



**CASE STUDIES OF FOUR FIRST NATIONS
WHO HAVE LEVERED FUNDING FROM
FINANCIAL INSTITUTIONS FOR
INFRASTRUCTURE AND OTHER
ECONOMICALLY-RELATED PROJECTS**

For

**COMMUNITY INFRASTRUCTURE BRANCH, INNOVATION AND
PARTNERSHIPS DIRECTORATE,
DEPARTMENT OF INDIAN AFFAIRS**

and

NORTHERN DEVELOPMENT

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Marc Brooks

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EXECUTIVE SUMMARY

One of the perennial problems facing jurisdictions such as municipalities, provinces/territories, and First Nations is the need to constantly update, replace and construct infrastructure to not only serve community needs but to also act as an stimulus to economic development. A strong foundation piece usually associated with strong, vibrant and prosperous communities is the state of their infrastructure ranging from roads to schools. Without good and stable infrastructure, investment is less likely to occur in poorly served communities.

The case studies examine four First Nations who have used their own source revenue, derived from a variety of sources, to securitize infrastructure-related activities. The four First Nations are: Millbrook (Truro, Nova Scotia), Membertou (Sydney, Nova Scotia), Pic River (Marathon, Ontario), and Shuswap (Invermere, British Columbia). The communities were selected on the basis of prior usage of own source revenue to securitize infrastructure, type of own source revenue and the community financial investment model. The methodology involved developing a questionnaire that served as a basis for gathering information from each First Nation. It was used as a guide during face-to-face interviews with representatives from each First Nation, and during follow-up phone calls. While the case studies focus primarily on financing using a securitization approach, there are a number of common points that each First Nation mentioned that facilitated investment financing. These included:

- Regularly updated strategic/community plans that have community involvement;
- Stability in community leadership – each had a Chief and the majority of councillors who had been on council over 25 years. This provides stability and comfort to the financing community;
- Development of long-term partnerships;
- Close relationship with their financial institution(s); and
- Own source revenue

Discussions with officials from financial institutions has demonstrated that First Nations who take the necessary steps to develop a long-term relationship with their banker/lender in terms of ensuring that they are part of the planning exercise for future investment needs will benefit greatly from a two-way relationship. This does not however negate the need for the First Nation to have such elements as ensuring that their financial house in order, ensuring that the necessary expertise available in-house or through other means, obtaining the support of the community leadership and the community members as well as being able to demonstrate how the loan (principal and interest) will be re-paid.

The common adage in real estate is ‘location, location, location’. While location does indeed provide a competitive edge given the proximity to local markets, the key fact that cannot be understated is what the First Nations have done to become a major participant in the local, provincial, domestic and even, international economy. In other words, location on its own does not guarantee success by any means. Each participant who was interviewed acknowledged that their community is not an overnight success but was a continual work-in-progress with each step designed to complement and enhance whatever has been already put into place.

While each First Nation has developed their own financial model to primarily advance economic development activities, the revenue streams from their economic development ventures is used to partially provide additional funding to make-up for shortfalls in community funding that is received from government sources.

MEMBERTOU FIRST NATION

PURPOSE

This case study is prepared to serve as a guide to future policy development activities that the Community Infrastructure Branch will undertake as it focuses on ways to more effectively support access by First Nations to alternative sources of financing, and approaches to improve the life-cycle management of assets. This particular case study examines how the Membertou First Nation was able to securitize own source revenue to build and own the Membertou Entertainment Centre located in the Membertou Business Park.

FIRST NATION BACKGROUND INFORMATION

The community of Membertou belongs to the greater tribal group of the Mi'kmaw Nation. Membertou is situated 3 kms from the heart of the city of Sydney, Nova Scotia, within its tribal district of Unama'ki (Cape Breton). It is one of four Mi'kmaw communities in Cape Breton, and one of thirteen in the Province of Nova Scotia. Membertou is an urban First Nation community consisting of over 1,200 with approximately 440 members living in other communities. It is one of 5 communities that make up the Cape Breton Regional Municipality, which services a total population of over 115 thousand people.

Membertou is governed by 1 Chief and 12 Councillors who are elected every two years by the Membertou community members. Chief Terrance Paul has been elected Chief of Membertou for past 24 consecutive years. Membertou is recognized today for its business acumen and has become an economic force in Sydney and Halifax, and beyond. A key in moving their economic agenda forward has been partnerships and recognizing that opportunities need to be created on and off the reserve. In 2000, Membertou established its corporate headquarters in Halifax in 2000. In order to demonstrate to the corporate and financial world that Membertou had 'their house in order', in 2002, they became the first Aboriginal government in the world to become ISO certified.

As part of Membertou's strategic plan, the Membertou Development Corporation (MDC) assumed responsibility for the development of the Membertou Business Park. The MDC heads up the Membertou Corporate Division. The Membertou Trade and Convention Centre was the first significant endeavour undertaken within the business park. The 47,000 square foot facility is viewed as a cornerstone to developing the business park, and is quickly becoming a hub for people across Cape Breton. In order to increase their own source revenue, Membertou signed an agreement with the province of Nova Scotia that allowed them to operate licensed gaming facilities (video lottery terminals) within the community. Revenue generated from gaming and the Convention Centre was used to develop several business enterprises, such as the Membertou Business Centre, the Membertou Market and the Membertou Entertainment Centre (MEC). The MEC is the focus of this case study. All business assets and many of the businesses within the Business Park are owned and operated by the Membertou Development Corporation under separate entities such as the MEC. In terms of own source revenue,

gaming is the key contributor, with revenue generated from the business park and businesses owned by Membertou act as minor contributors.

As noted, all physical assets in the business park (buildings) belong to the Membertou First Nation. While many of the businesses are owned by the MDC, non-native businesses rent facilities, primarily in the Membertou Business Centre. A forthcoming partnership with Hilton Corporation (Hampton Inn and Suites) to construct a hotel and associated amenities near the Convention Centre represents a shift in approach as Membertou will hold a 12% equity position with the Hilton Corporation providing the investment capital.

