetings, include concrete and factual information.

KEEP THE NEWS COMING

Northern Secwepemc te Qelmuw (NStQ) partners with the Williams Lake Tribune to publish *Lexey'em* (to tell a story) bi-monthly. The newspaper is available at the Northern Shuswap Tribal Council office as well as numerous community locations (including the library and friendship center) and online. The paper includes staff reports on the treaty negotiations process, FAQs, human interest stories, and short articles by the treaty staff.

Kitsumkalum regularly releases its *Treaty Times* newsletter, which is delivered door-to-door, sent through the mail, and available online. The newsletter includes current events, notices of meetings, messages from the negotiation team, and human interest stories.

Appeal to your community's aspirations.

Communications have a bigger impact if a shared vision for the future and a commitment to a better quality of life are tied in throughout the process. Link materials back to the Nation's vision for its future.

Appeal to the next generation. A common theme for Nation negotiators is to make life better and provide opportunities for the next generation.

TWO-WAY VS. ONE-WAY COMMUNICATION

Two-way communication channels, such as face-to-face meetings, are best when messages contain ambiguous information or are emotionally charged. They provide feedback and a chance to discuss and clarify information.

One-way communication channels, such as press releases, memos, or e-mail announcements, are best used for information that is straightforward and less ambiguous.

TIPS

- + Be credible and balanced.
- + Use easy-to-understand language.
- + Be clear and concise.
- + Address people's expectations realistically.
- + Use engaging visuals.
- + Use stories and examples.
- + Appeal to the heart and mind.

Nation staff will be asked many questions, so educate them early in the engagement process. If possible, include them on the engagement team.

New Media Tools

TREATY WEBSITE

Your treaty website can provide information, updates, resources, and useful links. Monitor website visits and usage through analytics tools, such as Google Analytics, to understand how your website is being used. Websites can also provide members-only access for certain information, such as treaty documents, meeting summaries, newsletters, and links to live webcasts or video recordings of meetings. Keep in mind this kind of member-only access can be time consuming for treaty staff to manage. For example, members can lose logins and passwords, and will need technical support from staff members.

FACEBOOK

Facebook can be a useful tool for locating and reaching out to community members, and informing people about meetings and events. It can be used to have ongoing conversations that people can add to at their convenience. A good rule of thumb is to post once or twice weekly and have a staff member monitor the site daily. The team should respond to questions in a timely manner. Use differentiated Facebook groups, such as one specifically targeting youth or elders. Facebook can become a forum for negative comments, hostility, and misinformation. Team members must take down inappropriate postings as soon as possible, but care must be taken to not restrict constructive debates.

TWITTER

Twitter is for sharing 140 character messages, either as a one-way communication or a real-time conversation. It allows for quick responses and circulation of succinct key messages. Because of the speed of Twitter conversations, sometimes people get drawn into personalized debates and attacks. Twitter activity should be limited to team members who are properly trained in the use of Twitter.

AUTO MESSAGING

Services are available to send out phone calls or texts informing community members about meetings or providing small amounts of information.

SURVEYS

Survey Monkey or Google Polling can be used to gather information and input. Consider polling prior to creating the communications plan, as well as leading up to and after the vote.

EMAIL MARKETING

Listserves (automatic mailing lists) can be compiled and used to email newsletters, announcements, meeting invitations, and information sheets. Popular email marketing services include MailChimp and Constant Contact.

YOUTUBE AND VIMEO

Create and share videos about the treaty and other related information, such as community events, meetings, and interviews with treaty champions.

SKYPE

This video conferencing service can be used to communicate with community members at a distance and hold informational meetings for small groups.

BLOGS

A blog is a website with individual posts that are often written in an informal style. It can serve as an online newsletter to provide ongoing information about and analysis of the treaty and the negotiations process.

