



LAC LA RONGE INDIAN BAND: Governance Workshop

April 8 to 10, 2008

The Institute On Governance (IOG) is a non-profit organization founded in 1990. Its mission is to explore, share and promote the concept of good governance in Canada and abroad, and to help governments, the voluntary sector, communities and the private sector put it into practice. From our perspective, governance comprises the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.

Our current activities fall within the following broad themes: building policy capacity; Aboriginal governance; technology and governance; board governance; and values, ethics and risk.

In pursuing these themes, we work in Canada and internationally. We provide advice on governance matters to organizations in the public, private and non-profit sectors. We bring people together in a variety of settings, events and professional development activities to promote learning and dialogue on governance issues. We undertake policy-relevant research, and publish results in the form of policy briefs and research papers.

You will find additional information on the Institute and our current activities on our web site, at www.iog.ca.

© Copyright, 2008, Institute On Governance

For further information, please contact:

Bruno Bonneville and Jodi Bruhn
Institute On Governance
122 Clarence Street
Ottawa, Ontario
K1N 5P6 Canada
tel: (613) 562-0090
fax: (613) 562-0097
info@iog.ca
www.iog.ca

Table of Contents

APRIL 8, 2008	1
<hr/>	
WELCOME AND INTRODUCTIONS	1
AGENDA AND HISTORICAL CONTEXT	1
PRESENTATIONS AND DISCUSSIONS	2
APRIL 9, 2008	4
<hr/>	
PRESENTATIONS AND DISCUSSIONS	4
APRIL 10, 2008	7
<hr/>	
DISCUSSIONS	7
WORKSHOP CONCLUSION	9
APPENDIX A: LIST OF PARTICIPANTS	10
<hr/>	
APPENDIX B: ACTION PLAN, LLRIB GOVERNANCE ACT	11
<hr/>	

Lac La Ronge Indian Band: Governance Workshop

April 8, 2008

Welcome and Introductions

The Lac La Ronge Indian Band governance workshop opened with a welcome from LLRIB Executive Director, Blake Charles, followed by a prayer offered by Councillor Morris McKenzie of the Stanley Mission reserve. In his introductory remarks, Blake congratulated the councillors on their recent election and stressed the need to gain clarity as soon as possible on the roles and responsibilities of Chief and Council. He expressed his hope this workshop would provide a first occasion to do this. He also mentioned the draft LLRIB *Executive Act* and suggested that this act, once passed, would guide both Council and staff members in understanding their distinct roles and responsibilities within the Band government.

Blake then turned the workshop over to the facilitators, Bruno Bonneville and Jodi Bruhn of the Institute On Governance. After providing some background on the Institute, Bruno and Jodi introduced themselves to the group. Participants of the workshop councillors and LLRIB staff also introduced themselves.¹ Bruno then canvassed those present for their expectations of the workshop. What were their concerns going into it and what did they hope to learn?

The participants—a mixture of councillors and band staff—indicated a variety of expectations. New councillors stated their wish to learn more about law and governance practices so that they could serve the people better at the grassroots level. There was a widespread desire to learn more about the responsibilities of Chief and Council as well as the optimal relationship between membership, councillors and staff. Some staff members stated their desire to work more effectively with Chief and Council and hoped to develop tools that would help them do this. There was frequent mention of the LLRIB's draft *Executive Act*. Some councillors sought simply to understand the act and why it was necessary. Other participants thought the workshop would provide a good opportunity to work on the draft to improve the chances of Council passing it in the future.

Agenda and Historical Context

Bruno Bonneville then explained something about the IOG's first contact with the band through the *Executive Act*. Kevin Roberts had asked the IOG to review the act a few months earlier. At that time, the IOG had suggested it might be easier to divide the Act into policies or bylaws that

¹ Appendix A provides a list of participants in the workshop.

could be refined at this workshop. The agenda for the workshop reflected that suggestion. The goals for the workshop were:

- To share knowledge and experience about key governance concepts and issues
- To develop a number of governance policies for the LLRIB
- To develop an action plan for moving forward on the band's governance priorities

Before proceeding with the agenda, however, the facilitators wished to learn more about the LLRIB itself. What were the band's key historical experiences? Bruno drew a horizontal line representing the Band's history on the overhead and asked the participants to indicate seminal events on it, both positive and negative.

