

	<p style="text-align: center;"> stqa?tx^w4n'iwt sqilx^{wi} WESTBANK FIRST NATION 515 Highway 97 South Kelowna, B.C. V1Z 3J2 Phone: (250) 769-4999 Fax: (250) 769-4377 www.wfn.ca <i>Community. Leadership. Pride.</i> </p>	<p style="text-align: center;"> MINUTES ADVISORY COUNCIL smasq̓t, p̓ackłtt̓n (Thursday, March) 23, 2023 <u>Approve on</u> <u>June 15, 2023</u> </p>
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ADVISORY COUNCIL MEMBERS:

Ludwig Teichgraber – sux ^w q ^w əlq ^w ilt /Chair	East Boundary District
Rick Ould – Co-chair	Old Okanagan District
Terry Turcan	Prairie District
Steve Gilroy	Lakeridge District
Vacant Seat	Lakeshore District

WFN STAFF MEMBERS:

Jim Bauer	Chief Financial Officer
Ernest Jack	Surveyor of Taxes
Brayden Holenstein	Referrals Officer and Acting Recording Clerk

DELEGATES:

Kathryn Deo	Managing Partner, Arbutus Law LLP
Emily Boyle	Arbutus Law LLP

CALL TO ORDER	The agenda is attached to these minutes as EXHIBIT “A.”
<i>L. Teichgraber</i>	Called the meeting to order at 9:01 a.m.
	<u>Recognition of any Absences</u>
	There were no absences.
	<u>Adopt the Agenda</u>
MOTION	MOVED BY R. OULD Seconded by S. Gilroy THAT the Advisory Council hereby approves the agenda subject to adding an In-Camera meeting relating to Legal Services items. CARRIED
	<u>Adopt the Minutes of March 14, 2023 & March 16, 2023</u>
MOTION	MOVED BY R. OULD Seconded by S. Gilroy THAT the Advisory Council hereby approves the of minutes March 14, 2023, & March 16, 2023. CARRIED
NEW BUSINESS FINANCIAL SERVICES	<u>WFN Bylaws Memo</u> (The memo prepared by K. Deo is attached to these minutes as EXHIBIT “B.”)



<i>K. Deo</i>	Reviewed the memo with the Advisory Council.
<i>S. Gilroy</i>	Who was consulted?
<i>K. Deo</i>	The internal team at WFN. J. Bellingham, J., Bauer, G. Petel and E. Jack. We have worked with WFN for a long time. T. Raybould also had input and involvement.
<i>L. Teichgraber</i>	When were you first called upon for this work?
<i>K. Deo</i>	A couple of years ago I believe.
<i>T. Turcan</i>	On page 2 of your summary, it references the RV Parks. What is the result of that and what does the transition look like?
<i>K. Deo</i>	This was given to us through channels from the Advisory Council regarding your concerns about people staying in RVs and using services but not paying taxes. There is a removal of exemption for RV's situated for more than 60 days. We made it clear that exemptions for Members only apply to those staying on their property. All others will be subject to paying taxes, Member or not.
<i>R. Ould</i>	The business is being taxed and the business will need to recoup the taxes from those staying in the RV's.
<i>K. Deo</i>	The property (RV Park) is no longer exempt from paying taxes.
<i>T. Turcan</i>	I gather part of your research involved other municipalities. Are other municipal governments taxing through assessment or businesses off reserve? We are adopting a similar structure here?
<i>E. Boyle</i>	BC Assessment tried to tax the individual pads in these parks but it was much too hard to collect so taxing the business is the workaround solution.
<i>J. Bauer</i>	We followed provincial and further local municipalities' approaches.
<i>L. Teichgraber</i>	What is the classification of this type of business?
<i>E. Jack</i>	Class A, recreation.
<i>L. Teichgraber</i>	This is far from the objective we wanted.
<i>J. Bauer</i>	This is still taxed higher than the residential tax class.
<i>T. Turcan</i>	This is a good step in terms of meeting our requests. We have gone after the exemption for the owner and that is a good first step. What about golf course exemptions?
<i>E. Jack</i>	The only time a Member has an exemption is if they take it upon themselves to own the land and the business.
<i>K. Deo</i>	We were not specifically asked about the golf course. The leaseholder is the taxpayer in this situation. BC Assessment could best speak to the classification of these properties. We had extensive work with BC Assessment regarding the work on these bylaw changes, including the RV Parks.
<i>L. Teichgraber</i>	Two Eagles Golf Course used to be leased to someone else and was taxable. Now that the band Member is the owner and the one running the business, is the property still exempt?
<i>K. Deo</i>	BC Assessment has nothing to do with the tax rate. This is done by WFN.



