# Wellness, Capacity Building and Renewals

Chair: **Pauline Frost**, Director - Intergovernmental Affairs, Vuntut Gwitchin First Nation

Speakers: **Tim Gerberding**, Implementation Director, Tr'ondëk Hwëch'in
**Norman Snowshoe**, Vice President, Gwich'in Tribal Council
**Diane Strand**, Director, Community Wellness, Champagne and Aishihik First Nation
**Chief Danny Cresswell**, Carcross/Tagish First Nation

## Tim Gerberding – Yukon First Nation Program and Service Transfers

Sections 16, 17 and 18 of Yukon First Nation Self-Government Agreements set out a framework for the assumption of responsibility by Yukon First Nations for Government of Canada and Government of Yukon programs. Specifically, these sections outline that Yukon First Nations can negotiate the assumption of responsibility for any Program and Service within their jurisdiction, that the Government of Canada will provide sufficient resources to ensure that these programs and services are comparable to ones existing within the Yukon, and the Yukon Government will make financial contributions equal to their cost savings when Yukon First Nations assume responsibility for a program. Once the responsibility for a program has been assumed by the Yukon First Nations, they have the right to modify the program to suit the needs of their target populations and communities. The program and service transfer have the purpose of being a building block for First Nations governance and also expanding capacity within the communities.

A number of program previously administered by INAC are now being run by Yukon First Nations. Previously these programs were under prescribed and did not use all of their financial resources. Since the transfer of these programs to Yukon First Nations, the programs are now overprescribed. This is because the programs are now properly promoted and accessible since it is now run by the Yukon First Nations. Positive outcomes observed include higher number of high school graduates going on to post-secondary education. A significant reason behind these successes is that First Nations communities know the needs of their own communities much better than federal or territorial governments. Through the transfer of the programs to the Yukon First Nations, it is now possible for communities to mould and fashion the programs to actually meet the needs of their community. Additionally, communities were able to build capacity by hiring and training their own Citizens.

While program transfers have been incredibly successful, their high resource demand is drying up funding for other programs and services. For example, currently there is a large post-secondary deficit, however the funding to make up this deficit must be found somewhere, so it comes from other areas such as housing. While First Nations communities have been successful in self-governance, increasing capacity and running effective programs, there is still the ongoing problem of lack of resource to run these programs and services. The resources are still the same as what was provided to Indian Bands, and there have been no significant program enhancements. The funding has been adjusted for inflation and

demand, but is still vastly inadequate. This is especially true as the responsibilities of the Yukon First Nations have expanded significantly from the responsibility to provide programs to Registered Indians living in home communities to the responsibility to provide programs to all Citizens living in Yukon, regardless of their status under the Indian Act. The lack of resources and funding creates a roadblock to providing programs to their Citizens comparable to other programs offered throughout Yukon.

Another significant obstacle is the Inherent Rights Policy, which was rolled out in 1995 and has since guided Self-Government implementation. The Implementation Plans section of the policy essentially caps the funding provided to Yukon First Nations at what was provided to predecessor Indian Bands. This is fundamentally inconsistent with the promises made in Yukon treaties and unreasonable when Self-Governing Yukon First Nations are working to provide comparable programs to an increased population base.

Yukon First Nation assumption of responsibility for programs and services is presently at an impasse. Over the past five years, Yukon First Nations have not concluded a single Agreement. Yukon First Nations have yet to negotiate the assumption of responsibility for any programs related to our non-status Citizens, which comprise up to 30% of the population of some Yukon First Nations. Additionally, Yukon First Nations have yet to negotiate the assumption of responsibility for any Government of Yukon programs, some of which are critical to the social well-being of our Citizens, such as Alcohol and Drug Services and Child Welfare programs.

The reason for this failure is that the Yukon Government savings in expenditures will never equal the amount of money Yukon First Nations need to provide comparable programs to their Citizens. Sections 16, 17 and 18 of the Yukon Self-Government Agreements require the Government of Canada to make up the difference, but Canada refuses to do so. Instead, Canada cites the billion dollars it provides annually to the Government of Yukon and says that Yukon has to step up to the plate and help to fund Self-Government. The Government of Yukon disagrees. Yukon stands firmly on Section 18 and says that its responsibility is limited to contributing its savings in expenditures. Back and forth it goes. Yukon First Nations are the meat in the sandwich, ground between the governments of Canada and Yukon.

But Yukon First Nations are ever optimistic. We are hopeful that the new INAC mandate will enable Canada and First Nations to renew our relationship and break the impasses that are presently blocking the successful implementation of our treaties.

## Norman Snowshoe – Capacity Building & Training

During the process of becoming a self-governing nation, extensive research was done to investigate what was done in the past, what existing self-governance agreements existed and details about the negotiations. Throughout this research, the issue of capacity regularly emerged. To address this identified concern The Gwich'in Internship Project was designed.