Participants noted the Treaty 6 adhesion in 1889 as a major event, as well as Canada's transfer of natural resources jurisdiction for LLRIB traditional lands to the Province of Saskatchewan with the 1930 *Natural Resources Transfer Act*. They also noted the split of the band that occurred for forty years of its history: from 1910 to 1950, there was the James Roberts Band and the Amos Charles band. The band was amalgamated by INAC in 1955 again for administrative convenience. Developments since the 1960s had entailed both increased autonomy and increased funding pressures on the band. Bill C-31, for example, brought an influx of people to the LLRIB reserves without sufficient funding to cover their services. In 1978, the LLRIB took over its education system—a landmark event for the band. With the current focus on business development, the Band owns several successful businesses.

Bruno suggested that the time line indicated that the band has become increasingly sophisticated in the past decades. These are all factors calling for the kind of solid governance infrastructure that would be the focus of the workshop.

Presentations and Discussions

Morning Session

Jodi Bruhn began the discussions by providing a brief background presentation on the nature of governance, constitutions, laws and policies. After defining governance, she presented evidence from both international and Aboriginal sources indicating the importance of good governance to economic development and social well-being on reserves. She then outlined the meaning and significance of constitutions, laws, and policies—all central governance instruments.

In the discussion that followed, Councillor Brian Hardlotte asked a question about where the *Indian Act* fits into good governance on-reserve. Is the *Indian Act* an instrument of good governance? Jodi responded that that was an excellent question, where most First Nations still rely on the framework the *Indian Act* provides. Many, however, find the *Indian Act* a blunt governance instrument. Some have attempted to distance themselves from it—either through self-government agreements or through opting where possible into such legislation as the *First Nations Land Management Act* and *First Nations Fiscal and Statistical Management Act*. Yet

First Nations still under the *Indian Act* can still substantially improve their governance practices by creating laws and policies within its confines.

Councillor Larry Roberts asked about self-government: wouldn't it be a good idea for the LLRIB to negotiate a self-government agreement in order to gain control over lands and resources and a modern-day treaty that provides many more benefits? A further area where the band could take over jurisdiction would be in justice. This is still handled by Canada with very little input from the community. One staff member remarked that this is precisely the work of Chief and Council: to state a vision, create legislation, and negotiate externally. The staff cannot do this.

The morning's sessions concluded with brainstorming on what the Council's legislative priorities should be for the coming term. Where should Council focus its energies for the next three years? Participants came up with five priorities. The facilitators asked all present to vote on these priorities over the lunch break. The priorities selected were the following:

- Revise, finalize and pass the *Executive Act* (9 votes)
- Create laws for education and culture (6 votes)
- Create a membership determination act (4 votes)
- Assume jurisdiction for family/child services (3 votes)
- Assume jurisdiction for the justice area (2 votes)

Afternoon Session

When the workshop resumed, several councillors that had been present in the morning session had been called away to attend a funeral. Those present requested that further presentations, because they involved mainly Council issues, be postponed to the next day. The discussion then centred on governance practices that might be peculiar to the LLRIB: how, for example, councillors in the various communities interact directly with staff members rather than directing all communications through the Executive Director. Bruno stressed that the flexibility according to the needs of the various communities are crucial—but it is equally important to maintain clear lines of accountability no matter what.

Blake Charles then described the self-administration concept. By a fiscal arrangement with the LLRIB, constituent communities can opt in to administering their own programs and services at the local level. Each community has its own staff and sub-council charged with doing this. These government structures evolved in response to a requirement for more local control and their responsibilities are outlined in internal master funding agreement. Council as a whole allocates budgets, then the communities work out their own budgets and priorities. Bruno stated that these community governments sounded like a good idea—certainly a solution to the large Band's dispersion into communities over a great distance. But he also strongly recommended that the roles of these sub-units be set down clearly in legislation or even a constitution. This would avoid ambiguity and liability issues for the whole Band if, for example, one community mispends funds paid out under the agreement.

Councillor Larry Roberts noted that self-administration also affects the *Executive Act*: if one councillor makes an error at the community level, the rest of Council can have him impeached. He asked, “Who are we to throw them out and go against the decision of their own community?” As an alternative, Mr. Roberts called for a discipline committee composed of neutral, educated and qualified people who would deal strictly with such issues. He also called for the *Executive Act* to be put before the membership in a referendum before Council would pass it.

Bruno asked whether the referendum requirement was a LLRIB tradition. As far as he knew, passage by referendum is a requirement of INAC for election laws that makes it more difficult for the band to govern. Community consultation would certainly be necessary for any act of this importance. But there are different types of consultation: a town-hall meeting, for example, might be the appropriate level of community consultation for a document regulating internal governance of the band.