J. Bauer	In your discussions with BC Assessment, they determine the classification and then we create the multiplier.
T. Turcan	If we were taxing the individual lots in these parks, it would be hard for BC Assessment to value each lot. We would also be looking at minimum tax rates due to the low value of each lot compared to the park as a whole.
L. Teichgraber	Was there ever any discussion about using on-reserve assessments?
K. Deo	The significant change is simplifying that assessment process so BC Assessment can use its regular practices for assessing properties.
E. Boyle	The on-reserve assessment is not an option to my understanding. BC Assessment would not be happy either if we moved to that practice.
T. Turcan	There is an advantage for us to tell our residents that BC Assessment has done our assessments.
K. Deo	Every community that uses BC Assessment has a service agreement with them.
L. Teichgraber	Regarding the hardship grant exemption, what justifies this subjective grant?
K. Deo	The Chief and Council have the authority to waive those costs. If someone cannot pay their taxes, it should be done as a grant and that is what we have done with this.
J. Bauer	Correct, if someone cannot pay their taxes, it will have to go to the Chief and Council for approval of the grant monies.
L. Teichgraber	What would trigger this?
J. Bauer	I sense that it would need to be triggered by the taxpayer and then request forgiveness. Staff would review and make recommendations to the Chief and Council for their final decision regarding the grant money.
T. Turcan	Are there other jurisdictions with similar practices?
E. Jack	This existed in the past under similar circumstances. I have only seen this come up twice in the 20 years I have been here. The monies can only be deferred. It gives the taxpayer time.
R. Ould	What is written in the law is what is the most important, not the memo.
L. Teichgraber	On the last page, it notes the Minister has to approve the laws before enactment.
K. Deo	First Nation Tax Commission (FNTC) needs to review these laws and make a recommendation to the Minister. This process has begun.
L. Teichgraber	What is the process if changes are needed?
E. Jack	There is a 30-day period for changes.
K. Deo	BC Assessment and FNTC are in review.
L. Teichgraber	It says that anyone can make recommendations to the Surveyor of Taxes, how are people aware?
E. Jack	The information is sent out to anyone who requests the information.
L. Teichgraber	How does someone outside the organization know about this?
E. Jack	We post notices on our website and other areas online.
	I am amazed that there is a clause that allows anyone to have input yet



