Arctic Governance: Innovative Solutions to Sub-National Engagement

Proceedings

PNWER Winter Meeting - Yellowknife, Northwest Territories

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*PNWER Arctic Caucus Leadership:*

*Co-Chair: Rep. Bob Herron, Alaska*

*Co-Chair: Sen. Lesil McGuire, Alaska*

*Hon. Stacey Hassard, MLA, Yukon*

*Hon. David Ramsay, MLA, Northwest Territories*

**Speakers:**

Moderator: Consul General Lynne Platt, U.S. Consulate Vancouver

Rep. Bob Herron, Alaska

Drue Pearce, Senior Policy Advisor, Crowell & Moring LLP

Martin Goldney, Deputy Minister, Aboriginal Affairs and Intergovernmental Relations, Government of the Northwest Territories

 **Summary:** The Arctic Governance Panel included: an introduction to the Arctic Council by Consul General Lynne Platt; an overview of Arctic Governance strategies and how state, provincial and territorial governments and interests can be heard on Arctic issues by Drue Pearce; a review of the Alaska Legislature's continuing role in Arctic governance by Rep. Bob Herron, Alaska; and the background and lessons learned in Intergovernmental Collaboration between public and Aboriginal governments in the Northwest Territories by Martin Goldney.

**Topics of Discussion**

***Introduction to the Arctic Council***

*Consul General Lynne Platt*

Consul General Platt said the Arctic is a perfect target area for capacity building and problem solving. She said it is one of the last great frontiers and will need responsible stewardship and leadership to sustain ecosystems in the long run. The Arctic has a profound impact on the natural world, including as an important habitat and breeding ground for animals. She reiterated what President Barack Obama said during his visit to Alaska in August - that it requires cooperation and leadership to address the effects of climate change, resource extraction and development.

Platt introduced the Arctic Council as an international body central to the development of the Arctic region in a sustainable manner. The U.S. assumed chairmanship of the Arctic Council from Canada in April, 2015. Platt said successful Canadian initiatives included a search and rescue agreement and an oil spill detection and response agreement. She said international cooperation is the only sustainable and effective way to support the Arctic. Platt said the U.S. is looking forward to strengthening the governance of the region over its chairmanship.

However, Platt said national governments and international bodies do not have a monopoly on innovation in the Arctic. State, provincial and territorial governments are often incubators of innovation.

***Arctic Governance: Who Does it Best***

*Drue Pearce*

Pearce said networking is an important part of creating effective legislation that takes into account neighboring jurisdictions. She said past exchanges between Alaska and Yukon and the Northwest Territories allowed the legislatures to discuss and solve cross-border problems. But she said Alaska was somewhat insular and did not participate in the same exchanges with the B.C. Legislature. After the Alaska ferry was blockaded in Prince Rupert, she said Alaska realized networking was needed with British Columbia to identify who to contact to sort out issues.

Pearce said networking is particularly important for Arctic residents because they live in a particularly important and strategic portion of the globe, and because there are relatively few people living there. She said less than 1 percent of Alaska is under true private ownership, not only because Alaskans are concerned with conservation, but also because it takes very large projects to attract the financing necessary for large amounts of infrastructure.

Pearce said the Canadian people as a whole embrace their Arctic identity more than Americans do. She said although Alaskans spend a lot of time talking about how the Arctic is an important place from a strategic and economic standpoint, the common sentiment in America is to preserve a place they will never go - "saving it" from Alaskans.

Pearce said changes in financial structures in Alaska are coming in both the permanent fund and in the way the state spends money and funds dividends.

So how do Arctic legislators get a seat at the larger table of national politics? Pearce said many Alaskans are envious of devolution in Canada, which cedes decision making back to the local level. She said many decision makers in the U.S. who are shaping Alaskan policy have never been to the states. To help bring Arctic issues to the foreground of American politics, Pearce said U.S. Sen. Murkowski started an Arctic Caucus, which includes members from Arizona and Maine. She said a similar caucus is small but growing in the House of Representatives. She said U.S. Sen. King from Maine is extremely interested in the Arctic, especially to build infrastructure and ships for Iceland. Pearce said invitations are going out to legislators to be involved in events the Alaska host committee is putting on for the Arctic Council. and said the Arctic Caucus is a good place to start showing up in a larger dialogue.

