



# Sahtu Land Use Planning Board

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## \*Disclaimer

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Requested changes documented in these notes do not mean that the Board will make these changes. Some requests are beyond the Board's mandate or jurisdiction to address. The Board must consider all comments and requests and balance the interests of multiple parties. The Board will revise the Plan as it deems appropriate to achieve the right balance.

## Pre-Hearing Teleconference

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**Date: April 18th, 1:30 – 5:00 pm**

### Participants

Edna Tobac, SLUPB ED  
Heidi Wiebe, Lead on Plan  
Ida Mak, Communications Coordinator/Planner  
Richard Spaulding, SLUPB Legal Counsel  
Joanne Barnaby, SLUPB Facilitator  
Deborah Simmons, SLUPB Facilitator

Joel Holder, GNWT  
Marty Swagar, Explor  
Scott Duke, Dept of Justice Canada  
Arthur Boutillier, INAC  
Doug Yallee, Tulita Land Corp  
Arsenne Menacho, Tulita Land Corp  
Julie Brown, Town of Norman Wells  
Tom Nesbitt, Deline Land Corp  
Peter Menacho, Deline Land Corp  
John Donihee, SSI  
Heather Bourassa, K'asho Got'ine District Land Corp  
Trevor Sinclair, DFO  
Mark Warren, GNWT  
Jamie Fulford, GNWT  
Patrick Duxbury, SSI



Meeting start: 1:38 pm

## **1. Introductions**

Heidi went through the list of call-in participants. She reminded all participants that we are taking summary notes of the call which will be posted to the Board's website for the information of those who could not participate in today's call.

## **2. Review of today's agenda**

Heidi stated that she would run through the March 25, 2011 package. She went through the Agenda items and asked if there were questions or additions to the agenda. There were none.

## **3. Purpose and Context for Pre-Hearing Conference**

Marty joined the call.

Heidi: The reasons for the Pre-Hearing call are to:

- 1) Go through the March 25, 2011 package
- 2) Answer questions
- 3) Discuss the Hearing format

Also, MVEIRB and other Boards do this as a standard procedure before Hearings and some participants had asked for the call.

## **4. Overview of Hearing Format, Intent and Focus**

Heidi: The Hearing will consist of 2 sections:

- 1) Presentations: to give people a chance to provide their comments on Draft 3
- 2) Facilitated discussions: to encourage dialogue between participants; for the Board to understand the different positions and needs of each group; and to encourage collaborative discussions that are solution-oriented.

The Board is striving for a balance between formal and Informal procedures that will satisfy legal requirements while encouraging broad participation. Some of the informal procedures we've adopted include:

- 1) Going around the table in a sharing circle to encourage participation and give everyone a chance to speak;
- 2) Discouraging the use of PowerPoint presentations which can alienate those that don't use it; and
- 3) Having small group discussions.



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The Hearing focus is on Draft 3. We have identified 4 main topics that the Board would like to receive specific feedback on and discuss further amongst participants. We will discuss these topics later in the agenda.

The Board has held numerous meetings and invited additional comments since October to work towards resolution of some key issues. The Board will be considering the results of these meetings and additional input in its final revisions. We pointed to these documents in the Hearing package. In addition to Draft 3, you have the opportunity to comment on all of these exchanges and results.

Since the March 25, 2011 release of the Hearing Package, there have been additional submissions to the Board that can be found on the website at [www.sahtulanduseplan.org](http://www.sahtulanduseplan.org):

- 1) SSI's comments
- 2) Norman Wells Land Corporation comments
- 3) K'asho Got'ine District Land Corporation comments

John: RE: the March 25, 2011 Hearing Package, Days 2-3 do not indicate what the discussion topics will be so there's no way for people to prepare for those discussions. If you break out into groups, the Board won't hear from everybody and it won't get clear direction from any of the approving parties either.

It might make sense to have the presentations at the end and the small group discussions first. But if you don't know what the discussion topics are, you can't do it this way either. By putting the presentations last, the Board will hear the position of each of the parties.

