



Westbank First Nation  
Self-Government Agreement

Annual Report on Implementation  
2011 - 2012

Published under the authority of:  
Westbank First Nation Government  
and the Government of Canada

For information regarding reproduction rights, please contact Public Works and Government Services  
Canada at: 613-996-6886 or at: [droitdauteur.copyright@tpsgc-pwgsc.gc.ca](mailto:droitdauteur.copyright@tpsgc-pwgsc.gc.ca)

[www.aandc.gc.ca](http://www.aandc.gc.ca)  
1-800-567-9604  
TTY only 1-866-553-0554

QS-B046-040-EE-A1  
Catalogue : R1-30/2012E  
ISSN : 1927-4033

© Her Majesty the Queen in right of Canada,  
represented by the Minister of Aboriginal Affairs and Northern Development, 2014

This Publication is also available in French under the title: Rapport annuel de 2011-2012 sur la mise en oeuvre de l'accord d'autonomie gouvernementale de la première nation de Westbank.



LETTER  
FROM THE  
INTERGOVERNMENTAL  
IMPLEMENTATION  
COMMITTEE



We are pleased to provide this Westbank First Nation Annual Report on Self-Government Implementation for the year 2011-2012.

The Intergovernmental Implementation Committee (IIC) meets twice annually and is established to oversee, monitor, and provide direction on implementation of the WFN Self-Government Agreement (SGA) and Implementation Plan.

For this fiscal year, the IIC set three priorities: Financial Transfer Agreement (FTA) renewal, annual implementation reports (catch-up), and the Shoreline Development Project. Each of these three priorities is still underway. The IIC was hopeful that negotiations for a new FTA would be concluded during this period. While this was not the case, definite progress is being made. The IIC also developed and implemented guidelines for the establishment of a working group (IICWG). The IICWG will receive direction and provide support for action items set out by the IIC.

This report will reflect that Westbank First Nation continues to be a leader in good governance practices resulting in successful, ongoing investment in their lands and the economy.

Mike DeGuevara  
Councillor  
Westbank First Nation

Allan Burnside  
Director of Treaty Management –  
British Columbia and Yukon Directorate

## OKANAGAN TRADITIONAL TERRITORY



## WESTBANK FIRST NATION LANDS



## FACTS AT A GLANCE

**Historically known as** stqaʔtkʷníwt    **Language:** nsyilxcən    **Affiliation:** One of eight member bands that comprise the Okanagan Nation (includes Colville Confederated Tribe from Washington State)    **Location:** South central interior of British Columbia, Canada    **Land base:** 5 land parcels totaling 5,340 acres    **Government:** Self-governing First Nation    **Leadership:** 1 Chief and 4 Councillors (*elected by the membership every three years*)    **Band membership:** 777    **Residents:** Approximately 9,000 non-member residents reside on WFN lands    **Number of government employees:** 160    **Advisory Council:** A five member council elected every three years to represent the interests of non-members residing on, or having interests in, WFN lands

LETTER  
FROM  
THE CHIEF



**A**s chief of Westbank First Nation, I am humbled and honoured to have the opportunity to participate in the continued growth and evolution of this community. In October 2013, we will celebrate a milestone – as it will be fifty years that we separated from the Okanagan Indian Band and became our own individual community – Westbank First Nation. Today, I see a healthier, safer community. I see members attaining higher education. I see employment opportunities and training initiatives. I see a strong, accountable government. Things are not perfect and we still have much work to do, but in comparison to the poor, struggling First Nation that we once were, Westbank has progressed leaps and bounds in a relatively short period of time.

I cannot stress enough how important it was that we assumed control of our lands and our destiny all those years ago through the implementation of self-government. The economic and fiscal benefits are realized, not only for Westbank First Nation, but also for the local economy and for the provincial and federal governments. This would not have been possible, were it not for the strength and vision of our people and the integrity and hard work of our staff.

