

Trust Working Group

Report

The Whitefish River First Nation Community Engagement Sessions on the Development of a Draft Trust Agreement

September 14, 2018

This report has been created to document the results of a series of community engagement sessions that were held in Birch Island, Sudbury and Toronto, Ontario for the benefit of all members of the Whitefish River First Nation. The trust development process was initiated by the Whitefish River First Nation Chief and Council as follow-up to the Whitefish River First Nation Boundary Claim Settlement Agreement initialed on December 18, 2013. The purpose of drafting a Trust Agreement for the Whitefish River First Nation was necessary to create an entity whereby any monies received from the land claim settlement could be transferred to the Trust for the long-term benefit of the Whitefish River First Nation. A Trust Working Group consisting of members was formed by Leadership for the purpose of providing representation and input into the development of a draft trust agreement. This group organized the community engagement sessions to obtain member feedback and, also worked to build consensus on all recommendations provided to the Whitefish River First Nation Chief and Council in approving a final Trust Agreement for ratification through a community referendum.

The **first** community information sessions were hosted during the month of February 2018, with presentations on *Understanding Modern Trusts* and the *Protection & Investment of the Settlement Funds*.

The **second** community engagement sessions were hosted during the month of March 2018, and engaged members in a *Trust Survey* to obtain input on aspects of the Trust that would need to be addressed and determined by the members. The initial draft of the trust agreement was created from member input and comments received as feedback to the Survey.

The **third** community engagement sessions were hosted in May 2018, and took members through the input from the surveys that would be used for the ***Initial Draft of the Trust Agreement***. The member input and feedback from these sessions helped to create the first draft of the trust agreement.

The **fourth** community engagement sessions were hosted in July 2018, to discuss the ***First Draft of the Trust Agreement*** and to ensure member feedback had accurately been reflected in the draft. Further member input and feedback provided at the July sessions provided the Trust Working Group with the information needed to create the final draft of the Trust Agreement.

This report will focus specifically on the May and July 2018 Community Engagement Sessions. These particular sessions yielded detailed member feedback and responses on the initial and first drafts of the trust agreement. The sessions helped to refine the draft trust agreement to reflect what was important and acceptable to members regarding the operation and accountability of their Trust.

Highlighted below are the some of the recurring themes brought forward by the Whitefish River First Nation members to the Trust Working Group:

1. **Understanding the Trust Agreement & Settlement Agreement:** There are some members who would like to go through the Trust Agreement line by line with someone available to provide clarification if questions are raised. Generally, participants to the sessions advised that they do grasp the content of the draft Trust Agreement and its meaning and purposes. Providing more concise explanations for the few who have requested this could be explored as an option when holding the Referendum Information Sessions. The Definitions need to be better explained. Even the definitions contained within the plain language version of the draft Trust Agreement do not suffice for some people.
2. **Anishnabemowin Traditional Language:** We need to explore the possibility of having the Trust Agreement translated into our Anishnabemowin traditional language for the benefit of the Elders. This should be kept in mind.

3. **The Per Capita or Personal Cash Distribution - PCD:** Many members continue to ask questions on how things would work if someone who was entitled to PCD, who was alive at the time of the vote but dies on the day of or, afterwards. The Trust Working Group stated that individuals must indicate in their Last Will where their money is to go after they are gone. What about the birth of a child before the day of the Ratification vote? Response provided by the Trust Working Group was to state that all members alive **“on the day of the vote”** are entitled to receive a PCD benefit. Members have also asked how much each recipient will receive. These concerns can be addressed with various information communiques that would go out to members preceding or, following the Referendum Vote on the Settlement Agreement and Trust Agreement. The Trust Working Group has obtained sample templates to use for this purpose from the Nipissing First Nation. The PCD and the eligibility of members who will be recipients of Trust monies, will continue to be a main topic of interest until the Referendum Vote. Messages to inform on this should be considered well in advance of the Vote so those messages are released in a timely fashion to the members.
4. **The Corporate Trustee & Investment Managers:** The Working Group also heard that it is important that we acknowledge the land we occupy and honor it in our choices. This applies to selecting the proper Investment Manager who will carry out the wishes of the First Nation and its people. Land, air and water stewardship roles are very important to the members. Members want to learn more about these positions with the building of the Trust and how these individuals will hold and carry-out the First Nations best interests. They also expressed an interest in knowing what is going to qualify a person to fill each role. Work can begin anytime to provide “Fact Sheets” on this and to distribute the information to members in a future mail out.

5. **Off-reserve members** wish to continue being involved with the process like any other member living on-reserve. Does the preamble honor those that are at a distance? Our community engagement sessions and consultations have also been targeted to involve and respond to members that live at distances. This message can be reinforced in articles, website and communiques to members.
6. **Presentation on Settlement Agreement:** A presentation was made by legal advisor, Nancy Kleer, at the May 2018 community engagement sessions. At the Toronto session members strongly expressed that they do not wish to give any further allowances when it comes to reconciling the failure of the federal government's past due diligences on our behalf. This message has been communicated to the Leadership. It should be noted these comments apply to the Settlement Agreement and not specifically to the Trust.
7. **Consultations on Future Developments:** Members throughout the May and July 2018 sessions expressed they would like to be consulted by Chief and Council on future development proposals that utilize the Trust monies. Members want Leadership to not only be present when a Vote is needed, but to be present afterwards as well for follow-up. Creating a Community Plan for Trust Expenditures is recommended with the staff put in place to ensure it is effective. It is recommended the Leadership and members work closely together to design a five-year plan on how the annual monies are to be spent. Revisit the plan to adjust it every five-years. The expectation is that members will be consulted on the expenditure plan and, that Leadership and Administration will carry out the plan.
8. **Timeline of the Process:** Members have asked to see a timeline of when this process initially started and when it will be completed. This includes when the Referendum Vote could be expected. This timeline has been reported in the Rezound articles, on the WRFN website and, at the community engagement

sessions. An updated chart continues to be provided in all Trust updates. A Flow Chart can be distributed in a mail out prior to the Referendum Vote.