Heidi: For the most part, the Hearing Topics will be those 4 topics listed in the Package. The March 25<sup>th</sup> letter identified that these would be the default discussion topics. We did however want to keep some flexibility in changing the discussion topics in case something else comes up.

Arthur: I'm not sure if John saw the 3 pages of the Hearing Package.

John: I did see them but there are 4 topics and only time for discussion on 3 of them so that was confusing.

Heidi: We were going to narrow it down once we saw how the discussions went.

Tom: The Deline Land Corporation would like to have a chance to respond to what was expressed in the break-out discussions after all of the break-out groups. Also, we would like to know what the Board's position will be at the end.

Heidi: I can't respond today to how the Board will address all the comments that have come in since Draft 3. I can say that it is continually looking at all the information that comes in and listening carefully to all the comments that are made. The Board considers all comments and will make its decisions following the Hearing.



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In regards to responding to the breakout group discussions, each organization could provide its feedback during the closing comments. There will also be a follow-up comment period after the Hearing, during which organization can respond to outstanding questions posed during the Hearing, or if desired, respond to comments raised during the discussion portion.

Tom: We need to collectively help the Board come to a consensus on a modest goal. The various comments submitted to the Board are much more numerous than those that will be addressed in the Hearing.

Mark: Listening to the comments from all the callers today, it sounds like what the Board is trying to achieve would be better characterized as a workshop than a Public Hearing. It's hard to understand how the break-out groups will provide comments that will go on the public record. I would prefer to see this as a multi-day workshop as opposed to the Public Hearing that is intended to be the last meeting in preparation for a final draft plan.

The GNWT will not be at liberty to respond to the new issues that arise. Our ability to participate will be hampered by not knowing what we are discussing and not being able to prepare for it beforehand. If everything goes on the public record then our ability to participate will be limited because we cannot respond to new topics off the cuff. The GNWT also has to deliberate itself when deciding whether to approve the Plan.

Heidi: Just to be clear, whether it is a Hearing or a Workshop, it will still be on the record. Everything we do is on the record. What we call it is just semantics. So how can we make this work?

John: It's either a Public Hearing or it's not. If it's just semantics then you can call it a workshop. You will decrease the legal risks if someone is unhappy with the end result. If the Board calls it a workshop, everyone will likely still participate.

Scott: I agree. I think that INAC will be limited to the same extent as the GNWT. INAC will participate as best as it can but if it comes to the point where we cannot provide an answer, we would have to come back to the Board at a later time with an answer.

Richard: The problem that Mark identified is real. Government has an approving role but the system also expects approving parties to take part in public hearings. The GNWT will have to decide internally how to play both roles.

In response to John, the process will have to be fair, no matter what event we are holding, whether it is a Hearing or a workshop. I haven't heard any reasons why people could not be comfortable to come forward and speak. I'm not hung up on the word Hearing but the process has to be fair. Everyone has to have the opportunity to respond.

When Mark mentioned that after a workshop we would have another draft, it is important to understand that the current agenda aims for a kind of exchange that enables the Board to



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decide whether another Draft is necessary or, alternatively, what changes need to be made to create a document that is ready to be submitted for approval.

Heidi, can I ask how the parties should expect that they will get a response after this call? For example, John and Mark may feel that we've had a discussion but they do not know what the Board's response will be. So how will they know and when will they know? They should know when the agenda will be formalized and they should also get a response regarding whether or not the board will reverse the order of the workshops and the presentations.

Heidi: I can ask the Board at the next teleconference on April 27 and provide an answer to those on the call.

John: There were 2 points to what I said before. The first is, what will the discussion topics be? If the default topics are the discussion topics then we can prepare for the Hearing based on those. And I still think that everyone should be given the chance to respond once they have heard everyone's comments. So I think that the presentations should go after the workshops.

Tom: I like having the presentations first so that we can focus the discussions a bit and have a goal for where we would like to get to by the end of the Hearing.

Heidi: To be clear, there is no intent that new issues will be raised at the Hearing. We are leaving the discussion topics open in case someone flags an existing issue that is determined to be more significant and in need of discussion than one of the identified Hearing topics. At this time, I don't know what that might be. John, would having a longer period for closing comments address your need to respond to discussions?

