

CERTIFICATION

Pursuant to Section 86, Indian Act RSC 1985 C.1-5 and amendments thereto, I certify that the attached copies of the **Old Massett Village Council Financial Management By-law** dated April 28, 2006 are true copies of the said by-law.

Kathy Hankin

Kathy Hankin

A/Associate Director, Lands and Trust Services,
a superintendent as defined in
Section 2(1) Indian Act RSC 1985

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

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 Old Massett Village Council, in the Province of British
Columbia, at a meeting held on the 28th day of April 2006.

- **Old Massett Village Council
Financial Management By-law**

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a horizontal line and a checkmark-like flourish at the end.

Dated at Ottawa, Ontario this 16th day of June 2006.

OLD MASSETT VILLAGE COUNCIL FINANCIAL MANAGEMENT BY-LAW

A by-law to regulate in a fashion based on Haida traditions and values, receipt, management and expenditure of Old Massett Village Council funds and establish an administrative structure of the Old Massett Village Council which manages the funds.

WHEREAS principles such as disclosure, transparency, redress and accountability shall govern the management of Old Massett Village Council funds and demonstrate respect for community assets and model mutual respect, honesty, openness and an acknowledgement of Old Massett Village Council's internal accountability structure;

WHEREAS the *Indian Act*, R.S.C., c.I-5, provides that the Old Massett Village 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 Old Massett Village Council to defray the Old Massett Village Council expenses;
- the appointment of officials to conduct the business of the Old Massett Village Council and prescribing their duties; and

WHEREAS the Old Massett Village Council has determined that it is desirable and necessary that the financial management by-law be established for the purposes set out in paragraph 83(1)(b) of the *Indian Act* and for the better administration of the Old Massett Village Council finances;

THEREFORE BE IT RESOLVED that the Council of the Old Massett Village Council at a duly convened meeting of the Old Massett Village Council enacts the following by-law.

SHORT TITLE

1. This By-law shall be known as the *Financial Management By-law*.

PART 1 DEFINITIONS

2. In this By-law,

“Act” means the *Indian Act*, R.S.C. 1985, c.I-5 as amended from time to time;

“agreement” means any written contract between the Old Massett Village Council and other party or parties, including the federal government, a provincial government, or a third party, pursuant to which funds are paid or to be paid to the Old Massett Village Council;

“annual budget” means the forecast of planned revenues and expenditures for each fiscal year by the Old Massett Village Council;

“audit” means a process that shall be conducted in accordance with generally accepted auditing procedures as stipulated by the *Handbook of the Canadian Institute of Chartered Accountants*, and shall include a general review of the adequacy of the accounting procedures and system of control employed to preserve and protect the assets of the Old Massett Village Council;

“Auditor” means a person (or company) who is designated as a chartered accountant or certified general accountant and who is a member in good standing of the registered accounting association which regulates their designation;

“Band” means the Old Massett Village Council membership as a whole;

“Band Administrator” means the employee or contractor appointed as Administrator of the Band on terms set out and approved by band council resolution;

“Band Council meeting” means a duly convened meeting of a quorum of Band Council in accordance with the practice of the Band or pursuant to procedures adopted by band council resolution;

“band council resolution” means a motion of Council that has been approved by a majority of a quorum of the Council members at a duly convened meeting and is recorded in the minutes of that meeting and may include a written instrument containing the wording of such motion signed by a quorum of Band Council at such meeting;

“Band member” means any person who is registered by the Department of Indian Affairs and Northern Development as a member of the Old Massett Village Council. Collectively this may be called Band membership;

“capital projects” or “capital” means the purchase, construction or major renovation of physical assets of the Band. This includes roads, bridges, utilities, water supply and septic systems, ditches and water spillways, buildings, waste control facilities, land purchase, landscaping and fencing. This does not include the purchase, construction or renovation of large physical assets of Band business enterprises. These assets may also be called Band capital assets;

“Code” means a body of Old Massett Village Council law enacted by Chief and Council of the Old Massett Village Council or approved by the members of the Old Massett Village Council by petition, referendum or other forms of consent;

“conflict of interest” is when a person is in a position to effect an official decision and has a personal or financial interest in the outcome of the decision;

“Controller” means a person appointed by band council resolution to review and control

Band expenditures;

“Council” means the Chief and Council of the Old Massett Village Council;

“enterprise” means any board, tribunal, commission, committee of the Old Massett Village Council or any corporate body controlled by the Old Massett Village Council including a society or non-profit corporation or a business corporation operated for a profit-making purpose;

“family” means a spouse, a common-law spouse, child, father, mother, brother, sister, father-in-law, mother-in-law, uncle, aunt, grandparent, son-in-law, daughter-in-law, and shall also include any other relative permanently residing in the person’s household or anyone who has lived with a member of Council within three (3) months of assuming his/her present term of office or during his/her term;

“financial benefit” or “financial interest” means monetary, material or any other direct or indirect financial benefit received, or to be received, by an individual beyond the benefits normally provided to the Band or Band members as a whole;

“minutes” means the duly certified written record of proceedings at all Band Council meetings;

