

**Preparing for the Day After Treaty
Ratification: Best Practices
November 14 - 16, 2007**

**Presenters: Vi Mundy & Trudy Warner, Maa-nulth First Nations
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Presentation 1: Mischa Menzer

Tim [Raybould] couldn't be here. Tim is the chief negotiator for Westbank First Nation on the self-government negotiations and the treaty negotiations. And I've been legal counsel to Westbank on both self-government and treaty. So I agreed to fill in for him this morning to come and talk a little bit about the ratification process Westbank went through.

I don't know if there's anything symbolic that I'm the first [presenter]; if we're moving from self-government to treaty as we go through these discussions, but perhaps it's a fitting place to start.

For those of you who may not know Westbank First Nation is a First Nation in the Okanagan Valley, and they're the only First Nation in Canada with what I like to call a free standing Self-Government Agreement. It's not tied to a land claim and it's not tied to any local government model.

This agreement was negotiated bilaterally with Canada over a period of about 13 years beginning in 1989. And the Final Agreement was initialled by the negotiators in 2000. It was ratified by the membership of Westbank in May 2003. It

was ratified by Canada through an act of parliament in 2004, and came into force on April 1, 2005.

So, since April 1, 2005, Westbank First Nation has been self-governing. [The Agreement] covers only the reserve lands. It's not a treaty. And there are three basic components: there's the Self-Government Agreement which is a comprehensive self-government agreement; there's Westbank's Constitution, which sets out the governance structure and the core elements such as the citizenship or membership rules and land rules; and finally, the legislation itself, which is short legislation to bringing the agreement into force.

There are two areas I want to talk about. First, the lessons that were learned by Westbank through the ratification of its Self-Government Agreement. And secondly, some of the models of ratification that are currently there.

I've given you a bit of background; Westbank began the self-government initiatives in the early 70's by trying to assume more control over its land management and passage of bylaws even within the limited powers under the *Indian Act*. They began collecting property taxes in 1991, and Westbank's first major move involved a ratification process in 2003, when it enacted a land code under the *First Nations Land Management Act*. That's a piece of federal legislation that facilitates a First Nations exercise of jurisdiction and gains recognition for that over its lands. And that was ratified by the membership in 2003.

The next step, as I indicated, was the

ratification of the Self-Government Agreement in 2003. The Self-Government Agreement implements self-government based on the recognition of the inherent right of self-government. And it's unique in that it's really the first time that there's been such a clear recognition by Canada in an agreement, and I think that's very beneficial.

As indicated, it is a bilateral agreement. British Columbia was not a party, although there was consultation - the C word - with British Columbia. It's interesting to have consultation going the other way, with British Columbia when the agreement was finalized and before it went to ratification.

The agreement is not a treaty, it's without prejudice to treaty or the positions that any party may take in a treaty. So that's really the background [and] hopefully it gives a bit of context for discussion on ratification, which is really the topic for today's workshop.

So the first comment or question I want to look at, is how high should the bar be set? And I think this is a really important issue because, if the bar is set too high you may never achieve ratification. Not because it's not a good agreement, not because the majority of the membership don't support it, simply because it may be too difficult to reach that bar.

In Westbank we learned the hard way. It took three votes to conclude the Self-Government Agreement. The ratification process -- and all this is available (the Westbank

Self-Government Agreement) on the website at wfn.ca under intergovernmental affairs. Follow the links.

The ratification process didn't change from the AIP to Final Agreement. It was ratified by members, all members voted, there was not a residency requirement. There was a ratification committee, and a lot of this will sound familiar to those working in the treaty field on the issue of ratification. The committee was a joint committee (one representative from Westbank, one from Canada and one jointly selected) and it prepared a voters list.

All those on the voters list were 18 years of age or older as of the date of the vote. And where there was no current address available and we we're not able to locate someone, they were not included on the voters list. And this has some significance: the voters list is obviously very important because that's the measure against which you will look at whether ratification has been achieved.

The process called the usual kind of procedures of having voters lists posted and people can be added or removed based on new information received. There were a series of information meetings required to be held in the community about the ratification process and notification of the vote.

The voting process itself provided for an advanced vote. It also allowed for mail-in ballots. So it seemed to be as comprehensive as possible, and to really not exclude any one who did want to vote. It was a secret ballot.

