



governance toolkit

best practices

Principle: Transparency and Fairness
Government: Westbank First Nation

OPPORTUNITY

The Westbank First Nation is located in south central British Columbia in the Okanagan Valley.

In the mid-1980s, conflicts within the Westbank First Nation council created significant animosity among community members. The outcome was the Hall Inquiry which made recommendations around strengthening governance accountability and certainty of jurisdiction.

During the 1990s, the Westbank First Nation (WFN) leadership and members sought to implement the recommendations of the Hall Inquiry through various avenues. One strategy was the development of a *Framework Agreement* to begin negotiating community-based self-government. In 2000, Westbank First Nation and Canada signed a self-government agreement. The *Westbank First Nation Self-Government Act* came into force on April 1, 2005.

PRINCIPLE IN ACTION

A key feature of the Westbank negotiations was the development of a constitution for the Westbank

NCFNG

is a national, independent, First Nations-controlled organization dedicated to supporting First Nations as they work to implement their inherent right to self-governance. The development of a set of shared principles that clearly articulate our approach to effective governance is one way in which we support that work. This NCFNG Effective Governance Case Study profiles a best practice in the principle “Transparency and Fairness”.

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government. Through the adoption of a constitution, Westbank has made a commitment to the rule of law; the application of the *Charter of Rights and Freedoms*; and to a number of institutions designed to increase transparency and fairness. For example, the constitution:

- Ensures a democratically elected chief and council
- Clearly defines the duties and responsibilities of council
- Requires three public readings before laws of the Westbank First Nation can be implemented (They currently have over 30 laws that have been passed)
- Sets out detailed conflict of interest rules for elected officials
- Requires reporting and disclosure of financial matters to the members
- Requires a law regulating borrowing of monies that ensures the financial stability of the government
- Obligates the government to have a council remuneration and expense law
- Provides for the recall of elected officials if they do not perform their duties according to the constitution
- Makes elected officials personally liable for any use of monies contrary to the constitution
- As a final guarantee of fairness and transparency there is a provision which states that the First Nation must report to its members in an open manner expected of other governments of a similar size that are providing similar services in Canada

Through these and other mechanisms, the WFN government operates within a system of significant transparency and fairness.

CHALLENGES

The process of creating a transparent and fair government is not an easy challenge. It requires significant commitment and resources, both human and financial. According to Chief Louie of Westbank First Nation, “Over the last three-and-a-half years of having an instituted governance structure in place, we have had a tremendous learning curve. There has been an extensive, tremendous amount of work that has been done and we believe our journey has been extremely positive and has been well worth the effort.”

Part of Westbank’s success is due to their commitment to seek continuous improvement. No governance system is static; as such leadership needs to be committed to learn from mistakes and use these to improve their policies and procedures.

The current nature of most First Nations communities makes transparency and fairness a difficult challenge. In some cases, policies and procedures are just not in place. In others, the existing policies and procedures just don’t meet the needs of the community.

In some communities there are policies and procedures, but enforcement is the larger challenge. Where this is the case, it may be that staff and council are unaware of the policies in place, since governments change frequently. It also may be due to family connections. No one wants to fire a relative or kick a

For law making, we develop and enact laws... in accordance with our constitution. All of our laws and amendments are subject to a process that is set out in the constitution and again includes the community consultation input. You don’t find that under the Indian Act or in delegated responsibility

— Chief Robert Louie

relative out of their home. This is where the commitment to fairness is important. When a government is committed to fairness, it builds trust in government among the membership. Trust that rules will be followed and that members will be treated in an equitable manner.

SUCCESS FACTORS

By assuming jurisdiction over its own affairs in areas such as governance, land management, language and culture, Westbank has acquired the tools it needs to create opportunities and a better life for its members. In addition, the agreement ensures political and financial accountability of the Westbank government to its members through its many institutions which support transparency and fairness.

The positive impacts of the agreement include:

- Governance stability
- Economic growth on reserve
- Growing respect for the government from citizens and from external businesses and governments

NCFNG GOVERNANCE LESSONS LEARNED

Transparency and Fairness make certain that First Nations institutions and the ways they operate are understood by the people they are designed to serve. Consolidating and then openly sharing processes and procedures assures citizens that decisions are made fairly. Fairness does not mean that all decisions will be the same, but that set criteria will be applied consistently in making all decisions. It is in the implementation of a policy that its fairness is revealed.

LINKS AND MORE INFORMATION

Journey to Economic Independence

www.ecdev.gov.bc.ca/Publications/Documents/FNReportPrintMeg.pdf

On the Go: Westbank Agreement

www.ainc-inac.gc.ca/bc/otg/wn_2003/otgwn2003_e.pdf

First Nations Drum: February 2008

www.firstnationsdrum.com/2008/february/freezing2.html

First Nations Drum: Spring 2004

www.firstnationsdrum.com/Spring2004/BizWestBank.htm