

Ratification likely to be painful for divided first nations

Vaughn Palmer
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VICTORIA - Amid weekend celebrations over a tentative treaty with the Maa-nulth first nations, the lawyer who negotiated for the native side warned about the tough road to ratification.

"When we leave here today we will face opposition from our friends and family; from within and outside our community," chief negotiator Gary Yabsley said Saturday.

"I can only imagine how painful this will be."

Ratification is a difficult process for first nations. Band politics, conflicting visions, holdout attitudes and a mistrust born of history -- all contribute to a reluctance to be the first to approve a modern-day treaty.

The process is likely to be especially wrenching for the Maa-nulth first nations, because their grouping arose from a split in a larger native community.

They were part of the Nuu-chah-nulth tribal council, which reached a preliminary settlement (agreement in principle) with the New Democratic Party government in 2001.

The New Democrats were nearing the end of their term in office and pressing hard for something to show for their negotiating efforts. The near-desperate mood at the bargaining table was well described in an election-eve opinion piece in the Victoria Times Colonist.

"The theory is that Nuu-chah-nulth people will be better off concluding a deal with an NDP government than with the B.C. Liberals, who are poised to take power," wrote Wawmeesh (George Hamilton), a university student and member of one of the Nuu-chah-nulth bands.

"Some Nuu-chah-nulth negotiators are using this reality in an attempt to push through a weak agreement, one that is tepid on land transfers and mild on cash."

Wawmeesh saw things differently -- and presciently, as it turned out.

"The Liberals are already saying inflammatory things about treaties," he observed. "But what Opposition party doesn't say such things when vying for power?"

"If the Liberals do form the next government, they will inherit the same moral pressure to conclude treaties as previous governments. In fact, I would argue they would be under even more pressure to do so, if for no other reason than that treaties make good business sense."

Still, negotiators for a dozen of the 14 Nuu-chah-nulth bands pressed on, announcing a deal in early March, just weeks before the election call.

There was no disguising the rushed nature of the exercise. One of the negotiators resigned on the eve of the announcement and refused to appear at the ceremony.

The bands moved directly to the approval stage, via an improvised schedule of ratification votes, some of them by show of hands.

Six of the Nuu-chah-nulth bands approved the terms. Six others rejected. But the "nays" were the most populous. With bands representing only about a third of the members of the Nuu-chah-nulth tribal council in favour, it seemed the deal was dead.

Except it wasn't, thanks to the extraordinary effort of George Watts, one of the most renowned of the Nuu-chah-nulth leaders.

Watts had been the lead negotiator on the deal. He resigned as chief of his own band (which was among those rejecting the terms) and went to work on pulling together the bands that were supportive.

Thus was born the Maa-nulth first nations, an alliance of five of the original six Nuu-chah-nulth bands that said "yes" to the first agreement.

The regrouping returned to the bargaining table under the B.C. Liberals and, in 2003, signed a revised agreement in principle.

More negotiations produced the weekend's tentative final agreement, which Watts regrettably did not live to see. He died last year, aged 59.

Those who followed his leadership back to the table can say the effort was worth it in one sense, for this is a much improved agreement.

The deal with the previous NDP administration would have provided 550 square kilometres of land and \$250 million to the estimated 6,500 members of the dozen participating bands.

The five Maa-nulth first nations, population about 2,000, will gain 250 square kilometres of land and more than \$300 million.

That is at least twice as rich on a per capita basis, even allowing for conflicting estimates on the value of the land and the prospect that any treaty will improve on the terms in an agreement in principle.

But the enrichment argument slices both ways. Sure, the ensuing years brought better offers from the federal and provincial governments. And if these terms were rejected, say the native hard-liners, they'd have to offer even more in the next round of negotiations.

In any event, you don't need an intimate knowledge of native politics to imagine the resentments over this agreement within the broader Nuu-chah-nulth community.

The Maa-nulth first nations, for their part, have adopted a ratification process that ensures they'll stick together. All five of them must approve or there's no treaty.

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