

Terms of Reference for Parks Canada – Clear Lake Negotiations

Introduction

This document sets out the draft terms of reference for negotiations between the leadership of Parks Canada and the community of Clear Lake/Wasagaming. This terms of reference is meant to outline the structure, goals, and scope of the negotiations to establish an agreement for collaborative park management between Parks Canada and those living in Riding Mountain National Park (RMNP). At present, no formal mechanism for community consultation exists between residents of the park and park management, nor does Parks Canada formally recognize any one association or group as the representative voice of the community.

Context

Clear Lake would not be the first instance of Parks Canada coming to a formal arrangement with a hamlet in a national park and its inhabitants. Similar agreements already exist with Parks Canada for the communities of Waskesiu Lake in Prince Albert National Park and Waterton Park in Waterton Lakes National Park. Previously, Parks Canada engaged with the Wasagaming Tenants' Association (WTA) as a community body to be consulted on issues or changes affecting the park. However, Parks Canada no longer formally recognizes the WTA in its Park Management Plan and accordingly residents have no means of representation, nor a framework of consultation and collaboration.

These concerns have become more pressing for residents in light of recent changes to park management, in particular the shifting policies banning motorized watercraft from accessing Clear Lake. Community members have no voice and no insight into Parks Canada decision-making, and consultation with residents comes after policy decisions and changes, if at all. Many residents have been spending their summers in the area for decades and have deep emotional ties to the area, and are now unsure whether they should be making alternate plans for the future. Business owners and operators are paralyzed by uncertainty because of the lack of community outreach and consultation. The course of the future economic and recreational activity of Clear Lake is at present completely out of the hands of the community itself. Completely severing decision making from the inhabitants of the area sows distrust between them and the management of RMNP and Parks Canada.

A collaborative park management agreement between the residents of Clear Lake and Parks Canada would be a means of giving input to the community without compromising the conservation goals of RMNP, and providing the future of Clear Lake and its community members certainty and stability.

Purpose of Negotiations

The central purpose of the forthcoming negotiations outlined by the terms of reference is to establish the structure of a community association that Parks Canada recognizes as the legitimate representative body for the community's members and determine the nature of its relationship with Parks Canada and RMNP.

This would involve outlining the composition and mechanisms of an elected community council, its relationship with Parks Canada, its governance and fiscal powers, Parks Canada's infrastructure and financial obligations, and service levels for key services, among others. Negotiations would also outline how the transition to the new agreement would be effected, mechanisms for dispute resolution between the parties, as well as under what conditions the agreement could or would be terminated.

Parties Involved

To represent the community of Clear Lake, a negotiation committee of six to ten representatives will be chosen from among prominent members of the community. The committee members will each have substantive personal histories living or working in the area, and interests relevant to the future of RMNP. In bringing their personal perspectives and experience to negotiations, they will continue to represent the interests and wishes of the larger Clear Lake community. They will exercise sound judgment, courtesy, fairness, and respect in meetings and negotiations. They will do their best to negotiate in good faith with representatives from Parks Canada in order to come to a mutually satisfying agreement.

Parks Canada will, in addition to the Superintendent of RMNP, choose additional representatives with the knowledge and ability to address the extent of the goals outlined in the terms of reference.

Goals of Negotiations

The fundamental goal of negotiations is to establish a collaborative agreement between Parks Canada and a community council representing the people of Clear Lake. All goals outlined here – which are not exhaustive of all possible elements of discussion – are meant to further that purpose.

For the creation of a community council:

1. The boundaries of the Clear Lake community shall be established.
2. Criteria for who is counted as a resident within the Clear Lake community shall be established.

3. Criteria for who is eligible as a voter and elector for a Clear Lake community council shall be decided.
 - a. also to be determined is whether these criteria apply exclusively to residents of Clear Lake, or also to others who live/work within RMNP
4. Structure and offices of community council codified.
5. Procedures and timelines for electing a community council should be determined.
 - a. criteria for nominations for office
 - b. terms of office
 - c. procedure for by-elections
 - d. process for setting dates for elections and by-elections
6. Establish a regular/seasonal meeting schedule for the community council.

