



Your file - Votre référence

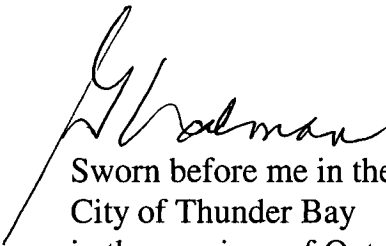
Our file - Notre référence

Canada

Province of Ontario

TO WIT

I, GLORIA LALMAN, residing at Thunder Bay, Ontario make oath and swear that the paperwriting to which this affidavit is attached is a true copy of a document produced and shown to me and purporting to be the original by-law pursuant to the Indian Act and signed by the Chief and Council of Michipicoten First Nation and dated October 28, 2002 the said copy having been compared by me with the said original document.



Sworn before me in the
City of Thunder Bay
in the province of Ontario
this 7th day of July, 2003

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Michipicoten First Nation, in the Province of Ontario, at a meeting held on the 28th day of October 2002.

- **Michipicoten First Nation**
Financial Administration By-law No. 2002-2

A handwritten signature in black ink, appearing to read "Robert D. Nault".

Dated at Ottawa, Ontario this 28th day of November 2002.

Canada

MICHIPICOTEN FIRST NATION

BY-LAW NO. 2002-02

Being a by-law to regulate the receipt, management, and expenditure of Michipicoten First Nation funds and establish the administrative structure of the Michipicoten First Nation which manages the funds;

WHEREAS the *Indian Act*, R.S.C. 1985, c.I-5, provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make by-laws for the following purposes:

- the appropriation and expenditure of moneys of the Michipicoten First Nation to defray the Michipicoten First Nation expenses;
- the appointment of officials to conduct the business of the Council and prescribing their duties; and
- with respect to any matter arising out of or ancillary to the exercise of the aforementioned power;

AND WHEREAS the Council of the Michipicoten First Nation has determined that it is desirable and necessary that a financial management by-law be established for the purposes set out in subsection 83(1) of the *Indian Act* and for the better administration of the Michipicoten First Nation's business;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Michipicoten First Nation at a duly convened meeting of the Council enacts the following by-law:

SHORT NAME OF BY-LAW

1. This By-law may be called the "*Financial Administration By-law*".

DEFINITIONS

2. In this By-law,

"agencies" means any board, tribunal, commission, committee of the Michipicoten First Nation or any corporate body controlled by the Michipicoten First Nation including a society, non-profit corporation or business corporation;

"agreement" means any written contract between the Michipicoten First Nation and another party or parties, including the Federal Government, the provincial government or a third party, pursuant to which money is to be paid to the Michipicoten First Nation;

"annual budget" means the forecast of planned expenditures for the forthcoming fiscal year by the Michipicoten First Nation;

"Band" means Michipicoten First Nation;

"Band Manager" means the Band Manager or Co-Manager, as the case may be.

"Chief" means the Chief of the Band.

"Committee" shall mean the Michipicoten First Nation Finance Committee established pursuant to this By-law;

"Council" shall mean the Chief and Council of the Michipicoten First Nation;

"department" means an administrative division of the Michipicoten First Nation Government as established from time to time by Council and includes service centres, administrative units and other internal organizational units of the Michipicoten First Nation administration;

"Family" shall mean a spouse, including a common law spouse, children, parent, brother, sister, father-in-law, mother-in-law, uncle, aunt, and grandparent, son-in-law, daughter-in-

law, and also includes any relative permanently residing in the person's household.

"Indian Act" means The Indian Act, R.S. chapter 1-6, s.1.

"Member of the Band" means a person whose name appears on the Band List or who is entitled to have his or her name appear on the Band List.