Bruno then asked whether the act should remain as one act or be several policies or by-laws, as the IOG had suggested earlier. Maybe Council would find the act easier to pass in smaller bits? Participants indicated that they would prefer one act and a law rather than a policy. Blake Charles outlined what he saw to be the rationale behind the *Executive Act* in the first place. He said that the question arises continually: “who is in charge here; who are the bosses?” Council feel that administrators are trying to take control, but the administrators are seeking stability and clarity. For administrators, it is fairly clear what their job is and how people have to conduct themselves. Directors are subject to the code of ethics found in the human resources policy. Councillors are subject to the oath they recite when they are sworn in—and that’s it. The *Executive Act* would give Chief and Council a clearer guide for their own actions.

The workshop then concluded for the day. In the evening of April 8, the facilitators revised the initial sections of the *Executive Act* in order to present it to the group the next day.

April 9, 2008

The second day of the workshop began with an opening prayer offered by Councillor Morris McKenzie. Chief Tammy Cook-Searson welcomed the group to the workshop and provided some introductory remarks. In her view, it is crucial that the new Council build on the strengths of the LLRIB. The Band has already had some great successes and has a lot to be proud of. It is important to build on what has already been accomplished.

Presentations and Discussions

Morning Session

Bruno Bonneville first made the presentation that had been postponed the day before, one addressing the roles and responsibilities of Chief and Council on the one hand and staff on the other. Bruno offered that there can never be a complete split between the duties of Chief and

Council and administrative staff. What occurs in fact is a relationship that has distinct roles, but also ‘grey’ areas of overlap that have to be managed. After presenting some of those areas, Bruno suggested that laws, policies and codes are one means to help manage the relationship between Chief and Council and their staff. The presentation concluded with a discussion of the special role of the Chief with regard to both staff and Council.

The discussion that followed focused first on the potentially conflicting roles of individual councillors. On the one hand, Council should act as a unified body. On the other, Councillors have to respond to their communities as their individual Councillors and have to deal directly with member complaints. Self-administration adds another wrinkle to matters: community councillors deal directly with staff on matters that are strictly local and do not bring such matters to the larger council or the executive director.

The discussion then turned to addressing complaints. Kevin Roberts asked what kind of formal mechanisms are typically used to address complaints. Bruno responded that a policy or by-law on handling complaints would be a good start. An ombudsman or complaints committee could also be established, depending on the level of formality the band would like to see. He then suggested that a complaints-handling section could be added to the *Executive Act*, where complaints are a major area where ambiguities in staff/council roles typically arise.

The next item presented was some common challenges in the conduct of Council meetings. After Bruno a list of common challenges, participants observed that all of them apply to the Band except one (due to the excellent note-taking of Executive Secretary Ruth Thompson, Council meetings always have perfect minutes). Participants noted in particular the issue of insufficient lead-time for preparing agendas and materials. Because the dates of Council meetings are not clearly established and often change, both preparation and follow-up become difficult.

Councillor Larry Roberts then made a suggestion for solving the issues of time management, irregular attendance and conflict resolution in Council meetings: videotape the meetings and post them to the public. This measure would help ensure that the membership sees who is absent, who is late, what is being discussed, and how individual councillors voted on the different resolutions. Bruno stated that is not a bad idea and some First Nations do this. Blake indicated that videotaping would be easy to implement; each community has the necessary technology. The cameras could be turned off when sensitive information requiring confidentiality was required. The Chief could decide when camera should be on or not.

The next item discussed was the use of committees of Council as a means to deal with Council’s responsibilities. Chief Tammy Cook-Searson agreed that committees are a good idea. Councillor Brian Hardlotte stated that they work well in Stanley Mission, but only when it is understood that they are advisory bodies and do not have independent powers. Blake Charles described two cases where the band is now being sued because Council had not ratified the suggestions made by appointed committees. Another staff member stated that the committees do not seem to work as well as they used to in some of the constituent communities. A well-functioning system still has to be worked out here.

After a brief break, Bruno discussed the relationship between Council's role as a legislative body and as the board directing the Band's several businesses. He acknowledged that the LLRIB had some very successful businesses—and that it is difficult to argue with success. But he also wanted to make the Band aware of some issues arising when Council is also the board of the KMLP. First, conflicting interests arise when the regulator of a business is the same body as its owner. Second, there is a greater possibility that Council will effectively “legislate away” the competition. Third, when businesses go bad the board would be more tempted to use community assets to bail them out. Finally, potential difficulties could arise around the composition of the economic development board. A KMLP board member who is performing poorly cannot easily be removed if she/he is also an elected official of Council.