“Old Massett Village Council funds” means all funds belonging to the Old Massett Village Council,

(a) including:

- (i) all revenues of the Old Massett Village Council,
- (ii) money borrowed by the Old Massett Village Council,
- (iii) money received or collected on behalf of the Old Massett Village Council, and
- (iv) all moneys that are received or collected by the Old Massett Village Council pursuant to any agreement or funding arrangement to be disbursed for a purpose specified by Council or pursuant to the agreement or funding arrangement;

(b) but not including:

- (i) money received as resource revenues payable into the Old Massett Village Council capital trust accounts in Ottawa,
- (ii) money received by the Old Massett Village Council on behalf of an individual,
- (iii) money received where the Council has approved an alternative arrangement for the management of money pursuant to section 24 in this By-law;

“program” or “project” means an administrative division of the Old Massett Village Council government established from time to time by the Chief and Council and includes departments; administrative units and other internal organizational units of the Old Massett Village Council administration;

“Program Manager” means a person who has been appointed by band council resolution to a position to manage the receipt and expenditure of Band funds or monies designated to deliver a Band program on behalf of Band Council and may, by means of band council resolution, include persons designated to operate a Band business enterprise;

“purchase” means any purchase of goods or services for a capital or operating purpose;

“reserve” means a Massett Indian reserve defined in subsection 2(1) of the *Indian Act* and any land held as a special reserve(s) for the use and benefit of the Old Massett Village Council pursuant to that section of the Act;

“Special Funds” means a fund created under section 13 of Part II of this By-law.

PART II ROLE OF THE CHIEF AND COUNCIL

3. *Audit*

The Chief and Council shall receive and approve the audits of the Old Massett Village Council, by

- (a) appointing an Auditor, by means of band council resolution, prior to February 15 of each year to audit the financial activities for the current fiscal year ending March 31;
- (b) accepting, approving by band council resolution, and signing the annual audit for the previous fiscal year prior to July 15;
- (c) ensuring that the audits are made available to the membership of the Old Massett Village Council prior to July 16 of each year;
- (d) as deemed appropriate by Council, ensuring that the audited financial statements are submitted to external agencies as per contractual agreements;
- (e) reviewing and discussing the audit with the membership of the Old Massett Village Council by the end of the second quarter public meeting [July 15];
- (f) the Council meeting with any appointed Auditor to review the draft audited statements prior to being approved by band council resolution. The purpose of the meeting is to review the statements and financial procedures used by the Old Massett Village Council.

4. *Budgets*

The Council of the Old Massett Village Council shall follow the principles and procedures set out in this section to ensure that a Band budget is produced, broken down program by program and project by project. The principles and procedures are as follows:

- (a) the Council, after consultation with the Administrator, Program Managers and other persons deemed appropriate, will approve and develop an annual operational, capital program and special budgets;

- (b) these budgets will include the best possible projections of revenues and expenditures;
- (c) they will be made with a provision that expenditures do not exceed revenues for each program or project;
- (d) they will be made after confirmation by revenue sources of all funds to be received for the program or projects prior to any expenditure being made;
- (e) once made the approved budgets will be posted, in a conspicuous place in the Band office, within three (3) business days after approval;
- (f) further, once made copies will be made available, upon request, at the cost of twenty-five cents (25¢) per page, of any budget to any member of the Old Massett Village Council;
- (g) the Council will make every effort to approve all budget estimates prior to March 15 for the following fiscal year;
- (h) The Council shall conduct a mid-fiscal year budget review on or about October 15 of each year and approve adjustments to any budgets of the Old Massett Village Council. These adjustments are to ensure sound financial management in accordance with Council's priorities to protect against program deficit financing at fiscal year end. These amendments are to be posted and made available as set out in (e) and (f) of this section.
- (i) The Council shall be able to present and discuss amendments at the quarterly meetings of the membership after approval by Council.

5. *Reporting*

- (1) The Chief or his Deputy shall ensure that Council receives from the Administrator or his appointed Controller, at a duly convened meeting, the previous month's financial reports no later than the fourth week of each month.
- (2) These reports are to be for each program and are to include
 - (a) a balance sheet of all the financial transactions;
 - (b) an income, expenditure and variance report including expenditures for the current month and projected budget for that month, year-to-date expenditures, annual budget amounts and variances from budget for year-to-date and annual projected expenditures;
 - (c) financial notes of explanations in narrative form on program revenue variances and any expenditure variance.

6. *Contracts*

The Old Massett Village Council is to sign all financial contracts, agreements or funding arrangements for the Old Massett Village Council activities unless delegated by specific band council resolution. The signing is to be carried out only after the contract is approved by band council resolution.

7. *Committee Meetings*

Ensure that all program committee, Council and other groups appointed by Council are open to the membership of the Old Massett Village Council. This excludes meetings where discussion infringes upon an individual's right to confidentiality.