	this Council did not even have this opportunity.
<i>K. Deo</i>	WFN has complied with all of its requirements regarding notice being sent out. WFN is not required to involve the Advisory Council during the development of these Bylaws.
<i>L. Teichgraber</i>	That is such a misconception. We do not agree that we are not required to be involved during the development.
<i>J. Bauer</i>	This might be an appropriate conversation for us to take in-camera.
<i>T. Turcan</i>	Why are we taxing districts within WFN?
<i>E. Jack</i>	The districts are what you each represent in your capacity with the Advisory Council. This helps us tax specific districts for upgrades in services and other items that may present a potential increase in taxes.
<i>L. Teichgraber</i>	I am very pleased with the two (2) laws presented today. I reviewed everything in detail and I may not agree with everything, but I am happy with the work done.
	<u>23-TX-01 WFN Taxation Bylaw Repeal and Replace 95-TX-08 as amended (WFN Staff Report to Council prepared by E. Jack on March 10, 2023, is attached to these minutes as EXHIBIT “C.”)</u>
<i>E. Boyle</i>	The reference errors will be removed before the laws are finalized.
<i>R. Ould</i>	Page 32, blue comment to the right, section 29.7, I believe this should be written in the law and not just in the policy.
<i>J. Bauer</i>	The policy might lay out the way this situation is dealt with.
<i>K. Deo</i>	I am concerned that you may have been given an earlier draft. We will flag these issues.
<i>J. Bauer</i>	This is the February 21 st version as I was looking for a relined version.
<i>T. Turcan</i>	We will be the last body looking at this before approvals.
<i>E. Jack</i>	Recommendations could be made to Development Services regarding sidewalks or other services where homeowners could assist in the cost via tax dollars.
<i>S. Gilroy</i>	Section 9.2, page 14, the cumulative capital projects fund stays at 10%.
<i>K. Deo</i>	Initially, this was 1%-10% for the contingency fund and this was copied over to mirror the cumulative capital projects percentages.
<i>L. Teichgraber</i>	Regarding section 28, delinquency in taxation, why is there a seizure of property clause?
<i>K. Deo</i>	In this case, WFN had this in the old law. This is now written in a clearer way to ensure familiarity.
	<u>23-TX-02 WFN Assessment Bylaw Repeal and Replace 95-TX-07 as amended (WFN Staff Report prepared by E. Jack is attached to these minutes as EXHIBIT “D.”)</u>
<i>L. Teichgraber</i>	In the section of Orders to pertain or produce documents, can you compel people to bring documents and appear before the Board of Review?
<i>E. Jack</i>	If you submit an appeal, you need to show up and make your case.
<i>L. Teichgraber</i>	If a tax assessment has been made and I do not like my neighbours’ rate, is



	there anything I can do in terms of a reassessment?
<i>E. Jack</i>	You could appeal your tax assessment. You could use your neighbours' assessment as a comparison.
<i>L. Teichgraber</i>	It seems that people can get away with being under-assessed.
<i>J. Bauer</i>	You can only appeal to yours, you cannot appeal to your neighbour.
<i>K. Deo</i>	This is modelled to the province and how they handle this off-reserve.
<i>R. Ould</i>	We do not have any floating homes here correct?
<i>E. Jack</i>	We do not right now. Eventually, we could.
Delegates Left:	K. Deo and E. Boyle left the meeting at 10:33 a.m.
<i>L. Teichgraber</i>	<p>We all mentioned that we appreciate the work. The failure was that Sections 3 and 4 of the Advisory Council Law were not followed. There is a lot of history here and I did not know that these laws were being rewritten over the last two (2) years. We had no idea what stages these laws were at during this process.</p> <p>Nobody ever responded to our concerns. If we knew the revisions were being completed to this extent, we would have had further input.</p> <p>I believe that we need to meet with the Chief and Council before we approve these laws. The last two (2) years have been very difficult for us concerning communicating with WFN. We have had fewer consultations in the last two (2) years and it just got worse over the last couple of years.</p> <p>These two (2) laws are the most important to us as non-members outside of the Advisory Council Law.</p> <p>I cannot recommend these laws go for final approval. This is so serious. There has been a failure and I want to see us fix this.</p>
<i>E. Jack</i>	<p>You have to understand there has been a lot of transition with the Councils over the last couple of years. We arrived when we arrived because the previous Council and the one before that, were not in favour of the recommendations we put forth.</p> <p>With the changing of our Councils, there are almost always inconsistencies in their opinions on items such as taxation.</p> <p>The jurisdiction has not changed. Format and wording have been the key changes. We have all been working through this difficult transition. As a consequence, we still find ourselves trying to do what we are required to do while also attempting to make these laws the best they can be.</p>
<i>T. Turcan</i>	There have been ten (10) revisions of this. I appreciate your comments E. Jack regarding the elected officials. At the same time, during this time, there was work being done on these laws and we should have been involved. When the first draft was done, the Advisory Council should have