John: How many closing statements do you have and how many parties do you have? I'm trying to get a sense of how long each party will have to speak.

Tom: I like the proposal to increase the amount of time for closing comments.

Richard: Heidi, perhaps you can go through the discussion topics for those who are not familiar with them?

Heidi: We will go through these in more detail later, but for now they are: 1) Zoning; 2) Review of select CRs; 3) What is the effect of removing mandatory Actions from the Plan; and 4) Implementation Issues.

Doug: Are the zone changes requested by the Tulita Elders included in the Hearing topics?

Heidi: Yes, they were included in the proposed zone changes.



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## **5. Review of Hearing Agenda**

Heidi went through the Agenda. She asked whether or not the communities have been coordinating amongst themselves to use their 40 minutes in a collaborative fashion.

Doug said that he was not aware that Tulita is coordinating their comments but he did state that Eddie Jr. went out to Willow Lake this Monday morning and stated that he would likely not be present at the Public Hearing.

Heidi identified some ways that the timing could change over the first two days. Only 4 presenters have registered for the morning of Day 2. That additional time could be used to catch up if we are running late on Day 1, or we could move the Elders presentations into the morning if everyone else is done presenting early. That would free up more time for discussions and closing comments.

Marty asked for Explor to be referred to as such; its name is no longer Explor Data. Heidi agreed to make the change.

Heidi talked about the potential need for a long lunch on Day 2 and how timing would work out with the 3-4 discussion topics. Until the Board hears what everyone has to say, it will be difficult to know which discussions will take place.

Heidi stated that she did not see the Zoning as being an issue of discussion because everyone has seen it already and has been involved in identifying the changes. She predicted that the 3 topics would likely be the CRs, mandatory Actions, and Implementation. She asked what a reasonable amount of time would be for closing remarks.

John: Will the people who are giving presentations at the beginning of Day 2 also be given a chance to give closing remarks?

Heidi: We would not want to narrow the closing remarks to a few groups. We would keep it open because some groups that have not expressed an interest in giving a presentation may want to respond to comments heard throughout the 3 days and their chance to do so would be during the closing comments.

Mark: GNWT will likely be leaving on the afternoon of the third day so we will not need time for closing comments. And based on my previous comments, we will not be able to provide a substantial response to emerging issues anyway.

John: Richard's comments that whatever happens at the Hearing will be without prejudice to further decisions that will be made by the approving parties is reassuring. We understand that the Board will go and make its changes based on what they heard and that the approving parties will proceed as they see fit.



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Mark: I don't see any need for more time for the closing comments now because our comments would simply thank the Board for having given us a chance to participate. The questions would determine whether or not the GNWT would be able to respond.

Heidi: There will be a revised agenda provided at the Hearing.

## **6. Hearing Topics**

### 1) Proposed changes to zoning

Heidi: A number of changes have been requested. Just last week, the Norman Wells Land Corporation requested that parcels 105,106,107 be zoned as CZs (the submission can be found online).

Heidi went over the requested changes to the Draft 3 zoning.

### 2) Select CRs

A few key CRs were chosen for discussion based on numerous and divisive comments received from different parties.

We are asking people to look to the intent behind the CRs and help the Board arrive at solutions that will work. Heidi went through the CRs and the main issues with each of them. The Board needs clearer direction on them.

### 3) Removing mandatory Actions

Two of the approving parties are making legal arguments against legally binding Actions. If we make this change, how is the Plan affected and how does this change everybody's comments on the Plan?

At this point, Richard Spaulding, Legal Counsel for the SLUPB had to leave the call.

### 4) Implementation

This is an opportunity to comment on implementation for CRs and Actions and clarify when conformity determinations should be conducted (before or during preliminary screening). What will work best for all parties?

Doug: How will implementation work for the plan?

Heidi explained that once the plan was approved, it will be implemented by all parties. It would be subject to a 5-year review, at which point it would be revised.