"Michipicoten First Nation funds" means all moneys belonging to the Michipicoten First Nation and includes

- a) all revenues of Michipicoten First Nation;
- b) money borrowed by the Michipicoten First Nation;
- c) money received or collected on behalf of the Michipicoten First Nation; and
- d) all moneys that are received or collected by the Michipicoten First Nation pursuant to any agreement or funding arrangement and is to be disbursed for a purpose specified by Council or pursuant to that agreement or funding arrangement;

but does not include

- e) money received by the Michipicoten First Nation on behalf of an individual or corporate entity, where Council has approved an alternative arrangement for the managing of the money pursuant to section 67 of this By-law;

"Minister" means the Minister of Indian Affairs and Northern Development.

"Motion" means a decision made by Chief and Council at a Meeting of the Chief and Council, moved and seconded and voted on by a quorum of Council.

"Personal gain" shall mean financial benefit for the individual or for the members of his or her immediate family.

"Reserve" means the reserve(s) of the band as defined in the Indian Act, section 2(1) and special reserve(s) pursuant to section 36.

"resolution" means a decision made at a meeting of a quorum of Council and a Band Council Resolution (BCR) shall be prepared on a departmentally issued form. A quorum of Council signatures is required to validate the BCR.

BAND MANAGER

3. The Council shall ensure the position of Band Manager exists and is actively performed by a competent, qualified individual(s). Should this position of Band Manager become vacant, the Council will inform the Minister to suspend all cash releases until the position is filled. Should the position of Band Manager become vacant, a Band Manager shall be appointed on a temporary basis for a period not to exceed (10) weeks by Band Council Resolution. This temporary appointment shall only be made once for each vacancy.

APPLICATION

4. This By-law governs the receipt, management and expenditure of Michipicoten First Nation funds and the administrative organization of the Michipicoten First Nation to manage the funds.

5. This By-law applies to all Michipicoten First Nation departments and agencies in receipt of Michipicoten First Nation funds.

FINANCE COMMITTEE

6. A Finance Committee of the Michipicoten First Nation is hereby established and shall continue in existence notwithstanding changes in its membership from time to time.

7. The Committee shall consist of five (5) members appointed by the Council from time to time with one (1) member being the Band Manager and one member shall be the Chief.

8. Two (2) of the members of the Committee shall be members of the Council and one (1) member of the Committee shall be a Member of the Band that is not currently a member of Council.

9. The Chairperson shall be elected by the Committee and serve for a term consistent with the term of office of the Band Council.

10. The Chairperson shall preside over the meetings of the Committee and shall, between meetings of the Committee, exercise or perform such of the powers, duties or functions of the Committee as the Committee may determine.

11. The Committee, through the direct efforts of the Band Manager, shall be responsible for

- a) the management and control of the collection of Michipicoten First Nation funds;
- b) the management and control of the expenditures and disbursements of the Michipicoten First Nation;
- c) the maintenance of records of the financial activities of the Michipicoten First Nation;
- d) the preparation of the annual budget in accordance with the priorities approved by Council;
- e) the preparation of the annual audit of the Michipicoten First Nation;
- f) the reporting and recommending to Council on financial matters; and
- g) all other matters relating to the financial affairs of the Michipicoten First Nation not assigned by another by-law or Council resolution to any department or agency.

12. The Committee shall prepare or cause to be prepared any amendment to the annual budget for the Michipicoten First Nation which shall be submitted to the Council for review and approval.

13. The Committee shall maintain or cause to be maintained the financial records of the Michipicoten First Nation through the Office of the Controller/Bookkeeper and the managers of the departments or agencies.

14. The Committee may prescribe the form and content of the financial records and establish the accounting systems of the Michipicoten First Nation.

15. A member of the Finance Committee may be removed from office

- (a) by the Chairperson if the member has missed three (3) consecutive scheduled meetings of the Finance Committee;
- (b) by a majority of Council on the recommendation of the Chairperson for the member's removal; or
- (c) by a unanimous vote of the Chief and Council not sitting on this Committee.