Using Social Media

Social media is a powerful communications tool. Prior to engaging in any social media campaign, a clear social media policy should be developed. This might include the following considerations:

- Potential legal liabilities
- The use of the personal accounts of treaty office team members versus formal, approved channels
- Responsibilities for managing content and responses: Who will approve content and check for quality control?
- Strategies for dealing with negative responses from the public, misinformation, and confrontational or inappropriate uses
- Personal safety of treaty team members online
- Engagement of non-community members and wider target audiences
- Ground rules for respectful engagement
- What is for community members only and what should be public

To build a social media audience, consider offering computer classes to elders. For example, one First Nation provided a four-week computer course for elders and invited them to share and discuss treaty information online.

Critics use social media often and effectively. Instead of ignoring these sites, many engagement teams actively join opposition Facebook pages or regularly visit opposition websites to better understand the concerns and issues.

Some engagement teams hire consultants to help craft social media strategies and provide training.

BUILDING COMMUNITY THROUGH COMMUNITY EVENTS

Listening to community members is as important as sharing information with them, so be creative with the meetings and gatherings you convene.

Set a high standard for your community meetings and events — in the words of one staff member, “Aim for class in all you do.” It is important to present a professional image, and staff and facilitators should be well trained.

TIPS

- + Avoid scheduling conflicts with other popular activities. Keep in mind gathering, fishing, hunting, and other important seasonal activities.
- + Be consistent — have a schedule of meetings, and always follow through.
- + A personal invitation to a meeting or event is more effective than a blanket invitation.
- + Pay attention to detail. Make sure even the small details of gatherings are attended to. For example, consider providing childcare during events to support parents of young children to attend.

Types of events or meetings that have been used as part of outreach strategies include:

Meal gatherings such as dinners, monthly potlucks, or pancake breakfasts. Meal gatherings are great for building relationships. Make treaty information available without it being the focus of the event.

Small group meetings can be advantageous in enabling meaningful conversations about the treaty negotiations process. Small groups allow for more interaction, dialogue, and active participation.

Informational/community consultation meetings should be convened for specific topics, such as or chapters of an AIP or final agreement. Consider bringing in experts to answer questions if the topic is legal or technical, or ask other First Nation leaders to talk about their experiences with treaty.

Family meetings are an opportunity for individual families to meet face-to-face with the team to discuss the treaty. Topics may include the Nation's constitution, harvesting rights, impacts on health benefits, and the importance of voting.

Treaty information fairs are a casual way to learn about the treaty and can include information booths, auctions, fun activities, and raffles.

Certificate of Possession (CP) consultation meetings involving legal advisors can be held with each CP holder.

Land tours are a good way to visit ancestral lands and will help them better understand the territory being discussed, the proposed treaty settlement lands, and the land use and economic development plans.

TOUR TERRITORY

"Katzie Day" involved taking people out to visit the territory and organizing meals and sports activities to engage the Katzie First Nation membership.

Youth forums are useful to engage the next generation of leaders and soon-to-be-voters. These events should be different from general informational meetings. Consider co-designing and facilitating with youth. Youth share information with their family, and can be another way to reach broader family groups.

LEARN FROM YOUTH

At its citizens' assembly, Northern Shuswap Tribal Council convened a youth forum during which a mock AIP vote was conducted. The presenters gave the young people a scenario about how to spend money and different positions to role-play. This was an important learning experience for the youth and got them engaged in the treaty negotiations process.

Annual general assemblies (AGAs) provide opportunities to inform people about progress in treaty negotiations, and present on specific treaty chapters. Some Nations renew their treaty negotiations mandate at their AGAs.

REFLECT ON COMMUNITY EVENTS

- What was the high point? What was the low point?
- What goals did we have and to what degree were they accomplished?
- What did we learn?
- How was the overall tone or atmosphere?
- Were the logistics (such as date, time, or location) appropriate and well-known?
- What worked well? Why?
- What did not work so well? How could it have been improved?
- Were people uninterested or bored with the agenda, reports, or discussions that were happening?
- Did people withdraw or feel isolated?
- Was attendance high or low? Why?
- Did people arrive late or leave early? If so, why?
- Was there an appropriate use of resources?
- What was the most important experience of the event? What was the least important experience of the event?
- What expectations did we have at the beginning and to what degree were they met? How did they change?
- What was overlooked or left out?
- What else would we suggest be changed or improved and how?