	been involved. This should have been communicated. We did not need to be involved in every draft but communication was needed in my opinion.
<i>E. Jack</i>	Intergovernmental Affairs was ahead of this work as well. I was not given any direction in terms of sharing this information. J. Bellingham took over the director position and she passed it along to us as that is where this work should have been housed.
<i>J. Bauer</i>	The government has been going through a large transition in terms of personnel which has impacted this situation as well.
<i>S. Gilroy</i>	I felt that the lawyers should have recognized that we needed earlier input into these laws. Right from square one, we should have been notified. I don't like feeling as though we are being pushed aside. I still think that even though there was so much transition, we should have been advised along the way.
<i>R. Ould</i>	I do not mind approving these laws today and then moving forward with a conversation at a later date with the Chief and Council. I believe that we need the final documents before approving though. I would like to give the new Council the benefit of the doubt regarding transitional issues.
<i>J. Bauer</i>	We received an update from K. Deo that spoke to small changes in the laws as well as other recommendations. If we change the capital percentage from 10% to a spread of 1% - 10% we will certainly come back and get your input before a final decision/approval is made.
<i>T. Turcan</i>	I appreciate L. Teichgraber being upset as this is the most important area for this Advisory Council. We absolutely should have been involved more. How do we get their attention? I am leaning towards approving this and keeping the 10% and not to spread of 1% - 10%.
<i>E. Jack</i>	My recommendation would be for you to write to the Chief and Council regarding the law processes. This should be dealt with in a positive sense.
<i>S. Gilroy</i>	In the past, you would bring us items and information. We have been involved in so many bylaws yet the taxation laws are where the ball was dropped.
<i>J. Bauer</i>	We are making changes internally and we must recognize the need for the Chief and Council to be involved as well as the Advisory Council. If we do not approve these today, it will have an impact on the final budget approval with the Chief and Council. I would recommend you reach out to the Chief and Council in writing and express your concerns regarding the processes.
<i>S. Gilroy</i>	Can I legally, as a Council member, approve this even though the process was not followed completely?
<i>T. Turcan</i>	Dealing with the violation of the Advisory Council Law is another thing on its own. We need the Chief and Council to know where we are at.



R. Ould	I would like to give J. Bellingham and M. McCarroll the benefit of the doubt and hope that the processes will get better. I expect things to get better and I believe they will. I am okay with meeting sooner or waiting until June.
T. Turcan	The key issue is the communication.
L. Teichgraber	Under the law, nothing is final until after April 6, 2023. There is a 30-day window so there is no complete or final law until then.
J. Bauer	The council is constitutionally obligated to approve the budget by March 31, 2023. There is a section in there that they can amend the budget by sometime in May. This would satisfy the 30-day window for the bylaws. We cannot change the past unfortunately but we can learn from it and change so that we are working better moving forward.
L. Teichgraber	I think that the budget needs to be approved and we cannot approve anything until after April 6 and when we have a final and complete copy.
T. Turcan	I don't know if we will ever have a final approved copy until after even the Minister approves it, which could be months away.
L. Teichgraber	I am uncomfortable approving these today. We are to review and recommend and I don't believe we are at a stage where we can approve this. We had similar issues with the reallocation of the museum funds from last year. The Advisory Council Law has not been followed. Period.
S. Gilroy	It disappointed me that the lawyers earlier stated that we were involved. Even though we were not.
L. Teichgraber	Was the memo sent independently by Arbutus Law LLP?
J. Bauer	That is correct.
S. Gilroy	She had assumed we did our job when we were not allowed to do so.
T. Turcan	I do think we should move on and decide here.
MOTION	MOVED BY T. Turcan Seconded by R. Ould THAT the Advisory Council reviews and recommends that the WFN Council gives a third and final reading to Westbank First Nation Taxation Bylaw 23-TX-01 based upon the draft documents provided to the Advisory Council dated February 21, 2023, and provided to the Advisory Council on March 11, 2023. CARRIED Voting Results: L. Teichgraber – No (wanted to wait until after April 6, 2023) S. Gilroy – Yes T. Turcan – Yes R. Ould – Yes
MOTION	MOVED BY T. Turcan