9. **Environmental and Social Governance – ESG and the Investment Policy Statement - IPS.** Members want the land to be acknowledged at all times. The Trust Working Group is aware of this repeated concern from members and will communicate this to Leadership. It is important for the Trustees to be aware of the importance of this to members. A clear investment policy statement must be developed that honors the intent “to follow ethical choices based on our environmental responsibilities”. An investment policy statement must contain this value at its core. It will help provide guidance to Investment Managers to select companies for investment that are ethically driven and environmentally and socially responsible. Members requested they be involved in shaping the Investment Policy Statement when it is developed.

10. **One Meeting for All Members:** At the July 19, 2018, Birch Island session, members inquired on the possibility of organizing a session where members on and off reserve could attend in one place to discuss the Trust. Members also stated they would like to see the Chief and Council members more involved within the trust engagement sessions.

11. **What Works and Does Not Work in Trusts:** Members wanted to know what worked and what didn't work for the Nipissing FN. What were their best practices in setting up their trust? Dwayne Nashkawa from the Nipissing First Nation attended the February and March 2018, Birch Island sessions to relate the story of what worked and did not work for the Nipissing community. Dwayne answered many of the member's questions and highlighted the successes achieved by his community. Dwayne emphasized the importance of communications with

members and shared many of the information communiques that were utilized by Nipissing, including those were used to communicate with members on the PCD.

12. **Trust Naming Process:** A trust naming contest was announced in June 2018, to invite submissions for the naming of the Trust. A total of three (3) submissions were received. The Ojibwa names and their English translations will be submitted to the Council for a selection of the winning submission. The winner will be announced in the Rezound and a prize awarded for same.

13. **Selection Committee for the Trustees:** In response to the survey on the draft Trust Agreement, the members recommended that a ***trustee selection committee*** comprised of members be established to select and recommend candidates as trustees for appointment by Chief and Council. The process was confirmed by the Trust Working Group and the Council and written into the draft Trust Agreement. The process to appoint the first two member trustees must be confirmed and appointed ***prior*** to ratification of the Trust Agreement in order to open and operate the Trust when it is ratified. The Terms of Reference for the Selection Committee have now been completed. The Trust Working Group also discussed the option of having the Council appoint current Trust Working Group members as the first Trustees. The Trust Working Group has decided to put the question to Chief and Council on what process they will use to select the first Trustees.

14. **The Referendum Vote:** Members want to be kept informed on the developments with respect to the timeline for the Referendum Vote on the Trust Agreement and the Settlement Agreement. This is expected to be communicated to members as soon as the Leadership resolves their remaining items with Canada regarding the Settlement Agreement.

15. Next Steps: All that has to be done now is to :

- select the name of the Trust;
- obtain a decision from Chief and Council on the process to select the first Member Trustees;
- obtain a decision from Chief and Council on the process to be followed to appoint the first Youth ex-officio Trustee;
- secure input from Peace Hills Trust and a decision from Chief and Council on the amount of the PCD;
- Secure input from Peace Hills Trust and a decision from Chief and Council on amounts to be allocated for encroachments for land, natural disasters and emergencies and borrowing; and
- forward a copy of the final approved draft of the Trust Agreement to Nancy Klear, the Settlement Agreement legal advisor for her information and reference.

IN CONCLUSION

Members have been informed on the purpose and functions of a trust agreement and how it should operate for the community. It is the members who have designed the Trust for themselves and the future generation. The Trust Working Group has addressed the final touches to the draft Trust Agreement with a recommendation to the Chief and Council the document is “Vote Ready” from the member’s perspective, taking into account the final finishing touches described in Number 15 above.

Two Referendum Vote Information sessions will be necessary to present the final draft of the Trust Agreement to the members. This will be the opportunity for members to be informed on the purpose of the vote and updated on any final revisions that were made following the July Community Engagement sessions.

Open community dialogue to create the content of the Trust Agreement has prepared the groundwork and expectation the Trust Agreement will go to a Referendum Vote in

the near future. It is important to not lose the momentum that has been created to prepare members for the vote on the Trust Agreement.

The Trust Working Group members have successfully completed its mandate to provide representation and input into the development of a final draft Trust Agreement. This was accomplished through organized community engagement sessions to listen to the collective voices of members, obtain their feedback and, to build consensus on all recommendations provided to the Whitefish River First Nation Chief and Council for approval. The Community and Leadership effort to create a Trust Agreement that all members can understand and accept is now ready for ratification through a community referendum.

It has been an honor for the Trust Working Group to be of service in the trust development process. They sincerely hope the WRFN Chief and Council will be satisfied and pleased with the presentation of the final draft of the trust agreement as delivered.

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Submitted to the Whitefish River First Nation Chief and Council

By the Trust Working Group - September 18, 2018