MEMBERTOU ENTERTAINMENT CENTRE

Overview

The newest addition to Membertou's commercial enterprises is the \$4.2 million Membertou Entertainment Centre (MEC), which opened in November 2007. The Entertainment Centre is a beautifully designed 33,000 square foot building that hosts bingo games 7 nights per week. The MEC also houses two separate VLT areas on the upper level (both smoking and non smoking). The MEC main hall features an open concept non smoking area and two glassed and filtered smoking areas for our customers who wish to smoke in comfort. Prior to construction, Membertou Development Corporation had already spent \$250,000 of own source revenue to put in the necessary ground works (sewer, water, electrical etc.) into place. The work was contracted to the Membertou Public Works. Construction for the MEC began in October 2005, and the facility opened its doors for business in November, 2007.

Key Players

Under the leadership of the Membertou Development Corporation who oversaw construction and site servicing, key players were the Membertou Gaming Commission, who, as part of the MDC umbrella, owns and operates the MEC, and the Royal Bank of Canada. Officials from Membertou Development Corporation underscored that a key to advancing their economic agenda is the strong relationship that they have with the RBC. In fact, the RBC sits on the Membertou Finance Committee so that they are kept abreast of all current and future financial endeavours. The process to secure the Bank's term loan took about three months to put into place. The province of Nova Scotia as well as INAC was also cited as key supporters in general.

Credit Worthiness

When examining a First Nation's credit worthiness, the RBC takes into account various factors such as their:

- balance sheet;

- equity position;
- stability in leadership;
- history with the Bank;
- management capacity;
- own source revenue;
- location; and
- credit history

The RBC examines risk from the perspectives of debt serviceability, Band spending patterns (i.e. does the Band overspend during election years?), and own source revenue.

Financing

The \$4.2 million project was funded based on unencumbered cash equity from MDC of \$1.2 million. The Royal Bank of Canada provided a 10 year term loan on the basis of prime plus 1 1/2 %. A strong trust relationship exists between the RBC and Membertou but in keeping with banking practices, a Band Council Resolution was required as was a general security guarantee. The securitization instrument used by the Royal Bank was a General Security Agreement (GSA). The GSA covered the assignment of the lease and the rent to the Bank in the event of default. The Bank also asked for a copy of the Band's consolidated audit statements.

Repayment to the Bank will be generated primarily from own source gaming revenue. On the basis of actual and projected revenues against expenses, as well as Membertou's financial track record, the Bank had no difficulty in approving the loan. All applicable bank charges and bridge financing costs were covered by the First Nation.

KEY ELEMENTS THAT MADE THE PROJECT WORK

There are many elements that contributed to the project. In no particular order, they include:

- Governance – Chief Paul has led the community for more than 24 years and has been a key part of its transformation.
- ISO Certification of Band Operations – Obtaining ISO certification demonstrated to the corporate and financial worlds that the Membertou First Nation had an approved and audited process in place.
- Relationships – The key to moving the economic agenda forward was in developing and building upon key relationships. Membertou is an active member of the Cape Breton Regional Municipality. They have worked in close concert with the city of Sydney and have opened their doors to facilitating commercial dealings both domestically and internationally. The relationship and trust that Membertou and the Royal Bank of Canada share is a factor that cannot be

overlooked. By ensuring that the RBC is an active member of the Membertou Financing Committee, the Bank is able to witness firsthand the transparency and openness of Membertou's financial dealings.

- Membertou acts as if they are self-governing – To ensure that Membertou can play an active part in corporate transactions, the First Nation has to move at the speed of business. Having their own source revenue certainly facilitates this important aspect.
- Comprehensive Community Plan – Membertou has a CCP that is four years old and will shortly be updated. As part of their original strategic vision, for the business park, the land was previously designated.
- Fee simple lands – Membertou currently is in possession of land that is still fee simple. While the Business Park is part of the reserve and therefore not fee simple, the Membertou Development Corporation intends to retain fee simple lands for future commercial development as it facilitates accessing capital given that the land can be used as collateral. An example is the Public-Private-Partnership (P3) arena that MDC is planning. It will remain on fee simple land that is adjacent to the proposed Hampton Inn Hotel.
- Using own source revenue as a means of acquiring equity capital for investment and as a means to securitize (borrow) funds from financial institutions.

FINAL WORD - VALUE TO COMMUNITY GROWTH

With the corporate strategy is built on the foundations of integrity, fairness, and a dedication to maximizing financial benefits for its partners and the Membertou Community, education and tying employment opportunities with skills development are the keys to moving forward. Currently, employment in Membertou is far in excess of 500.

By creating wealth and development for the Membertou community, and by nurturing and developing relationships with potential partners in the corporate sector, Membertou is demonstrating that they are quickly becoming a significant player in the corporate world. In terms of the larger community, Membertou is creating partnerships with other Mi'kmaq First Nations to ensure that those communities share in Membertou's intellectual properties and corporate success.

MILLBROOK FIRST NATION

PURPOSE

This case study is prepared to serve as a guide to future policy development activities that the Community Infrastructure Branch will undertake as it focuses on ways to more effectively support access by First Nations to alternative sources of financing, and approaches to improve the life-cycle management of assets. This particular study examines how the Millbrook First Nation was able to securitize revenue from a long-term rental agreement to build and own an office complex in Halifax, Nova Scotia.

FIRST NATION BACKGROUND INFORMATION

The Millbrook First Nation, located adjacent to the Town of Truro, Nova Scotia, has become a model community for other First Nations across the country. Millbrook, one of 13 First Nation's communities in Nova Scotia, has a population of 1,400. There are around 750 members in the community with approximately 650 members living outside of Millbrook. Millbrook is located along highway 102, the province's busiest highway. Its proximity to Truro and Halifax means that Millbrook is well-positioned for economic growth.

Millbrook is led by Chief Lawrence Paul who has been in that position for 26 years. In 2000, the community started development of the Power Centre complex and since opening in 2001, has secured close to a dozen tenants such as a Super 8 Hotel, the Nova Scotia Arctic Char (Aquaculture Facility) Tim Horton's, Leon's Furniture and Empire Cinemas. Building on that success, Millbrook began phase two of the park's development with a \$4.5 million infrastructure project that, when completed by March 2011, will see necessary preparatory work for construction (roads, watermains and sewers) in place so that commercial development can proceed ahead.

