Huu–ay–aht First Nations

Report to Executive Council

Title – Huu-ay-aht Fisheries Committee Terms of Reference

Type of Decision – Approval

Submitted by: Councillor, Tom Happynook

Issue: The Huu-ay-aht Fisheries Committee Terms of Reference needs to be approved – it is attached with appendix.

Background

As per section 2.31 and 2.32 of the Constitution:

2.31 The Huu-ay-aht First Nations Council may establish committees to assist in the discharge of its authority and responsibilities.

2.32 The committees shall include, but not limited to:
- (a) a committee on finance;
- (b) a committee on treaty implementation;
- (c) a committee on economic development; and
- (d) a committee on citizenship.

As per PART 6, Division 1, 58 (1,2) of the Government Act:
(1) Executive Council
- (a) must establish the committees required by the Constitution and other Huu-ay-aht legislation, and
- (b) may establish other committees of Executive Council.

(2) Unless provided for by Huu-ay-aht legislation, Executive Council must establish the terms of reference of a committee including the committee's powers, duties, functions, remuneration, and other terms of reference for a committee.

Discussion

Recommendations for committee member appointments will be presented at the October 2011 Executive Council meeting.

Options

1 Status Quo – The Huu-ay-aht Fisheries Committee will operate without a terms of reference.

2 Adopt the Huu-ay-aht Fisheries Committee Terms of Reference dated September 7, 2011 with amendments.

3 Adopt the Huu-ay-aht Fisheries Committee Terms of Reference dated September 7, 2011 as presented.

Implications

The funds to support Fisheries Committee related work will be addressed by the Director of Lands and Natural Resources from within the existing 2011/2012 Lands and Resources budget.

Recommendation

Option 2 or 3.

Decision

Record of decision of Executive Council:

_____

Connie Waddell, Law Clerk

Huu-ay-aht Fisheries Committee
Terms of Reference

September 7, 2011

We, the Huu-ay-aht people, envision a proud, self-governing, and sovereign nation. Isaak will guide us as we work together to establish a healthy, prosperous and self-sustaining community where our culture, language, spirituality and economy prosper for the benefit of all Huu-ay-aht.

Purpose

The purpose of the Huu-ay-aht Fisheries Committee is to:

Fisheries Matters

- Participate and provide input to the Joint Fisheries Committee, the Maa-nulth Fisheries Committee and the Maa-nulth Wildlife Council towards the implementation of chapters 10, 11 and 12 of the Maa-nulth Treaty;
- Develop and implement annual Huu-ay-aht fishing work plans, including food fish distribution, salmon enhancement, stock assessments, and the HFN commercial fishery;
- Develop recommendations on any fisheries matter and bring those to the Joint Fisheries Committee, the Maa-nulth Fisheries Committee or directly to the Minster;
- Build effective communication strategies and working relationships with Huu-ay-aht citizens;
- Implement the comprehensive Maa-nulth Enforcement Agreement and develop and implement a Huu-ay-aht Fisheries Enforcement policy;

Wildlife & Migratory Birds Matters

- Develop and implement a Huu-ay-aht Wildlife Enforcement Policy;
- Participate and provide input to the Maa-nulth Wildlife Council towards the implementation of chapters 11 and 12 of the Maa-nulth Treaty;

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- Build effective communication strategies and working relationships with Huu-ay-aht citizens;

Authorities

The Huu-ay-aht Fisheries Committee conducts work under the following authorities:

1. The Maa-nulth Final Agreement – Chapters 10, 11, 12
2. The Huu-ay-aht Constitution and other Huu-ay-aht Acts
3. The Joint Fisheries Committee
4. The Maa-nulth Fisheries Committee
5. The Maa-nulth Wildlife Council
6. Huu-ay-aht Executive Council resolutions pertaining to fisheries access and management as well as wildlife and migratory birds
7. Huu-ay-aht Executive Council resolutions pertaining to wildlife and migratory birds access and management

Working Relationships

The Huu-ay-aht Fisheries Committee works with Huu-ay-aht citizens, Executive Council, Joint Fisheries Committee, Maa-nulth Fisheries Committee, Maa-nulth Wildlife Council, Huu-ay-aht public officers and related bodies and organizations as required.

The Joint Fisheries Committee is an eight (8) member body. The committee is comprised of one person from each of the six Maa-nulth First Nations, one person from Canada and one person from British Columbia. The Chairperson is elected by consensus.

The Maa-nulth Fisheries Committee is a six (6) member body. The committee is comprised of one person from each of the six Maa-nulth First Nations. The chairperson is elected by consensus.