The approval level, and this is one of the

issues that came up, was 50% plus one of all eligible voters. [That's] what's called an absolute majority. So if the membership is 500, you would need 251 yes votes for the agreement to be ratified. So that's the essence of how the process worked.

The first vote was held in 2001 and there were 412 voters and 320 of those voted, and of those who voted, 191 said yes, and 129 said no. 78% of the members actually voted, so there was a strong turnout. What that translates to is that 60% of the members who voted supported the Self-Government Agreement Constitution and Constitution.

However, when you looked at whether the absolute majority was attained, they fell short by 19 votes. So 46% of the total electorate supported it, and 60% of those who voted supported it, but they fell short of the absolute majority.

There was a poll done of the membership afterwards to see if they wanted to have a second vote and several community meetings. The Self-Government Agreement was not changed, but there was support for a second vote.

After a series of further meetings - and those of you who've been through processes know that it's a slow process and community education is challenging - it was felt that more information needed to be available to the members. So a second vote was held under the same ratification rules a year later in 2002. And in that vote, again a strong turnout. Of 418 eligible voters, 335 turned out, 208 supported the agreement, 127 said no. The absolute majority level was 210.

Two votes. For most of you who are involved in these negotiations, you can imagine the feeling in the community [after] 13 years having probably the biggest decision to make and [it being] a matter of two votes. 49.8% supported self-government of the total electorate, of those who voted 62% said yes. So again, still a strong turnout of 80%. 62% supporting it, but [the vote] fell 0.2% short of the required level.

The end of the story is that [the Agreement] went back to the table with Canada. We looked at what was going on in the community. The Self-Government Agreement was not changed. Canada had in the interim a policy change, and I'll talk about that, to where the ratification level, from their perspective was no longer required to be an absolute majority. And they looked at what was called a double majority, which I'll explain.

A double majority is when you have a vote, you have to have 50% of your electorate participate in the vote. So if you have 500 eligible voters, you need to have 251 ballots cast. Then of those who vote a simply majority would carry the vote. And the Self-Government Agreement was amended, the ratification procedure to provide for that and the third vote was held. And in the third vote that was held, similar, similar numbers, which I don't have here but I think they were similar. It was about 65% supported it. The numbers were virtually the same if not a little higher and achieved the ratification and the Self-Government Agreement was implemented.

So, Westbank's experience has shown that setting

it as an absolute majority may have been too high, for a variety of reasons. As I've indicated in all three votes, over 60% of those who voted supported self-government and over 45% of the total electorate supported self-government.

So why was it so difficult, and why do we feel the bar may have been too high. First is the voters list is - it isn't perfect. The voters list is done at a point in time. Everybody does their best, but we faced examples where people who had died were still on the voters list. There were two or three mentally incompetent individuals. And effectively what happens is, if these people are on the list, with an absolute majority, they are deemed to have voted no. It's not as if they don't vote, and they're not counted. [If they don't vote], they constitute a no vote.

And in the second ratification it was a matter of two votes. And that was one of the reasons Canada agreed to recognize a third ratification vote. Westbank actually retained someone to go find people, because if you couldn't reach people they effectively voted no, and that's not really a fair process.

The second element is it's not easy to get the vote out. A lot of you know what it's like getting people to come to meetings. To get the vote out is very difficult and when you're dealing again with an absolute majority, those who don't come through apathy are effectively saying no. And Westbank had people who lived in the United States, who lived in Argentina, who lived in England and mail-in ballots worked.

But mail-in ballots are a little more complex and not everybody is prepared to work through it. Even with repeated phone calls and pursuing them, it was very difficult to get the vote out.

The third thing I want to say about an absolute majority is that really in most advanced democracies this isn't a level that's used. It's unrealistic to expect turnouts of a high enough nature to get that. If we look, and I don't have the statistics for Canada, but generally in Canadian elections the turnout is nowhere near the type of turnout that we had in the ratification vote. We still fell short.

In most liberal democracies, change is carried out by a majority of those who participate in the process. When Westbank conducted a survey, the members were supportive of this approach, with the idea of a threshold.

In other words, a minimum of 25% plus one of the total electorate had to say yes. And that was the balance that was achieved.

And this double majority is a mechanism that's used, for example, in the *First Nations Land Management Act* where First Nations can establish a written land code to get out of the *Indian Act*, and that has to be ratified by its members. And in that example a double majority with a minimum of 25% voting yes, is what's used essentially.