"The power centre, which is funded in part from revenue under our gaming agreement with the province, has done well over the past nine years," says Millbrook's Chief Lawrence Paul. "It's created employment and wealth opportunities not just for Millbrook, but for the surrounding community as well. There are now more than 800 people who work there."

Truro Power Centre is not the only location Millbrook has to offer for partnership opportunities. The band owns other lands in Nova Scotia, including 19 hectares in Cole Harbour. In the past four years, the area has seen significant activity. The band built two apartment buildings in 2003 and 2007 at a cost of more than \$11 million. The buildings were designed specifically for empty nesters.

In terms of own source revenue, the Millbrook First Nation has three primary sources. The first is gaming that brings in excess of \$10 million per year as a result of Video Lottery Terminals located within

the reserve lands. The second, which accounts for more than \$1 million, is due as a result of commercial rents and the third is from their commercial fishery.

In 2004, Millbrook and General Dynamics Canada cooperated on a bid to manufacture helicopters for Canada's military. Millbrook committed to build and then lease an \$11.5 million building to General Dynamics to house the software support and upgrades component for the project. Opened in September 2008, the facility will employ up to 150 people in skilled technology jobs in the coming years. It is this project that is the focus of the case study.

COLE HARBOUR DEVELOPMENT - GENERAL DYNAMICS CANADA'S STATE-OF-THE-ART BUILDING IN DARTMOUTH.

Background

As part of the Aboriginal Benefits requirements that formed part of the Request for Proposal and the eventual contract for the manufacture of helicopters for the Canadian military, Millbrook and General Dynamics entered into an arrangement that required Millbrook to build and lease an \$11.4 million building to General Dynamics to house the software support and upgrades component for the helicopter project. The building would also serve as General Dynamics' east coast headquarters.

The building itself is comprised of four floors with the capacity to add a fifth. It is designed to be energy efficient. A massive 25-foot-high natural stone waterfall greets visitors entering the lobby. The waterfall has a practical function in that the water that passes through it will help cool the building in summer as it uses a geothermal system for heating and cooling. It is a 'green' building. The extruded aluminum exterior walls and hermetically sealed glass panels create a highly insulated envelope. Holographic film lights and computer controlled lighting systems conserve energy. Taps, faucets, drinking fountains and toilets are all automatically controlled to reduce water usage, and the building is designed with moveable walls so that offices can be reconfigured quickly without the need for new building materials and costly construction.

The necessary underground and surface infrastructure such as watermains, sewers and roads were already in place up to the lot line for the office complex. This was funded by Millbrook using their own source revenue. As Cole Harbour is situated within the Halifax Regional Municipality, the Millbrook First Nation developed the underground services to the reserve boundary and connected with Halifax's water and sewer services.

Key Players

The lead for the project was the Millbrook Economic Development Corporation Ltd. They worked in close cooperation with General Dynamics in the design of the building to ensure that it satisfied everyone's needs. An engineering firm from Halifax named the Hatch Group of Companies has

been a key partner with the Millbrook First Nation in their Cole Harbour project. They were contracted as the Project Manager to ensure that the building was completed in accordance with the specifications and estimated costs.

A key ingredient that Millbrook underscores in moving the project forward was their financial partner, the Royal Bank of Canada (RBC). Millbrook ensured that the RBC was present, even at design meetings so that the bank was fully aware of each step. The relationship with the RBC goes back to the mid 1990s and is based on mutual trust and respect.

Credit Worthiness

When examining a First Nation's credit worthiness, the RBC takes into account various factors such as the Band's:

- balance sheet;
- equity position;
- stability in leadership;
- history with the Bank;
- management capacity;
- own source revenue;
- location; and
- credit history

The RBC examines risk from the perspectives of debt serviceability, Band spending patterns (i.e. does the Band overspend during election years?), and own source revenue.

Financing

The \$11.5 million project was funded based on a combination of \$4.4 million unencumbered cash from the Millbrook First Nation's economic development portfolio and a securitized loan valued at \$7.1 million from the RBC. The 13 year loan was securitized on the basis of a 17 ½ year lease agreement that General Dynamics has with the Millbrook First Nation. The securitization instrument used by the Royal Bank was a General Security Agreement (GSA). The GSA covered the assignment of the lease and the rent to the Bank in the event of default. On the basis of the existing relationship with the RBC and Millbrook's financial credit, the loan was given at prime plus ½%. The period of the loan was set at 13 years with the Band planning for an earlier payout. Although the RBC has a strong relationship with Millbrook, a Band Council Resolution was required as a form of guarantee in case of default. All bank charges and bridge financing charges were covered in part by Millbrook's equity contribution and the loan.

KEY ELEMENTS THAT MADE THIS PROJECT WORK

There are several keys that were brought to bear in order to make this project work. In no particular order they include:

- Governance - longevity of Chief and Council. As previously noted, Chief Paul has led the Millbrook First Nation in excess of 26 years. Several councillors have been re-elected for more than 30 years;
- Relationships – this point was underscored time and time again by Chief Paul and Jim Prodger, the band’s financial manager. A relationship for the Millbrook First Nation is first and foremost about business that is done in an open and transparent manner that is mutually beneficial. A relationship is not about today but is about the future. For example, the relationship with the RBC was touted as a winning combination;
- Strong Bench Strength – Most of the business transactions are put together by members of the Millbrook administration including their financial manager, legal counsel and a strong economic development committee. The financial manager and legal counsel have been with the Millbrook First Nation for nearly 20 years each. The Economic Development Committee consists of the economic development officer, legal counsel, financial manager the Band Administrator and a few key councillors; and
- Strategic Planning – A Comprehensive Community Plan was developed many years ago and has served as the blueprint for Millbrook. There is a need to update the Plan to incorporate changes. Amongst others, the CCP did outline the need: for the land to be designated (done), to establish by-laws (done), develop and establish First Nation taxation (section 83) for commercial non-native tenants (done). In the case of the Cole Harbour land, 22 acres were designated for residential purposes and 25 acres for commercial development.
- Own Source Revenue – In addition to being able to securitize the General Dynamic rental stream, own source revenue in the form of gaming, commercial fishery and commercial rents from the Truro Power Centre enabled Millbrook to have the unencumbered cash needed to obtain commercial loans from financial institutions.