Outlining the role of the community council:

7. Formally define the guiding principles and purpose of the community council.
 - a. including management of the town of Wasagaming, properties around Clear Lake, and the preservation of RMNP.
8. Determine the power and authority of the council with respect to administering the townsite of Wasagaming.
 - a. in relation to powers outlined in *The Municipal Act*
 - b. exempting those powers reserved for Parks Canada or the Minister in charge of the *National Parks Act*
 - i. the community council shall have no powers, responsibilities, or obligations in relation to land use planning or development
 - c. in relation to conservation and environmental protection measures of Parks Canada
9. Establish the ability of the community council to employ individuals and enter into agreements with entities other than Parks Canada.

Establish the nature of decision-making collaboration between Parks Canada and Clear Lake:

10. Confirm the Superintendent of RMNP as the designated representative of Parks Canada on matters concerning the Clear Lake community.
 - a. require notification of the community council if changes are made or are needed
11. Establish the advisory role of the community council.
 - a. that the community council can make requests to amend or create regulations concerning the management of the community or of RMNP
 - b. including obligations of Parks Canada to review and respond to council advice
 - c. including an obligation to provide written rationale for refusing council advice
12. Set out the process for how the community council would enact bylaws.
 - a. including review and approval process by Parks Canada
 - b. limited to those areas agreed to be within the authority of the community council

13. Conceive a cooperative approach to long-term strategy for land use planning and development around Clear Lake.
14. Conceive a cooperative approach for lake use and stewardship plans, particularly with respect to anti-invasive species measures.
15. Make it a priority to create a “vision plan” for the future that will be maintained through Superintendent/townsite manager turnover.
16. Set out what information Parks Canada should remit to the community council in order for it to conduct its operations.

Establish the financial structure of cooperation between Parks Canada and the Clear Lake community:

17. Set out the taxation and fee collection powers of the community council.
18. Establish Parks Canada’s obligation to fund the operation and governance of the community council.
19. Delineate what services and capital improvements are to be funded by each party.
 - a. including establishing service levels
 - b. provision for annual operating and capital expenditure plans
 - c. establish to what degree and standard municipal functions and services will be subsidized in comparison to other Manitoba municipalities
 - d. set financial operating procedures for public utilities
20. Separate what physical infrastructure or assets currently in RMNP will be transferred to either party.
21. Establish means for funding long-term capital and growth projects.
22. Set parameters for lease, rent, and operation of properties within the Clear Lake community.
23. Establish the function and process of payment between or to either party.
 - a. including provisions for resolving pay disputes or conflict

Create terms for the transition to the new agreement:

24. Set out a timeline for the transfer of services and operations in Clear Lake to the agreed-upon conditions.
25. Establish what remaining fees or costs need to be resolved and the parties responsible.
26. Determine what funding responsibilities the government of Canada should take on during the transition.
 - a. may include one-time transfers for specific or outstanding capital expenditures

Set terms for reviewing the agreement:

27. Establish a regular interval at which both parties can review the function of the agreement and negotiate further changes if needed.
28. Provide for mechanisms of dispute resolution if conflicts emerge between Parks Canada or the RMNP leadership and the community council.

29. Create terms for dissolution of the new agreement.
 - a. either in mutual agreement or on behalf of either party, given sufficient notice
 - b. including provisions for cession or transfer of property, equipment, leases, licenses, etc.
30. Finally, address any remaining legal or miscellaneous concerns that have emerged from Parks Canada's management of other communities.

Timeline of Negotiations

Need feedback as to times/locations. The seasonal nature of Clear Lake makes this uncertain, but also ideally there would be some kind of progress before next summer season.