Scheduling Meetings

One way to manage information is to have a schedule of meetings. Widely publicize the schedule well in advance of meetings, including the topics that will be covered at each meeting.

TOPIC-SPECIFIC MEETINGS

In addition to general community meetings, Tsawwassen First Nation held topic-specific meetings that allowed in-depth discussions on key topics. These meetings also demonstrate respect for people's time, and they give the community a chance to learn about complex issues in more depth. Having topic-specific meetings enabled general meetings to stay on agenda by providing people with other opportunities to engage in specific concerns and more in-depth dialogue.

TIPS

- + It can be helpful to ask for questions prior to meetings, and prepare answers ahead of time to disseminate at or before the meeting. This can help to diffuse anger or frustration on difficult issues beforehand.
- + The leadership needs to be well briefed and prepared to clearly explain the implications of the treaty during meetings.
- + Include enough space and time for an open microphone so people can express concerns and aspirations, and feel heard.
- + Be clear with the time limit to reduce digression.
- + Do not rely solely on negotiators to explain or defend the treaty.

TIPS

- + Provide two to six weeks of notice in advance of meetings.
- + Publish a calendar of topics that will be covered at specific dates and times.
- + Provide the agenda and format of meetings.
- + Create advisory committees to help bring community concerns to the table. Effective committees hold open meetings and are made up of a cross-section of your community — such as on and off-reserve, hunters, fishers, CP holders, youth, and elders.

Facilitating Effective Meetings

Organizing effective meetings is a critical skill for the team. Meetings with a clear purpose increase community participation, maximize opportunities to communicate important messages, and engage new treaty champions.

Always have a goal (or goals) for your meeting, and an agenda to help guide the meeting towards this goal. Set the agenda in advance so people come prepared. The agenda can vary depending upon the type of meeting and the nature of the group being convened.

Every meeting should have a clear goal or purpose. It might be:

- Information exchange (acquiring or disseminating information)
- Visioning
- Learning (topics and skills)
- Critical thinking (analysis, goal setting, problem solving, decision-making)
- Building strategies
- Building relationships and commitment

TIPS

- + Provide opportunities for particular expertise of people in the group to be expressed, but don't allow expertise to dominate the conversation.
- + Trust the process and don't feel the need to control the conversation.
- + Don't be afraid to "call what you see." It may actually move a group along.
- + Use silence to press the group when a difficult or sensitive issue is being discussed.

Respect the rules. As a group, set ground rules and identify principles of conduct for the meeting. If there is an interruption or the discussion veers off topic, remind the group of the agreed upon ground rules and the need to stay on topic.

Logistics matter. Select a location that is neutral for all interested people, appropriate in size, and easily accessible. For off-site locations, provide transportation or ensure public transportation is nearby. Organize audio-visual systems if necessary. Plan to provide refreshments and childcare.

Use a facilitator. A team member experienced in facilitation can play this role, or an external facilitator can be hired. For larger meetings, an external facilitator can be useful to allow team members to participate in the discussions and take notes.

Personal Outreach and Home Visits

Some people are not interested in, or comfortable with, going to larger community meetings. Home visits are an opportunity to engage these people through one-on-one dialogue to provide treaty updates and answer questions.

Have a concrete purpose for door-to-door visits. The visits should be practiced and organized so that every team member says the same information and is prepared.

Questions forms are a useful tool for keeping track of issues raised. Always follow-up on questions — this follow-up legitimizes community engagement efforts. Home visit information booklets are also helpful.

Living Away from Home

People living away from home (off-reserve) have unique interests that need to be included and understood. Off-reserve meetings provide an opportunity for community members to meet face-to-face with the team to discuss the treaty. Schedule meetings regularly in cities where your community members reside. Video conferencing can also be used to reach these community members.

TIPS

- + Actively solicit help from the participants when a question is raised.
- + Make best efforts to ensure everyone has the opportunity to participate and contribute.
- + Encourage questions. Take note of them, and hand out cards for people to write their questions. If time does not permit answering all the questions, use the cards to follow-up.