FINAL WORD - VALUE TO THE COMMUNITY

Millbrook First Nation has recognized the shift to a knowledge based economy. The focus of Chief and Council is to not only focus on education but to place a strong emphasis on economic development so that graduates have their choice of employment opportunities whether they are within the Millbrook First Nation or elsewhere. *"Success means working toward financial self-sufficiency and improving education opportunities for our young people," says Chief Paul. "Education and economic development is the lifeline of our people."*

By developing economic opportunities, the Millbrook First Nation has become a net employer generating jobs that contribute significantly to the Canadian economy. This not only brings employment but just as important, brings pride and respect to the members of the Millbrook First Nation.

SHUSWAP INDIAN BAND (INVERMERE)

PURPOSE

This case study is prepared to serve as a guide to future policy development activities that the Community Infrastructure Branch will undertake as it focuses on ways to more effectively support access by First Nations to alternative sources of financing, and approaches to improve the life-cycle management of assets. This case study examines how the Shuswap Band, as represented by the Kinbasket Development Corporation/Kinbasket Water and Sewer Company, were able to securitize a revenue stream from a long-term lease agreement with a private developer to construct water and sewer lines for commercial real estate development.

FIRST NATION BACKGROUND INFORMATION

Chief Sam Paul has been the Chief of the Shuswap Indian Band for 30 years. The First Nation is governed by the Chief and two councillors. There are 235 registered people who belong to the Band with 74 living in the community and 161 residing in other communities. Shuswap is located in the East Kootenay District on the left bank of the Columbia River. It is located 1 mile north of Invermere.

The Kinbasket Development Corporation (KDC) is a wholly owned corporate extension of the Shuswap Indian Band. KDC operates as a regular company, independent from Band activities, with a duly appointed board of directors and a full-time manager. The Shuswap Band has long believed that government subsidies are not productive sources of income. Collectively, the Band prefers to take a proactive approach to financing their affairs. KDC was created to promote the economic and social welfare of the Band by developing and supporting independent business on the reserve. The record of successful business development can, in part, be attributed to the strong partnerships KDC forms with investors. The goal for every on-reserve project is to create an environment of shared benefits for the investor and the Band.

A self-sufficient water supply and sewage treatment plant provide services to all KDC developments. The multi-million dollar treatment system supplies full municipal service to the land and also benefits the entire valley. KDC extended water and sewer services outside reserve boundaries to solve a 30-year-old environmental issue on Lake Windermere, a progressive investment solving a regional problem.

Kinbasket Development Corporation (KDC) is developing a favourable climate to attract investors and business people to their community. To this end, KDC embarked on the development of the Eagle Ranch Golf Resort and the Kinbasket Commercial Centre along highway 93/95. A total of 442 acres of land was used for these developments, which draw in countless consumers from the Columbia Valley tourist corridor and surrounding communities. The championship 18-hole Eagle Ranch Golf Resort was

designed and constructed by Stone Creek Properties Inc., who also built Silver Tip Golf Resort in Canmore, Alberta. Eagle Ranch has been open to the public since April, 2000.

The revenue generated from leasing the land to Stone Creek Properties Inc who acted as the developer for the Eagle Ranch golf course project enabled KDC/KWSC to securitize the funding stream install waterlines and sewers including a lagoon and lift station to service Eagle Ranch and the Kinbasket Commercial Centre is the subject of the case study.

PROJECT INFORMATION

Background

The Kinbasket Development Corporation has several business ventures as part of its organization including Kinbasket Water and Sewer Company (KWSC). The groundwork for establishing Kinbasket Water and Sewer was initially laid in the early 1990's, when the band began working on a physical development plan for the community that would support its economic strategy. The band recognized that it was in a position to take advantage of the area's potential for growth, and they seized the opportunity as past developments around nearby Lake Windermere had left the area's septic fields saturated, he said, which meant future development in the area would be limited by a lack of septic services. The Shuswap reserve, on the other hand, boasted land that was well suited geologically for a sewer treatment facility and a good, deep aquifer to supply water. What Shuswap proposed was creating a water and sewer system on reserve with enough capacity to meet both current and future requirements of the First Nation and the needs of potential off-reserve customers.

With this in mind, KWSC set-off, on an incremental basis, to help realize their vision. One of their first steps, was to develop a head lease so for what became the Eagle Ranch golf course and 500 acres of commercial land that has since been partially developed. As part of the deal with the developer for Eagle Ranch, KWSC was to provide water services up to the golf course lot line and given the proximity of the sewage pond to the golf course, construct a sewer line under the golf course plus construct a second sewage lagoon and a lift station. In order to accomplish this task, the pipelines had to oversized to accommodate this and future commercial/residential interests.

On the basis of lease agreement with the Eagle Creek developer, KWSC were able to securitize the revenue stream with the BMO in order to construct the necessary water and sewer works. The \$1.8 million project, once the Property Development Plan (PDP) and head lease where put into place, took 3 years from inception to completion.

Key Players

Partnerships were key to moving the project forward. In the words of Dean Martin, CEO, Kinbasket Development Corporation, *"A lot of bands don't have relationships with the surrounding municipalities. There's always a line in the sand. This is reserve, this is non-reserve. Ours is a seamless community. That's the way we like to see it. We live in a regional concept. Because of the fiscal responsibilities that are taken on by Indian Affairs and by the municipalities, collectively*

working together we can get a bigger bang for our dollar”. The strong partnership with Stone Creek Properties Inc. who was investing significant capital into the golf course came about as a result of KDC/KWSC demonstrating solid business acumen by having completed the necessary requirements to proceed with the course development. KDC also notes that INAC (planning support) and ABC (loan guarantee) were very supportive of the initiative. The relationship with the Bank of Montreal (BMO) is also a key piece in moving the project forward although it was underscored that this was BMO’s first significant venture with KDC/KWSC. KDC and the BMO have in excess of a decade old relationship.