16. The Band Manager shall act as the senior administrative officer of the Finance Committee and shall assist the Committee in carrying out its duties. The Band Council will articulate the specific nature of the duties of the Band Manager and these will include the planning, organizing, implementing and evaluating functions.

17. To facilitate the role and responsibilities of the Band Manager, a Controller/Bookkeeper shall be appointed by motion of the Council and is responsible to the Band Manager for the following:

- (a) the conduct of the administration necessary to discharge the administrative responsibilities of the Committee, including staff supervision;
- (b) the administrative supervision of the compilation and preparation of the overall annual budget;
- (c) the preparation of annual financial statements and long-term financial projections and cash flows as required from time to time by the Committee;
- (d) monitoring adherence to any agreement and funding arrangements entered into by the Michipicoten First Nation or any department or agency;

- (e) administration and supervision of the financial records and reporting systems;
- (f) the maintenance of records of all receipts and expenditures in such a manner so as to facilitate the annual audit; and
- (g) any other task assigned by the Committee through the Band Manager.

18. The Committee shall be responsible for the hiring of the Controller/Bookkeeper by Council motion subject to the ratification of the Council and dismissal of the Controller/Bookkeeper shall be in accordance with the personnel policies of the Michipicoten First Nation as established by Council.

COUNCIL'S ROLE

19. The Council shall appoint by motion the members of the Finance Committee as set out in sections 7 and 8 of this By-Law.

20. The Council shall oversee the preparation of the annual budget and shall approve the annual budget of the Michipicoten First Nation and any amendments thereto.

21. The Council shall receive and approve the annual audit of the Michipicoten First Nation.

22. The Council may, upon the recommendation of the Committee or upon its own motion, approve of an exception to this By-law by an amending by-law in accordance with section 83 of the *Indian Act* and in accordance with existing Michipicoten First Nation policy.

DELEGATION OF AUTHORITY

23. On the recommendation of the Committee, the Council may approve the delegation of authority to approve expenditures on behalf of the Michipicoten First Nation within the annual budget and consistent with the financial organization of the Michipicoten First Nation.

ANNUAL BUDGET

24. The Committee shall prepare estimates of the revenues of the Michipicoten First Nation for the purpose of preparing the annual budget.

25. Each department manager and agency manager shall prepare the department or agency's annual budget for the operation of the department or agency and shall submit the budget prepared to the Committee which shall prepare a consolidated annual budget for the Michipicoten First Nation.

26. The annual budget for the Michipicoten First Nation and its agencies shall be submitted by the Committee to Council for consideration and approval.

27. The Council is solely responsible for the approval of the consolidated annual budget for the Michipicoten First Nation and its agencies for each fiscal year.

28. Council may increase allocations of funds in the budget, reduce allocations of funds, or reallocate funds to different sectors in the annual budget.

29. The annual budget becomes official upon approval by the Council by resolution.

30. Council may amend the annual budget at any time before or after its implementation.

31. The annual budget shall be made available during regular working hours for inspection by any member of the Michipicoten First Nation, and copies are to be provided to Michipicoten First Nation members on written request to the Controller/Bookkeeper.

FINANCIAL MANAGEMENT: DEPOSITS

32. There shall be one Consolidated Account established by the Controller/Bookkeeper at the direction of the Finance Committee into which all Michipicoten First Nation funds shall be deposited.

33. The Controller/Bookkeeper shall ensure the safekeeping of the Michipicoten First Nation funds received and shall forthwith deposit all Michipicoten First Nation funds to the credit of the Michipicoten First Nation Consolidated Account.

34. The Committee may authorize the Controller/Bookkeeper through the Band Manager to reallocate funds from the Michipicoten First Nation Consolidated Account to other accounts for investment purposes or program and services delivery.

35. Funds in the Consolidated Account shall be administered by the Controller/Bookkeeper.

36. The interest earned on the Michipicoten First Nation funds shall be paid to the Consolidated Account.

37. Operating surpluses as of the end of the fiscal year shall be paid into the Consolidated Account and allocated or expended in accordance with the direction of Council.

