

**LMG COUNCIL MEETING AGENDA**  
**Band Council Chambers**  
**May 25, 2015**  
**9:00 am**

1. Roll Call
2. Adoption of Agenda
3. Review of Minutes:
  - Minutes May 6, 2015
4. RRAP - Haley Isaac
5. Land – Dolly Barnaby
6. OIC – Appoint a new trustee (First Nations Regional Adult Education Center) – Lorna Sook
7. OIC- Signing Authority – Revenue Quebec Agreement
8. OIC – Renewal of Ranger Service Contract: October 31, 2019
9. OIC - Aboriginal Initiatives Fund – Chipping Expansion No. 5
10. Membership Code – Serge Gray
11. MMS – appoint a member to the Fisheries Table
12. Church Committee - Contributions from LMG
13. Quebec Taxation – Connie Martin
14. Settlement Agreement – Jeff Basque
15. OIC- Signing Authority – Agreement in Principle/LFN Tuition Arrears Repayment
16. Posting the minutes online – Brian Caplin Jr
17. Adjournment

**Meeting is called to order by Chief Martin at 9:05am**

**1. Roll Call**

**LMG COUNCIL ATTENDEES:**

C. Annette Barnaby  
C. Brian Caplin Jr.  
C. Chris Wysote  
C. Donna Metallic  
C. Gordon Isaac Jr.  
C. Kevin Methot  
C. Patty Martin  
C. Serge Gray  
C. Sheila Swasson  
C. Wanda Metallic  
C. Wendell Metallic

**Absent**

C. Derek Barnaby – meeting QC – Honouring our Fathers

**2. Adoption of the Agenda**

**A motion was presented to accept the agenda and a few items were added:**

Meeting in Odanak taxation – Kevin Methot

Land from Sandra – Wendell Metallic

Public Meeting – Chris Wysote

Land issue Roger Cormier telling people just take the land – Wanda Metallic

Moved: Kevin Methot

Second: Chris Wysote

Passed: Passed

**3. Review of Minutes: May 6, 2015**

**A motion was presented to accept the minutes with the corrections**

Moved: Serge Gray

Second: Annette Barnaby

Passed: Passed

Abstain: Gordon Isaac Jr.

C. Brian – discussed with council the subject of top-ups

Top-up was given to me for being a councillor I did work 2 years ago

CSM – top-up was given to have everyone at the same level

C. Brian – it was taken away from me I wanted to work at the garden and you refused

C. Chris – I don't receive a top-up just what he gets from education

C. Kevin - \$235 for top-up

C. Brian – getting a top-up for nothing

CSM – they are working

C. Patty – do you want my top-up

C. Brian – I want your job

C. Patty – it was \$600 then \$800 it was Allison who brought it to \$900.00

CSM – keep everyone at the same rate

C. Annette – when you got a top-up was it an issue

C. Brian – there was no bingo you can only clean the floor so many times

C. Annette – i work from Monday to Sunday when we have Bingo and other fundraising event's you're just mad you lost your pay

C. Brian – makes a motion to take off top-up off salary

C. Serge – as a councillor you have no direction what is a councillor

C. Serge – No structure for council no policies put in place you're lost when you first come in as councillor. We just take a job & work there.

CSM – you were on council for 2 years and 11 months what were your roles you can go door to door help out this community you can go online look for funding for projects. You made \$900.00 a week and you don't have to follow these rules.

C. Sheila – were you here for Micheline Roy’s presentation one year later no one read the document.

C. Serge – Chris are you going to give up your power as councillor (signing authority)

C. Sheila – What power are you given; we only have power at this table as a group

C. Serge – getting back to my question – councillors that don’t have jobs. We were refused by Dean.

CSM – I’m not Dean, we all should be working. A councillor don’t need to work you want to work, do what I want you have a store who do you report to.

C. Brian – Me or my wife; an employer doesn’t report to employees

CSM – you can help community members with building porches, handy cap bathrooms, and work at completing the Veterans Lodge do I have to explain myself every month.