As we begin the fiscal year 2012-13, I look forward to completing negotiations for a new Financial Transfer Agreement with Canada and continuing with the ongoing activities and initiatives for self-government implementation.

way' l̓iml̓əmt

Chief Robert Louie  
Westbank First Nation

*“Today I see a healthier,  
safer community.”*

## BUILDING THE FRAMEWORK FOR A VIBRANT COMMUNITY

Self-Government Implementation  
Activities for the period  
April 1, 2011 - March 31, 2012



### Westbank Law Development

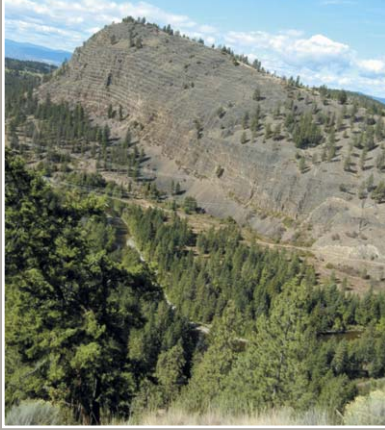
*Westbank First Nation continues its work on law development in the exercise of its jurisdiction under the Self-Government Agreement and the Westbank First Nation Constitution. This process includes input and consultation with the community through working groups, Special Membership Meetings and the Advisory Council.*

**WFN Land Use Law:** Amendments to the Land Use Designation and Zoning Regulations for specific community held lands on Tsinstikeptum IR#10 were approved by the WFN Membership through a secret ballot vote in July 2011. The zoning for the lands was changed from business park and low density multi-family to mixed use which will allow for greater flexibility and allow for the planned construction of a comprehensive development. Prior to the vote, Neighbourhood Plan 10-2 was completed and shared with the WFN Membership which integrated the development vision, community needs and infrastructure requirements for the area.

In September and November 2011, by way of separate referendums, the WFN Membership approved two ninety-nine year leases of community lands within the WFN Neighbourhood Plan 10-2 for multi-purpose development.

**WFN Safe Premises Law Amendment:** The Safe Premises Law, enacted in 2010, regulates, prohibits and imposes requirements respecting health and safety matters on property, and more specifically, those properties used for the cultivation of marijuana plants and the production of amphetamines. In September 2011, amendments were made to the law to address issues which include, but are not limited to, prohibiting federally licensed medical marijuana grow operations on all Westbank Lands. In addition, some minor amendments were made to the language in the definitions section and in the body of this law.

**Health Services Facilities Law:** As set out in the Self-Government Agreement in Part XIX, Licensing, Regulation and Operation of Business, and Part XXI, Public Works, Community Infrastructure and Local Services, Westbank developed a law that provides for the licencing of a Health Services Facility and for that facility to deliver services identified in the Law upon its accreditation by an Accreditation Agency recognized by Canada. The law was given third reading on October 24, 2011.



**Manufactured Home Exemption Law:** This proposed law would enable status Indians to obtain financing for mortgages on manufactured homes on Westbank lands. Financial institutions will not approve mortgages to status Indians because of s. 89 of the *Indian Act*. At this time, however, the law cannot move forward because s. 89 of the *Indian Act* continues to apply under s. 107.6 of the Westbank Constitution except as modified by s. 107.4. As s. 107.4 does not cover the situation of mortgages of manufactured homes, an amendment to the Westbank Constitution is required. It is anticipated that Westbank will begin the constitutional amendment process in the near future to address this and other amendments.

**WFN Membership Rules:** Westbank is considering amendments to its Membership Rules which are set out in Part III of the Westbank Constitution. Engagement with the WFN Membership through working group meetings has taken place in an effort to identify the key policy questions that need to be answered before Westbank can move forward. Several options for new rules were developed. To better inform the working group of the impacts, an economist was contracted to provide a population projections study using four scenarios: existing membership model, one-parent membership model, 50% blood quantum model, and 25% blood quantum model. The next step in the process will be conducting a survey to reach the broader WFN Membership population for input. Amending the Membership Rules is a complex, contentious issue that will have a lasting impact on the future of Westbank First Nation and entitlement to future allotments of Westbank Lands so it will require time and effective engagement with the community.