So, each community will decide its own ratification process, but these are some of the concerns [based on] the experience that we had with an absolute majority, and it's something to look at.

So at the end of the day, there were three votes and each time well over a majority of those who participated supported the Self-Government Agreement. The other comment that I want to make is not so much about the Westbank's [ratification] process, but Westbank's treaty negotiations. We're looking at ratification [for treaty] as well. And the issues in treaty of course are different than when you're dealing with self-government or reserve issues. But there was something that struck me that I did want to raise and for people to think about in terms of the ratification process and the approach in the modern treaties.

And the issue I'm thinking about goes like this: under the *Indian Act*, reserve lands are held for the use and benefit of the First Nations of the band for who they're set aside. And if that is going to change whether through surrender or a designation process, there has to be a vote of the members of the band, we'll use old terminology, *Indian Act* terminology for the moment.

When I look at the treaty ratification procedures essentially it calls for a simple majority of eligible voters. So it does call for an absolute majority. But there's an enrolment procedure. In other words you have to enrol and then of those who are enrolled are entitled to vote.

The group that is entitled to vote however, is potentially much larger than the existing band membership of the First Nation or the collective group of First Nations voting on a treaty. And in the Nisga'a case or in Tsawwassen

and I think Maa-nulth, it includes all the existing members of the band. [And this is] a larger category of those with ancestry and those who may be adopted or descendants of that larger group.

Under the *Indian Act* to make a fundamental change with respect to the status reserve lands you need a majority vote of members. Under the treaty to make this fundamental change you do need a majority vote, but the group voting is much larger than members. So conceivably you could have, if someone did an analysis or a potential analysis of a vote, the group voting to change the fundamental status of reserve lands is a different group and a larger group and perhaps not the group that could do so, if they want to change it under the *Indian Act*.

I've raised this question at our treaty table [because] it is an issue that concerns me and I'm curious about. I'm simply raising it today because [at] many tables one of the main issues involves the change of the status of the existing reserve lands from 91(24) to a different category of lands.

I think ratification is really a critical question. You assume it's easy until you start doing it. And, it really is important because, really the will of the people has to be heard and if you have a ratification process that doesn't allow for that to happen or creates barriers to that happening, then you're not really filling your role as negotiators, as leaders and you're not truly respecting your

process of negotiation. So, thank you again.

Presentation 2: Marvin George

I will talk about the Lheidli experience. 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. I want to bring you through some important timelines to the ratification vote and what's come out of it since then and where we're at right now. As I mentioned I started working with the Lheidli T'enneh back in 1999, they were already at stage 4. And we met with the Community Treaty Council which was made up of family representatives from the nation. We met with them every Tuesday to seek direction and advice on table issues, to advise them of any changes that were made to any paragraphs within any chapters.

On July 26, 2003 the Agreement in Principle was signed and we were at stage 5. October 29, 2006 the chief negotiators advised that they had reached the end of their mandate, that the Final Agreement should go to the table and it was initialled in Prince George at the Prince George Civic Centre. There was a big banquet there; there was lots of pride and joy amongst all the people that we had finally reached a stage.

We started our first round of community consultations. In November we met in Prince Rupert and in Mission, December in Quesnel, January in Prince George and February again in Vancouver, Prince Rupert and then Kelowna.

The information package that we delivered at the time was the introduction, important timelines in our treaty process. The vision and strategic goals that were developed by the Lheidli T'enneh in that to demonstrate that we had met all the goals that were established.

We touched on the treaty, the important building blocks of the treaty, self-government, lands, resource, and fiscal relations and the Lheidli T'enneh Constitution, the eligibility enrolment process and the ratification process.

During our round of community consultations there were other issues that arose. One is the band election, Lheidli was in a position for new elections and nominations for chief and council happened in January, and in March when we were looking at ratification dates, band elections were held.

And as I complete my presentation you will see how these issues affected the outcome of the process. The ratification vote dates were determined by the community and with the assistance of the office and we wanted to ensure that we could meet the legislative objectives of the province and the Federal Government. When the province was in legislature we had hoped that our agreement would have been ratified and it would be in there. So that's the dates -- that was the reason for us choosing the dates that we did.

