

SECHELT INDIAN BAND

LAW NO. 1996-02

A LAW TO ESTABLISH CONFLICT OF INTEREST RULES

WHEREAS the Sechelt Indian Band considers it necessary to establish conflict of interest rules to be applicable to the Band Council;

AND WHEREAS Part III of the Constitution of the Band and paragraphs 14(1)(t) and (u) of the Sechelt Indian Band Self-Government Act authorize the Council of the Band to make laws in relation to the good government of the Band or its members and to create administrative bodies and agencies to assist in the administration of the affairs of the Band;

NOW THEREFORE the Council of the Sechelt Indian Band, in open meeting assembled, enacts as follows:

Short Title

1. This law may be cited for all purposes as the "CONFLICT OF INTEREST LAW".

Definitions

2. In this law,

"Band" means the Sechelt Indian Band;

"Band Business(es)" means any business including a corporation, limited partnership or joint venture pursuant to which all shares, or some portion thereof, limited partnership or joint venture interests, are held by one or more Band Members in trust for the benefit of all Band Members;

"Band Member(s)" means a member of the Sechelt Indian Band;

"child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

"Council" means the Chief and Council of the Sechelt Indian Band as duly constituted;

"Councillor(s)" means the duly elected Chief or member of the Council of the Sechelt Indian Band as the case may be;

"Investigating Officer" means an officer appointed pursuant to section 14;

"meeting" includes any regular, special, committee or other duly convened meeting of the Council;

"parent" means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

"spouse" means a person of the opposite sex to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

Disclosure of Interest

3. Subject to section 4, where a Councillor has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Council at which the matter is the subject of consideration, the Councillor shall,
 - (a) prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
 - (b) not attempt in any way, whether before or after the meeting, to influence the voting on any such question;
 - (c) leave the meeting or the part of the meeting during which the matter is under consideration; and
 - (d) not be counted in the quorum.
4. Where a Councillor has disclosed a pecuniary interest at a meeting, the Councillor may participate in the discussion, be counted in the quorum and vote on the matter if a majority of Councillors present at the meeting agree that it would be appropriate.
5. Where, as a result of a Councillor or Councillors being disqualified pursuant to section 3(d) from being counted as part of the quorum, the remaining Councillors are not of a sufficient number to constitute a quorum, then, despite any other general or special provision, the remaining number of Councillors shall be deemed to constitute a quorum provided

such number is not less than two.

6. Where the interest of a Councillor has not been disclosed as required by section 3 by reason of the Councillor's absence from the meeting at which the matter was first raised, the Councillor shall disclose the interest and otherwise comply with section 3 at the very next meeting of the Council.
7. Every declaration of interest and the general nature thereof made pursuant to this law shall be recorded in the minutes of the meeting.

Interest of Certain Relatives Deemed that of Councillor

8. For the purposes of this law, the pecuniary interest of a parent, spouse or any child of a Councillor shall, if known to the Councillor, be deemed also to be the pecuniary interest of the Councillor.

Exceptions

9. Section 3 of this law does not apply to a pecuniary interest in any matter that a Councillor may have,
 - (a) as a user of any public utility service supplied to the Councillor by the Sechelt Indian Government District in like manner and subject to the like conditions as are applicable in the case of Band Members who are not Councillors;
 - (b) by reason of the Councillor having a pecuniary interest which is an interest in common with Band Members generally;
 - (c) by reason only of an interest of the Councillor which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the Councillor.

Personal Gain

10. No Councillor shall solicit, receive or accept a gift or service under circumstances where it could be reasonably inferred that such action would influence the Councillor in the discharge of his or her duties.
11. No Councillor shall make use, in any way, of information received as a consequence of, or in the course of, his or her position for his or her personal benefit or for the

benefit of any other party other than the Band.

12. No Councillor shall participate in, or benefit in any way from, any contract or transaction existing or proposed by the Band or Band Business during his or her term of office.

Competition

13. Councillors shall not, during the term of their office, engage either directly or indirectly in any manner, as partner, officer, director, shareholder, advisor, employee, or in any other capacity, in any business similar to one carried on by the Band or Band Business in British Columbia, without having first obtained the express prior written approval of the Council.

Action Where Contravention Alleged

14. Where it is alleged that a Councillor has breached a provision of this law, the Council may appoint a person as the Investigating Officer to investigate the allegation and report to the Council.
15. Upon receiving a report from the Investigating Officer, the Council shall determine if, on a balance of probabilities, the Councillor has breached a provision of this law. If the Council concludes on a balance of probabilities that the law has been breached, it shall take whatever action is deemed appropriate, which action may include:
 - (a) if the Councillor has realized a pecuniary gain in any transaction to which the violation relates, order the Councillor to make restitution to any person, including the Band, affected by the pecuniary gain; and
 - (b) if warranted by the circumstances, make a report to the appropriate police investigator or institute civil proceedings.
16. Where it is alleged that a Councillor has breached a provision of this law, and if there is no previous application outstanding or determined on the same facts, a Band Member may apply to a court of competent jurisdiction for a declaration that the Councillor has breached a provision of this law.
17. Where it is alleged that a Councillor has realized pecuniary gain in any transaction to which a violation of this law relates, and no order of restitution has been made by the Council or is pending, a Band Member affected by the pecuniary gain, may apply to a court of competent jurisdiction for an order of restitution against the Councillor.

General

18. If any portion of this law is found invalid by decision of a court of competent jurisdiction, the invalid portion shall be severed without effect on the remainder of this law.
19. Parts and titles are for convenience only and are not to be construed as a part of this law.

Read a first time this 18th day of March, 1996.

Read a second time this 18th day of March, 1996.

Read a third time this 20th day of March, 1996.

Reconsidered, finally passed and adopted by the Band Council and signed by the Chief on the 21st day of March, 1996.

Chief Garry Feschuk
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