

SECHELT NATION CURRENT 1993 CONSTITUTION COMPANION DOCUMENT

The purpose of the Companion document is to explain in general terms what the current Sechelt Constitution says and allows. This information will assist the membership to discuss what changes should be made in an updated Constitution, section by section.

FINANCE

Part I Division 5 – Band Money

Sources of Band Revenue Money. This section lists the types of Band Revenue that the Nation can generate that is separate from any grant funds from the government of Canada. This is considered “Own Source Revenue” where we make money from leasing lands, issuing permits, earning interest on loans or investments or our capital account.

Expenditure of Band Revenue Money. This section states that those Band Revenue dollars can only be spent according to a different section of the current 1993 Constitution found in Part II Division 7.

Sources of Band Capital Money. This states that revenue earned by the Band from sale of Land, or sale of other capital assets and royalties from non-renewable resources (ie: gravel) are considered capital and is treated differently from Band Revenue money.

Expenditure of Band Capital Money. The allowable expenditures of Band Capital dollars is listed in Part II Division 7.

Control and Management of Band Money. This section states that the Band Council are solely responsible for collecting and managing Band Revenue and Band Capital money.

Part II Division 4 – Financial Controls

Establishment of Band Accounts. Simply states that Council is responsible for ensuring that separate bank accounts are set up for Band Revenue, Band Capital and any Federal Government Grant or Transfer payment.

Signing Officers. States that the Band Council shall authorize 3 people, of which 2 must be Councilors, to sign cheques or handle any money matters. This section also states that those persons shall be bonded. Bondable means that the person has declared they have no criminal record and that they would pass the background checks required to be covered by a company’s insurer that protects the Band against employee/council theft or loss.

No Expenditure without Authorization. This section states that the Band Council can only spend money when properly authorized by the Constitution, a Band Law or a Band Council Resolution or what we call a Council Minute of Decision. It also states that if an expenditure is not properly authorized the council must report to the Band membership at the next meeting of the Band.

Budget Committee. The Band Council can establish a Budget committee as long as two Council members are on the committee. A budget committee has never been established.

Investment of Surplus Money. This states that where the Band has surplus money it can invest that money in short term interest bearing deposits to earn interest. It also states that all expenditures have to be made in accordance with an approved budget and if not in the annual budget is considered “not lawful”.

Year End. March 31st of each year is a typical year end to close off the financial statements.

Financial Statements. Three months after March 31st the Band Council is responsible for ensuring that financial statements are prepared following GAAP and that Band members can have access to a copy at the Band office.

The Treasurer. The Treasurer is generally considered to be the Chief Financial Officer or CFO of the Band appointed or hired by the Band Council. This section lists the main duties of a CFO to be responsible for ensuring the safekeeping of all Band moneys and other assets and liabilities and to warn the Band Council in writing where an expenditure could be considered unlawful.

Part II Division 6 – Federal Transfer Payments

Federal Transfer Payments – Operation and Maintenance. This section refers to section 33 of the Self Government Act that provides for the Band to negotiate funding agreements with the government of Canada. These grants of money are called Block Funding Agreements or Self Government Funding Agreements and have recently been negotiated for an 8 to 10-year period.

Federal Transfer Payments Capital. This is part of the Self Government Funding Agreement.

Part II Division 7 – Budgets

Band Budgets. This states that a budget committee shall present to the Band Council by February 28th of each year a budget for the next fiscal year. As there is no budget committee the CFO has prepared the budget for Council.

Budget for Band Revenue. The Budget shows separately the amount of our own source revenues separately from any government of Canada transfer payments.

Budget for Band Capital. The Budget shows separately the amount of any capital money generated by the Band.

Budget for Federal Transfer Payments. This section states that any money received from the government of Canada must be spent in accordance to the funding agreement rules. The allowable expenditures are set out in a separate section of the constitution.

Approval of Band Budgets. Once the Band Council have approved the budget, they call a special budget meeting before the end of February for members to review and recommend

amendments. After that review meeting the Council must adopt the budget by March 15th of each year. If there are any changes recommended by the membership, Council will determine if the amendment is viable and then adopt an amended budget.

Band Revenue Expenditures. This lists the specific things that our own source revenue or Band Revenue can be spent on, but not limited to.

Band Capital Expenditures. This lists the specific things that our own source revenue or Band Capital can be spent on, but not limited to.

Federal Transfer Payments, Operations and Maintenance Expenditures. This lists the specific things that the government of Canada Transfer payment can be spent on, but not limited to. It also specifies that we cannot change or eliminate payments related to education, social and health programs. We also cannot use these moneys for Capital expenditures.

Federal Transfer Payments, Capital Expenditures. This lists the specific things that the government of Canada Transfer payment can be spent on for capital items. It specifies that any capital dollars received for housing must stay as a mandatory item.

Federal Transfer Payments – Mandatory Programs. This states that where we accept funding from the government of Canada we are subject to contract law to deliver the programs and services we agreed to by signing the agreement.

Part II Division 8 – Borrowing

Band May Obtain Loans. This states that the Band can borrow money for up to \$2.5 million but cannot exceed \$10 million. It also states that the loan shall be for roads, buildings etc., or economic development projects. It further says that the loans cannot exceed certain timeframes but also says that short term demand loans may be approved at a meeting of Band Members. Finally, it talks about the Band loaning money to itself instead of borrowing from a bank.

Loan Authorization Law. This section states that for each proposed project where borrowing is required, “the Band Council shall adopt a loan authorization law for the specific project subject to the assent of the Band Electors”. There is inconsistency here as it is not clear if the assent of the Band Electors is approved by a show of hands at a meeting or if it requires a full referendum.

Investment of Funds. This section talks about where money is borrowed it is put into a “sinking fund” until it is time to repay the debt, and it can be invested in specific securities to earn interest.

Sources of funds for Debt Retirement. This lists the way the loan debt can be repaid. It can be used from a variety of existing moneys, earnings from any economic development project or even a tax on the Band Electors.

Comprehensive Loan Authorization Law. This section sets out the steps where the Band Council can borrow money for a variety of things under one law. This would require the assent of Band Electors with a referendum question.

Handling of Loan Proceeds. This states that money received under a loan is to be put into a special account or investment where the interest earned will go towards repayment of the debt.

Separate Accounting. Individual codes will be set up in the financial statements to track all loans.

Use of Loan for Other Purposes. This is a strong statement that says the loan proceeds must be used according to the loan authorization law and if not the Band Council or its employees can be personally liable for the amount.

Part II Division 9 – Comprehensive Claim Settlement

This section talks about the settling of any Comprehensive Land Claim, or what we know as Treaty or Reconciliation, where any money would be put into a “Prosperity Fund”. It goes on to describe how any interest earned on the funds would be allocated to other funds and that distributions would be made to Band members annually. It further states that any resource sharing proceeds will be deposited to Band Capital and therefore subject to limited expenditure categories.

This section will require separate discussion with Council and the membership as to how it will fit into any new Constitution.

It has a financial component and for now is only noted for the Finance section Constitution amendment discussions.

Part II Division 10 – Auditor

Auditor. The Band Council is required to appoint an Auditor to audit “every administrative body, trust or corporation handling Band money, of Federal Transfer payments”. Once appointed the Band Council must notify the Governor in Council.

Auditor May Appeal Termination. The auditor, if terminated, can appeal to the Governor in Council.

Failure to Appoint an Auditor. If the Band Council fails to appoint an auditor, the Governor in Council may do so.

Duties of Auditor. This sets the duties of the auditor to examine the financial statements of the Band and report to the Band Electors.