



Overview

Framework Agreement,  
Lands Advisory Board's role, & more

# The Lands Advisory Board

- Under the *Framework Agreement*, signatory First Nations established a Lands Advisory Board to assist them in implementing land governance over their reserve lands and resources. Councils of the Signatory Operational First Nations (FNs) determine composition of the LAB. The LAB is currently comprised of 14 Directors and the Chair, serving on staggered terms. Annually, one Director's position comes up for election from each of three regions. These three regions are British Columbia, Prairie (AB, SK and MB), and Eastern (ON, QC and the Atlantic). The LAB Chair is elected for a 5-year term, the Directors are elected for three-year terms.



# LAB's primary responsibilities are to:

- provide strategic direction to the Resource Centre;
- propose to the Minister such amendments to the Framework Agreement and the federal legislation as it considers necessary or advisable;
- in consultation with First Nations, negotiating a funding method with the Minister
- performing such other functions or services for a First Nation as are agreed to between the Board and the First Nation.



# Principle Differences

## Framework Agreement/FNLMA Self Government

Brought into force 1999

Cannot be amended/changed without consent of First Nation parties

First Nations are recognized as “governments” with real legislative authority. Laws enforceable in any court of competent jurisdiction. Canada has no authority to overrule or cancel laws or decisions made by First Nations

Under the Framework Agreement First Nations may:

- Make Laws
- Administer Laws
- Enforce Laws
- Manage Lands and Resources

## Indian Act Delegated Management

Brought into force 1839

Can be amended/changed without consent of First Nations

First Nations are not governments, they are “wards”, “Ministerial Delegates” and “administrators” with no Law Making Authority. First Nations may only make legal decisions or bylaws that Canada approves of. Bylaws not always enforceable.

First Nations may:

- Make certain decisions and make certain bylaws “on behalf” of the minister of AANDC

# Principle differences

<b>Framework Agreement Self Government</b>	<b>Indian Act Delegated Management</b>
<p>Laws, policies, procedures, rules and legal instruments are all developed, approved and enacted by each First Nation according to its own Land Code, unique language and culture</p>	<p>Indian Act laws, policies, procedures, rules and legal instruments made by Canada and must be followed by First Nations.</p>
<p>Many Flexible, diverse and innovative legal land governance approaches developed to suit individual First Nation situations.</p>	<p>One inflexible law/land management manual and set of legal instruments for all First Nations</p>
<p>First Nations can create and authorize different types of legal land interests</p>	<p>No Indian is in lawful possession of land unless the Minister approves. This includes land transfers.</p>
<p>Ability to enact Environmental Assessment/Protection Laws</p>	<p>None, only those that may be entered into by contractual arrangement by Canada. Enforcement, monitoring, testing and compliance can be problematic.</p>
<p>Accountability/Reporting to membership, Conflict of Interest</p>	<p>Accountability and reporting to Canada, no conflict of interest</p>

# Principle differences

<b>Framework Agreement/FNLMA Self Government</b>	<b>Indian Act Delegated Management</b>
<p>Members have clear role in decision making, approvals, access to and information sharing</p>	<p>Members do not have a clear role in certain decisions nor do they have a right to receive or access information.</p>
<p>Dispute Resolution</p>	<p>No Dispute Resolution</p>
<p>No expropriation by Provincial/Municipal agencies. Extremely Limited Federal Expropriation (Emergencies)</p>	<p>Expropriation possible without First Nation consent by federal or provincial government for the purposes of crown corporations or municipalities</p>
<p>Regulation backed, paperless, electronic and instant land registry which is priority based and is recognized/supported by financial institutions and title insurance providers</p>	<p>Policy based registry that does not guarantee land certainty. Overly bureaucratic and lengthy approval times (6-12 months).</p>
<p>Recognized First Nation legal status/capacity to acquire and hold property, to borrow and contract, to expend and invest money and to be a party to legal proceedings</p>	<p>Legal status unclear and uncertain to hold property/enter into binding agreements. This discourages lenders and other financing partners</p>

# Local successes

- What defines success for Kitsumkalum?
  - Some nations are moving forward cautiously, not rushing into law development overload
  - Some nations have enforced environmental infractions
  - Some nations have an economic boom, such as Squiala
  - Some nations have numerous laws enacted and are reflecting neighbouring municipalities, giving developers certainty in process



# Enforcement going forward

- Environmental/Enforcement position
- Pilot project
- Restorative Justice exploration
- FN Court exploration





# Seabird Island Band





## Seabird Island Band

Located in the Upper Fraser Valley, 3 km northeast of Agassiz, BC. Situated in the Fraser River with the Coast Mountain Range to the north and the Cascade Mountain Range to the south, the island is comprised of approximately 1,618.7 hectares. Originally surveyed in 1879 as 4,511 acres (1,825.5 hectares), Seabird is bound by the Maria Slough and the Fraser River and has been subject to the erosion of its western shoreline by the Fraser.