Financing

As noted, the \$1.8 million project was securitized using a revenue streams from the developer of Eagle Ranch (lease payments). KDC invested \$500,000 of unencumbered cash, which meant that the loan from BMO amounted to \$1.3 million. The rate charged by the Bank of Montreal was 2% above prime. As this was BMO’s first major loan with the Shuswap Band (and KDC), they did request security in the form of a \$1.1 million loan guarantee from Aboriginal Business Canada as well as an assignment of the Stone Creek developer rental payments should KDC fail to meet their monthly loan repayment obligations. A Band Council Resolution was passed to provide the BMO as an additional measure of security. The term of the bank loan was 15 years with bridge financing and bank charges built into the loan.

KEY ELEMENTS THAT MADE THIS PROJECT WORK

- Stable governance – Chief Sam has been the leader for the last 30 years.
- Stand-alone Development Corporation – While the Kinbasket Development Corporation (KDC) is a wholly owned corporate extension of the Shuswap Indian Band, it operates as a regular company, independent from Band activities, with a duly appointed board of directors and a full-time manager. The independence of KDC together with the longevity of key members such as the CEO and CFO, have enabled the organization to proceed in a measured yet progressive manner.
- Pre-positioning for development – Under the auspices of KDC, a PDP and Comprehensive Community Plan were developed. An outcome is that land was designated and zoned for commercial and residential purposes. KDC has established a robust development and building application process that covers everything ranging from pre-application, building permits to by-laws.
- Taxation – Shuswap is part of the First Nations Fiscal and Statistical Management Act. They thereby collect property taxes from non-native residential and commercial renters/owners that are used to benefit of the community by providing services and infrastructure imperative to a healthy community such as hospital, water, sewer, and recreation. The Shuswap Band is also a First Nation Good and Services Tax registrant. This provides the Band with additional revenue to support community needs. Utility fees for water-sewage and garbage are also collected from

residential and commercial members and non-members. The fees support on-going operations, maintenance and system upgrades

- Self-sufficiency – The Band has a real drive towards self-sufficiency which is evidenced not only by the employment opportunities created by KDC but by their emphasis on market housing for members. The latter is in collaboration with the Bank of Montreal.
- Partnerships – This is the key in moving Shuswap’s economic agenda forward. The need to be open, up front and transparent with partners is the very essence of how KDC has operated. A partnership is one that is beneficial to all parties with shared risk.

VALUE TO COMMUNITY GROWTH

The Shuswap Indian Band led by Chief Paul Sam continues to advocate for changes that will continue to successfully push the Band into the future. He believes in the development of housing, economics, childcare initiatives, and education programs. Collectively, the Band prefers to take a proactive approach to financing their affairs. KDC was created to promote the economic and social welfare of the band by developing and supporting independent business on the reserve. As evidenced by the continuing growth of the commercial enterprises located in the community, KDC is fulfilling their mandate which will in turn contribute to the health and wellbeing of the Shuswap people.

The site servicing (water and sewer) that KDC/KWSC put into place enabled them to offer potable water off-reserve to the community of Lakeview Meadows which is located south of the reserve boundary under an agreement signed with the Regional District of East Kootenay (RDEK). This initial agreement opened the doors for other off-reserve initiatives.

OJIBWAYS OF THE PIC RIVER

PURPOSE

This case study is prepared to serve as a guide to future policy development activities that the Community Infrastructure Branch will undertake as it focuses on ways to more effectively support access by First Nations to alternative sources of financing, and approaches to improve the life-cycle management of assets. The case study examines how the Pic River First Nation securitized bank funding to develop, construct and implement a \$70 million run-of-the-river hydro project.

FIRST NATION BACKGROUND INFORMATION

The Ojibways of the Pic River First Nation is located some 25 kms south of Marathon, Ontario. There are approximately 1,000 members with half living on reserve and the other half living in other communities. Led by Chief Roy Michano, for 32 of the past 38 years, governance for the Ojibways of the Pic River has been very stable.

Pic River First Nation strongly believes in higher education to promote the growth and capacity of the individual, community and the Nation. In 1991, it established a minimum requirement of a grade 12 education for applicants wishing to work in any position within the First Nation. This First Nation has set the stage for economic self-sufficiency as the means to build a stronger people, community and a nation that also sets the stage for self-government.

The stage towards economic self-sufficiency for Pic River was set when the Ministry of Natural Resources had a significant policy shift that encouraged First Nations to privately develop power sources in Ontario. Pic River First Nation quickly seized the opportunity under the stewardship of Byron Leclair, Director of Energy, and with the strong support of Chief and Council and the community, began to revise the Strategic Community Plan. This led to the development and the commissioning of the 13.5 MW the run-of-the-river Wawatay Generating Station in 1991. The lessons learned by the Pic River First Nation while implementing the Wawatay project, and buoyed by the success of this venture, led to the development of the 5MW run-of-the-river Twin Falls Generating Station. It was commissioned in 2001. More recently, 23 MW run-of-the-river Umbata Falls Generating Station was commissioned. It is the Umbata Falls generating station project that is the focus of this case study.

PROJECT INFORMATION

The Umbata Falls run-of-the-river hydro electric plant is located on the White River, a tributary of Lake Superior about 30 miles southeast of Marathon, Ontario. The Umbata Falls project began when Pic River acquired the right to develop the project. The holding company, the Begetekong Corporation, was created. Begetekong Corporation is led by a President and Chief Executive Officer who has decision-making authority vested in the position. It reports to a board of directors and has the Pic

River First Nation as the shareholder. Since the land for the Umbata project was in Pic River's traditional territory but was not part of their reserve, they needed to lease the land from the government of Ontario (crown land). The long-term lease (in perpetuity) was concluded between the Ontario government and the Begetekong Corporation. Around the time that the land lease was finalized, Begetekong Corporation was approached by Innergex Renewable Energy Inc. from Montreal, Quebec. They are a leading developer, owner and operator of various run-of-the-river hydroelectric facilities throughout North America. After four (5) months of discussion and negotiations, a limited partnership between the Pic River First Nation (51%) and Innergex (49%) of Montreal, Quebec was signed. The next step was to approach the Ontario Power Authority for a power purchase agreement (PPA). The signed PPA agrees to purchase 100% of the energy generated until November 12, 2028 (20 years). It is noted that Pic River First Nation owns 100% of the assets but that dividends are to be shared in accordance with the ownership share. Pic River used the cash provided by Innergex (when the latter purchased their 49% share) for the 20% unencumbered cash requirement demanded by financial institutions for projects of this nature.