The Maa-nulth Wildlife Council is a seven (7) member Council. The Council is comprised of one person from each of the six Maa-nulth First Nations. The Council elects a chairperson by consensus and is accountable to and takes direction from their applicable Nation.

Committee Membership

The Huu-ay-aht Fisheries Committee appointed by the Executive Council will consist of up to six (6) committee members:

- 1 Chairperson – appointed by the Chief Councillor (a member of Huu-ay-aht Council)
- 1 Ha'wiih – appointed by the Ha'wiih Council
- 4 Huu-ay-aht citizens – appointed by the Executive Council to serve a 1 year term

Committee appointments will be reviewed annually by the Executive Council.

Ha'wiih appointees will be reviewed annually by the Ha'wiih Council.

The Chair may utilize technical advisors with significant and relevant experience to assist as necessary.

Should a committee member miss 3 consecutive meetings without justifiable reason, his/ her appointment as a committee member will be reviewed by the Executive Council.

At the request of the Committee Chair, the Executive Council reserve the right to remove, by special resolution, a Committee member if Council reasonably concludes, after hearing from the Chair and Committee member that the member is not fulfilling his/her duties and responsibilities.

Chairperson Responsibilities

In addition to the roles and responsibilities listed in the Government Act, the Chairperson is also responsible to:

- Understand and agree with the vision, mission and code of conduct of the Huu-ay-aht;
- Organize the time, date and location of meetings;
- Develop and approve meeting agendas;
- Invite experts or guests as appropriate;
- Chair committee meetings efficiently and effectively;
- Document, approve and distribute meeting minutes, records of decision and action items;

- Develop any official correspondence including Committee decisions to the Huu-ay-aht Executive Council, the Maa-nulth Joint Fisheries Committee, Maa-nulth Fisheries Committee or Maa-nulth Wildlife Council;
- Review and endorse any official correspondence to the Huu-ay-aht First Nations on access to or the management/co-management of Huu-ay-aht fish and aquatic plants, wildlife and migratory birds;
- Ensure that all confidential documentation and records are kept private and secure;
- Ensure that all public information is accurate and accessible;
- Delegate any of the above duties to committee members or administrative staff;
- Serve as the internal spokesperson to the Huu-ay-aht Executive Council;
- Participate as a voting member of the committee.

Committee Responsibilities

All members including the Chair of the Huu-ay-aht Fisheries Committee have the following responsibilities:

- Understand and agree with the vision, mission and Code of Conduct of the Huu-ay-aht;
- Participate as a voting member of the Committee;
- Attend all meetings unless absence is excused or justified;
- Prepare for all meetings and assigned tasks;
- Participate meaningfully in all meetings;
- Provide technical, individual, historical or cultural knowledge and expertise on issues.

Remuneration

Committee members will receive a $200 per day honorarium plus travel expenses. Activity reports outlining work conducted and amount of time being claimed accompanied by travel reimbursement forms with original travel receipts (as applicable) require approval by the Chairperson prior to being processed for reimbursement.

Appendices

Part 6, Division 1 and 2 of the Government Act apply to the Huu-ay-aht Fisheries Committee – attached.

Amendments

The Huu-ay-aht Fisheries Committee may propose amendments, or the Executive Council may make amendments to this Terms of Reference. Amendments must be approved by the Executive Council at a duly convened council meeting before said amendment/s can take absolute effect.

PART 6 – EXECUTIVE COUNCIL COMMITTEES

Division 1 – Framework

Committees

58 (1) Executive Council

(a) must establish the committees required by the Constitution and other Huu-ay-aht legislation, and

(b) may establish other committees of Executive Council.

(2) Unless provided for by Huu-ay-aht legislation, Executive Council must establish the terms of reference of a committee including the committee's powers, duties, functions, remuneration, and other terms of reference for a committee.

(3) The quorum of a committee is a majority of its members, unless otherwise provided for by Huu-ay-aht legislation.

(4) As soon as practicable after Effective Date, Executive Council must establish a Treaty Implementation Committee.

Membership

59 (1) Subject to subsection (2), Executive Council

(a) may appoint or remove committee members, except for the chair of a committee,

(b) must review appointments to committees at least once each year, and

(c) must establish an application process for appointments to committees.

(2) Members of committees must be Huu-ay-aht citizens, unless otherwise provided for by Huu-ay-aht legislation.

(3) Executive Council must conduct the first review of all committee appointments by November 30, 2011.

Appointment of chair

60 (1) The chair of a committee must be a member of Executive Council.