The dates were determined, and the advance polls were held in Prince George on March 17, 2007 and polls were in Prince Rupert on March 27, and Vancouver March 28, and in Prince George on the 29th and the 30th. The results of the

votes, you know that we already failed. We had 273 eligible voters, of the 273, 234 voted, 111 voted yes and 123 voted no. So we didn't meet the 50% threshold that was identified in the Final Agreement. And the community had identified a larger threshold that they wanted us to meet; 70%, we didn't meet that either.

So now it was decision time for the community. Two options, stay in the treaty process or withdraw from the treaty process. At about this time the BC Treaty Commission came forward and offered to do an analysis of the ratification vote, why it failed. On April 29 there was a community meeting and the idea of this community meeting was to deal with two issues, one to get a mandate to continue on the process or to abandon it and a decision to allow the analysis. They had agreed that the BC Treaty Commission should do the analysis of why the ratification vote failed, but there is no decision on a mandate to stay or withdraw from the process.

So we had to have another meeting. May 27 we got the community together again and we looked at all of the issues that were identified in the media about why it failed. It would have passed if the membership received some compensation, some money. There was no road map to ensure financial accountability, not enough land, no traditional governance in the Final Agreement.

So we spoke to all that in this meeting. We came up with a plan to not just give money, but compensate for loss of Section 87 which is the income tax. So we had agreed

that we would provide every member with three thousand dollars and all of the elders over the age of 55, five thousand dollars for compensating for losing Section 87.

We ran through the Final Agreement and the Constitution and identified all the clauses that ensured there was financial accountability. We looked at the land and provided a value of the land within the City of Prince George, a potential value to develop those lands and the value. Even though the value of the assets at the time were something like 80 million dollars, the value to developing those parcels far exceeded that. So even though the numbers were low, we owned 30 hectares, but we still used the rest of the territory.

No traditional governance, we pointed out that the Final Agreement didn't have to change; only the one clause in the Constitution had to change to reflect that. At this meeting, because we had agreed to compensate for loss of Section 87 and we spoke to the issues that were identified in the media, we had 100% support to continue on in the treaty process. And a lot of the people that were there that were naysayers, that voted no, agreed, yes we should stay in the process.

At this time BC and Canada indicated that the assets were intact until March 31, 2008. So we were working towards that date. We got to get this thing ratified. We work with -- as I mentioned the BC Treaty Commission came forward and said they wanted to do an analysis of why the ratification vote failed, so we worked with them to develop the questions

that would ensure that we got the answers that we needed. And we identified people that the BC Treaty Commission could speak to, one on one, that knew the process that we went through.

So, on July 20 the BC Treaty Commission and the Mustel Research Group presented their findings to the Chief and council at the treaty office. Out of this analysis that they did they also came up with some best practices scenarios. We had agreed that this particular outcome of the analysis could be made available to other First Nations and it was made available to the Maa-nulth, Tsawwassen but the findings of the analysis itself could not be made public until we had met with our members.

So on September 23 there was a general community meeting, and the Mustel Research Group presented their findings, the analysis of the ratification vote. BC and Canada were there as observers. And we made every attempt to get everybody that was on the official voters list there to Prince George to hear what the outcome of the analysis was. And the message at the time was the community is divided, and it remains divided. Issues now are readiness and capacity.

After that meeting on the next Tuesday after that, there was a tripartite conference between Lheidli, BC, and Canada and because it's the observers there, there's an understanding now that it's not, not enough land, not enough this, not enough that but it's more an issue of readiness and capacity. BC and Canada have now extended their date and are working with Lheidli T'enneh to develop a capacity plan that

will ensure that Lheidli has -- Lheidli is ready on the effective date.

As I mentioned out of this analysis comes some best practices and I will touch on these. Conduct a membership vote on the Agreement in Principle, this is the outcome, I'm not saying I totally agree with the outcomes because there's double edged swords here.

Start early to provide treaty information to engaged members. And we did that every Tuesday we met with the community. And these credible champions from within -- from and within the community to lead the process, and we thought we had that.

Enlist elders and youth from the community as spokesperson on issues. We had a Youth Treaty Council that we also met with every Thursday to advise them on the progress that we we're making on the treaty. Use a variety of communication tools. Good feedback from members is essential, focus on what is important to the members and leave no questions unanswered, treat off-reserve members as a distinct audience, make enrolment and voting easy to members and, where necessary, address trust issues arising from the *Indian Act* election process.

