

This is Exhibit " A " to the Affidavit
of Patricia Faulkner
sworn before me this 29th day
of October 1982.

.....
A Commissioner for taking Affidavits within
the Province of British Columbia.

CAMPBELL RIVER DISTRICT

NIMPKISH BAND BYLAWS

By-Law No. 25

Being a by-law to provide for the general administration of Band Council Affairs and the procedures of Council conduct and meetings;

AND whereas certain powers, authorities and responsibilities are conferred upon or granted to the Nimpkish Band Council pursuant to the Indian Act being Chapter 1-6 of the Revised Statutes of Canada and certain Orders-in-Council proclaimed by the Governor-General on the advice of the Privy Council being more particularly described as: -

P.C. 1953-1313
P.C. 1954-1367
P.C. 1953-1129
P.C. 1958-1451
P.C. 1954-2025
P.C. 1973-24
P.C. 1969-2069 and ,

WHEREAS it is deemed advisable to avail the Nimpkish Band of Indians of certain programs or fundings offered by the Government of Canada, the Government of British Columbia or their agencies, and ,

WHEREAS for the good order and proper management of the affairs of the Band Council and the administration of the affairs of the Nimpkish Band of Indians pursuant to the authorities granted to the Nimpkish Band Council by paragraphs (q), (c) and (r) of Section 81 of the Indian Act.

NOW THEREFORE the Council of Nimpkish Band of Indians enacts as a by-law thereof the following:

- 1.00 Definitions: In this by-law, unless the context otherwise requires:
- 1.01 "Act" shall mean the Indian Act being Chapter 1-6 R.S.C. and regulations thereof as amended from time to time.
- 1.02 "Administrator" shall mean the senior employee or appointee of the Band Council and may include the Secretary or Secretary-Treasurer if so approved by a resolution or by-law of the Council.
- 1.03 "Approving Officer" shall mean the person designated as Band Approving Officer appointed by a 2/3 majority of all the members of Council.
- 1.04 "Auditor" shall mean a member of a recognized accounting association.
- 1.05 "Audit Committee" shall mean a Standing Committee appointed at the statutory meeting of Council annually, comprising of two elected members of Council other than the Chief.
- 1.06 "Band" shall mean and include a body of Indians as defined in the Indian Act.
- 1.07 "Band Meeting" means a meeting called by a notice given under direction of Council to the electors and other Band members to be held at a time and place named by the Council to inquire into, discuss and/or resolve a matter that shall be the subject of the meeting's purpose.

- 1.08 "Chief" shall mean: (1) the duly appointed Chief of the Nimpkish Band Council or if he is absent, the Acting Chief providing one is appointed, and (2), the chairman of a local government authority.
- 1.09 "Council", "Councillor" shall mean and include:
- (a) the council, including the chief, of a Band of Indians as defined in the Indian Act; and
 - (b) the governing body, and the individual members thereof including the chairman, of a local government authority, duly elected or holding office and sworn into office in good standing pursuant to the applicable Sections of the Act.
- 1.10 "Committee Meeting" shall mean a meeting of the whole or part of Council with or without the Secretary or other executive member or department heads held to review proposals put to the Committee by Council and to report to Council with respect to the Committee's recommendations. Committee meetings shall be called pursuant to the regulation under the Act.
- 1.11 "Community Program" shall mean any local community program of service financed in whole or in part by or from grants, contributions, or subsidies, from the Government of Canada, or Province or agency thereof, the administration of which, in whole or in part, is under the direction of the Council.
- 1.12 "Department" shall mean the Department of Indian Affairs and Northern Development.
- 1.13 "District Manager" shall mean the senior executive officer of the Department, or his designee, for the responsibility centre in which the Band is geographically located.
- 1.14 "The Executive" shall mean the Administrator, if any, appointed under by-law together with the Chief, Secretary and the Treasurer of the Band.
- 1.15 "Finance Committee" shall mean a standing Committee appointed at the Statutory meeting of Council each year, comprising of not less than two members of Council, the Treasurer and if one is appointed, the Administrator.
- 1.16 "Housing Authority" shall mean a standing committee of Council appointed at the statutory meeting of Council annually which may administer a community programme which is primarily directed towards the provision and maintenance of residential shelter for members of the Indian Band.
- 1.17 "Local government authority" shall mean a Council or a Committee of a Band which has been properly delegated by the said Council, which may with federal government approval administer for a Band Community Program.
- 1.18 "Manager" shall mean an administrative officer or Administrator appointed under by-law as amended from time to time.
- 1.19 "Meeting" shall mean a regular meeting or an adjourned regular meeting of Council.
- 1.20 "The Planning & Policy Committee" shall mean a Standing Committee appointed at the statutory meeting of Council annually, comprising of not less than two Councillors and the Secretary, together with the Administrator, if one is appointed.
- 1.21 "Policy Manual" shall mean a policy manual that shall be kept by all departments detailing work, organization and administrative procedures.
- 1.22 "Regional Director" means the senior executive officer of the Indian-Eskimo Affairs program of the Department of Indian Affairs and Northern Development for the Departmental administrative region, in which the local government authority is located, or any person delegated by him for the purposes of carrying out these conditions.