(2) The Chief Councillor is responsible for appointing or removing the chair of a committee.

(3) The chair is a committee member.

(4) At least once each year the Chief Councillor must review the appointments of committee chairs.

(5) Despite subsection (2), if the chair of a committee is unwilling or unable to carry out the chair's duties, the remaining committee members may select an acting chair from among themselves for all or part of a meeting.

Power to delegate

61 (1) Unless authorized by Huu-ay-aht legislation, a committee must not delegate any of its powers, duties or functions.

(2) The Executive Director may assign government employees or contractors to provide technical support to a committee.

Division 2 – Proceedings of Committees

Committee rules

62 (1) Committees must conduct themselves in a manner consistent with

(a) open, accountable, transparent and effective government,

(b) Huu-ay-aht law, and

(c) rules made under this section.

(2) If a question of order, practice, ceremony, or procedure of the committee arises that

(a) is not covered by this Act,

(b) is not provided for, or is inadequately provided for, in the regulations, or

(c) in the opinion of the committee results from special circumstances,

the committee may make a rule it considers appropriate.

(3) If a question of Huu-ay-aht cultural protocol of the committee arises that is not covered by this Act, the Ha'wiih Council may make a rule in accordance with Huu-ay-aht customary law that the Ha'wiih Council considers appropriate.

(4) Rules under subsections (2) and (3) must be

(a) consistent with open, accountable, transparent and effective government,

(b) reviewed as soon as practicable by Executive Council, and

(c) if ratified by Executive Council, written and published.

(5) Executive Council must review committee rules made under this section and if satisfied they meet the requirements of subsection (4) (a), ratify them and give notice to the committee of its decision.

Committee meeting requirements

63 (1) Subject to section 64, the chair of a committee may call a meeting at a time and location determined by the chair.

(2) The chair must advise the Law Clerk of the committee meeting as soon as practicable.

(3) The chair may allow for participation in a committee meeting by electronic or other means.

(4) A quorum of committee members must be present when the committee conducts its business, including voting on any matter.

Notice of meeting

64 (1) At least 10 working days before a committee meeting, the Law Clerk must give notice of the meeting to committee members.

(2) Notice under subsection (1) must include the following:

(a) the date, time and location of the committee meeting;

(b) the proposed agenda;

(c) any other information specified by the chair.

(3) The Law Clerk may reduce the notice period under subsection (1) if there is good reason to do so.

(4) If the Law Clerk reduces the notice period, the Law Clerk must make best efforts to give notice of the committee meeting as soon as practicable before the meeting.

Agenda changes

65 A committee may change the proposed agenda under section 64, if the change is

(a) reasonably justified, and

(b) passed by the committee.

Chair

66 (1) The chair presides over committee meetings and is responsible for all of the following:

(a) maintaining order and decorum;

(b) encouraging decision-making by consensus;

(c) ensuring adherence to the best governance practices under section 10;

(d) providing committee members who wish to speak with a reasonable opportunity to do so;

(e) ensuring the committee complies with the provisions of this Act and the rules of the committee;

(f) ensuring that confidential information is protected from unauthorized disclosure;

(g) discharging other prescribed responsibilities.

(2) The chair may make decisions on the matters referred to in subsection (1), including deciding questions of order, practice and procedure of the committee.

(3) The chair may order the removal of a person whose actions unduly interfere with the maintenance of order and decorum in the meeting.

(4) If a person subject to an order under subsection (3) does not comply, the chair may obtain the assistance of a peace officer to enforce the order.

(5) The chair may

(a) consult with the Law Clerk, and

(b) invite submissions from committee members,

before deciding questions of order, practice and procedure of the committee.

(6) The chair must state, and give reasons for, a decision on any question of order, practice and procedure of the committee.

(7) A decision of the chair under this section is final and binding on the committee.

Committee motions and decisions

67 (1) Decisions required by Huu-ay-aht legislation to be made by a committee, must be introduced in the form of a written motion.

(2) Other decisions required of the committee may be introduced in the form of a written or verbal motion.

(3) A motion must be clear and unambiguous, specifying

(a) the decision to be made,

(b) any follow-up action to be taken, and

(c) the date for completion of any follow-up action.

(4) Records referred to in a written motion must be attached as an appendix to that motion.

Voting

68 (1) Committee members must make every reasonable effort to conduct committee business by consensus.

(2) If a motion is adopted by consensus, the chair must confirm that consensus for the record.

(3) A motion adopted by consensus is deemed to be a motion voted on by the committee and passed by unanimous vote.