Pearce said the Arctic Council is another good place to be represented. The council includes eight nations and their delegations as well as permanent participants, and allows indigenous groups to come to the table. Decision making is based on consensus between the eight nations, but she said nothing is decided without the input of permanent participants. The issue with the permanent participants, Pearce said, is a lack of capacity and money to participate at every level of the Arctic Council.

Arctic projects underway during the U.S.' chairmanship include a marine protected area and enhancing the network of marine protected areas. They will also be identifying best practices for stakeholder engagement. Another task force in the Arctic Council will provide recommendations for public-private partnerships to improve access to telecommunications in the Arctic. She said this would be a good project for private-sector members of PNWER to get involved with.

Another taskforce is looking at the needs for another layer of governance over the Arctic, providing a good opportunity for members from Yukon, Northwest Territories and Nunavut to get involved. She said the Northern Forum, although down in membership in recent years, is a global forum where sub-national governments and municipalities can join to discuss issues, though members must be willing to travel. She said Alaska Gov. Walker is considering joining the state with the Northern Forum.

**Question from Don Alper:** I like the document on the Arctic Council - it provides specific actions the council will take in terms of research and other actions. My question is, who funds it?

**Answer:** The eight member nations pay into a pot to support the secretariat in Norway. The chair pays for costs of hosting meetings during its chairmanship, while the member nations pay for the cost of their delegations to attend. Countries with permanent participants have to pay some amount for those participants to attend. The working groups have meetings that are funded by the current chair as well.

***The Alaska Legislature's Continuing Role in Arctic Governance***

*Rep. Bob Herron, Alaska*

Herron said over the course of the next few decades and into the future, increased access to the Arctic will bring more activity, traffic and people to the region. While this presents enormous opportunities for Alaska, there are potential risks involved. He said it is critical that policy makers act strategically to advantage Alaska in

a changing Arctic.

Therefore, Herron said the Alaska Arctic Policy Commission has provided as part of its final report:

* A review of economic, social, and environmental factors of relevance to the Arctic and more broadly to all Alaskans.
* An Implementation Plan that presents four lines of effort (drawn from our Vision of the Arctic), and
* Strategic recommendations that form a suite of potential independent actions for legislative consideration.

Herron said in April 2012, the Alaska State Legislature established the Alaska Arctic Policy Commission to develop an Arctic policy for the state and produce a strategy for the implementation of an Arctic policy. The Commission has operated under the conviction that the state is an active and willing leader and partner in Arctic decision-making with its reliable expertise and resources.

The Commission has also remained committed to producing a policy for Alaska’s Arctic that reflects the values of Alaskans, provides a suite of options to capitalize on the opportunities and safeguard against risk. It is a policy that will stand the test of time and act as a living document.

He said the first line of effort of the Alaska Arctic Policy Commission is to promote resource and economic development. With careful consideration and state investment, the Arctic region will continue to produce returns to the state and communities that ensure community health and vitality, Herron said.

The second main push of the Commission is to address response capacity. This will require strong partnership and communication to prepare for incidents, to respond and to develop best practices.

The third priority is to promote healthy communities. Herron said quality of life can be improved for the whole Arctic region without compromising the economic security and well-being of other communities or the state as a whole.

Lastly, Herron said the Commission is committed to strengthening science and research. Alaska should pursue strategies to broaden and strengthen the

 influence of its agencies, its academic experts and its local governments and associations, Herron said.

Herron listed a few of the of the 32 Strategic Recommendations in the Alaska Arctic Policy Commission Implementation Plan, which are all available at akarctic.com.

He reviewed House Bill 1, Alaska's Arctic Policy, and the four vision statements developed by the AAPC. He also described Senate Bill 140, the AIDEA: Arctic Development Program/Fund, which allows AIDEA to leverage private money for Arctic infrastructure by financing up to 1/3 of well-vetted projects' costs.

The Alaska Legislature's Arctic Committees met jointly on October 2 to review the Walker Administration's Progress on the AAPC's Line of Effort #3 - healthy communities. Herron said Arctic Committees will continue to lead the enactment of the AAPC Implementation Plan.

Herron also noted that the Alaskan Legislature recently bought out TransCanada's share of the AK LNG pipeline project. The Alaska Gasline Development Corp.

will assume TransCanada’s role.