4. **RRAP – Haley Isaac**

Haley discussed with council the condition of her house. It is 31 years old and in need of repairs to the interior/exterior.

CSM – will send Dean Martin to do an assessment afterwards we will get back to you

5. **Land – Dolly Barnaby**

Dolly discussed with council she would like to have an additional eight meters of land next to her house

CSM – we can sell it to you

C. Patty – are you willing to purchase it

Dolly – yes for \$1.00

C. Patty – we can sell it at a reasonable price

6. **OIC –Appoint a new trustee (First Nations Regional Adult Education Center)**

**– Lorna Sook**

**A motion was presented to appoint Paul Stanley as the new trustee for the First Nations Regional Adult Education**

Moved: Patty Martin

Second: Chris Wysote

Passed: Passed

**7. OIC – Signing Authority – Revenue Quebec Agreement**

**A motion was presented to sign the OIC – Signing Authority – Revenue Quebec Agreement**

Moved: Chris Wysote

Second: Donna Metallic

Passed: Passed

**8. OIC – Renewal of Ranger Service Contract: October 31, 2019**

**A motion was presented to sign the OIC – Renewal of Ranger Service Contract: October 31, 2019**

Moved: Serge Gray

Second: Annette Barnaby

Passed: Passed

**9. OIC - Aboriginal Initiatives Fund – Chipper Expansion No. 5**

**A motion was presented to sign the OIC – Aboriginal Initiatives Fund – Chipper Expansion No. 5**

Moved: Brian Caplin Jr.

Second: Serge Gray

Passed: Passed

**10. Membership Code – Serge Gray**

Serge gives an update of what he has been working on the past month. This is a very big file he needs to educate himself more on the following items:

- Bill C-31
- Bill C-3

- MCivor case
- Indian Act
- Jay Treaty
- Charter of Rights Canada

The government gets to dictate who will be allowed on the band list their objective is to get rid of the First Nations. In the next 75 to 100 years there will be no more status natives.

11. **MMS – appoint a member to Fisheries Table**

Council discussed the appointment and decided to table it until after the elections in the Gesgapegiaq and Gespeg

12. **Church Committee – Contributions from LMG**

Council read the request made by the Brenda Murray, Pastoral Agent;

Annual “Community Donation of \$10 to \$12, 000 per quarter specifically for O&M;

Provide a skilled Carpenter + 2 laborers to reconfigure “funeral vault’ in Community Graveyard;

Assign (supervise) 3 or 4 members of ‘summer labor pool’ to exterior maintenance (only) of Church grounds (Graveyard, Courtyard, Back Yard, Garage, etc.).

Contribute to their fundraising efforts

Waive rental fee of Community Hall and cards for Church Bingo (2);

Cover labor/stamps for Masons (2) for refurbishing of Church stone wall;

Provide picnic tables/benches during Feast of Saint Anne

CSM – waive the rental fee but they will have to provide their own staff,

I will have Paul Stanley write her a letter to waive rental fees for Community Hall.

13. **Quebec Taxation – Connie Martin**

Connie discussed with council that members have been receiving letters from Revenue Quebec for purchases made in the United States. The letters are from purchases dated back to 2013. Connie responded back to Revenue Quebec using section 87 in the Indian Act as her defense she sent a copy of my status card along with a with a Goods and Services & Provincial Sales Tax Certificate. This information was emailed May 20, 2015.

They quickly responded with an email quoting memorandum of B-039 from the federal government. Basically informing me of the following:

“Off Reserve---the property is delivered to a reserve by the vendor or the vendor’s agent (e.g. a common carrier). However, if purchasers use their own vehicle to transport the property to the reserve, the acquisition is subject to normal GST/HST rules.”

### **Facts**

1. The GST/HST Technical Information Bulletin quotes:
  - a. The information in the bulletin does not replace the law found in the Indian Act or the Excise Tax and its regulations. It is provided for your reference.
  
2. The GST/HST Technical information Bulletin quotes:
  - a. The treatment of Indian purchases under the GST/HST is consistent with Section 87 of the Indian Act under which personal property of an Indian or an Indian band situated on a reserve and their interests in reserves or designated lands qualify for tax relief.