As per s. 13 of the Westbank Constitution, Transfer of Membership to Westbank, three of six transfer applications were accepted by the WFN Membership through the secret ballot voting process in April 2011.

**Community Tripartite Agreement:** A Community Tripartite Agreement (CTA) is in place between Canada, British Columbia, and Westbank to provide enhanced policing services that are culturally sensitive and responsive to the specific needs of Westbank. With the pending expiry of the current CTA, the Parties began work on a renewed agreement. Under the CTA, it is a requirement that a Community Consultative Group (CCG) be established to provide specific direction to the RCMP regarding the objectives and priorities of the community. The CCG is now in place and is meeting regularly with the First Nation Policing Program officers.



**Advisory Council Annual General Meeting:** This event, hosted by the Advisory Council and the Westbank government, was attended by approximately 400 non-member residents in April 2011. It is the venue for which non-member residents have the opportunity to meet the staff and learn about the activities taking place on Westbank Lands.

**Lakeridge Park Headlease Modernization:** In May 2011, the Membership voted in favour of amendments to the Lakeridge Park headlease. The amendments modernized a 99 year lease for a subdivision development on community held lands which was approved by the Membership in 1974. Among other things, it brings the lease in line with current practice and Westbank Laws, makes the properties more marketable, and establishes an improved annual service fee structure for the residents.

**Advisory Council Elections:** In August 2011, elections took place for the WFN Advisory Council as set out in the WFN Advisory Council Law. Gordon Couch (Prairie District), Avril Manzer (East Boundary District), Bonnie Semeniuk (Lakeshore District), Ludwig Teichgraber (Lakeridge District) and Terry Turcan (Old Okanagan District) were duly nominated and elected.

**Land Exchange Agreement:** The management and disposition of Westbank Lands is governed by the WFN Self-Government Agreement (SGA). Two conditions set out in the SGA state that, in consideration for a land exchange, WFN shall receive lands of greater or equivalent size or value and such lands shall become reserve lands. Westbank entered into a Land Exchange Agreement with the Province of British Columbia in 2010. It gave up 4.49 acres for the construction of the Westside Road Interchange to support transportation corridor improvements. In 2011, Westbank identified Crown lands as suitable replacement lands but negative publicity, public pressure and recommendations by the Ministry of Forests, Lands and Natural Resource Operations (MFLNRO) resulted in the Province pulling away from the deal. As a show of good faith, Westbank is considering alternative lands, but is being frustrated by the process. The failure to reach agreement on exchange lands will ultimately lead to the Westside Road Exchange lands being returned to WFN at the end of the current lease.

**Financial Transfer Agreement Negotiations:** Negotiations continue with Canada for a new multi-year Financial Transfer Agreement (FTA). Westbank and Canada have agreed to a second one year extension of the existing FTA which ensures Canada continues to provide support to Westbank in delivering programs and services defined in the FTA to the Westbank community. The application of the federal Own Source Revenue (OSR) policy consistent with



the provisions of the SGA has been the most challenging issue during these negotiations resulting in a significant amount of additional work for both parties.

In the spring of 2011 each party submitted a draft FTA proposal at the negotiation table. Subsequently, a chart was developed to identify areas of the agreement where the parties agreed or disagreed with the intent of developing one combined document. The key areas of impasse identified were in calculating the cost of Westbank government, the definition of the terms “agreed upon public services” and “programs and services” as they are used in the SGA and FTA, and what is considered “Westbank First Nation government revenues.” Westbank submitted several research documents to support its position and met with the Minister of Aboriginal Affairs and Northern Development Canada and his key staff in January 2012 in an effort to resolve this issue. Negotiations with Canada on the FTA are ongoing.