This project started with the signing of a Memorandum of Intent on Capacity Building between the Government of the North West Territories (GNWT) and the Gwich'in Tribal Council (GTC) on December 11th, 2013. The purpose of this memorandum was to commit to establishing a working group and developing terms of reference, to explore option for the Government of Canada (GOC) to join the project, to discuss a process for the exchange and development of staff, as well as designing the project itself. A Memorandum of Understanding was signed on February 23rd 2015 between The Honourable Bernard Valcourt, Minister of Aboriginal Affairs and Northern Development, and James Wilson, President of the Gwich'in Tribal Council announcing the launch of the innovative new training and development project: the Gwich'in Internship Pilot Project (GIPP). On May 11th, 2015, The Honourable Robert C. McLeod, Premier, Northwest Territories signed a Memorandum of Understanding in support of the project.

The Gwich'in Internship Pilot Project (GIPP) is a coordinated effort by the GTC, the GOC, and the GNWT, to enhance the skills of Gwich'in participants through on-the-job training. The goal for this project is to increase the participation of Gwich'in participants in the territorial and federal government workforce, to build stronger ties between treaty partners and governments, to implement the Gwich'in Comprehensive Land Claim Agreement (GCLCA), as well as to build institutional capacity at the GTC. This project will provide developmental opportunities for nine Gwich'in participants within the partner governing institutions. Within these placements, participants will be provided with capacity building opportunities, practical work experience, a greater understanding of the public sector, and preparation for future opportunities within the GTC. These placements will be enhanced with formal and informal learning, as well as mentoring opportunities. This project will be funded using the combination of a user pay model and existing resources from governments, and will cost a total of approximately 3 million dollars.

To be eligible to apply for this program Gwich'in participants must have some post-secondary education, a minimum of two years of work experience in the area that they are interested in and must be willing to relocate for placements across the north and southern Canada. Three interns per year will start in September of 2015, 2016 and 2016 and participate in the program for three consecutive years. All participants will have placements with GTC, GOC and GNWT in locations such as Inuvik, Yellowknife, Whitehorse, Ottawa and other locations in the NWT and across Canada. To facilitate the success of this program there is a program coordinator who has daily or weekly contact with all interns dependent on the situation, and developmental and training opportunities mentors who are also in regular contact with participants. There are also joint working group members who have bi weekly conference calls.

Since the programs launch in September 2015, some challenges have been identified including recruiting interns, recruiting mentors and funding the program coordinator position. Despite these challenges, this

program should be regarded as a highlight of what can happen when all three levels of government work together to reach a common goal.

### Diane Strand – Community Health and Wellness: Moving from an Externally Driven Process to One that Honours our Values

In 1890, explorer Edward J. Glave entered the Champagne and Aishihik Territory and described his hosts as “people of magnificent physique,” “scrupulously honest”, and as “without exception the most peaceful people I have ever met in my life,” adding “…they appear to be living on the best of terms together…lively and genial and full of fun…they display affection and consideration for their wives and families." In the 1940s, the Federal Indian Agent came into the community and the Champagne Indian Band elected their first chief. Later, in the 1960s, Aishihik Indian Band amalgamated with Champagne.

In the past, the community’s primary function was band administration, social welfare, and housing, however that has now changed with the Champagne and Aishihik First Nation signing a self-governance agreement in 1993. When the agreement was first signed, the primary function was land, water, forestry, fish and wildlife. This has now grown to include law making authority and control over programs and services. Despite these advancements, issues still exist such as Child & Family Services and Income Assistance that is Yukon Government based.

With the change in administration, there has been a change in how programs and services are offered so that they are more efficient and provide a holistic response to citizens’ needs. This process is founded on Dän Ké (Our Way) and based on an effective community consultation process that encourages dialogue. Part of the process to achieving efficient programs includes utilizing own staff resources, reviewing and consolidating existing reports, completing program and financial analysis, and undergoing a technical review, program design and evaluation.

It is recognized that to improve services, it is important to critically assess how they are currently being offered. Through an internal review, areas for improvement were identified including creating an indicator to measure “cultural match”, increasing teaching of traditional skills, improving the integration of traditional and contemporary knowledge, and clarifying the levels of authority for decision making. The internal review also identified issues and areas where attention was needed, including alcohol and drug use, trauma and unresolved grief, poverty and basic needs, and delivery of services for Child Welfare and Social Assistance.

Four programs that were transferred over to the Champagne and Aishihik First Nation are the Aboriginal Diabetes Initiative (ADI), Canadian Perinatal Nutrition Program (CPNP), Aboriginal Head Start (AHS), and Children’s Oral Health Initiative (COHI). Unfortunately, overarching issues exist in the both the transfer and implementation of these programs. One significant issue is that the communities are expected to run these programs despite what the needs of the community is truly calling for, and whether or not these programs are actually improving the health of the community. Additionally there is the issue of lack of financial resources, staff and capacity to run these programs. For example, in the case of ADI the program is mandated to provide training for health staff, awareness about diabetes in pregnancy, and

address issues around food security and traditional food. However, with the funding and resources actually allocated to this program, it is only able to provide elder assistance programs such as meals-on-wheels, and some luncheons and events. This pattern of not enough funding or resources to actually provide the mandated program is seen across the board.