- 1.23 "Reserve" shall have the meaning ascribed to it by the Indian Act and in addition shall include any community, settlement, or local area where an Indian Band normally reside.
- 1.24 "Special Committees" means committees appointed by Council and to comprise not less than two Councillors, the Manager(s) as appointed pursuant to By-law (as amended) and such other Band members or staff members as the Council shall determine. These committees will meet as required, investigate into, review and report on matters referred to these committees by Council, and report their recommendations, if any, to Council.
- 1.25 "Special Meeting" means a meeting called for a specific item or items of business and conducted pursuant to the regulations under the Act.
- 1.26 "Standing Committee" means committees appointed by Council that shall meet from time to time as required to deal with their respective terms of reference and adjourn from meeting to meeting at the pleasure of the majority of the committee.
- 1.27 "Statutory Meeting" means the first meeting of Council as prescribed in the Act.

Meetings of Council

- 2.01 The Council shall decide from time to time by resolution when regular meetings shall be held. Such meetings shall be held at least once monthly.
- 2.02 A special meeting may be called at any time by the Chief and due notice of such meeting shall be given to each member of the Council in the manner required by The Act.
- 2.03 In the event of the death, illness, resignation or removal from office, or absence from the Reserves of the Chief, a meeting of the Council may be called by the Secretary upon receipt of a requisition to him, signed by at least two members of the Council. Due notice of the said meeting shall be given to each member of the Council in the manner required by statute.
- 2.04 All Acts whatsoever authorized or required to be done by the Council, and all questions of adjournment and others that may come before the Council, shall, save as otherwise provided by Statute, be done and decided by the majority of the members of the Council, including the Chief or Chairman, who shall be present at any meeting of the Council. A quorum of any particular committee shall be a majority of the members of Council who are appointed to serve on the particular committee.
- 2.05 In this By-law, the word "Chief" shall include, mutatis mutandis, a Councillor when acting as Chairman.

Procedures of Council Meetings

- 2.06 In case the Chief does not attend within fifteen minutes after the time appointed for a meeting, the Secretary shall call the members then present to order, and if a quorum be present, a Chairman shall be chosen, who shall preside during the meeting or until the arrival of the Chief.
- 2.07 Should there be no quorum present within thirty minutes after the time appointed for the meeting, the Secretary shall record in the Minutes Book, the names of the members present at the expiration of such thirty minutes, and the Council shall stand adjourned.
- 2.08 The Council shall by resolution at its statutory meeting appoint a person (preferably not elected members of Council) to hold the office of and be the Secretary, who shall:
- (a) without personal comment record in a minute book all resolutions, decisions, and other proceedings of the Council; and any committee thereof;
 - (b) establish and maintain a filing system in which is preserved and kept in his office or in the place determined by resolution of Council all minutes of the proceedings of the Council, the original or certified copies of all by-laws, and copies of all vouchers, documents and correspondence.
- 2.09 The Council shall at its statutory meeting appoint a person, preferably not an elected member of Council to hold the office of and be the Treasurer who shall:
- (a) keep the books, records and accounts of the Band and the revenue, and ensure the implementation of all financial conditions and controls including bank statements and cancelled cheques which support the transactions recorded in the bookkeeping system;
 - (b) receive and safely keep all monies belonging to the Band or Reserve, and shall pay out those monies to such persons and in such a manner as provided by law, and as these conditions, by-laws, regulations, policies, or resolutions of the Council direct;

- 2.09 cont. (c) no later than the 15th day of each month prepare and deliver to Council a statement showing
- i) itemized receipts and disbursements during the last preceding month,
 - ii) standing of the general ledger balances as of the last preceding month,
 - iii) standing of all appropriation accounts as at the last day of the last preceding month, and any other information that may be required by the Council or the Department, and the statement shall be read and presented for examination at the next ensuing meeting of the Council; a quarterly summary of these statements will be presented to the District Manager, and the Regional Director;
- (d) at least once in each week, or at whatever suitable intervals the local conditions permit deposit all monies of the Band in accordance with these conditions; and
- (e) conduct the business and perform the duties of his office in the manner provided by these conditions, by-laws, regulations, Council policies.

2.10 In the case of a vacancy in the office of the Secretary or Treasurer, or of the absence, or the inability of the appointee to perform these duties, the Council shall by resolution, appoint an employee in an acting capacity; and the person so appointed shall, while he fills the office, have all the powers and perform all the duties of the original appointee.

- 2.11 (a) The Council may at its discretion appoint by Resolution the same person to hold both the position of Secretary and the position of Treasurer, in which case the position shall be designated Secretary-Treasurer.
- (b) The Council may by Resolution appoint persons to hold the positions of Deputy Secretary or Deputy Treasurer, or if the circumstances warrant, the position of Deputy Secretary-Treasurer. The person(s) holding such appointments shall always be deemed to have the same responsibilities and authorities in absence of the Secretary, Treasurer, or Secretary-Treasurer, as the case may be.