CITIZENS BENEFIT PACKAGES

K'ómoks First Nation put together a “citizens benefit package” that focused on how off-reserve members will also benefit from the treaty. This information was communicated in person, by phone, and by email. When team members could not answer questions on the spot, they would promise to answer with the minimum of delay.

Throughout our negotiations, community engagements were held in our four villages and three urban locales. We're 60% off-reserve, so we made arrangements to have meetings in each town. So it was a lot of work, but we were glad we did it and we made contact with a lot of members that have never, ever been home.

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Keeping a Public Profile

It is important to keep a public profile with the community by providing opportunities to engage people without everything being about the treaty. Examples include events for kids, such as movie nights, fun-in-the-sun days, Christmas parties, and other events such as craft bazaars, tables at trade shows, genealogy workshops, and elders' luncheons.

One alternative engagement strategy is a citizens gathering — which is kind of like a retreat where we take our citizens for a weekend, provide childcare and a nice environment to engage in our major initiatives.

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MOTIVATING PARTICIPATION

Interest and discussion about the treaty negotiations process is strong around the time of an AIP approval or final agreement ratification vote. However, the challenge for many First Nations is motivating participation in events and discussions in the years and months prior to the formal vote.

Bring the community together for fun events that strengthen trust and build relationships. A well-informed community will be better able to make sound decisions about its future.

GET PEOPLE TO PARTICIPATE IN EVENTS

- Door prizes — draw winners at the end of the meeting.
- Treaty 101 bingo with prizes.
- Pancake breakfast — great for team meetings or informal community gatherings.

The old ways are there for a reason — I'm quick with email, but if you gather over a meal, they will come.

TSAWWASSEN FIRST NATION | 2014 RATIFICATION FORUM

Important! There is a correlation between attendance at meetings and ultimate voter participation. Use event attendance as a gauge for determining the success of your engagement strategy.

Treaty Champions

In addition to your Chief and Council and the negotiation team, look for other leaders in your community that can become treaty champions. Draw from your youth, elders, Nation staff, business owners, or hereditary/traditional leadership. These are all key decision-makers for the future of your First Nation and they have the ability to build support. Involve them as leaders and key members of the team, and provide them with the training and tools necessary to champion the treaty.

WORKING WITH YOUNG PEOPLE

Recognize the energy of youth and their enthusiasm for a better future. They are future leaders and voters, and they have the ability to communicate with their peers, parents, and family. Empower them to do positive outreach and to be effective spokespeople. Do not just utilize them for outreach to other youth; they should be part of the communication efforts with the whole First Nation.

For example, Wuikinuxv Nation includes youth in its AGAs, and has a youth member participate in the Constitution Working Group.

Other First Nations invite school tours to their treaty offices and make presentations to students. It is important to find meaningful ways to give youth a real voice in the decisions that are made.

NEXT GENERATION OF LEADERS

Key statements from youth on Tla'amin's effective date:

When the Statement of Intent for our treaty was put into place, back in December of 1993, I was 22 days old. Today, when our treaty is being implemented, I am 22 years old. It is a great achievement for our Nation, and over that time I have seen a lot of great effort from a lot of our leaders, and I've seen a lot of progress.

DREW BLANEY

Words can't express how I feel today. I am happy, excited, exhilarated. It's amazing. Especially knowing that my kids will not have to live a day under the Indian Act. That's a good feeling.

RYAN PIELLE

Identifying Alliances

Building alliances with your neighbours and other interest groups can be a key source of support for ratification. These alliances will often be drawn from leaders in local municipalities and businesses, and can join the treaty champions from within your community to create a "coalition of champions" for the ratification process. This will broaden your support and create a critical mass to help build and maintain momentum for community action.

Alliances with neighbouring communities, businesses, and other partners can also provide resources — such as prizes, meeting space, and transportation — to support your communications efforts.



Testing Support

Conducting early polling on key decisions leading up to the AIP approval or treaty ratification vote can be helpful in engaging people and gauging their support. These polls can provide information on voter opinions and identify gaps in public knowledge. However, conducting early polls can be expensive. The team needs to be strategic about when and why polls are conducted.