Despite these challenges, Champagne and Aishihik First Nation is offering programs that better meet the needs of their community and empower community members. By having community members learn how to run the programs, capacity is being built within the community. The end goal will be effective programs that incorporate and build on traditional knowledge, and that are being run by the community and for the community.

### Chief Danny Cresswell – FFA Renewal Challenges

The Carcross/Tagish First Nation (CTFN) Self-government Agreement (SGA) became effective in February of 2006 and included a Self-government Financial Transfer Agreement (SGFTA). This SGFTA was an aggregate of agreement implementation plan funding and program transfer funding which was to be adjusted annually based on inflation and population. The effective date for the Carcross/Tagish First Nation SGA occurred during a review of fiscal agreements of seven other Yukon First Nations. The review took nearly five years due to federal mandate issues and resulted in a multi-party costing study which generally rejected the new funding for governance.

The funding provided by the government has always been grossly inadequate, however with the increased responsibilities of a self-governing First Nation, the funding is now even more inadequate. In addition, data is now coming forward about how much things actually cost, however the data is not being utilized to make actual funding decisions. Finally, the government intended to fund all communities equally regardless of evidence that some communities require additional resources

The Government of Canada (GOC) made an offer based on what other communities were receiving, however the offer failed to recognize that the CTFN was in an area with a large population and that there was an uneven impact of the Department of Indian Affairs and Northern Development (DIAND) funding legacy. The GOC refused to make any modifications to their offer based on the issues raised by CTFN, but did propose an extra $150,000 per year without any reasoning. Based on consultation with their Citizens, the CTFN and some other Yukon First Nation refused to accept this offer.

In response, the GOC refused to negotiate with the CTFN on any issue and proceeded to threaten them first with removing the offer of extra annual money, and then with suspending all funding including for treaty implementation, governance, and programs and services. This is the first time since the signing of the first modern treaty that Canada threatened to defund a modern treaty. In addition to the threats, DIAND employees warned other Yukon First Nations not to work with or be closely associated with CTFN, suggested to CTFN community leaders that their negotiation team was misleading them, suggested to the CTFN citizens that their local government was misleading them, and requested to by-pass the CTFN political system and take the issue directly to the citizens.

The Carcross/Tagish First Nation SGFTA was set to expire and the GOC was prepared to let it lapse. With the help of the Yukon's MP, the SGFTA was extended for six months with the purpose of letting the CTFN think about and accept the GOC's offer. Days before the six-month extension expired, the GOC filed for mediation and offered a second 3 month extension. This is the first fiscal related matter to go to dispute resolution process. The result of the mediation was a new FTA that met the interests of both Parties by shoehorning enough of CTFNs issues into the Federal mandate that it took the funding over the necessary thresholds. Unfortunately it did not address the major issue of program funding comparability. The community also still has ongoing concerns including having control over their own child services and having the finances to support that. Additionally, the government had essentially told the community to take over running all of the programs or none of the programs, which raised concerns about whether the community has the existing capacity to take on this role all at once.

Despite these ongoing issues, it is important to look at what has been learned from this process. One of the largest take home messages is that communities should not be afraid to say no to agreements that they feel do not meet their needs, but they must be prepared to deal with the repercussions of their action, and be firm on why they are saying no. Communities should also be willing to discuss the contrary position and be open with the community about both sides of the issue. Additionally, communities should be diligent and consistent in stating what they want, why they want it and why it is good for all parties involved. It is also hoped that the GOC has learned some things as well, including that they can't not fund a modern treaty just because a First Nations community doesn't accept the take-it or leave it offer the GoC put on the table, and that mediation can be a productive way of reaching a resolution.

In the future, situation like the one that has occurred with the CTFN could be avoided if the GOC was willing to move away from a fiscal approach. While this approach is supposed to be formula based and transparent, it is actually a regressive articulation of the poverty management funding approach DIAND has historically taken and is limited in its transparency. Additionally, this approach fails to address the commitments of the treaties, drags modern treaties back into the Indian Act world and is used by the GOC to renegotiate portions of the treaty they regret including.

At this point, there is very little independent research on the fiscal elements of modern treaties. Examples of questions that should be asked include:

- What do clauses such as 16.1 of the Yukon SGAs mean?
- What are the legacy costs of DIANDs poverty management funding approach?
- What are the socio-economic impacts of modern treaties?
- How do funding levels impact implementation?
- How does Canada fund its own implementation requirements?
- What is the most impactful approach to cost sharing?
- How do modern treaty fiscal arrangements fit in the fiscal architecture of Canadian Federalism—base transfers, targeted transfers, tax sharing etc?