As I mentioned there was some issues that came forward when we were doing our community consultation, the elections for chief and council. Because some didn't want to come right out and say that they were in support of the treaty process as their platform, we didn't have the political will

behind us because of the *Indian Act* elections that were happening at the time.

So there are practices also to avoid during ratification. Do not hold band elections, or major initiatives other than -- other referendums during right up to the vote because they impact on what's happening. Do not hold a vote when it could conflict with other events or activities. Do not hold a ratification vote before members are ready. Do not ignore voices, whether members or not who oppose a treaty. And do not alienate members who oppose a treaty but work harder to include them in the conversations about the treaty. Do not interpret silence as consent. Do not send members the entire treaty and its appendices unless there is a member there to explain it and they specifically request a copy. Address member's issues and concerns first. And do not rely solely on the negotiators to explain or defend the treaty.

During February when we were doing our community consultation we had sent out packages, information packages, to all of the members that were on the official voters list. The information packages included shiny pamphlets developed by BC, Lheidli, and Canada that clearly articulated what was in all of the chapters. There was the Final Agreement, plain English version of the Final Agreement plus questions and answers at the end of each chapter. And we canvassed the community members on questions that they had regarding the chapters and we'd write answers to those, all of the side agreements and the appendices to the treaty.

So those people who became eligible to enrol and became members or eligible to vote all of a sudden got these big packages of information - legalese. And, it was a lot of information to absorb at one time.

The problem, eligibility and enrolment happen after the Final Agreement, and a lot of these people were not aware that they were eligible. If we knew that they were eligible to vote in the Final Agreement, this information would have gone to them earlier, in those bite size chunks that the recommendations say that we should give the information out in.

So I just wanted to provide our experience to you. It is not a failed process as I mentioned. Lheidli, BC, and Canada are working hard on the vote and implementation plan, capacity plan to ensure Lheidli is ready. And when we have the support of the Chief and council, full support we will go back to the community and seek another ratification date. And with the full support of the Chief and council behind us we feel that we can get ratification.

Presentation 3: Vi Mundy and Trudy Warner

Just to give you a little bit of a background of how we got started, the Maa-nulth Treaty Society was formed in 2002 and is comprised of the five First Nations within the Nuu-chah-nulth territories on Vancouver Island. After years of negotiating with the Province of BC and the Government of Canada the Maa-nulth Final Agreement was initialled on December 11, 2006. This signified the end of treaty negotiations and

introduced a spectacle of treaty communications under which we lived for the past 11 months.

Now that a majority of our membership has voted in favour of the treaty, I am honoured to be here with you today to share the Maa-nulth perspective and our best practices. I think it is the goal of everyone here to better understand how we as First Nations can move forward and make the best of a system that has never worked before in our favour.

I think it is the goal of everyone here to -- collectively we are regaining our strength as leaders and now are in a position to heal the wounds of the past and to weave our people back into the fabric of society. Our youth are getting smarter. Everywhere I go within the First Nations community I see healthy and vibrant young people getting involved with all of the important issues, issues that'll have a positive impact on our people for generations to come.

The singularity of the experience has already inspired a lot of our people to re-examine their identity as Ucluelet, and look to the possibility of real change and progress for our people. The ratification process created a wave of interest, opposition, controversy amongst our people. But it also electrified the voters and propelled our ratification teams into a state of permanent overdrive, with frequent seven-day work weeks and substantial travel, in order to be inclusive of our large populations living away from home.

Today we'd like to highlight some of our most

successful initiatives for you, with the hope that you might benefit from our experience.

I'll turn it over to Trudy.

TRUDY WARNER: Good morning ladies and gentlemen. It's my pleasure to be here to share a little bit of about our experience. My name is Trudy Warner, I'm a member of the Huu-ay-aht First Nation, which is one of the five First Nations as Vi explained, that negotiated the Maa-nulth Treaty. I worked for my First Nation for over 11 years and started out as the treaty office secretary and worked on various projects. I was an assistant to our Constitution Committee, so I went out and visited all our community members and received input from them on how they envisioned our Constitution to be written.

My job right now is the communications coordinator for all five [First Nations]. So some of the things that the five tribes do together, we do collectively. And because there's no central government for Maa-nulth, there's five separate governments, five different tribes, five constitutions. What I basically do is I facilitate cooperation and how we can work together on common things.