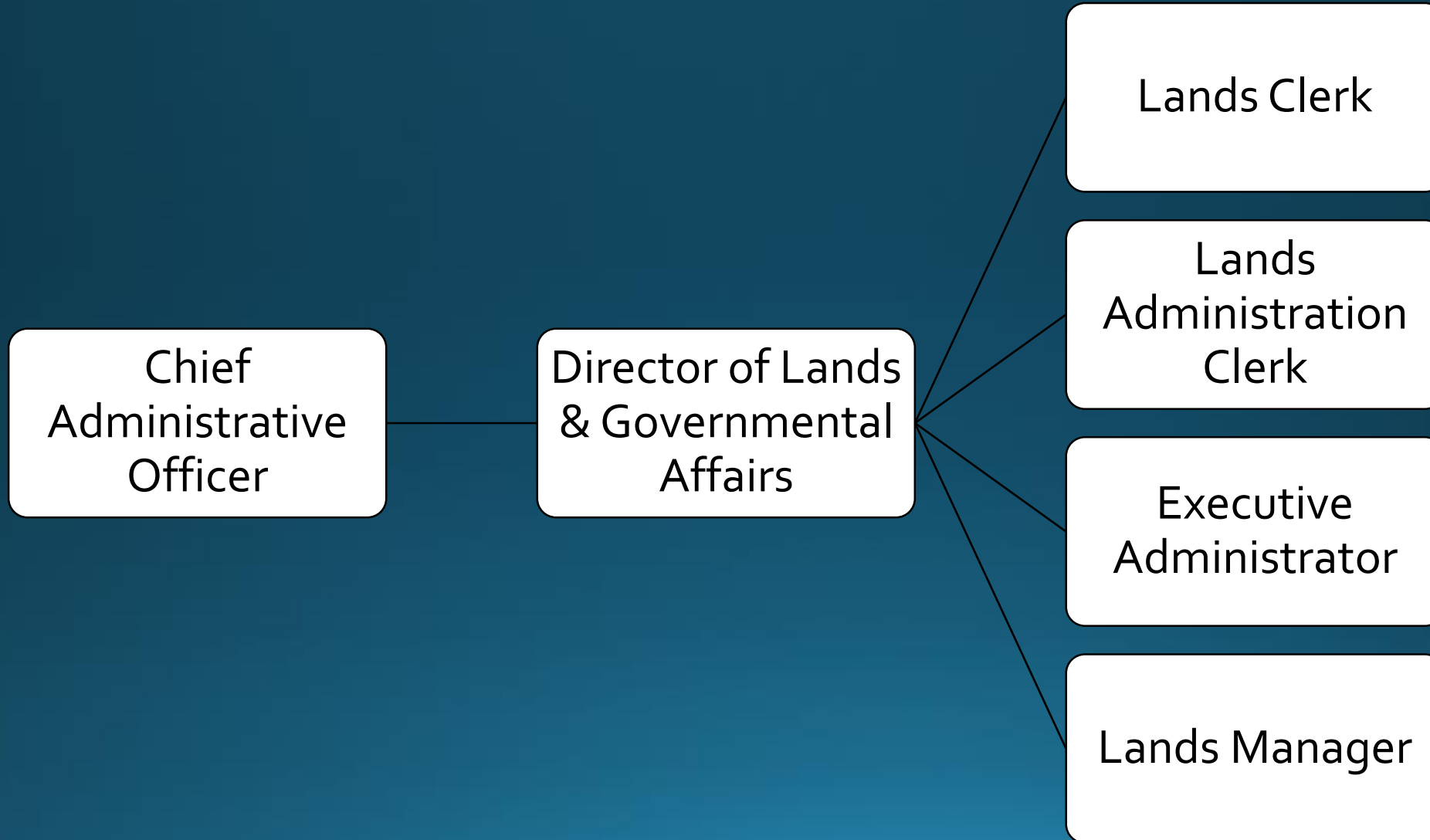


# Seabird Values & Community vision

- Works to preserve, protect and maximize a sustainable land base which will create wealth, and well-being while increasing lands and resources within our community for our future generations.
- Culture, Planning & Managing Change, Economic diversity, Education, Healthy Lifestyles, Land Use Planning & Management, Political Stability, governance & accountability, Self-reliance and independence.