FINANCIAL MANAGEMENT: EXPENDITURES

38. All payments and financial commitments shall be in accordance with the annual budget or in accordance with Council resolution.

FINANCIAL REPORTING: INVOICING

39. No payment shall be made for the performances of work, supply of goods or rendering of services unless the charge in respect of such work, goods or services has been authorized

- (a) pursuant to a Council resolution;
- (b) by a person delegated to authorize such payment; or
- (c) pursuant to an agreement entered into between the Michipicoten First Nation and the person providing such work, goods or services which establishes the amount, or a method of calculating the amount, to be charged for such work, goods or services.

40. For all work, goods or services that are provided by or through the Michipicoten First Nation or any other person on behalf of the Michipicoten First Nation for a fee or other charge, an invoice shall be rendered for payment for the work, goods or services.

41. The Controller/Bookkeeper, department or agency manager each have a role in ensuring invoices are rendered pursuant to this By-law.

AWARDING OF CONTRACTS

42. The Council may appoint by resolution the department or agency managers and other persons as authorized to approve the purchase of goods and services. Any expenditures in the awarding of contracts must receive the prior approval of the Band Council.

43. All orders for work, goods or services provided to the Michipicoten First Nation must be recommended to Council by the department or agency manager authorized to approve the purchase of goods or services.

44. Each order for work, goods or services over fifteen thousand dollars (\$15,000) or such greater amount as approved by Council, unless approved in the annual budget, shall, in addition to the signature of the department or agency manager, require attestation by the Controller/Bookkeeper as to availability of funds.

TENDERS

45. Capital purchases up to fifteen thousand dollars (\$15,000) or such greater amounts as approved by Council may be made by a department or agency manager if approved in the annual budget without going to tender.

46. Capital purchases over fifteen thousand dollars (\$15,000) and under five hundred thousand dollars (\$500,000) or in such amounts as approved by Council may be made by invitations to tender.

47. Capital purchases in excess of five hundred thousand dollars (\$500,000) or such greater amounts as approved by Council must be made by public tender.

48. In emergency situations telephone bids up to twenty thousand dollars (\$20,000) or such greater amount as approved by Council may be accepted by a department or agency manager providing a written confirmation follows from the bidder and a record of telephone bids is filed.

49. Invitations to tender shall include

- (a) the time and date of closing;
- (b) sufficient details from which comparable bids can be made;
- (c) the time, date, and place tenders are to be opened; and
- (d) amount of security deposit if required.

50. The tendering period is not to be less than five (5) working days, unless in an emergency situation.

51. All tenders are to be returned sealed and addressed to the Michipicoten First Nation, clearly marked "Tendered for....." and the time and date of receipt is to be recorded on the unopened envelope of tender when received.

52. All tenders received shall be opened in public in the presence of the department or agency manager or other person responsible for the tender process.

53. The name of the tender, project, date of bid and amount shown must be recorded.

54. The lowest tender received shall normally be accepted unless the authorized person deems it in the best interest of the Michipicoten First Nation to do otherwise.

55. Where the lowest tender is not accepted, the reasons are to be recorded in the document by the authorized person accepting the contract.

56. Upon acceptance of a tender for the performance of work, goods, or services, a contract is to be signed by both parties and shall be kept as a portion of the records of the Michipicoten First Nation.

57. In the event that an official or employee of the Michipicoten First Nation has a personal interest in the contract, he or she shall signify the interest and thereafter refrain from taking part in the discussion or participating in the awarding of the contract.

58. No disbursements or payment on any contract shall be made without supporting documentation as determined by the policies of the Committee.

59. A fifteen per cent (15%) hold-back of final payment or in such amount as may be determined by Committee policy shall not be released to a contractor until all work is certified as complete and satisfactory to the Council.