So, I'm just here to share some of the highlights of our ratification experience, in point form. And hopefully I won't take too long because I think it's more appropriate for you to ask questions and then we can make sure that we answer what you're looking for.

What I'm going to provide to you today is take what your gut tells you would work for your nation. And of

course, it's up to your people to decide how best it is for you to communicate to them. Like Vi said it's such a complex document, it's really, really intimidating. We live and breathe this stuff, but our members don't, and we always have to keep that in mind. Your membership's going to be your best gauge, they'll tell you if and when they're ready to vote. And it's always good to have a goal, it's always good to have a plan, you have to take so many things into consideration when you set voting dates, or target dates for your ratification process. But until your membership is ready, it's not going to fly.

People just want to be heard. I assisted my nation's Constitution Committee and visited our members house by house, and what I found very early on is that people just want to be heard. I went there with a questionnaire and I was trying to seek their direction on how we're going to structure this highest law in our nation called our Constitution, and 90% of my visit was just listening to our members vent and it's not what I was there for. But I needed to just listen to them and bring that back to our leadership. And that was the start of the healing process in our nation because until people feel like they're heard, you're not going to get this information -- it's not going to penetrate them. So, I thought that was a really, really important thing to recognize very early on.

Before I get into some of the suggestions, I also want to point out that my nation's chief and council didn't agree to initial the Final Agreement until they had the

full support of our Hawih. So when our negotiators came to a time where they thought we're at the end, we have a good agreement, they brought that to our hereditary chiefs. And it took some time for the hereditary chiefs to all agree that, and understand what was happening, and until they gave their full support our nation didn't initial the Final Agreement. And so our leadership thought that was a good way to show the community that our hereditary system supports this change in marrying our hereditary with this modern agreement, and that was really important.

So, one of the things the five tribes did right off the bat, when we concluded our negotiations we submitted a proposal for funding to tackle the communication section. Our communication phase, I guess. I want to point out, please don't underestimate the amount of funding that will be required to undertake this project, it's so huge, don't underestimate how many human resources you're going to need.

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, we established a relationship with a communication expert, his name is Tewanee Joseph and we gathered people for a communications strategy. And so 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.

Participating in a communication strategy allowed team members to contribute ideas. It built ownership and emphasized that everyone on the project was a communicator, whether they answer the phone or speak at a community meeting. So everybody needed to be on the same page right from the get go. Our negotiators weren't negotiators anymore, they were now communicators. And so everything that had taken place for the past 14 years, we needed to update our staff. Our staff are our front line people, they answer the phone, so if they don't know what's going on it doesn't look good for the organization or for what our common goal is.

So, one of the things, I have a couple of things here to share with you, a couple of materials. I have a PowerPoint presentation that I printed off on how to create a strategy and then I also have our strategy to share with you, and I'll just pass that around.

We ensured that we kept the flexibility in this strategy to amend it if we got a couple of months into it and our membership said, hey you guys, you know what about this. So we came back and we regrouped and we identified a few things that we missed, so we just kept that open. So some of the things that we identified in this strategy - and this was our bible. We made this, we went through several drafts and finally we became comfortable to call it a final. And this document contains how we're going to communicate this really complex document to our membership. We had community meetings, information sessions, we identified home visits, youth groups,

elder groups, staff meetings, telephone campaigns, how we were going to keep our website updated and members updated through that, and how we were going to prepare our written materials.

Our written materials right off the bat, our communication expert advised us to brand things. So that's what we did, we made every bulletin look the same and that was establishing trust with our membership. So what I'm going to pass out here, everything is branded. This is what we shared as a collective, in addition to this, each of the five nations produced more materials that were just relevant to their nation.

In addition to that, the Provincial Government was generous enough to provide the funding for each of the five First Nations to have a video made of their nation. So, I think that was really, really helpful, it was useful in community gatherings, copies could be made for heads of households and that kind of thing.

Another really, really important step on our ratification journey was the trip that the Provincial Government sponsored for us to visit the Nisga'a Government. That was a really, really wonderful experience for our people. We're very strategic in how we selected who was going to go on that trip. And we had such tremendous feedback from all of our membership, from all of our leadership. There wasn't anyone on our trip, whether it was the chief councillor or a member that didn't learn something from that. Because that's what we were there for to learn from their experience. They are a little

bit ahead and so, even our leadership found it very, very useful and just a really eye opening experience.