Opening of Regular Meetings

- 2.12 (a) Immediately after the Chief has taken his seat, the minutes of the preceding meeting shall be read by the Secretary, if required by any member present, in order that any error therein may be corrected by the Council.
- (b) The minutes of the previous meeting and reports of committees, by resolution of the Council, may be taken as read, provided that the members of the Council shall, at the meeting at which adoption is moved in manner aforesaid, have been supplied by the Secretary with a printed or typewritten copy of said minutes or reports as the case may be. Such adoption shall be subject to such additions, erasures or amendments as the Council may decide upon at the meeting at which such adoption is moved.

Rules of Conduct and Debate

- 2.13 (a) Every member, previous to speaking to any question or motion, shall address himself to the Chief or Chairman.
- (b) Members shall address the Chair as "Chief" or "Mr. Chairman" and refer to each other as "the Chief" or "Councillor _____" as the case may be.
- (c) When two or more members rise to speak, the Chief shall name the member who is to have the floor.

- 2.13 cont.
- (d) A member called to order from the Chair shall immediately sit down, but may afterwards explain and the Council if it is appealed to, shall decide the case, but without debate. If there be no appeal, the decision of the Chief or Chairman shall be final.
 - (e) No member shall speak more than once to the same question, except in explanation of a material part of his speech which may have been misconceived on a question of privilege and in so doing, he is not to introduce new matter. A reply shall be allowed to a member who has made a substantive motion to the Council, but not to a member who has moved an amendment, the previous question or an instruction to a committee. No member, without leave of the Council, shall speak to any question for a longer time than fifteen minutes on moving an original motion, or five minutes on all other occasions.
 - (f) After a question is finally put by the Chief, no member shall speak to the question, nor shall any other motion be made until after the result of the vote has been declared, and the decision of the Chief as to whether the question has been finally put, shall be conclusive.
 - (g) When the Chief is putting the question no member shall walk across the room, or make any noise or disturbance, nor when a member is speaking shall any other member pass between him and the Chair, or interrupt him, except to a "point of order".
 - (h) Every member who shall be present when a question is put shall vote thereon, unless the Council shall excuse him.
 - (i) Should any member refrain from voting when any question is put, unless excused by the Council, he shall be regarded as having voted in the affirmative, and his vote shall be counted accordingly.
 - (j) The names of those who vote for and those who vote against the question shall be entered upon the minutes whenever any member shall call for the ayes and nyes, and the Secretary shall read aloud the names before the result of the vote has been declared in order that any mistake may be rectified.
 - (k) If the Chief or Chairman desires to leave the Chair for the purpose of taking part in the debate or otherwise, he shall call on one of the Councillors to fill his place until he resumes the Chair.
 - (l) The members of the Council shall not leave their places on adjournment until the Chief leaves the Chair.
 - (m) When any order, resolution or question shall be lost by reason of the Council, or any Committee thereof, breaking up for want of a quorum, the order, resolution or question so lost shall be proceeded with and disposed of at the next meeting of such Committee or Council.

Motions in General

- 2.14
- (a) Motions shall be put in writing and seconded before being debated or put from the Chair provided that a routine motion or a motion to adopt a report to receive and file, to refer to a Committee, or an official, to introduce or pass a by-law, or to adjourn shall not require to be put in writing. Forthwith, after a motion is seconded it shall be read by the Presiding Officer or Secretary before debate.

- 2.14 cont. (b) Amendments shall be in writing and shall be decided upon before the main question is put to a vote. Only one amendment shall be allowed to an amendment.
- (c) A motion to commit, until it is decided, shall preclude all amendments to the main question.
- (d) A motion to adjourn the Council or to adjourn the debate shall always be in order, but if such motion is defeated no second motion to be the same effect shall be made until after some intermediate proceeding shall have been had.

The Previous Question:

- 2.15 At any meeting, a motion for the previous question, until a decision thereon has been made, shall preclude all amendment of the main question and shall be in the following words "that this question be now put". If the previous question be resolved in the affirmative, the original question shall be put forthwith without any amendment or debate, but if the previous question be resolved in the negative, then the main question shall be debatable.

Privilege:

- 2.16 Whenever any matter of privilege arises, whether relating to the Council or to any individual member thereof, it shall be taken into consideration immediately.

Division of a Question:

- 2.17 When the question under consideration contains distinct propositions upon the request of any member, the vote upon each proposition shall be taken separately.
- 2.18 (a) After any question, except one of indefinite postponement, has been decided, any member who voted with the prevailing side, at the first meeting held thereafter, may move for a reconsideration thereof, but no discussion of the main question shall be allowed unless the motion to reconsider has been adopted.
- (b) No question shall be reconsidered more than once, nor shall a vote to reconsider be reconsidered.

Proceedings in Committee of the Whole:

- 2.19 (a) A meeting of the Committee of the Whole may be called at any time by the Chief.
- (b) A committee of the Whole held during a Council meeting shall be appointed by a resolution "That this Council do now proceed to resolve itself into a Committee of the Whole".
- (c) The Chief, when present, shall act as Chairman of the Committee of the Whole unless the Committee or Council decides otherwise.
- (d) The rules of the Council shall be observed in Committee of the Whole, so far as may be applicable except that no motion shall require to be seconded, nor shall a motion for the previous question be allowed; and in taking the ayes and nyes, the names of the members shall not be recorded nor shall the number of times of speaking on any question be limited. No member shall speak continuously for a longer time than five minutes on any one question.
- (e) In case of a division being called for, the question shall be decided by a show of hands. The

2.19 (e) cont.