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## **7. Hearing Presentations**

We have discouraged PowerPoint presentations to make the hearing more informal. You can still use it. We're using simultaneous translation so please keep your presentation jargon free.

Don't get hung up on the wording of Draft 3. Think about the intent of Draft 3 and see how you can help us achieve it.

Tom: Re: speaking notes – what would you like here?

Heidi: If you have a general sense of what you would like to say, we would like a run-down of it. If you have a PowerPoint presentation and have notes on this or would like to respond to comments on the public record then feel free to include this. We intend on including copies of the presentations and notes in the Hearing package for all participants to follow along. It will help the Board identify the issues for discussion and will also help other participants because they will have them in writing.

Tom: Will you be flexible in the deadline for submitting speaking notes?

Heidi: Yes, but please get them to us as soon as possible, and not the day of the Hearing.

Mark: Is this not a procedural fairness issue? If everyone provides their comments on April 21<sup>st</sup> and someone submits their presentations late then they will have had a chance to review my comments but I will not have a chance to respond to their comments. I thought that was a fairness issue under the Act because we're on really tight deadlines too.

Heidi agreed to check with Richard Spaulding, the SLUPB legal counsel to see whether or not this is an issue of procedural fairness.

Heidi asked if anyone had specific equipment needs. There were none.

Doug: For the speaking notes, can we just speak at the Hearing instead of giving them in writing? Tulita has a lot of community organizations. We might have a problem.

Heidi: The SLUPB will work with the community organizations to see what we can do.

## **8. Facilitated Discussions**

Joanne: As you heard we will try to encourage flexibility in the presentations and we're going to be doing some small group work not only to encourage participation but also to encourage dialogue as opposed to just a presenter/questioner format.





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Deb: We also talked about how the discussions might take place. We are encouraging a talking circle approach.

Heidi: Any questions about how the facilitated discussions might work?

## **9. Pre-Hearing Legal Discussions**

Heidi: In the March 25, 2011 package, we identified that we are trying to keep the legal discussions out of the Hearing because they are usually so technical. Dick has been working with other legal counsel to discuss outstanding issues.

We have asked for submissions on jurisdictional or legal disagreements by April 21st. Other Parties will have the opportunity to comment on those until April 29<sup>th</sup>. Significant legal issues will hopefully be dealt with on the side as opposed to taking up time at the Hearing. The Board will be responding to legal submissions after the Hearing. We have all of the legal parties on the call today so please feel free to comment if I've presented this inaccurately in any way.

Scott: The legal counsels for all parties have been having teleconference calls so that everyone understands the issues. There shouldn't be any surprises in the submissions.

Jamie: That is accurate.

## **10. Review of Hearing Procedures**

Heidi: The SLUPB released its Hearing Procedures in July 2010. The document can be found in the March 25<sup>th</sup> Hearing Package. We will be allowing the submission of follow-up comments to promote procedural fairness. For parties that are not able to respond to issues or concerns that are raised at the Hearing, this will be a chance to submit their responses once they have had a chance to come up with an appropriate reply.

Doug: If I speak, would I be speaking only on behalf of the Tulita Land Corp and nobody else?

Heidi: If you are representing the Tulita Land Corp then you would be speaking only on behalf of them but if you have all met beforehand and Tulita has decided that you will represent all of the organizations, then you can speak on behalf of all of them.

Doug: Ok. That answers my question but I can't speak for everybody because I wasn't instructed to do so. Many people are out of town and so I don't feel comfortable speaking for other organizations.



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Peter: Someone from the Board should coordinate the presentations with the communities. It will be important to get comments from the elders and to make sure that everybody is aware of the issues. I have to excuse myself from the call now but I wanted to point that out.

Heidi agreed that the Board would make efforts to work with the communities on some form of cooperation between the organizations.

### **11. Final Questions/Comments**

Heidi stated that she would speak with the SLUPB's legal counsel and ask him whether or not all submissions will need to be submitted by April 21<sup>st</sup> in order to ensure procedural fairness. She will report back to the participants on this call by email. There were no closing comments or questions.

Meeting ended: 3:25pm