After raising these points about the business/political relationship, Bruno turned the discussion over to Jodi Bruhn. Jodi presented the revisions she and Bruno had made to the draft *Executive Act* the night before. She reported that revisions at this stage involved mainly eliminating repetition and reorganizing the material that was already there. One councillor then asked why Council had not been asked to authorize the Institute On Governance to revise the draft act. In his view, this was not a legitimate purpose of this workshop. In answer to this, Chief Tammy Cook-Searson confirmed that such authorization had been provided in the last term and reviewing the act was indeed a central purpose of the workshop. The Chief asked whether the other councillors also objected to reviewing the draft legislation at this workshop. Some of the other councillors indicated that they understood the concerns of Councillor Roberts as a new councillor, but they saw the workshop as a good place to review the legislation.

The workshop then broke for lunch.

Afternoon Session

The afternoon presentations focused on codes of conduct and procedures for removal from office. Bruno Bonneville went through the typical features of a code of conduct, comparing them to the code in the draft *Executive Act*. He then presented the central issues at stake in removal from office. He stressed the gravity of this action, which involved the reversal of a decision by the membership. He also stressed the danger it poses to the rest of Council: a situation where Council removes one of its own members, as the *Executive Act* now presents the procedure, invites the perception that Council is using dismissal from office as a means to settle political disputes. Another question that the act leaves open is what penalties are involved: can someone who has been removed run for office again, for example? The present act does not make the consequences clear.

Bruno then stated his opinion that it might be preferable to entrust an independent or appeals body to handle removal from office. That body could be the elder's council, for example. Another possibility would be to call another election for that position and let the people decide. Councillor Pam Mirasty stated that she as a councillor did not feel comfortable removing a member of Council from office—especially if she is not from the community that would be affected. So perhaps it should be the elders who do this. Bruno confirmed that the elders are entrusted with impeachment in many First Nations communities.

Councillor Sam Roberts then offered his view: it is the responsibility of the chief and council to discipline their members. Traditionally, Blake Charles added, the Band has operated that way. Bruno stated that he had no problem with this personally—if that is the tradition and if Council feels comfortable handling removals itself. It should only realize when doing so that it has transforming itself into a judicial body for that purpose and there are difficulties associated with this. Objectivity is at a premium, whereas some might perceive that the removal is politically motivated.

Blake asked who should initiate any disciplinary procedure. Should it be Chief and Council, as it was in the past? Who would oversee the implementation of the procedure? He assumed that there would have to be steps along the way: removal would be a last-resort situation and there would be attempts to warn the Councillor before that. He asked the councillors to think about how the procedure should unfold and noted that a lot of the frustration was coming from the councillors themselves. Although most work very hard and want to improve their communities, others slack off and do not even appear at meetings.

After some discussion of human resources policies and some difficulties with the Band's current *Election Act*, the workshop ended for the day. In the evening of April 9, Jodi and Bruno continued revising sections of the *Executive Act* in order to present all revisions to the group the next day.

April 10, 2008

The third day of the workshop involved only a half-day. There were no further presentations. The facilitators provided participants with the latest version of the draft *Executive Act* and explained its new features. The most major ones were:

- Mention of the local community councils under roles and responsibilities
- A reworked section on conduct (code of ethics and conflict of interest)
- A new section on the conduct of council meetings
- A new section on handling complaints
- A reworked section on compensation and external activities
- A reworked section on disciplinary action and removal from office

Discussions

The final day's discussion consisted of a detailed review of the latest version of the *Executive Act*. Councillor Larry Roberts restated his concern that such a review should be done by Council with a quorum. Other participants present stressed that nothing is being resolved at this point and there will be many invitations for input from the rest of Council in future versions of the draft.

Councillor Roberts stated his concern about limiting the number of the Council of Elders to five appointed representatives. In his view, there should be one elder from every community on the

council—that way each community will know that its elders are respected. The group decided to change the number of elders to eight for the present time, possibly revising the number in later drafts.