Secretary shall count and decide the number on each side, and the Chairman shall announce the result of the vote.

- (f) A motion in Committee of the Whole to rise without reporting, or that the Chairman leave the Chair, shall always be in order and shall take precedence over any other motion.

On such motion debate shall be allowed but no member shall speak more than once to such motion. On an affirmative vote, the subject referred to the Committee shall be considered as disposed of in the negative except when a By-law is being considered in which case a recommendation must be reported to Council. The Committee shall then proceed with the next order of business.

- (g) When all matters referred to a Committee of the Whole have been considered, a motion to rise and report shall be adopted, provided however, that the Committee, when it has partly considered a matter, may report progress and ask leave to sit again. On resumption of business in Council, the Chairman of the Committee of the Whole shall report to the Council, and the adoption of the report shall be moved.

Proceedings in Regard to the Passage of By-laws:

2.20

Every draft By-law shall be printed or typewritten before it is considered by the Council, and a copy of such draft given to each member present.

- (a) Every By-law shall be introduced upon motion specifying its title or intended object, duly seconded and affirmed by a majority of the Quorum. The introduction motion is neither debatable or amendable.
- (b) The By-law referred to in Sub-section (a) shall then receive a second reading. This shall be accomplished by a motion specifying the By-law title or number, duly seconded and affirmed by a majority of the Quorum of Council.
- This motion is debatable as its necessity only and the amendments are not admissible. Passage of second reading automatically refers the said By-law to the Committee of the Whole to be considered at the first sitting of that Committee for a clause by clause review (except as set out in Sub-section 'c' and 'd' below.) The Committee of the Whole shall report to Council as soon as practical its recommendations for amendments, if necessary or such other disposition of the By-law as be the pleasure of the Committee of the Whole.
- (c) By-laws requiring a general Band meeting hearing shall be referred to a general Band meeting at the earliest convenient date to be determined by Council prior to being submitted to the Committee of the Whole for report.
- (d) Any Councillor may move that referral of a By-law as prescribed under Sub-section (b) be waived and if seconded and affirmed unanimously by all members of Council, referral to the Committee of the Whole shall be waived and the Secretary shall so note upon the By-law and in the minutes of the regular Council meeting.

- 2.20 cont. (e) i) Upon receipt by Council of the report of the Committee of the Whole so set out in Sub-section (b) or its absence as prescribed by Sub-section (d) above, a Councillor may then move and another Councillor may second Third Reading either incorporating the recommendations of the Committee of the Whole or no. This motion is debatable and amendable pursuant to Section 2.13 to 2.18 inclusive, or Section 3.1 of this By-law.
- ii) If any member of Council so requests, the whole or any part of the draft By-law shall be read by the Secretary before the motion is put.
- iii) Upon receipt of an affirmative vote of a majority of the Quorum of Council, the Chief shall state that the By-law shall have passed third reading.
- (f) Pursuant to the requirements of the "Act", the By-law may be reconsidered, the only motion necessary for the final passing shall be "That _____ By-law, 19____, No. _____ be finally adopted, signed by the Chief and Band Secretary.
- (g) The original copy of every By-law signed by the Chief and Secretary, shall be deposited with the Minister of Indian Affairs pursuant to the requirements of the Act.
- (h) No By-law shall be deemed reconsidered unless it has received the required majority as set out below: -
- i) Unless specified in the Act, a majority of the Quorum of Council or -
- ii) if specified by the Act, the required majority of all the members of the Band attending a Band meeting.

Order of Proceedings:

- 2.21 The order of business for all regular meetings of the Council shall be as follows:
- (a) Call to order by the presiding officer as set out in Section _____ above.
- (b) Receiving, reading, amending if necessary, and adoption of minutes.
- (c) Unfinished business.
- (d) Presentation and disposition of correspondence.
- (e) Presentation, consideration and disposition of reports:-
- (i) Standing Committee's minutes
- (ii) Special Committee's minutes
- (iii) Administrator or Secretary report
- (iv) Chief report.
- (f) New business
- (g) Hearing deputations or delegations
- (h) Adjournment

General Provisions

- 3.1 In all unprovided cases in the proceedings of the Council or in Committee, the laws, rules and usages of Roberts' Parliamentary Law and Roberts' Rules of Order shall be followed.

Audit Committee

- 3.2 (a) The Committee shall meet within seven days of the statutory meeting and at least once each month thereafter.
- (b) The Committee shall examine the budget estimates received from the Treasurer, the authorizations for expenditures and such other documents as the committee shall deem necessary and shall report to Council once each month its conclusions or recommendations if any.
- (c) The Committee shall investigate and report on any matter referred to it by Council.
- (d) The minutes of the Audit committee shall be received by open Council save and except upon unanimous vote of all members of Council.