60. The Committee may establish policies and procedures for the tender process.

CONFLICT OF INTEREST

61. Any person who holds an office, including that of Chief or Councillor, or employment with the Michipicoten First Nation, its departments or agencies, shall not use that office or employment for personal gain to the detriment of the interests of the Michipicoten First Nation.

62. A person may avoid a conflict of interest by disclosing his or her interest prior to the making of a decision and by not participating in the decision.

63. If an employee violates the conflict of interest provision, the issue will be dealt with under the terms of the Michipicoten First Nation Personnel Policy.

64. The Committee may develop detailed conflict of interest rules which shall govern the administration of financial affairs of the Michipicoten First Nation which shall take effect upon approval by Council. These detailed conflict of interest rules would support those included under this By-law.

65. An appeal of suspension or dismissal can be made to the Band Council.

AGREEMENTS

66. The Council may approve on behalf of the Michipicoten First Nation such agreements of funding arrangements with the federal and provincial governments or with any other party for the provision of funding for the Michipicoten First Nation, its agencies and other bodies.

67. Where an agreement or arrangement has been approved under section 66 and on the recommendation of the Finance Committee, the Council may approve an alternative arrangement for the management of money received.

FISCAL YEAR

68. The fiscal year of the Michipicoten First Nation shall be from April 1 of each year to March 31 in the following year.

AUDIT

69. Council shall appoint by resolution an auditor or auditors annually to audit the books and records of the Michipicoten First Nation.

70. The auditor or auditors shall be a member of a recognized professional accounting association.

71. The auditor or auditors shall report to Council.

72. The audit shall include all transactions involving the Michipicoten First Nation funds.

73. The auditor or auditors are entitled to access

(a) all books, records, accounts and vouchers;

(b) information from any department or agency manager necessary for the completion of the audit;

(c) Council resolutions and by-laws;

(d) administration and financial regulations;

(e) agreements, contracts, and any other related documents.

74. The audit shall be in accordance with generally accepted accounting procedures and with general accepted auditing standards and shall include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Michipicoten First Nation.

75. The Committee shall provide the auditors with instructions concerning the annual audit and, through the Controller/Bookkeeper, shall assist the auditor or auditors in the completion of the audit.

76. After the review of the annual audit by the Committee, the auditor or auditors shall present the annual audit to the Council upon completion of the annual audit.

77. The audited financial statement shall be accepted by the Council by resolution at a meeting and signed by the Chief and such other person as designated by the Council.

78. The accepted audited financial statements shall be presented by the auditor to the Membership at a Membership Meeting duly convened for that purpose.

PUBLIC

79. Upon receipt of the auditor's report by Council, copies of the report shall be posted in such public places as determined by Council.

80. The Controller/Bookkeeper shall retain the written report of the auditor, together with the related financial statements and any member of the Michipicoten First Nation may inspect them during regular office hours and may by himself or through his agent, at his own expense, make a copy of the report or any part of it.


AMENDMENTS AND REPEAL

81. A decision made in contravention of this By-law is voidable by vote of a majority of Council.

82. Amendment or repeal of this By-law shall be in the manner stipulated by the *Indian Act*.

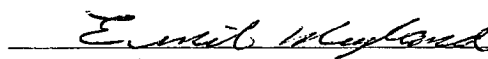
THIS BY-LAW IS HEREBY ENACTED by Council at a duly convened meeting held on the 28th day of October, 2002. A quorum of Council is four (4) members of Council.


MICHIPICOTEN FIRST NATION


Chief John Peterson

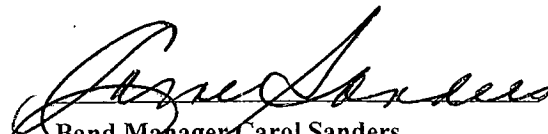

Councillor Kathryn Campbell


Councillor Denise Lesage-Churchill


Councillor Emile Neyland


Councillor Verna Andre


Councillor Irene Piche


Band Manager Carol Sanders