Key Players

Besides Innergex, the Energy Corporation has a long standing partnership with various financial institutions including the Royal Bank of Canada, Bank of Montreal and Laurentian Bank as all have been involved in providing financing for the various run-of-the-river projects. The key bank for the Umbata Falls project is the Bank of Montreal. Other key players that were noted included: INAC since support for the pre-feasibility work (\$200,000) was given by the department; Ontario Power Authority, Ministry of Natural resources, and their limited partner Innergex. The limited partnership with Innergex terminates after 25 years.

Credit Worthiness

When examining a First Nation's credit worthiness, the Bank of Montreal, like other financial institutions, takes into account factors such as their:

- balance sheet;
- stability in leadership;
- history with the bank;
- past financial performance (credit history);
- management capacity (on staff or engaged);
- own source revenue; and
- location.

For energy projects, the Banks subject perspective borrowers to additional risk criteria. The criteria are weighted and generally include: Market and Competitiveness; Company Strategy; Financial & Performance Analysis; and the Need for, and Access to, Funds

Financing

The cost of the Umbata project was around \$70 million. Begetekong Corporation spent nearly \$5 million in upfront development costs for items such as environmental assessments and project planning. While INAC provided \$200,000 in a non-repayable contribution, Begetekong Corporation covered the financing requirement by injecting some of Pic River's own source revenue as well as some of the equity capital from Umbata's limited partner, Innergex. In terms of the generating station and transmission lines, there were two bank loans that formed part of the Umbata Falls project. The first was a bridge financing loan that was given for a two year period in order that a long-term loan could be negotiated. The bridge financing loan was set for a two year period and was used to cover immediate start-up costs associated with construction of the generating station, transmission lines etc. The rate was set at 5 ¾%. The long-term loan was negotiated and signed for a 25 year period. The bridge financing loan was folded into the longer term loan. The rate was set at 5 ¼%. The Bank of Montreal required an unencumbered cash equity contribution of 20% before authorizing any of the loans. The loans were securitized on the basis of the assignment of the PPA, assignment of the land lease and assignment of interest from the limited partners. The Bank of Montreal therefore has rights over all assets of the Corporation in the event of default. However, liability is limited to the Corporation. As the project was not on First Nation reserve land, a Band Council Resolution was not asked or offered. All applicable bank carrying fees are built into the loan repayment streams.

KEY ELEMENTS THAT MADE THIS PROJECT WORK

The following are key elements that helped bring the Umbata Falls project to fruition.

- The development of separate holding companies for each of the hydro projects as well as the development of a limited liability partnership for Umbata Falls project.
- Home grown expertise. Rather than depending on purchasing outside talent, Pic River invested in its own members supplementing skill needs with outside support who acted as mentors. A perfect example is Byron Leclair who is the Director of Energy but also serves as the President and CEO of Begetekong Corporation.
- Governance – Stability in leadership, which translates into a sustained direction for the community.
- Operating at the speed of business. The limited partnership with Innergex was negotiated and concluded after 5 months. This limited partnership ends after 25 years at which time all shares in Begetekong Power and limited partnership units in the Umbata Falls Limited Partnership revert back to Pic River. In other words, ownership will revert back to Pic River.
- A 20 year Strategic Community Plan that is updated every three years with an annual report by all departments to the members. Community ratification of the annual report is a requirement.

VALUE TO COMMUNITY GROWTH

According to the Director of Energy, Byron Leclair, 'To be successful, it is not what people are doing today but what they will do in four years'. This accurately sums up what is being practiced at the Pic River First Nation. By updating their strategic community plan every three years and by obtaining yearly community ratification as to what transpired during the past year and discussing upcoming plans for the next year in each key socio-economic area ensures that everyone has the opportunity to voice their opinion and to shape future direction. The Twins Falls generating station's loan is set to be retired in the near future. Dividends from that venture will go straight to the community as own source revenue that will be used to enrich the lives of each member. With their emphasis on education, and a push towards individual ho

CONTRIBUTING FACTORS TO ATTRACTING INVESTMENT CAPITAL

Although each First Nation is unique in its own right, there are several similar factors that have contributed to the First Nation's ability to attract investment capital. While having own source revenue is without question, a positive pre-requisite, having the necessary funds without putting a few of the fundamentals in place does not necessarily assure that investment capital can be obtained.

In no particular order of priority, some of the factors that the First Nations indicated have helped them to obtain investment capital include:

- Stable governance – The financial market place likes certainty. While nothing in life is guaranteed, having stable governance (i.e. the same leader and many of the same councillors for a lengthy period of time) provides an assurance that the community will not suddenly change their approach mid-stream thereby creating uncertainty. In other words, stability in leadership translates into a sustained direction for the community;
- Stand-alone Development Corporations – The separation of politics from business has been cited as a pre-requisite to success by many economists such as Professors Stephen Cornell and Joseph P. Kalt as part of their 1987 Harvard Project on American Indian Economic Development (Harvard Project). It is recognized by the financial community that a stand-alone corporation will always, at the end of the day, report to Chief and Council but if the operating procedures and accountability of the Corporation demonstrates that the politicians do not run the daily affairs but are the level of Band approval, they will have no issue;
- Pre-positioning for development – A key to success is for a community to have a long-term vision usually articulated in a strategic or comprehensive community plan. Once the vision is known, the identification of the steps and the process to achieve the visionary outcomes. A good practice that was noted is to re-visit the strategic/community plan periodically to update as circumstances and opportunities do change with time. A periodic update can also be used to give the community membership with a yearly report of progress against planned activities. By developing a future vision, the community can begin to pre-position themselves for investment activities by dealing immediately with factors that can inhibit or delay development such as land designation, development of pertinent by-laws etc. For example, in terms of pre-positioning, Membertou have opted to retain a purchase commercial tract of land as fee simple rather than go through the additions to reserve process. Their reasoning is that it is much easier to attract investment capital, and they can develop the necessary by-laws and leasehold arrangements to ensure that the land remains in their hands;
- Commercial Fees (Taxation) – The First Nations that have developed commercial property that is leased to non-native business, have established commercial fees that are akin to property taxation. In addition, utility charges for water, sewer, electricity etc. are also a separate part of commercial fees charged to non-native (and native in some cases) business;