Examining the conduct of Council meetings section of the new draft, the group thought that it should be more complete. There was a question, for example, about the meaning of abstention: should abstention count as an affirmative or negative vote? Another participant thought that abstention should be distinguished from a simple refusal to vote in the act. A further question surrounded the situation where quorum is established at the beginning of a meeting, but is no longer present by the end of the meeting. Should Council disband its meeting in that case? Bruno indicated that he would consult with the Robert's standard on that question.² There was a general consensus among councillors present that voting on a Band Council Resolution should only occur through a meeting and that those voting should also be present at the discussion that precedes the resolution. BCRs should not be signed after the fact by councillors who were not present for the debate.

The next issue raised was scheduling meetings. One staff-member suggested that regularly scheduled meetings would be helpful to all involved, including the staff that is to help prepare for them. A meeting could be scheduled for every two months, for example, and special meetings could occur between those times whenever Council deemed them necessary. Meetings could even be held per video or telephone conference if many of the councillors couldn't make it to a central location.

Moving on to questions of compensation and external activities, Bruno and Jodi indicated that they thought councillors should not be treated like regular band staff and their revisions reflected that. Although they are receiving compensation as full-time employees of the band, policies governing councillors' conduct cannot be the HR policies of the administrative staff. All present agreed that councillors should be available during normal work hours; but this could mean through their cell-phone. The one thing that must be a priority for all Councillors is to appear at Council meetings. This would be another argument for having regularly scheduled meetings: so that councillors will be able to plan their schedules around meeting times.

The discussion then turned to disciplinary action and removal from office. Ultimately, Bruno stated, the ones who punish councillors who neglect their duties will be the electorate in the next election. Between elections, the revised version of the act makes Chief and Council responsible for initiating and carrying out the more minor disciplinary action. For the much more severe removal from office, community members would have to initiate the action through a petition signed by at least 25 percent of voters in the constituency. The new draft also foresaw an independent tribunal—likely the Council of Elders—as the body overseeing removal from office. Because this is a very weighty action, Bruno and Jodi strongly recommended that it rely on a highly respected non-political body to carry it out.

² Chapter XI, 40: “In the absence of a quorum, any business transacted...is null and void.” If quorum is no longer present and the chair notices this, “it is his duty to declare the fact, at least before taking any vote or stating the question on any new motion...” The rules make an exception only for emergency actions, where “the members present can, at their own risk, act in the emergency with the hope that their action will be ratified by a later meeting at which a quorum is present.” *Robert's Rules of Order, Newly Revised*. (Persus Publishing, 2000) 336–38.

Workshop Conclusion

The workshop concluded with a suggestion from Councillor Irwin Hennie that the *Executive Act* should get a new name, because the act is about Council, not about executives. Bruno and Jodi suggested the name *Governance Act*—which Council would of course be free to change for something else. They indicated that the final IOG draft of the act would contain this new name. They also indicated that the workshop summary report would contain an action plan outlining next steps that would be required for discussion and passage of the act. That plan is included as Appendix B of this report.

Ruth Thompson drew the meeting to an end by leading the group in reciting the Lord's Prayer.

Appendix A: List of Participants

Name	Position and Community
Tammy Cook-Searson	Chief, LLRIB
Kenny Ratt	Councillor, Sucker River
John Roberts	Councillor, Stanley Mission
Brian Hardlotte	Councillor, Stanley Mission
Morris McKenzie	Councillor, Stanley Mission
Irwin Hennie	Councillor, La Ronge
Sam Roberts	Councillor, La Ronge
Larry Roberts	Councillor, La Ronge
Pam Mirasty	Councillor, La Ronge
Blake Charles	Executive Director, LLRIB
Kevin Roberts	Human Resources Officer, LLRIB
Bob Wyatt	Chief Financial Officer, LLRIB
Lewis Layton	Director of Public Works/Housing, LLRIB
Patsy Roberts-Head	Director of Administration, LLRIB
Bella Roberts	Social Development Administrator, LLRIB
Cathy Young	Band Administrator, Hall Lake
Susan Stabner	Financial Officer, Stanley Mission
Bruno Bonneville (facilitator)	Senior Associate, Institute On Governance
Jodi Bruhn (facilitator)	Senior Researcher, Institute On Governance

Appendix B: Action Plan, LLRIB Governance Act

Objective	Actions	Responsibility	Timing
Adoption of LLRIB Governance Act	Review IOG draft	CEO	May 2008
	Obtain legal advice	CEO	June 2008
	Table draft (first reading)	Chief	June 2008
	Establish committee	Chief and Council	June 2008
	Hold community meetings	Committee	Sept. 2008
	Amend draft	Committee	Oct. 2008
	Table revised draft (second reading)	Committee	Oct. 2008
	Adopt act	Council	Nov. 2008