**Fiscal Harmonization:** Canada held engagement sessions with Aboriginal groups across the country to seek input on its proposed Fiscal Harmonization Initiative. This initiative would apply to self-governing Aboriginal groups and would streamline the funding transfer process through a funding model. Canada’s intent is to create a fiscal arrangement system similar to that of the provinces and sees it as being a more open and transparent process. Westbank participated in several of the sessions and voiced its concerns about the process to seek meaningful input from self-governing groups. It stated that, for a fiscal financing framework to work, foundational principles about existing agreements, levels of jurisdiction, flexibility, the baseline for comparability, and other principles need to be set out.

**Additions to Reserve:** Westbank continues to address the Additions to Reserve Policy to have several parcels of land transferred to reserve status and to ensure that the interpretation by Canada of the current Additions to Reserve Policy is consistent with Canada’s commitments in the SGA.

# Towards Fiscal Independence



## **Growing Own Source Revenues**

Since self-government the trend has been for the WFN government to continue, year over year, to grow its government revenues and provide an ever increasing share of the cost of government on Westbank Lands. 2011-2012 continued this trend. Government revenues (adjusted to remove sale of land and corporate equity pickup) collected by WFN increased from \$37,385,357 in 2010-2011 to \$41,420,632 in 2011-2012 representing approximately 17% of revenues that support the operation of Westbank government and the delivery of programs and services by Westbank government. This includes property taxes of \$9.3 million, development cost charges of \$1.8 million, and First Nations Tax (tobacco, fuel, and alcohol) of \$1.1 million. Other revenues are raised from the collection of user fees and service charges. Westbank's objective is to be, for those areas where WFN has primary jurisdiction, self-sufficient and not rely on transfer from other governments.

## **A Strong Financial Position**

The statement of financial position at March 31, 2012 shows WFN increasing its financial strength year over year. Financial Assets increased by \$4.9 million growing from \$43.7 million to \$48.6 million. The value of capital assets (infrastructure such as roads, sewers, sidewalks) increased from \$44.7 million to \$48.3 million. Long term debt declined from \$6.1 million to \$5.6 million while total financial assets (cash, investments, and receivables) increased from \$55.1 million to \$60.8 million.

## **Targeted Federal Transfers**

The Westbank Self-government agreement provides that the cost of Westbank government is a shared responsibility between Westbank and Canada. Accordingly, to augment WFN's own source revenues, in 2011-2012, Canada provided a contribution to Westbank of \$4.5 million. This contribution, in part, supports WFN self-government including the operation of Westbank government and the exercise of certain jurisdiction under the Self-government Agreement primarily in relation to Westbank members and in particular monies to support the provision of education to Westbank members and other persons registered as "Indians" living on Westbank Lands. In 2010 - 2011 the Self-government Financial Transfer Agreement represented 12% of the total Westbank government's budget. In addition Canada provided by way of separate federal transfer agreements \$2.2 million to pay for federal programs and services delivered by Westbank government to Westbank Members and other person registered as "Indians" under the *Indian Act* living on Westbank Lands including health programs and Social Development and other program and service areas where Westbank First Nation does not have, or has chosen not to, exercise jurisdiction under the Self-government Agreement.