- Operating at the Speed of Business – In order to take advantage of opportunities, the First Nation representatives who were interviewed were universal in acknowledging that they need to be able to move very quickly in order to conclude attractive and lucrative business ventures;
- **The development of separate holding companies and limited liability partnerships** – The development of separate holding companies for each of the hydro projects as well as the development of a limited liability partnership for Umbata Falls project was cited by Pic River as providing comfort to both the First Nation and their investment partners;
- Home grown expertise – Another common element that contributed to the interviewed First Nation’s ability to move ahead at the speed of business has been to develop community talent while supplementing missing skills with contracted support but that this support is around for the long-haul and not engaged on a one-off basis;
- ISO Certification of Band Operations – While Membertou was the only case study First Nation to be ISO certified, this is a very powerful tool that is looked upon favourably by the business and the financial community. ISO certification means that formalized business processes are being applied under a quality management system but it does not guarantee any quality of end products and services;
- Relationships – The key to moving the economic agenda forward in developing and building upon key relationships was echoed by many interviewees. This point was underscored time and time again by each interviewee. A relationship is first and foremost about business that is done in an open and transparent manner that is mutually beneficial. A relationship is not about today but is about the future. Each First Nation has a very strong and open relationship with their bank(s) to ensure that the financial institution(s) is fully cognizant of each and every potential transaction that may require investment capital;
- Own Source Revenue – While not all First Nations have the ability to raise own source revenue, each of the First Nations examined in the case study started off in debt and without adequate own source revenue. By planning, and focusing on areas where there is a comparative (and competitive) advantage, the First Nations have demonstrated what can be done with hard, work, determination, a solid vision and plan, strong community support, and long-term relationships and partnerships; and
- Education – The way to develop home grown talent (or bench strength) is through education and by providing opportunities. Each of the interviewed First Nation strives to maximize employment opportunities for their members both on and off reserve. In 1991, Pic River took an interesting approach to education by requiring that applicants for positions within the Band office needs to have a minimum of grade 12. They undertook special initiatives such as General

Education Development tests, and evening courses to assist mature students who had not yet attained their grade 12.

POLICY CONSIDERATIONS

The following are policy considerations suggested by the First Nation representatives that were gathered during the interviews for each case study.

A. Infrastructure Financing

While a key to commercial development is location, buildings (assets) in First Nation reserve lands are not wealth generators as they cannot be used as collateral. This hinders commercial development. To get around this dilemma, it was suggested that Ministerial Loan Guarantees should be considered for commercial developments;

Communities require a secure pool of funding for infrastructure that can be securitized. To ensure that the need to develop community services such as water and sewer does not negatively impact on future development, it was suggested that a guaranteed yearly revenue stream be put into place for community infrastructure on a lump sum basis or on a pro-rated (monthly/quarterly) basis. The First Nations who were the subject of the case studies indicated that they would be willing to cover interest and other banking charges using their own source revenue;

While enacting user fees is not simple or very popular, members of many First Nations are already paying rent, electricity and other service charges. The introduction of user fees therefore has been done in some instances but without reference to taxation, fees etc. there is a tacit recognition that user fees are an evil necessity and that there is a need to inform community members as to why user fees are needed to support on-going operations;

A policy needs to be created that will attract community investment. A key would be to not separate capital (infrastructure) from economic development. While capital serves community needs, in order to attract commercial development, water and sewer lines have to be overbuilt. INAC does not recognize this fact and many First Nations cannot afford to contribute to the oversizing; and

There needs to be better cooperation amongst Federal departments in order to move First Nation community infrastructure and commercial projects forward. Environment Canada policies were cited as being too restrictive when compared to off-reserve. In other words, the Federal government needs to respond in a more business-like (quicker) fashion.

B. Governance

Holding a band election every two years was cited as a significant irritant when most democratic institutions hold elections every four or more years. The fact that a potential change in leadership every two years can be disruptive to a community as the incoming leadership may

not agree with the past leadership's community vision and plans. This has the potential to affect relationships and partnerships, which in turn can make accessing investment capital much more difficult.

C. Land

An irritant noted by several of the representatives that requires attention is the length of time required for the Additions to Reserve (ATR) process to occur. While retaining lands as fee simple rather than add to the reserve base is employed by some First Nations as an economic generator, the ATR process was identified as requiring immediate attention.

D. Own Source Revenue

The representatives from each interviewed First Nation expressed concern that because they are able to raise own source revenue that in itself should not penalize their success. In other words, transfers and access to proposal-driven programs should not be limited solely to those who have no own source revenue.

CONCLUSION

Each community that was the subject of the case study has used own source revenue in an effort to improve their community and economic well-being. The business models vary greatly among the communities as they each have their own unique set of opportunities, vision, leadership and available talent. Although location next to an urban centre, as witnessed by Membertou, Shuswap and Millbrook, is an element that can contribute to success, it still takes leadership, vision and a determination to set and stay the course to become an ‘overnight’ success. While not all First Nations are located near an urban centre, some, like Pic River, are blessed with having natural attributes that can become economic generators. However, having a natural attribute and using the attribute in a positive manner that will contribute to the community’s economic well-being and growth requires a measured and strategic approach to its development. Finding the right partner in terms of infrastructure/commercial development, and the right financial institution requires due diligence, openness and transparency.