Tsawwassen First Nation found that its community members liked to vote on issues throughout their 15-year treaty negotiations process. They voted on lands issues, their *First Nation Land Management Act*, and their AIP and final agreement. The effectiveness of Tsawwassen's strategy was reflected in the final turnout for their ratification vote: 96 per cent of eligible and enrolled voters voted.

The results of the votes that we have held demonstrated that our ongoing engagement actually does result in strong support, as the community knows where it is going.

TSAWWASSEN FIRST NATION | 2014 RATIFICATION FORUM

Warning: Organizing a full mock vote for the whole community can be confusing and generate unnecessary anxiety. This tool should be used sparingly and for targeted purposes. Staggering the constitution vote and the final agreement vote is a way of engaging community members in a real vote and will gather similar information as a mock vote.

Understanding and Addressing Concerns

Change can be difficult, and shifting from the *Indian Act* back to self-government can generate concern and uncertainty among some people. The team must listen and respond to that concern. Most people need assurance that, although change is going to come, the change will be positive. Identify the community's greatest concerns and ensure your communications strategy addresses those concerns.

TIPS

- + Expect community members to call the treaty office expressing concerns. These people may be expressing widespread opinion. Train staff to answer these calls.
- + Monitor the issues raised and incorporate responses into your communications plan. Reach out to others who might share these concerns.
- + Anticipate that Councillors might reflect the dissenting views of some community members.

Managing Misinformation

It is hard to manage misinformation. Understand that extreme views are going to be communicated, and it is best that you deal with them directly to counter negative campaigns. Misinformation is especially challenging in the world of social media.

The best way to dispel misinformation is by providing the facts in a safe environment that allows for two-way communication.

TWO-WAY COMMUNICATION

Utilizing two-way engagement methods, such as face-to-face meetings, provides:

- people with information to make informed decisions
- opportunity for community input
- greater transparency for the process
- feedback to the team so that communication strategies can be tailored to specific community needs



The Vote

SECTION

6

SECTION 6

THE VOTE

RATIFICATION CONSIDERATIONS

The ratification vote is the community's decision — its consent — to move forward with the treaty, and away from the *Indian Act*, as a self-governing Nation.

The constitution and final agreement must be approved by a majority of eligible citizens who are enrolled to vote. The final agreement is not ratified by a simple majority of voters who turn out; instead fifty per cent plus one of all those on the list of eligible voters are required to vote “yes” for the treaty to be ratified.

TSAWWASSEN EXPERIENCE

For the Tsawwassen vote, the framework and steps of the actual voting process were outlined in a set of published rules. The high quality of the voting process was due in large part to the experience and professionalism of the Chief Electoral Officer and her staff, and to the diligence and insights provided by the engagement team, EC, and RC.

Key Principles of a Strong Ratification Process

Ratification needs to meet principles of transparency, accountability, and integrity. Transparency involves establishing procedural guidelines for administering events so the rules of engagement are very clear. The vote function and the administrative function need to be clearly separated and defined.

Community members are more likely to be actively engaged in political life if they have confidence in the system. The negotiation team has an interest in advocating for the treaty, and is kept separate from the enrolment and ratification processes. However, the negotiation team is key to ensuring that individuals eligible to vote have access to accurate and clear information regarding the treaty. Voting must be easily accessible and the membership must understand what they are voting on.



Ensuring Fairness and Transparency in the Voting Process

It is important to plan the process of casting and counting votes with as much detail as possible. The Chief Electoral Officer is key to this process. Create protocols for confirming voter identity on vote day and for confirming voter identity on mail-in ballots. Decide how long after the close of the vote EC members have to process enrolment applications.

Timing

The timing of the vote can make the difference between acceptance or non-acceptance of the treaty. Consider community events or other external factors, especially band elections, when choosing the dates of your vote. Allow ample time to inform people on the constitution and treaty prior to the vote.

TIPS

- + Ensure there are no band elections or other referendums near the vote.
- + Ensure there are no community events or seasonal activities near the vote.
- + Only hold the vote when people are ready.
- + Conduct voter education so voters are informed about their rights and how to exercise them.