(4) If consensus on a motion is not reached, a committee member may call for a recorded vote on the motion.

(5) Only those committee members present at a committee meeting when the vote is called may vote on the motion.

(6) Each committee member has one vote on any motion.

(7) If a committee member does not abstain and does not indicate how he or she votes in a recorded vote, the committee member is deemed to have voted against the motion.

(8) If a motion is not adopted by consensus, the motion passes if it is supported by at least a simple majority of committee members who vote on that motion.

(9) If a vote on a motion of the committee results in a tie vote, the motion fails.

(10) A motion passed by the committee is a resolution of the committee.

(11) Unless authorized by Huu-ay-aht legislation, a committee must not give directions or instructions to government employees or contractors, by name or position, without the prior approval of the Executive Director.

Committee recommendations

69 (1) If a committee is required to provide a recommendation, the committee must make the recommendation in writing.

(2) Committee members must make every reasonable effort to adopt recommendations by consensus.

(3) A recommendation must be clear and unambiguous, specifying

(a) what is recommended,

(b) any follow-up action to be taken, and

(c) the date for completion of any follow-up action.

(4) Records referred to in a written recommendation must be attached as an appendix to that recommendation.

(5) If consensus is reached on a recommendation, the chair must confirm that consensus for the record.

(6) If a recommendation is not adopted by consensus, the chair must provide Executive Council with a written committee report summarizing the committee discussion on the recommendation.

(7) The report under subsection (6) is deemed to be the recommendation of a committee.

Committee meeting proceedings

70 (1) Committee meetings are closed to the public unless a committee decides to make part, or all, of its meeting open to the public.

(2) A committee may provide for observation of, or participation in, its meetings by electronic or other means.

(3) Government members and the Executive Director may attend, observe, and participate in committee meetings.

(4) The chair of a committee, or a committee member designated by the chair, is the committee's spokesperson within government.

(5) The Chief Councillor is the public spokesperson for all committees.

Committee meeting records

71 (1) The Law Clerk must ensure that accurate records of committee proceedings are prepared including all of the following:

(a) notice of the meeting;

(b) the proposed and approved agendas;

(c) a record of motions introduced, votes taken, and resolutions passed;

(d) a summary of discussion on recommendations not adopted by consensus;

(e) the Huu-ay-aht legislation and other records considered;

(f) the written minutes or electronic recording of the proceedings in the prescribed form;

(g) other records specified by Executive Council.

Huu-ay-aht First Nations – Written Motion

(*Government Act*, s. 52)

For ease of reference, this motion may be referred to as:

Motion Regarding _Fisheries Committee Terms of Reference. _____

Motion – BE IT RESOLVED the Executive Council accept the Huu-ay-aht Fisheries Committee Terms of Reference dated September 7, 2011 as recommended by Councillor, Tom Happynook.

option 2 on briefing note

Huu-ay-aht First Nations – Written Motion

(*Government Act*, s. 52)

Follow-up action to be taken:

Introduce approved Terms of Reference to Fisheries Committee.

Date for completion of follow up action: _Next Fisheries Committee meeting. _____

Appendices attached to Motion:

× Written report prepared by __Trudy Warner_____.

Note: Section 56 of the *Government Act* requires that the report on any substantive matter to be considered by Executive Council must be provided to Executive Council at least 4 working days in advance of its consideration.

☐ The following documents:

Note: Any documents or records referred to in the motion MUST be attached (*Government Act*, s. 52(5)).

- Briefing note – Fisheries Committee Terms of Reference
- Fisheries Committee Terms of Reference and appendix

Introduced by: __Tom Happynook_____
Executive Council member

Huu-ay-aht First Nations – Record of Motion

If passed, becomes

Record of a Resolution of Executive Council

(Sections 52 and 53, *Government Act*)

Motion

Introduced by:

Tom Happynook
Executive Council member

Fisheries
Councillor's portfolio (if applicable)

Sept 15 / 11
Date

Tom Happynook
Signature of Councillor

Decision to be made:

Adopt or reject motion regarding:

Adenda item # 2 a Review and approval of Terms of reference Fishery committee option 2 on brief note report., attached.

Record of decision:

☒ Adopted by consensus **OR**

☐ Recorded vote called by _____
Executive Council member

Record of vote:

Councillors in Favour:	Councillors Opposed:	Abstentions:

Resolution Number

☐ Did not pass

☐ Passed by Executive Council

Resolution #: 2011-53

Date effective: _____

Sept. 15 / 11
Date

Signature of Chair