Finance Committee

- 3.3 (a) The Finance Committee shall meet within fourteen (14) days of the Statutory meeting and as often as required thereafter.
- (b) During October, November and December of each year, the Finance Committee shall meet with the Secretary, or the Executive, to review the provisional budget for the ensuing fiscal year, the reports of the Standing Committees and such other reports and matters that it deems fit and shall report to Council as the Finance Committee shall determine. The recommendations to Council by the Committee shall be received by Council as part of the minutes of Council.
- 3.4 (a) All minutes of any meeting of the Finance Committee shall be available to the Band members and every member of Council.
- (b) The Finance Committee shall in September of each calendar year, make a review of the Executives' revised budget of the current fiscal year and forward its recommendations to Council if any.
- (c) The Finance Committee shall investigate and report on any matter referred to it by Council.

The Planning & Policy Committee

- 3.5 (a) The Planning and Policy Committee shall meet within 21 days of the Statutory meeting and shall meet as required by Council, or the Executive.
- (b) It shall consider matters referred to it and report thereon to the appropriate body from which the subject of consideration had been referred.
- (c) The Planning and Policy Committee shall maintain a continuous programme of review of policy manuals, By-laws and other pertinent matters to assist the Council and the Executive in providing for the needs of the community.

Public Services and Works Committee

- 3.6
- (a) The Public Services and Works Committee shall meet within seven (7) days of the statutory meeting and as often as required thereafter.
 - (b) With the assistance of the Executive, the Committee shall prepare a programme of capital works for the current fiscal year to be considered by the Finance Committee and upon receipt of the Finance Committee's report (not later than March 15th) forward a report to Council for a programme of work to be undertaken during the ensuing fiscal year.
 - (c) Each such work shall carry a project number and upon approval by Council of the recommendation of the Public Services and Works Committee or any amendment thereof a valid authorization shall exist for the carrying out of the work by the Secretary or Administrator as directed by Council.
 - (d) The Executive may request a meeting with the Public Services and Works Committee on 24 hours' notice, delivery by hand or telegram, to each member thereof to consider an emergent issue.
 - (e) Minutes of the Public Services and Works Committee shall be available to all members of Council and the Executive. Reports of the Public Services and Safety Committee upon receipt by Council shall form part of Council's minutes.

Correspondence

- 3.7
- (a) All correspondence addressed to the Council of the Band shall be received by the Secretary. The Secretary may take the necessary action if he deems the contents to be adequately covered by existing By-laws or policy.
 - (b) A copy of all correspondence shall be delivered with the Secretary's report noting thereon -
 - (i) the action taken or the official to whom it was referred.
 - (ii) any recommendations received from the Manager(s).
- 3.8 "Public Services and Works Committee" (P.S. & W.) means a standing committee appointed at the Statutory meeting of Council annually comprising of three Councillors, and the Secretary.
- 3.9 "Personnel Committee" means the Council may appoint a Personnel Committee by a two-thirds (2/3) majority vote of all of Council to inquire into, investigate and recommend to Council action with respect to the appointment of the Band Manager(s) (other than the Chief), the Secretary and the Treasurer.
- 3.10 Members of the Band may at all reasonable times inspect the minutes of any Council meeting, by-laws, resolutions, community budgets and all financial statements.
- 3.11 It shall be the responsibility of the Secretary, or if an Administrator is appointed, The Administrator, to revise and update these policy manuals. A consolidated copy of all departmental policy manuals shall be maintained by the Secretary with sufficient copies for Council members and executive members. All resolutions and By-laws including amendments and deletions shall be promptly noted in the consolidated policy manuals that are the responsibility of the Secretary.

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General Provisions

4.01 Travel

All Travel for which reimbursement of expenses will be made is subject to the approval of Council.

4.02 In the case of an employee whose duties require day to day travel, Council may, by resolution or by recorded approved motion, approve such travel within predetermined specified limits, and a travel advance may be made if required.

4.03 Travel expenses for all employees shall be paid subject to a submission of an itemized account of the claim. Treasury Board regulations should be used as a guide.

4.04 Petitions and Receiving Delegations

(a) A Band member or group of Band members if they wish to make a formal presentation to the Band Council assembeled shall:

(1a) Seek to have a Councillor place a motion before the Council requesting leave that _____ delegation petition Council to hear and receive their submission. Upon such motion being seconded, and carried by two-thirds (2/3) of all the members of Council present, the delegation may make its presentation.

(1b) The Chief reserves the right to restrict the time allotted to any delegation appearing before Council.

OR -

(2a) Not less than five (5) percent of the registered electors having duly executed a petition and presented their petition to the Secretary who shall verify the sufficiency and validity pursuant to the Act, shall then be entitled to appear as a delegation at the next scheduled meeting of Council occuring seven calendar days after the receipt of the petition by the Secretary.

(2b) The Chief shall rule absolutely as to the time allotted to a delegation appearing under Section 2.21(g) of this By-law and shall also rule as to the number of speakers if any permitted to address Council.

5.00 Community Programs

A Council wishing to assume the administration of a community program, in whole or in part, shall

(i) after appropriate notice, convene a meeting of the Band members at which the basic concepts of local government and its operations and the particular program(s) to be assumed are discussed and the concurrence of the majority of those present at the meeting is obtained.