# Lands governance organizational chart



# Laws enacted under land code

- Business Permit Law – approved December 2015
  - Similar to Business Licensing Law off-reserve, change of terminology allows the First Nation to register each Permit and drive up the number of transactions, to allow for additional funding.
- Dog Licensing & Animal Management Law – approved December 2015
  - SIB entered into an agreement with the Fraser Valley Regional District to provide Animal Control services on an average basis. Agreement will be reviewed annually to ensure actual costs incurred by the FVRD are being covered by fees charged to the nation.
- Development Law – approved December 2015
  - Allows the nation to ensure a Risk Management process has been assessed prior to development. SIB has built off of this to develop the Business Park guidelines, ensuring for every 5 parking spaces, a tree will be planted.
- Spousal Property Law – approved December 2015
- Law to Prevent the Accumulation or Storage of Discarded and Odorous Materials
- Seabird Island Band Littering & Dumping Prohibition Law



# Land code issues that have been addressed under land code: Agricultural leases

- Under Land Code

- Agricultural lease lands can be legally registered and provide protection for all parties.
  - SIB had legal surveys registered with NRCan to get true boundaries.
  - SIB has the authority and has included in all agricultural leases, that the farmer must submit an annual farm plan, including but not limited to the use of herbicides, pesticides and fertilizers.

- Under the Indian Act

- Agricultural lease lands were handshake deals and never went through any due process
  - SIB agricultural leases were overlapped, from one farmer to another – no true boundaries.
  - No regulations/monitoring of pesticides, herbicides and fertilizers on SIB lands.



# Land code issues that have been addressed under land code: Illegal dumping on-reserve

- Under Land Code

- SIB has enacted the Law to Prevent the Accumulation or Storage of Discarded and Odorous Materials
  - SIB has implemented this law and gives first-time offenders a warning, and allows for them to clean up the mess they have left behind.
  - SIB has contracted a security company to enforce their laws.
  - SIB will develop a ticketing law to fine people for infractions.

- Under the Indian Act

- Illegal dumping was problematic with no monitoring, no enforcement and no consequences



# Cultural Component

- *“Eykws hakw’elestset, te:wes te siyólexwalh”*
- *(It is Good to Remember the Teachings of Our Ancestors)*
  - *“Xaxastexw te mekw’stam”*
  - *(Respect all Things)*
- *Ewe chexw qelqelit te mekw’stam loy qw’ esli hokwex yexw lamexw ku:t*
  - *(Don’t waste,ruin, destroy everything, only take what you need)*
- *S’ólh Téméxw te ikw’elo. Xolhmet te mekw’stam it kwelat*
- *(This is Our land we have to take care of everything that belongs to us)*

Stó:lō Laws – taken from Dr. Wenona Victor’s doctoral research





# Challenges for implementing land code

- The Laws apply to the members, nation's projects, outside entities, alike.
- Engaged communications with community
- Turnover in Council/staff
- Expertise in Land management



# Economic opportunities

- Sqéwqel Development Corporation was enacted in 2014 to carry out the Business Development initiatives to become economically self-sufficient. Business Operations include Agriculture, Gas Bar and Convenience Store, Aggregate, Civil Construction, Forestry, and in the near future a Business Park (241 acres) and a Commercial Development.



# How has land code assisted setting up our governance structure?

- Creation of the S4 Group – collaboration of Chief & Council, Sqéwqel Development Corporation, Lands, and Aboriginal Rights & Title meet to work collectively on projects.
- SIB has voted in favour to take control of land management, elections & membership another positive step towards self-government.
- Breaking down the silos in the office, as Land Governance impacts all departments.



# Dispute resolution experiences and how land code has helped

- Restorative Justice practices can be implemented for members.
- Dispute Resolution process has yet to be developed but SIB has created a Justice Department, with staff to ensure members can resolve disputes in a positive, uplifting, holistic, cultural manner.



Questions?

Thank-you