I remember being on the bus and they described that the road that we were travelling on used to be a gravel road until they decided they could change it. And it reminded me of where I'm from, which you have to get to by a gravel road, it takes an hour and a half. And it was just a simple statement from one of their tour guides that they had the ability to do that because they are a government now.

So the whole trip was wonderful. The nation pride that they show just in their dancers, like the dancing and the cultural entertainment was probably the biggest hit, and such a humbling healing experience. So visiting their nation has provided huge rewards for everybody in all of our communities.

I also want to point out the five nations chose to have two separate votes. We voted on our constitutions first, and because of that we were able to take what we learned from that vote and what we did well, and what we could have improved on and put that towards our treaty vote. So, that was something really smart I feel that we did.

You heard one of the earlier speakers talk about the importance of eligibility and enrolment and how much time that takes, because your enrolment numbers are your gauge. If you have 200 people enrolled but you can only find 100 of them, this is not a good thing. So the amount of time the Ratification Committee and the Eligibility Enrolment Committees

spent on preparing for the vote is astronomical. I couldn't believe how much effort we had to put into that. And we're in the same boat as many of you, no one taught us how to do this, you're thrown in, you either sink or swim. And, like I said, you take what we have to suggest to you and if your gut tells you, hey that's sounds like a good idea, let's try that. The rest kick to the curb and then follow your instincts and what your gut says and follow what your memberships say. Because they're our bosses, you know. No matter what the negotiators say, no matter what the provincial, federal government say, of how good of a deal this is to them, if the membership doesn't support it, there's no point in anything that people have done for the past hundred plus years. People have been doing this for a long time. It's only called treaty today.

So, that's something that our leadership reminded our membership of. And the opening remarks of many of our membership information sessions are the negotiators that are sitting here presenting didn't just decide we are going to go negotiate. My tribes membership actually gave instructions and formed our negotiating team and so they were mandated and our leadership or sorry our membership voted on the AIP and so that was instruction to go ahead and keep negotiating. Our Hawiuh, you know, approved the Final Agreement which allowed the chief and council to actually initial.

All of the direction all of the way has been from the membership. And this is not just one or five people thinking that they have an understanding of these intricate

details and legal concepts and big words that happen in a negotiating room. It's the membership who has to support it, and ours did so. I was grateful that our leadership recognized that a long time ago, and it made our communication job much easier.

That's all I have to share. I don't now if there is anything I want to add.

VI MUNDY: Just in the way of communication strategy. For our tribe, what we had was family meetings. At the largest family meeting we had there were 65 people. And there were anywhere from 65 members of that family to, I think the lowest was 40 members. So we found that that was very successful in providing a forum for the families to ask questions.

Each family had a different question for us, so we provided the resources from the Maa-nulth Society, whether it was taxation or fisheries, they always told us what they wanted to hear or discuss in that family meeting. So I believe that was one of our strongest communication strategies for our tribe was to have those family meetings.

So and after the family meeting was over with what we would do is we would put it in a written form and put it in a bulletin form so that everybody saw what was discussed and heard. And it brought more understanding, too, because we broken it down, you know, by topic. Every family member had a different topic, so we weren't always dealing with fisheries or taxation.

So once they got the information out that way, which was our strategy to get it out to the people is so that they weren't asking the same questions over and over. So that was the strategy that worked for our tribe.

And we're 60% off reserve, so it was a lot of work for us to do that, to go out and meet them. And we actually went out to meet them. And wherever they lived the next highest population for Ucluelet is Port Alberni and then Nanaimo, Victoria and Vancouver, so we made arrangements to have meetings actually, in those little towns as well. 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. We've got second, third, fourth generations that have never lived in Ucluelet much less know where it is. So it was really good to make that connection with them. We've got really strong ties now with our people that are living away from home.

Presentation 4: Eva Clayton

Thank you to the panel members, now if I may, I'd like to share the Nisga'a experience with the ratification process of the Nisga'a Treaty.

First of all for the information of the delegates and attendees, I served as the chairperson of the Nisga'a Ratification Committee. I want to qualify my statements with the fact and to recognize that every First Nation is unique in its own way. We all have the same principles in terms of getting our treaties ratified, but how

we do that, we are so unique. But it's always good to share with one another our experiences because we'll always be learning from one another.