(ii) advise the District Manager of the Department of the holding of the aforementioned meeting, the details and results thereof; and

(iii) by resolution passed by a quorum of Council at a duly convened meeting of the Council agree to conform to these conditions insofar as that program (or programs) is concerned.

5.02

These conditions, where a resolution has been passed by the Council, on behalf of the Band, shall

- (i) be binding on the Band, its Council, and subsequent Council, and on the members of the Band staff; and shall
- (ii) apply to all financial and administrative transactions of the Band, its Council, and staff, relative to a community program;

but shall not supersede any regulations of the government of Canada or of the Province which may be applicable to the transactions or programs involved.

5.03

In respect to the administration of community programs the Chief and Council shall be responsible for:

- (a) planning, estimating and negotiating for the total needs of the community including proper budgeting processes;
- (b) ensuring sound financial management including accountability to the Band members and the funding agency (e.g. the Department);
- (c) overseeing the conduct of all band employees and ensuring adherence to these conditions and other applicable regulations or directives; and
- (d) the taking of disciplinary action which may include the laying of any necessary charges or information in the event of maladministration of funds.

6.00

Accounting & Operating Procedures

6.01

There will be maintained an adequate double entry book-keeping system to facilitate recording all financial transactions affecting assets, liabilities and Band equity, which shall include the facility to record:

- (a) Receipts - wherein shall be recorded all receipts and receivables on a daily basis,
- (b) Disbursements - wherein shall be recorded all payments made on a daily basis,
- (c) Purchases - to facilitate recording of liabilities incurred for services or benefits received but not immediately paid for,
- (d) Payroll - wherein shall be recorded details of employees' gross earnings, payroll deductions and liability for net wages payable by pay period, and
- (e) General Journal - having limited application in recording only those transactions which are not applicable to be recorded elsewhere.

6.02

A general ledger shall be maintained in which will be recorded, in individual accounts, the Band's financial standing, giving details of assets, liabilities and Band equity, which ledger shall be updated monthly by recording therein the information accumulated in the daily records, so as to facilitate a continual accounting of revenue received, expenses incurred, and changes to assets, liabilities and Band equity.

6.03

Receipt of Funds

- (a) A receipt, completed in duplicate on pre-numbered forms, shall be issued for all funds received. The original shall be given to the payee and the duplicate retained as a permanent record of the amount received, the date, the source and the purpose or reason. An accounting shall be made for all pre-numbered receipts.
- (b) All funds received shall be deposited in a chartered bank, a trust or loan company, credit union, or Caisse Populaire designated by the Council, intact, without undue delay, and at no time less frequently than whatever the local conditions permit.
- (c) No funds received by the Band shall be deposited to the credit of an individual.
- (d) Payments to individuals shall be through disbursement records.
- (e) Funds held in Trust by the Band shall be deposited in a separate Band Trust Account designated for that purpose. The person designated by the Council pursuant to Section 2.09 shall take all necessary precautions for the safe-keeping of all funds received until they are deposited.

6.04

Purchases

- (a) All purchases shall have the approval of Council and be recorded in the minutes of the appropriate Council meeting.
- (b) No purchase or expenditure shall be approved, nor shall funds be expended or committed for any purpose which is not provided for in the budget and in accordance with these conditions.
- (c) Council may, by resolution, appoint an employee to sign Purchase Orders as in Sub-section (d) for approved purchases on their behalf to a maximum limit to be set at the discretion of the Council providing:
 - (i) the necessary funds are provided in the budget;
 - (ii) the purchases are required for a community program, or for the administration; and
 - (iii) a report on purchases made is presented to Council at the next regular Council meeting.But such action shall not in any way absolve the Council of the responsibility for the control of purchases.
- (d) Pre-numbered Purchase Orders, in triplicate, shall be completed and approved for all purchases of supplies and services, other than the normal recurring accounts, such as Hydro and Telephone and petty cash disbursements; the original of which shall be forwarded to the supplier, and the duplicate and triplicate retained at the Band office.
- (e) All suppliers' invoices shall have attached the duplicate purchase order, after certification of receipt or delivery, quality, quantity, price and total charge, before being forwarded for approval of payment.
- (f) The triplicate copy of the purchase order shall be retained in numerical order and an accounting made of all numbers.

6.05

Approval of Payments

- (a) Except as provided in paragraph 6.05(b), all accounts shall be approved by Council resolution or by an approved motion recorded in the minutes prior to payment.
- (b) An employee as designated by Council may be authorized to approve payments; the limit for any one account to be established at the discretion of Council. All such payments shall be brought to the attention of Council, for their approval, at the next regular meeting and such approval shall be by an approved motion recorded in the minutes of the Council meeting.
- (c) Where practical, all accounts will be paid on or before the due date to avail of all possible discounts.
- (d) Where progress payments are made in connection with any contract, the employee designated by Council shall hold back an amount equivalent to 10% - 15% of the contract price until the job has been certified complete to the satisfaction of the overseer of the contract.
- (e) Except as permitted by certain Government programs, no loans or cash advances shall be made from Government of Canada, or of any Provincial contributions or appropriations. Loans to Band members from Band Capital funds are subject to the provisions of Section 64 of the Indian Act.