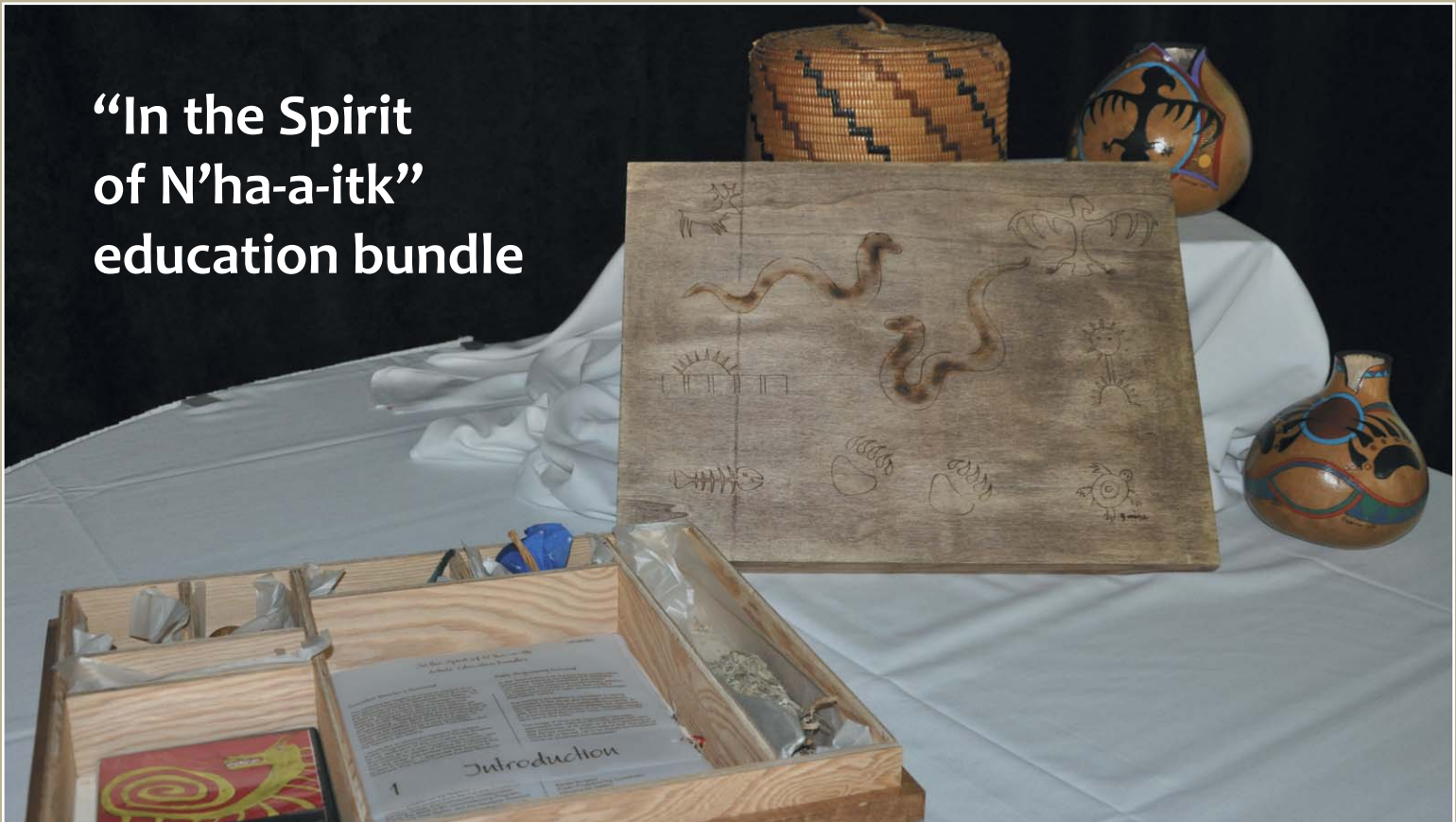
## Looking Ahead

Good governance is a prerequisite to creating and maintaining economic growth. WFN has been successful in implementing self-government in large part because of good governance leading to a vision of fiscal independence. With a strong financial position, WFN Council and staff look forward to addressing strategic priorities including:

- Increased financial support for education services for WFN members.
- Providing more options for affordable community housing.
- Building and maintaining an ever growing community infrastructure and facilities.
- Completing an acceptable second Self-government Financial Transfer Agreement with Canada.