The Nisga'a Tribal Council in 1998, July 1998 appointed what we call the Nisga'a Ratification Committee. The Ratification Committee had a timeline from July 1998 to November 1998 to take a look at getting the Final Agreement ratified. And it was within the interests and within the political arena of the Nisga'a Tribal Council back then. They took a look at the political climate in terms of the ratification process.

The Nisga'a ratification process is identified in Chapter 22 of the Nisga'a Final Agreement. It is agreed upon by the three parties, each of the three parties, Canada, BC, and the Nisga'a each had steps to carry out in order to get the treaty ratified. The Nisga'a Ratification Committee was appointed by the Tribal Council to govern the administration of the referendum required to ratify the Nisga'a Final Agreement, which I'll from here on refer to as the Treaty.

Membership of the committee was comprised of seven plus two. The four communities within the Nass Valley and the three urban areas were represented on the committee plus two, Canada and BC they each had a seat on the Nisga'a Ratification Committee.

It's important to note that the committee functioned independently of the Nisga'a Tribal Council. It had to function independently of the Nisga'a Tribal Council because

the Tribal Council negotiated the Final Agreement.

Furthermore, the Tribal Council developed and adopted the rules that the Ratification Committee had to carry out.

The responsibilities of the Nisga'a Ratification Committee included compiling a list of eligible voters, enforcing the rules, providing copies of the rules to any person upon request. We promoted public awareness of the referendum by setting up information sessions for the members of the public. We also informed voters about the referendum process as well, provided information on the substance and the meaning of the Final Agreement.

It didn't necessarily mean that the Ratification Committee sat down and explained the whole treaty to them. We provided a means for them. We set up forums where the negotiators were invited in to make actual presentations on what they had actually negotiated in the Final Agreement.

The committee was responsible for reporting to the Tribal Council providing status reports. There was always that connection to the Tribal Council on where we were with the ratification of the treaty.

Eligibility, when you talk about it, you take a look at the best practices. How we do that as a First Nations to go in prepared, do we do it at the AIP level, do we do it now. Each of the First Nations really do need to sit down and take a look at the eligibility and enrolment prior to getting into ratification. Very important to see some of our panel members, it was very difficult for the Nisga'a Nation, because

it's never been done before, to really quickly determine who was eligible to be enrolled in order to vote general ratification. That was done and to this day Nisga'a Lisims Government continues to have an eligibility and enrolment department, because we do have members that are out there that need to be enrolled.

Right now we're looking at -- I'm getting into another whole new session when it comes to government, but I think we're going to need to continue this.

Part of what was set out in the ratification chapter of the Nisga'a Treaty was the eligibility criteria that was agreed upon by the three parties. And for the Nisga'a the three pieces of criteria included that persons to vote on the referendum must have been at least 18 years of age on the last scheduled day of voting in the referendum, meaning a person who turned November -- on November 7 turned 18 was eligible to vote on the day of the referendum vote. So that needed to be taken into consideration because you're going to have members who are of age to vote, there eligible to vote in the referendum if the date happened to be turning 18 on that day of your vote. And members who are ordinarily resident in Canada and not enrolled in another Land Claims Agreement. For the Nisga'a ratification process those were the eligibility and enrolment requirements.

Some of the questions that might be arising, and I want to encourage the members in attendance today to feel free to ask questions of any of the panel members that you see here today. One example I want to give you, why did the

Nisga'a vote on the Final Agreement in a referendum?

Very simply, and I don't mean to say that it's a simple answer, because the only way that Nisga'a could vote on ratifying the Nisga'a Treaty. You have to remember Canada and BC, they had the authority, they had the jurisdiction to vote on behalf of the constituents. First Nations, we don't have that kind of authority to vote on something of that nature to - - it's a huge change for our people, so it was the only way for the Nisga'a that we could provide that forum for our people to vote. And plus it was the Nisga'a right to be able to say yeah or nay to the Nisga'a Treaty.

And how did Canada and BC know that only the Nisga'a voted in the referendum? That's another question that could be asked. And the answer for that particular one is that the Nisga'a Treaty contains, and I alluded to that earlier, contains a list of eligibility criteria that the persons had to meet to vote on a treaty. And that was agreed upon by the three parties. But also Canada and BC had a seat on the Nisga'a Ratification Committee so they were well aware of who was on the voters list for the Nisga'a ratification process. And of course the big question is what happened after the Nisga'a Treaty got ratified is -- we'll continue to implement it to this day, and were still in the infancy stages.