SCHEDULING THE VOTE

K'ómoks First Nation initialled its agreement in principle in summer, and began its ratification campaign in November with a vote by March.

Tla'amin First Nation attempted to hold a final agreement vote; however, members were prevented from casting their votes by an active group of protesters who blocked the doors to the polls with vehicles. The vote was rescheduled and successfully held.

CONDUCTING THE VOTE

The actual process of conducting the vote is rigorous and technical in order to maintain the integrity of the vote.

Steps required for the ratification vote:

- Hire a Chief Electoral Officer
- Identify staff and volunteers for polling locations and ballot collection
- Establish a process and timeline for voting officer training
- Establish processes for paper and/or mail-in ballots
- Establish a process and timeline for advance voting

TIPS

- + Provisional voter lists must be available and accessible to voters.
- + Results must be publicized immediately after the count is complete.
- + Votes must be scrutinized to ensure transparency and accountability.

Sharing and Publicizing the List of Eligible Voters

It is the responsibility of the RC to create the list of eligible voters (LEV). Information from the enrolment register is used to create the LEV, although much of the information must be withheld to ensure the LEV is in full compliance with privacy legislation. The LEV should only contain the first, middle, and last name of each individual.

The LEV must be kept up to date and made public 30 days before voting begins. Voters have a right to know if their name is on the LEV. Post your voters lists so names can be added or removed based on new information. It is recommended that the LEV only be posted in the band office, not on a Nation's website or social media. The RC is solely responsible for updating and publicly posting the LEV.

Provisions concerning the removal of people from the LEV should be clearly set out in the ratification procedures.

TIPS

- + Keep your LEV up to date.
- + Check that all voters listed meet your age criteria as of the last scheduled day of voting.
- + Use a database management tool to allow the EC and RC to accurately capture and share information.

Building Your Vote Team

In order to ensure a successful vote it is important to have people experienced in conducting elections and/or referendums. This can include people who have worked on your band elections or outside consultants.

In particular, it is vital that the Chief Electoral Officer be experienced as they are responsible for ensuring the vote is well-organized and runs smoothly. A competent Chief Electoral Officer can make the difference between a high and low voter turnout.

Coordinating Polling Stations

The location and number of polling stations is a logistical and strategic decision of the RC. At least one RC member will need to be present at each polling station.

In case individuals who have not enrolled in advance wish to cast their vote, it is recommended that the EC be present at each polling station.

Provide voting polls at the different locations where your community members live, even on different dates if necessary.



Counting the Vote

The Chief Electoral Officer will conduct the count with all RC and EC members present. To ensure a fair count, the following steps are necessary: oversight of the Chief Electoral Officer, training of voting officers, selection of scrutineers, a plan for communicating the vote tally, and a process for managing challenges and objections.

Counting cannot occur until:

- EC decides on all pending enrolees
- RC prepares a final LEV
- RC processes mail-in-ballots

MAIL-IN BALLOTS

Specific tactics are needed for community members living away from home to support their participation in the vote. Mail-in ballots require cut-off dates for both enrolment applications and for ballots. Cut-off dates need to be emphasized and members need to be contacted prior to the cut-off dates.

SCRUTINEERS AND OBSERVERS

It is important to have scrutineers (representatives who observe the casting and counting of the ballots) present throughout the voting days to ensure the integrity and credibility of the voting process.

Any individual is allowed to observe the voting process, but cannot disrupt it.

HELPING VOTERS VOTE

In order to ensure voters that live away from home were able to vote on the Tsawwassen Final Agreement and the Tsawwassen Constitution, TFN had polling stations in Vernon, Bellingham, and Tsawwassen.



Voting Day Checklist

The Chief Electoral Officer, the RC, and voting officers make all reasonable efforts to ensure that good order is maintained throughout the day.

The Chief Electoral Officer arranges for all the logistics of polling, including ballots, ballot boxes, pencils, and privacy screens.

Before the polls open, voting officers open the ballot boxes, witnessed by RC members, to ensure that they are empty, and sign and seal them following proper procedures.

