**Huu–ay–aht First Nations**

**Report to Executive Council**

**Title –** Huu-ay-aht Treaty Implementation Committee Terms of Reference

**Type of Decision –** Approval

**Submitted by:** Councillor, Tom Happynook

**Issue:** The Huu-ay-aht Treaty Implementation 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

A "call for committee members" has been published in the Summer - 2011, Issue 30 of Uyaqhmis paper.

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

## Options

1 Status Quo – When the Huu-ay-aht Treaty Implementation Committee is established, the committee will operate without a terms of reference.

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

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

## Implications

The Executive Director and Director of Finance and Government Services will ensure that the costs arising from the work of this committee be utilized from within the existing Treaty Implementation budget.

## Recommendation

Option 2 or 3.

## Decision

Record of decision of Executive Council:

_____

Connie Waddell, Law Clerk

April 2011

**Huu-ay-aht Treaty Implementation 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 Treaty Implementation Committee (HTIC) is to provide a forum to discuss successes and challenges of the implementation of the Maa-nulth Treaty with Huu-ay-aht public officers while ensuring that the benefits of the Treaty flow to the citizens. The committee will also create and implement a system to measure the success of the Treaty.

The HTIC may work with the Maa-nulth Implementation Committee (MIC) from time to time as needed.

## Authorities

1. The Maa-nulth Final Agreement
2. The Huu-ay-aht Constitution
3. All Huu-ay-aht Acts
4. Huu-ay-aht Executive Council resolutions pertaining to Treaty Implementation
5. Maa-nulth First Nations Final Agreement Draft Final Implementation Plan – Wednesday, January 23, 2008

## Working Relationships

The committee will work with Huu-ay-aht public officers to discuss and recommend resolutions to implementation challenges.

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The committee will also work to inform and support the work of the MIC as per 27.3.0 of the Maa-nulth Treaty. The MIC is a 3 member committee appointed for a 10 year term.

## Committee Membership

The Treaty Implementation Committee appointed by the Executive Council will consist of up to 5 people:

- 1 Chairperson – appointed by the Chief Councillor (a member of Huu-ay-aht Council)
- 1 Ha'wiih – appointed by the Ha'wiih Council
- 3 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 or records of decision;

- Develop any official correspondence including Committee decisions to the Huu-ay-aht Executive Council or the Maa-nulth Treaty Implementation Committee as required;
- Review and endorse any official correspondence to the Huu-ay-aht First Nations on Huu-ay-aht Treaty Implementation matters;
- 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.

Budget oversight

**Committee Responsibilities**

All members including the Chair of the 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.

as per HFN travel policy

Huu-ay-aht oath

**Appendices**

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

## Amendments

The Huu-ay-aht Treaty Implementation 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.

(2) After a committee meeting has ended, the Law Clerk must, as soon as practicable, certify a true copy of the record of proceedings and place that copy in the registry.

(3) The Law Clerk must provide the Executive Director with a copy of the records prepared under subsection (1) (c), (d), and (f) as soon as practicable.

**Reports**

**72** (1) For any substantive matter to be considered by a committee, the Executive Director, must prepare a written report.

(2) The Executive Director must deliver the report to the committee members at least 4 working days before the committee meeting where the substantive matter will be considered.

(3) Subject to subsection (4), the committee must not make a decision or recommendation on a substantive matter until a report has been received and considered by the committee.

(4) In an emergency, or in special circumstances where the committee reasonably believes that a delay in consideration of the matter is not in the best interests of the Huu-ay-aht, the committee may do one or more of the following:

(a) waive the requirement that the report be in writing;

(b) waive other report requirements under this section;

(c) waive or reduce the 4 working day delivery requirement.

**Annual report**

**73** Every committee must prepare an annual report in the prescribed form and deliver it to 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** _Treaty Implementation Committee Terms of Reference _____

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

as 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 Treaty Implementation Committee.

**Date for completion of follow up action**: __First Treaty Implementation 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 – Treaty Implementation Committee Terms of Reference
- Treaty Implementation 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

Treaty Implementation
Councillor's portfolio (if applicable)

Sept. 15/11
Date

Tom Happynook
Signature of Councillor

### Decision to be made:

Adopt or reject motion regarding:

Agenda item 1-d Review and Approval of T.O.R. Treaty Implementation Committee option 2 on briefing note, attached.

### Record of decision:

☑ Adopted by consensus **OR**

☐ Recorded vote called by _____
Executive Council member

### Record of vote:

| Councillors in Favour: | Councillors Opposed: | Abstentions: |
|---|---|---|
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| | | |
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### Resolution Number

☐ Did not pass

☐ Passed by Executive Council

Resolution #: 2011-56

Date effective: _____

Sept. 15/11
Date

Signature of Chair