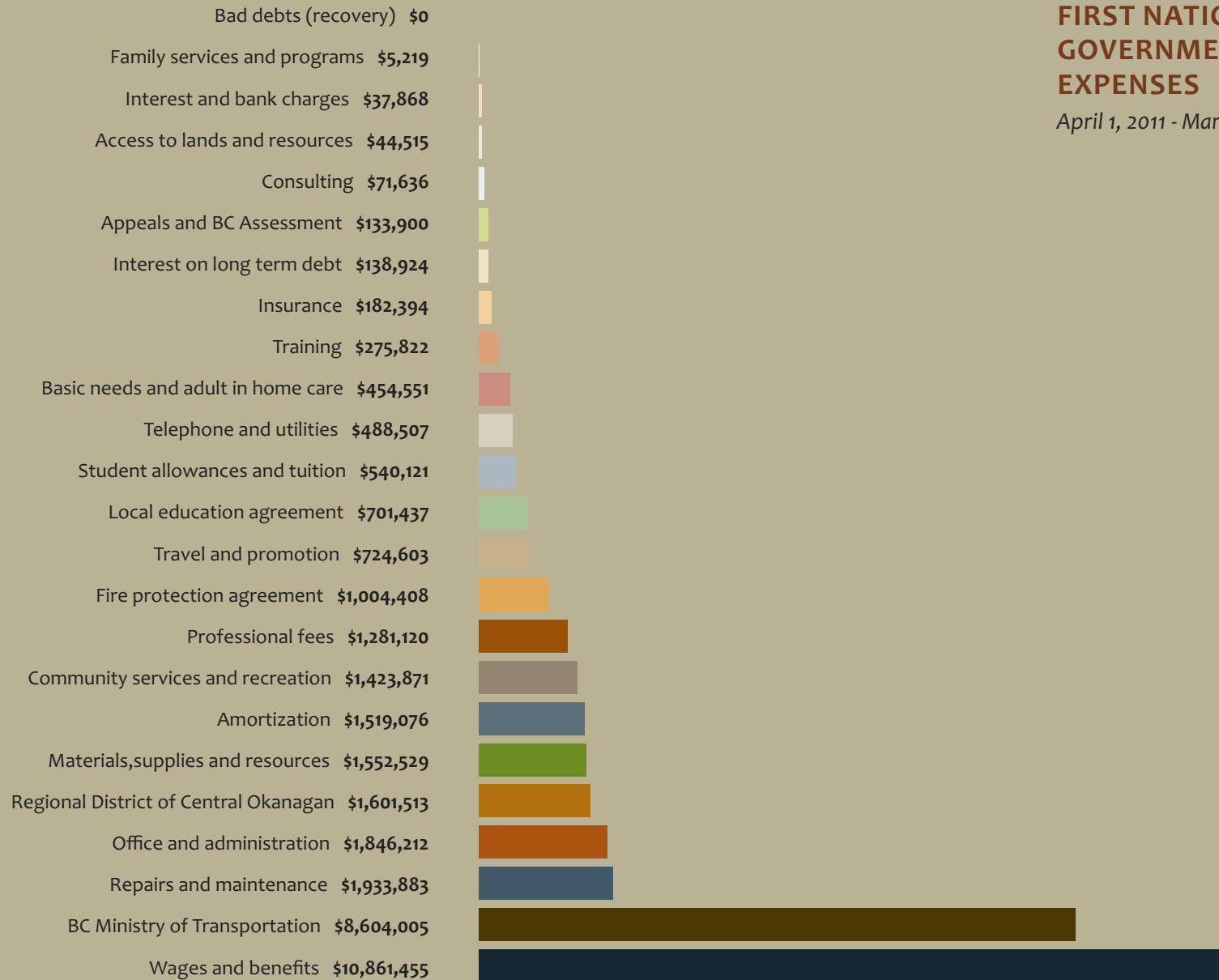
The following graphs are derived from the audited financial information prepared by BDO Dunwoody and approved by WFN Chief and Council. The audited financial statements of WFN are published in the WFN Annual Report 2011/2012.