The case studies demonstrate that First Nations can move into economic leadership roles not only for their community but for the larger surrounding community. To accomplish this requires many of the elements previously outlined and a community commitment to a common vision.

ANNEX A – INTERVIEW QUESTIONNAIRE

Date October , 2010

PURPOSE

As part of Budget 2010, the Government announced that they intend to place the financing system for on-reserve community infrastructure on a better footing. To do so, the Government intends to undertake a comprehensive review of its current approach to financing First Nations infrastructure. The review is to be undertaken in partnership with First Nations and will focus on ways to more effectively support access by First Nations to alternative sources of financing, and approaches to improve the life-cycle management of assets.

There are several First Nation communities who have already obtained alternative sources of financing from financial institutions for community infrastructure and/or other economic development ventures as they were able to borrow and demonstrate repayment of the funds. The elements that the First Nation had put into place that enabled them to obtain capital for investment purposes is therefore of significant importance to the Community Infrastructure Branch as they undertake their review.

This proposal advocates the development of four (4) case studies that can be used as a guide to future policy development activities that Branch will undertake. Projects will be identified that have levered government or First Nation revenue streams (or both) to enable or accelerate the development of projects. Ideally a range of projects will be identified that have securitized either government or First Nation revenue sources to finance a variety of asset classes.

BASELINE COMMUNITY INFORMATION

Community Name:

Address:

Key Contact(s):

Number of members

On-reserve:

Off-reserve:

ALTERNATIVE SOURCES OF FUNDING

Please provide a brief history of the organization (e.g. Development Corporation, Economic Development, Capital/infrastructure) that borrowed the funds including key personnel, past borrowing ventures, and an outline of the projects.

Please describe the project(s) for which funds that were obtained from lending agencies

Please identify the source (lenders) of the fund(s) including a brief explanation of your history and/or experience with the lender(s). If there were other sources of funds for the project, please identify the source as well.

What type of financing did you obtain e.g. bond, bank loan etc.

Please provide details as to the Terms and Conditions of the financing arrangement. For instance:

- Rate of interest;
- Amount, if any, of the down payment;

- Length of the loan; and
- Was a guarantee or some form of security? If yes, please provide details

Please explain how the funds from the lender(s) was/were used?

Please identify the revenue (loan repayment) stream(s) that were securitized (e.g. own source revenue, federal funding). If an INAC or federal funding stream was used as securitization, please explain how came to be and what steps needed to be taken.

If applicable, how was bridge financing charges covered.

How are/were bank carrying charges covered?

Were there any impediments that needed to be addressed and overcome before the lending institution would agree to provide financing? If so, please identify what they were and what was done to address the impediment(s).

What capacity do you have on hand or were required to obtain (hire/purchase etc.) in order to facilitate the borrowing process

How long did the process take from the conceptual inception to project implementation (funding obtained and construction started)

If not already covered in the responses to any of the above questions, did the Federal or Provincial Government provide any assistance for the project – such as “soft costs” associated with the project e.g. legal fees, accounting expertise, engineering support etc? If so, please explain.

What measures were already in place that you believe helped facilitate accessing investment capital (e.g. community plan, FNLMA, approved land designation, community ratification, separate Development Corporation etc.)

Do you or are you contemplating a First Nation tax regime to support community needs? If so, do you foresee it covering all residents of the community, the end users of the financed infrastructure or some other group such as the commercial sector?

Do you or are you planning to introduce user fees?

What policy recommendations would you make to INAC in order to facilitate First Nation's ability to accessing investment (outside) capital for the development and implementation of future community infrastructure projects?

Do you have anything that you wish to add?

Thank you very much for your time and consideration.

Marc Brooks
Associate
The GBC Group Inc.

ANNEX B - OMUSHKEGO ISHKOTAYO TRANSMISSION LINE PROJECT

Four Nations Energy Inc. is the corporation behind the Omushkego Ishkotayo Transmission Line project (Western James Bay), a 190km 138 kV high voltage transmission line to service the remote First Nation communities of Attawapiskat, Fort Albany, and Kashechewan. Four Nations Energy Inc. is equally by its members - Attawapiskat Power Corp., Fort Albany Power Corp. and Kashechewan Power Corporation.

The genesis of the Four Nations Hydro project began in late 1996. On the basis of formal presentation made to the NAN, a joint venture partnership was subsequently created between the Four Nations Energy Inc. and Powertel/SNC-Lavalin. The purpose of the joint venture was to develop and own the transmission line to provide hydro electric power to Attawapiskat, Fort Albany and Keshechewan who were reliant on diesel generation to satisfy their power requirements. The \$55.6 million project was constructed over the course of a three year period.

Four Nations Energy Inc. has a unique ownership structure. It is a non-share, non profit corporation that is owned equally by each of the three Local Distribution Companies (LDC's) that it serves, which are in turn owned by their respective First Nation (Fort Albany, Kashechewan and Attawapiskat). The Board of Directors for Four Nations Energy Inc. brings together representatives from each of the communities affected by the line. Each of the three owner communities has two seats on the Board. The communities of Taykwa Tagamou Nation and Moose Cree First Nation also have one seat each on the Board of Directors.

The project was financed by a variety of means including:

- A 15 year provincial power purchase agreement;
- A 15 year federal power consumption guarantee;
- An INAC guarantee over a 10 year period of \$44.83 million which equated to the annual operations and maintenance costs associated with purchasing diesel fuel;
- A no interest loan from the Ontario Heritage Fund to cover bridge financing cost; and
- Ontario Hydro agreed to purchase the sub-station in Moosonee plus 29 kms of transmission line to the north of Moosonee.

The debt financing was provided by:

- The Bank of Montreal (\$9.8 million);
- Pacific and Western Public Sector Financing (\$9.8 million in senior debt; and \$3.4 million in subordinate debt);
- SNC-Lavalin loan (\$2.9 million);
- Northern Ontario Heritage Fund (\$4.9 bridge financing million no interest loan);
- Ontario Hydro (\$11 million loan); and
- INAC (\$5.9 million as part of the \$44.8 million guarantee)