The Chief Electoral Officer arranges mobile polls for people who are ill or incapacitated and unable to attend the poll. These require the assistance of a voting officer to deliver the mail-in ballot package and return it to the Chief Electoral Officer.

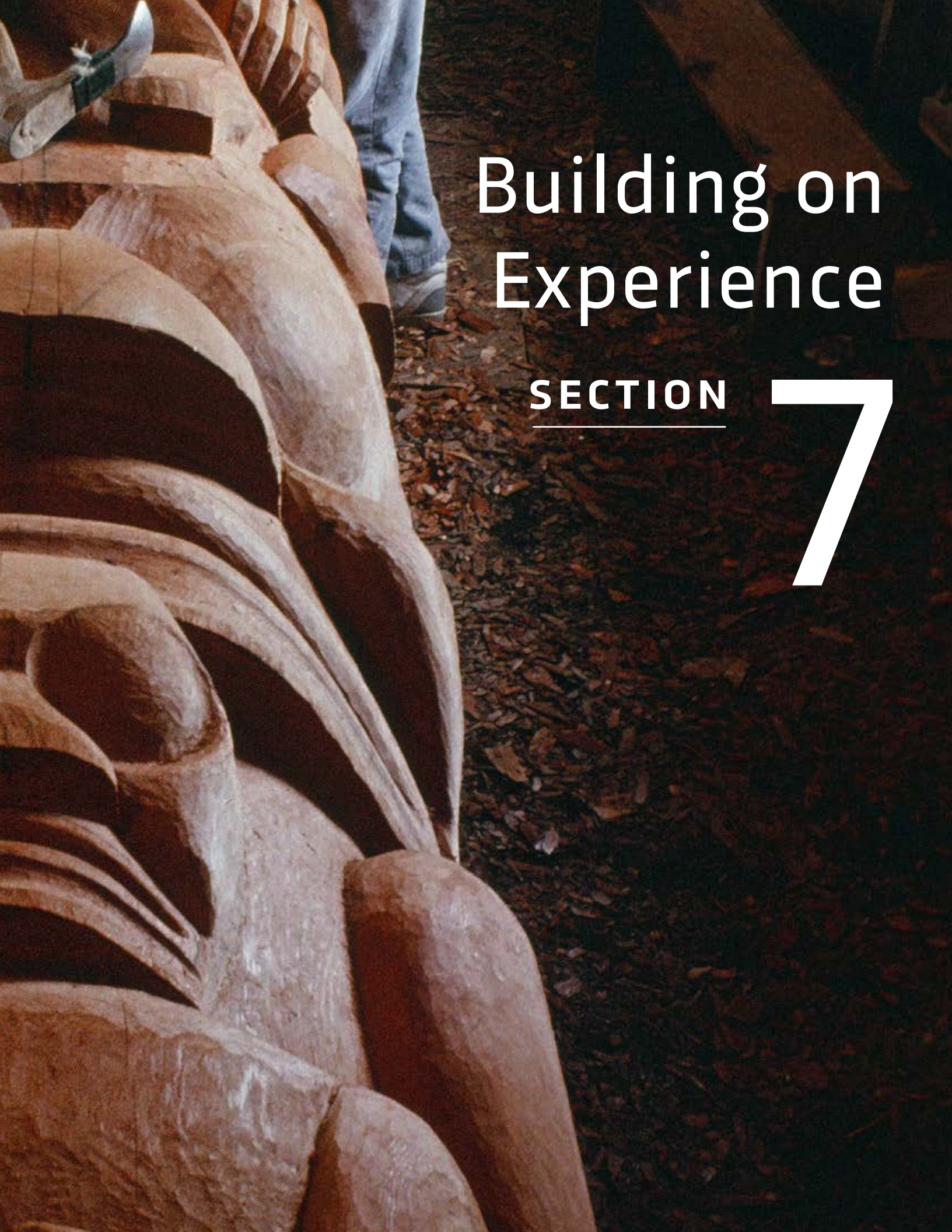
The engagement team conducts a “phone bee” to remind people of the vote and to offer assistance with transportation.