	<p>Seconded by R. Ould THAT the Advisory Council reviews and recommends that the WFN Council gives a third and final reading to Westbank First Nation Taxation Bylaw 23-TX-02 based upon the draft documents provided to the Advisory Council dated February 21, 2023, and provided to the Advisory Council on March 11, 2023. CARRIED</p> <p>Voting Results: L. Teichgraber – No (wanted to wait until after April 6, 2023) S. Gilroy – Yes T. Turcan – Yes R. Ould – Yes</p>
MOTION	<p>MOVED BY S. Gilroy Seconded by R. Ould THAT the Advisory Council moves to request a meeting at the Chief and Council's earliest convenience about the Advisory Council laws section 3 and 4 not being followed about the development of the taxation and assessment bylaws put forth in March 2023. CARRIED</p>
LEGAL SERVICES	<p><u>West Harbour Foreshore Fence</u> (Email from M. De Guevara dated March 20, 2023, re West Harbour Fenced Off Beach Area and associated correspondence are attached to these minutes as EXHIBIT "E.")</p>
<i>S. Gilroy</i>	<p>I had a conversation with G. Petel on the bylaws on the Foreshore. He believes that they have added to the fence and have now gone past the foreshore.</p> <p>This conversation began in early 2023. I reached out to G. Petel again yesterday regarding my concerns. G. Petel hopes to have an update next week.</p>
	<p><u>Update from Lakeridge – Re Ntityix</u> (Memorandum from M. Werstuik dated February 22, 2023, is attached to these minutes as EXHIBIT "F.")</p>
<i>S. Gilroy</i>	<p>I would like to have the Ntityix memo that was sent to us on February 23, 2023, included in these minutes.</p> <p>This meeting could have gone on without Ntityix being involved. I believe this Council did a lot of preparation work for this meeting and it being cancelled was inappropriate. WFN has no right to cancel a meeting for the Advisory Council. It was noted that we should not be bringing this up through the Advisory Council. We were told to go to M. Werstuik himself as residents to discuss this issue.</p>



	Progress has been made and I am hosting a residents meeting on this at my house coming up. I believe we are making progress. The process has been updated and at this point, I am happy with where Ntityix is at.
<i>T. Turcan</i>	When the changes were announced, there was a meeting at the Lions Hall in Westbank.
<i>S. Gilroy</i>	When was this meeting?
<i>T. Turcan</i>	Roughly eight (8) years ago.
<i>S. Gilroy</i>	There are so many different versions of this lease from my time being involved. It is good to know that Ntityix is working positively for its residents.
<i>L. Teichgraber</i>	I am looking forward to the meeting on March 29 th regarding this item. I am concerned with the marketing of this lease which may cause financial difficulties for financially struggling owners. I want to know that M. Werstuik is open to working with residents in terms of converting over to the new lease. If the current deadline is missed for conversion, I have concerns for those residents. It is marketed well to the wealthy residents.
<i>S. Gilroy</i>	WFN and Ntityix need to be concerned about all residents.
<i>L. Teichgraber</i>	Thank you all for a good meeting. This was a serious few items.
	Next Meeting
	The next meeting will take place on April 20, 2023.
ADJOURNMENT MOTION	MOVED BY S. Gilroy THAT the Advisory Council meeting be adjourned. CARRIED The meeting adjourned at 11:59 a.m.

stqa?txʷnıw`t sqilxʷ (Westbank First Nation) The people (sqilxʷ) living where wind blows (nıw`t) and forms swamps or puddles alongside a large lake (stqá?tkʷt). Being a windy area, the winds would wash along the shore creating puddles which would either seep into the land, creating wet, marshy areas or wash back into the lake. This area has been identified as the portion of syilx territory from Hardy Falls to around the Gellatly/Green Bay area but in reality, it includes a few other areas, including xʷał mnik, the area closer to IR#10 and many other areas that have specific place names.