**“In the Spirit  
of N’ha-a-itk”  
education bundle**



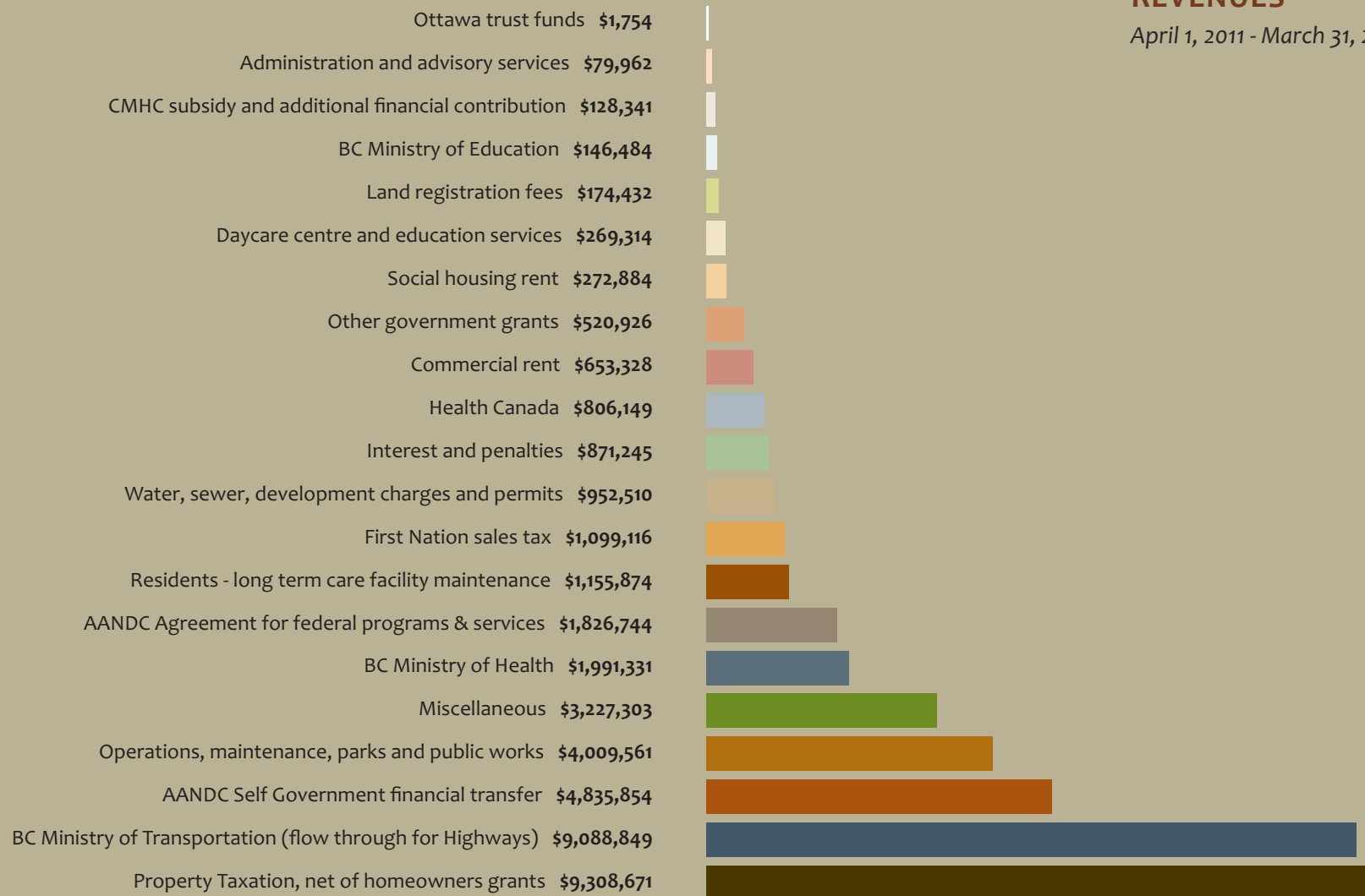
## WESTBANK FIRST NATION GOVERNMENT EXPENSES

April 1, 2011 - March 31, 2012



# WESTBANK FIRST NATION GOVERNMENT REVENUES

April 1, 2011 - March 31, 2012





## Acknowledgements

Barb Coble

Brian Conner

Councillor Mike DeGuevara

Raf DeGuevara

Carole Humphreys

Micha Menczer

Dr Tim Raybould

Kevin Malone



Westbank First Nation Government  
[www.wfn.ca](http://www.wfn.ca)

Canada

Government of Canada  
[www.ainc-inac.gc.ca](http://www.ainc-inac.gc.ca)