6.06

Disbursements

- (a) No disbursement or payment shall be made without certified supporting documentation (invoice, voucher, purchase order,)
- (b) Except for payments through petty cash, all disbursements shall be by cheque.
- (c) A petty cash fund shall be established to reflect the realistic operating requirements but not to exceed \$100.00 to facilitate the payment of small incidental expenses. A petty cash receipted invoice or voucher shall be completed for each disbursement made, and at all times the total of such invoices or vouchers and the balance in cash shall balance to the fund total. Repayment of expenses disbursed from petty cash shall be made as required, but in no case less than once a month. Repayment shall be in the amount of total invoices and vouchers on hand and will be charged to expenses detailed therein. Responsibility for the custody of the petty cash fund shall be vested in an employee designated by the Council.
- (d) All cheques drawn on the Band's Account(s) shall be on the form prescribed by the Council of the Band, which shall be pre-numbered with an accounting of all numbers.
- (e) Every Council shall authorize three persons, one of whom shall be the Treasurer, Secretary-Treasurer or Administrator, as determined by Council Resolution, to sign cheques drawn on its accounts, and all cheques must be signed by at least two of such authorized persons.
- (f) No Band cheques shall be post-dated or signed in blank.

- cont. (g) Where a cheque is reported lost, destroyed, stolen or has not been presented for payment within six months of the date of issue, it shall be cancelled and a stop payment notice sent to the Bank. A duplicate cheque may be issued in return for the payee indemnifying the Band against further loss.

6.07

Tenders/Contracts

- (a) An invitation to tender must be extended by the contracting authority, and three(3) tenders should be obtained when possible, before any contract is let and in this respect
- (i) where the contract is expected to exceed \$500.00, written tenders shall be invited,
 - (ii) Where the contract is not expected to exceed \$500.00, and it is in the best interest of the Band to do so, the employee designated by the Council may be authorized by resolution of the Council to call for tenders by telephone or other personal contact.
- (b) The invitation to tender must indicate:
- (i) the hour and date of closing;
 - (ii) sufficient details from which comparable bids can be made;
 - (iii) the date, hour and place tenders will be opened; and
 - (iv) if a security deposit is required.
- (c) The Council may require a security deposit of 10% of the total value of the contract from the tenderers in a form that is in accordance with the practice normally accepted by the Federal Government.
- (d) The tendering period shall not be less than five (5) days.
- (e) All tenders shall be returned in a sealed envelope, addressed to the designated employer, at the Band Administration Office, clearly marked "Tender for....." on the lower left-hand corner and the date and time of receipt shall be recorded on the unopened envelope of tender when received.
- (f) Upon receipt, the sealed tenders shall be deposited in a safe place until the time for the opening of bids.
- (g) At the appointed time the designated employer or his alternate, shall open all tenders received, in the presence of the Chief or a member of Council appointed by the Chief to act in his stead.
- (h) When all tenders are opened it shall be the duty of the designated employee to read aloud all tenders, giving the name of the tenderer and the amount of his bid.
- (i) The name of the tenderer, project, date of bid and amount shown must be recorded in a book provided for this purpose and marked "Record of Tenders".
- (j) At the next regular or special meeting of the Council of the Band, the designated employee shall place before the Council all tenders received and it shall be the responsibility of the Council to review the tenders and award a contract.

- 6.07 cont
- (k) The lowest tender received shall be accepted unless the Council deems it in the best interest of the Band to do otherwise.
 - (l) Where the lowest tender is not accepted, a quorum vote of the Council of the Band is required before awarding the contract, and the reasons shall be recorded on the resolution awarding the contract.
 - (m) Upon acceptance of a tender, a binding contract shall be signed by both parties and shall become a portion of the records of the Band in accordance with statutory regulations.
 - (n) Awarding of a contract shall be by a recorded resolution of Council and in the event that a member of Council who has a personal interest in the contract is present at the meeting at which the contract is awarded he shall signify his interest and thereafter refrain from taking part in the discussion or voting on the resolution to award the contract.
 - (o) The Council shall be responsible for the supervision of the execution of all contracts, and will appoint one person to act on their behalf to inspect and certify work, services rendered, or goods supplied by the contractor.
 - (p) Provincial labour regulations shall be used as a guide in all labour contracts.

6.08

Inventories

- (a) Physical inventory records shall be maintained for all equipment, buildings, vehicles, and other assets where the original purchase price exceeds \$100.00 whether or not the item has been fully depreciated or charged to operating expenses.
- (b) The write-off of items carried on inventory may only be done by Band Council Resolution.
- (c) The Council shall be responsible for obtaining and maintaining adequate insurance coverage to protect these assets, on a continuing basis, against loss or destruction, through fires, theft, etc. at a rate which will be most beneficial to the insured.
- (d) A physical count and check-off shall be completed annually.