3. Section 87(1) of the Indian act reads as follows:

**87(1) Property exempt from taxation** – Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to section 83, following property is exempt from taxation, namely:

- (a) The interest of an Indian or a band in reserve or surrendered lands; and
- (b) The personal property of an Indian or band situated on reserve.

(2) **Idem** – No Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (1) (a) or (b) or is otherwise subject to taxation in respect of any such property.

4. Section 87 overrides any other federal or provincial taxing statute, including any provision of the ITA. A federal or provincial law that has the effect of taxing the personal property of an Indian or band situated on a reserve is invalid against that Indian property.

5. The following requirements must be met in order to apply section 87 of the Indian Act:
  - a. The government levy from which exemption is sought must be a tax;
  - b. The person claiming the exemption must be an Indian or band; and
  - c. The tax must be levied in respect of an Indian's or band's interest in either
    - i. Reserve or surrendered land, or
    - ii. Personal property situated on a reserve

### **Arguments**

Section 87 uses the words "situated on a reserve". Situated is defined as located or placed. These goods are currently located and placed on a reservation. There is nowhere in this section that indicates how they are to situated only that they have to be situated. This is a right recognized by Canada and is clearly indicated in the Indian Act.

B-039 bulletin that clearly indicates "this bulletin does not replace the law found in the Indian Act or the Excise Tax Act and its regulations." It is only provided for reference. So why is the Quebec government, as well as other provincial governments, using it as a law enforcement tool?

B-039 bulletin that clearly indicates "The treatment of Indian purchases under the GST/HST is consistent with section 87 of the Indian Act..." Consistent is defined as unchanging in achievement or effect over a period of time. How can something be unchanging when they are clearly trying to add conditions to a recognized aboriginal right.

B-039 bulleting indicates that property has to be delivered to a reserve by a vender or the vendor's agent (e.g. common carrier). If Canada recognizes the exemption of my personal property, why do I have to pay for delivery to exercise this right? Should I not be entitled to this right without paying? Also, Why should a vender or vender's agent be able to profit off my aboriginal right?

I am able to answer "yes" to all the provisions required to apply Section 87 from the Indian Act. So why is the Quebec government trying to over-ride my Aboriginal right to tax exemption.

The Canadian Tax Journal recognizes that Section 87 of the Indian Act overrides and other federal or provincial taxing stature, indicating any provision of the ITA. Doesn't



the fact that I qualify to use Section 87 trump the reason why they are sending me that taxation assessment in the first place. In other words, do they even have the right to use that clause on me seeing it is a provincial tax law?

Courts held that section 87 of the Indian Act did not exempt Indians from the payment of custom duty, because duty is not a tax upon personal property of an Indian situated on reserve. But there might be an argument with the administrative practice of Revenue Canada of Akwasasne is evidence of the recognition of an aboriginal right to an exemption. Why can't we fight for the same thing as our Mi'gmaq aboriginal territory exceeds the Canadian borders?

What can Listuguj do to protect our Aboriginal Rights from the every-changing laws?

Connie will be sending an e-mail to Erin Brockovich

14. **Settlement Agreement – Jeff Basque**

Jeff discussed with council the Per Capita Distribution (PCD)

Cut-off date is five years to apply for your PCD.

15. **OIC- Signing Authority – Agreement in Principle/LFN Tuition Arrears Repayment**

Council read and a motion was presented to sign the OIC – Signing Authority-Agreement In Principle/LFN Tuition Arrears Repayment

Moved: Donna Metallic

Second: Kevin Methot

Passed: Passed

16. **Posting the minutes online – Brian Caplin Jr.**

C. Brian discussed the draft minutes to be corrected before being put online

C. Sheila – I agree the draft minutes should have the corrections before they are posted online

17. **Adjournment**

**A motion was presented to adjourn this meeting @ 3:50pm**

Moved: Serge Gray

Second: Kevin Methot

Passed: Passed