Snacks and coffee are available for volunteers, committee members, voting officers, observers, and voters as they come and go.

At the close of polls, the RC, the EC, and the Chief Electoral Officer verify the final list of eligible voters and count the ballots, including mail-in ballots and mobile polls, according to proper procedures.

The count is witnessed by at least two members of the RC, any community members who choose to be present, and one representative from each of the Parties.

When the count is complete, the Chief Electoral Officer — in the presence of at least two RC members — completes a document certifying the results of the count, then seals the rejected ballots, the ballots marked “YES” and the ballots marked “NO” into containers and signs the seal along with the RC members. These are stored for an appropriate length of time and are destroyed only by written agreement of all the Parties.



Building on Experience

SECTION

7

SECTION 7

BUILDING ON EXPERIENCE

REFLECTING ON THE MEANING OF THE FINAL VOTE

Building on the ratification experience, and extending community consultation beyond the ratification journey into the future makes for good and accountable governance.

Moving forward, it is vital to understand why people voted the way they did.

Analyzing a “Yes” Vote

Fifty per cent plus one of eligible and enrolled voters voted to approve the constitution and final agreement. Since the ratification threshold for a First Nation for treaty is higher than any other voting process in the country, achieving this result indicates a strong mandate from your community to implement the treaty.

Preparing for implementation will include drafting the Nation’s laws and engaging the community for self-governance. Plan for at least two fiscal years for implementation preparations. Conducting a post-vote analysis may assist in these preparations.

Analyzing a “No” Vote

Although a “no” vote may not be the result your team was hoping for, it is important to have a plan in place in the event of this result. Without a plan, a “no” vote can lead to a loss of momentum for your team and your community. Take this opportunity to regroup, reflect, and assess next steps.

A thorough post-vote analysis will help in achieving a better understanding of the vote, including initial barriers to enrolment in the voting process, key reasons for members’ voting decisions, and sources of influence on those decisions. The post-vote analysis will be helpful in identifying next steps in treaty negotiations and for your community.

One way to move forward is to poll the membership about a subsequent vote. This poll can be conducted through surveys, community meetings, or personal outreach.

Many of you are aware that our ratification vote was not successful. We don't see it as a failure, we just see it as an incomplete project.

MARVIN GEORGE | LHEIDLİ T'ENNEH FIRST NATION



“NO” VOTES

In 2007 Lheidli T'enneh First Nation (LTFN) was the first community to hold a vote on a final agreement. There was an 85.7 per cent turnout for the vote; of 273 eligible and enrolled voters, 234 cast ballots and 111 (47.4 per cent of those that voted; 40.7 per cent of eligible and enrolled voters) supported the agreement, which is less than the threshold needed to ratify the treaty. LTFN has since been undertaking significant community engagement to prepare for a second vote.

Carcross/Tagish First Nations conducted its AIP vote in 2003, and it was rejected by the community. Post-election evaluation determined that the AIP was not sufficient to meet the interests of its members. The team listened to the people more closely, and returned to negotiations with a better understanding of the community's interests. The AIP was renegotiated, and a land claim and self-government agreement was signed in 2005. The negotiation team believes the treaty vote and negotiations might have gone differently if it had understood the community's interests earlier and had a strong communications strategy.

TIPS

- + Work with your community to develop and clarify their questions about the treaty to ensure you provide the answers they need.
- + Look at all the issues identified to account for why people voted “no” and determine whether they can be resolved through negotiations and/or better outreach.

SUBSEQUENT VOTES

If, after careful analysis, a decision is made to hold a subsequent vote, the negotiation and engagement teams will have substantial work to do. Considerable time will need to be spent in revising the communications strategy, and it may benefit from the input of an expert.

Questions to ask in your revised plan include:

- What strategies were effective in communicating with your community? What strategies were not?
- Is the community ready for self-government?
- What questions do you need to address in possible renewed treaty negotiations?
- How will you address the issues that were identified about why the vote failed?
- What is your strategy for addressing each significant issue identified in post-vote analysis in your communications plan?

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