Lastly, Herron called on PNWER delegates to define the next imperative that will help our region.

**Intergovernmental Collaboration in the Northwest Territories**

*Martin Goldney*

Goldney said he wanted to share the experience of the Northwest Territories in how the government worked with Aboriginal government partners. He said PNWER is an excellent example of how intergovernmental relations provide opportunity for sharing experiences, learning from each other, sharing the positive and finding some leverage between neighboring jurisdictions.

Goldney said one area we can improve is applying our tools and formats of intergovernmental relations to our Aboriginal governmental partners. He said for the same reasons why it makes sense to build and formalize working relationships between provinces and states and territories, it also makes sense to build and formalize relationships with Aboriginal governments.

He said the Northwest Territories house a very diverse population where 50 percent of the population is Aboriginal. He said many Aboriginal governments are emerging or reemerging as the territory itself is evolving due to devolution.

To add further context as to why Aboriginal governments are important in the NWT, land ownership changed significantly from federally-managed to territory- and Aboriginal-managed land through the process of devolution.

He said challenges for a public government are to make sure lands are being managed in a way that harmonizes approaches, maintains investor confidence and reflects the values of the people of the Northwest Territories.

He said the Northwest Territories had a willing federal partner throughout devolution. He said it was fundamentally important that the NWT Government work closely and collaboratively with Aboriginal governments on issues of land and resource management. He said there was some apprehension among Aboriginal partners as control was being shifted from federal to territorial control, especially in how the transfer would affect Aboriginal treaty rights. He said the issue was easy to address by having Aboriginal treaty rights apply after devolution the same way they did before.

The harder concern to address was an idea that the new, territorial land managers would treat Aboriginal governments less openly or less fairly than the federal governments did, after working with the federal government for decades.

Goldney said the territory dealt with this concern head-on by directly involving Aboriginal governments during negotiation of the devolution agreement. He said Aboriginal governments were involved directly so they could gain the understanding and confidence that the agreement did not affect treaty rights. He said it was also an opportunity to lay the foundation of trust between the territory and Aboriginal governments.

One key feature of the devolution agreement is to have an intergovernmental council. A separate agreement formalized this working relationship between the Aboriginal governments and the GNWT and established an intergovernmental council. It is not intended to replace negotiations happening around self-government or land claims. When it comes to lands and resources, there is a lot of common interests to find. The council now includes nine Aboriginal governments and hopes to grow. The devolution agreement came into effect in April, 2014 and two meetings have since taken place with the intergovernmental council. It includes representation from the GNWT at the highest level - the premier and ministers responsible for land and resource management sit down, at least annually, with Aboriginal leaders and talk about priorities concerning land and resource management. One working group looks to build capacity of governments. A finance working group talks about how to best implement provisions of the devolution agreement that deal with revenue sharing.

One key feature of this type of working relationship is that this provides a sounding board and a place to make recommendations - but it does not provide veto power over other agencies or Aboriginal governments.

More information is available at www.igcnwt.ca.

Often, efforts are focused on treaty negotiations - sometimes these are adversarial. It really has created an interesting dynamic between public and Aboriginal governments. We should not treat Aboriginal governments as our adversaries at negotiation tables. When it comes to delivery of services and social programs, Aboriginal governments are much better equipped to recognize needs in their communities and how to serve them.

There are lots of opportunities to to work more closely with Aboriginal governments. One priority of out Aboriginal engagement strategy include clear recognition of rights, the priority placed on building respectful relationships and being flexible to get into relationships. What we've seen come out of that has been seven formalized intergovernmental agreements between our governments.

At least once a year, our premier and his cabinet are required to sit down at the table with Aboriginal governments. The agenda is discussed and determined in advance by officials. Our experience is that we have much better meetings when there are no surprises. This tends to focus the discussion on areas of potential collaboration. Goldney said this formalized approach is paying dividends in the Northwest Territories by creating much healthier relations between Aboriginal and public governments. Agreements also allow officials to make connections with their Aboriginal counterparts, helping follow-up work and establishing working relationships. Over the last two and a half years, the GNWT has had 19 bilateral meetings with Aboriginal governmental groups, which is a large commitment that has led to greater cooperation and collaboration.