6.09

Accounting

- (a) Bank reconciliations shall be prepared at least monthly upon receipt of bank statement and cancelled cheques.
- (b) Monthly statements of Receipts and Disbursements shall be prepared from the information contained in the General Ledger following the completion of postings for each month.

6.10

Audit

- (a) The Band Council will by Band Council Resolution appoint an auditor (as defined in Section 1.04) and this appointment will stand until revoked by a subsequent Band Council Resolution and a different auditor appointed.
- (b) The following terms of reference shall apply to the audit appointment:
 - (i) The financial statements shall report on all Band financial activities and enterprises.
 - (ii) There shall be no limits placed on the scope of the auditor's investigation, and he shall be supplied with all information he requests.
 - (iii) The auditor shall have the right of access at all reasonable hours to the accounting records, supporting vouchers and documents, including minutes of Band Council meetings.
 - (iv) The examination shall be in accordance with accepted auditing practices and shall include a general review of accounting procedures and such tests of accounting records as the auditor considers necessary in the circumstances.
 - (v) The financial statements shall be prepared on an accrual basis and consist of:
 - 1) A balance sheet.
 - 2) A statement of Revenue and Expenditures for each community program or enterprise,
 - 3) Details of surpluses or deficits for each community program and enterprise, and
 - 4) Detailed statement of all monies paid to each or any employee or member of Council together with details of any indebtedness and the terms thereof due to the Band by any employee or Councillor of the Band.
 - (vi) The auditor shall express an opinion as to the fairness of the financial statements as a reflection of the financial position of the Band as at March 31st, and the results of its operations for the year then ended, in accordance with generally accepted accounting principles applied on a consistent basis, and if unable to do so, he shall give reasons for his failure to do so with recommendations for improvement.
- (c) The Band Council will arrange with the auditor to conduct an audit of the Band's financial transactions and record and prepare financial statements accordingly so that the audited statements are available to the Band not later than three months after the close of a fiscal year (March 31).
- (d) Audit fees shall be provided for in budget submissions.
- (e) The audited financial statements shall be signed by the Chief and Band administrator and its acceptance recorded in the minutes by an approved

6.10(e) cont. resolution. The statements shall be available for examination by any Band member.

(f) The Chief and Council, in consultation with the Department, shall ensure that the recommendations made by the auditors are implemented and shall report to the electors on the actions taken.

(g) A copy of the financial statement provided for in Section 6.10(c) shall be presented to each adult member of the Band. However, if more than one adult member is living in a separate dwelling, it shall be satisfactory for the purposes of this section to deliver one copy of the financial statement to the individual dwelling.

7.00 Budgetting

7.01 The Council shall cause to be prepared in a form satisfactory to the Department a budget of all its revenues, income, bequests receivable and all its disbursements of any nature whatsoever not later than the first day of March for the then ensuing fiscal year commencing April first.

7.02 The budget shall be presented to a Band meeting called by Resolution of Council within ten (10) days of the latest date for the preparation of the budget as set out in 7.01 above.

7.03 A simple majority of those present at the Band meeting described in Section 7.02 shall either approve the budget or negate it.

7.04 If the budget as presented pursuant to Section 7.02 is negated (defeated) then it shall be revised either at the same meeting or at the reconvening of the meeting after adjournment of the same meeting provided the reconvened meeting shall not commence more than ten(10) days after the meeting called pursuant to Section 7.02.

7.05 A copy of the budget before receiving final approval shall be reviewed by the District Manager and, after written concurrence is received from the District Manager, shall be approved by a majority of all the members of Council.

7.06 A copy of the Budget approved pursuant to Section 7.05 shall be made available either by delivery or by post (postage prepaid) to all the adult members of the Band. The provisions of Section 6.10(g) apply mutatis mutandis.

7.07 A copy of the budget as approved pursuant to Section 7.05 shall be delivered to the District Manager and to the Regional Director.

7.08 If the Band or Band Council decide to undertake a community program as defined in Section 1.11, the Band Council shall comply with budgetting, recording, accounting and auditing requirements as established from time to time by the Government of Canada, a Government of any Province, or the Department, as the circumstance shall warrant.

8.00

General

8.01

- (a) Every person, who violates or causes a violation of any of the provisions of this By-law, is guilty of an offense against this By-law.
- (b) Any person found guilty of an offense against this By-law shall, upon summary conviction, be liable to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days, or both.

8.02

For the purposes of this By-law a person shall be either masculine, feminine or of the neuter gender and where the context so requires the plural may be substituted for the singular.

9.01

This By-law may be cited for all purposes as the Procedure and Operations By-law, Nimpkish Indian Band, No. 25-1982.

9.02

Every provision of this By-law shall be supplementary to the statutory provisions of the Indian Act and any Regulations in force, from time to time thereto, and shall apply to and be observed.

Approved and passed at a duly convened meeting of the Council of the Nimpkish Band of Indians held at Alert Bay, B.C. on the 28th day of October, 19 82.

William Cranmer

CHIEF

Roy Cranmer

COUNCILLOR

Vicki E. Brotchie

COUNCILLOR

Emma Alfred

COUNCILLOR

Jerry Alfred

COUNCILLOR

COUNCILLOR

COUNCILLOR