8.(1) *Appointment to Committee*

The Council of Old Massett may appoint advisory committees to assist it in its administration of finances and other related matters. The appointment is to be made by band council resolution. The marking of committees and the appointment thereto is to include

- (a) the proposed goals of the committee;
- (b) operational terms of reference;
- (c) length of time of appointment;
- (d) methods of monthly reporting to Council;
- (e) composition and terms of membership;
- (f) procedures to record and maintain minutes and records, including security measures, as referenced in section 10; and
- (g) any other guidelines or conditions as deemed appropriate by Council.

(2) All committees shall abide by the following rules:

- (a) every committee shall have either a chairperson appointed by the Council, or a chairperson elected from among them, who shall chair all meetings of the committee, subject to clause (i);
- (b) every committee shall keep with its records a list of its members;
- (c) every committee shall have a defined mandate or purpose before the chairperson may call a meeting;
- (d) every committee shall set a proposed agenda before it meets and will approve of this agenda, amended or otherwise, as the first order of business;
- (e) every committee shall record its decisions and where appropriate the background discussion as minutes;
- (f) all minutes of committee meetings must be typed out, circulated and filed in the committee minute book in order to assist in the necessary follow-up, updating and checking on recommendations (motions) which have to come forward to the Council;
- (g) no committee shall do an act or make a representation which will legally bind the Band unless the Council has authorized it;

- (h) every committee may expend such money as is required to meet, provided there is a budget for such meeting and this includes the cost of food, provided the committee meets at a time normally referred to as a meal time;
- (i) a chairperson may delegate his/her responsibilities as chair to any member of his/her committee provided
 - (i) he/she does so in writing prior to any meeting starting if he/she is not going to be there, and
 - (ii) when delegating, such delegation is made for a maximum of one (1) meeting only.

9. *Appointment of Employees*

The Old Massett Village Council is to ensure that all persons employed to manage and process financial records and transactions are experienced and qualified to fulfill their roles and responsibilities by

- (a) ensuring there is a job description for the above-mentioned employees which reflect their current duties to carry out their responsibilities; and
- (b) ensuring that all employees mentioned above follow the financial policies and procedures providing these policies and procedures are consistent with this By-law.

10. *Records*

The Council is to ensure that the financial records are

- (a) maintained and kept up to date to the last month end;
- (b) kept in a manner, which ensures their safety from fire, theft or tampering;
- (c) copied and kept in a separate location in the event of (b). This includes the general ledger, balance sheet, accounts payable, accounts receivable, payroll summary, trial balance, Council and committee minutes.
- (d) not removed from the Band office or designated places of security as set out in (b) without the approval of Council by means of band council resolution.

11. *Written Policy*

The Council, only, develops, approves and amends all financial policies and procedures by means of band council resolution providing these are consistent with this By-law.

12. *Investment*

The Council may invest money on behalf of the Old Massett Village Council utilizing the following procedural criteria:

- (a) identify monies to be invested;
- (b) consult with the Old Massett Village Council administrator and appointed Auditor

- to review investment options taking into account security of investment and expected return;
- (c) ensure the investment is placed with an investment organization which is legislated under federal or provincial law.

13. *Special Funds*

The Council may, by band council resolution, set up a special fund using the following criteria:

- (a) the purpose and goals of the fund;
- (b) the length of term for the fund;
- (c) manager responsible for the administration;
- (d) restrictions in how to access monies from the fund;
- (e) reporting and accountability procedures for the fund.

PART III
ADMINISTRATION FUNCTIONS

14. The Band Administrator reports to Council and/or its designate, as approved by band council resolution. He administers the financial affairs of the Council by
- (a) ensuring that the minutes of Council, band council resolutions and other documents which record the activities of Council meetings are maintained in an up-to-date manner and kept in a safe and secure manner to avoid damage, theft and/or loss;
 - (b) ensuring that the minutes of committee meetings and other documents which record the activities of advisory committees are available to Council at the next regular Council meeting and kept in the same manner as Council minutes;
 - (c) maintaining the security of minutes and finished documents by means of security codes and/or locks on files stored in computers and cash and/or valuable documents stored in a safety deposit or drop safe;
 - (d) ensuring that the Controller maintains all financial filing systems are orderly, with documents filed daily. Duplicate, back-up files of general ledgers, balance sheets, budgets, trial balances, payroll and accounts receivable and payable are to be maintained under security in a separate location from the main files;
 - (e) ensuring the provisions of the By-law and its policies and procedures are adhered to by all employees;
 - (f) ensuring Council is advised, where deemed necessary, there may be breaches of the By-law by Council, staff and senior management;

- (g) ensuring that an adequate book keeping system is maintained with standards set by this By-law and by Auditor requirements. It shall include a general ledger, accounts payable journal, accounts receivable journal, payroll records, pension and benefit summaries, balance sheets, trial balance and other components as required by the Auditor;
- (h) having prepared and submitted to Council by the 30th of each month, financial reports which include the requirements set out in Council's responsibilities in section 5;
- (i) ensuring that programs and project expenditures stay within budgets approved by Council;
- (j) orienting and training staff, Council and self of provisions of this By-law and financial policies and procedures. This is to be done by means of a written program of annual orientation and revisions;
- (k) advising Council and staff on how this By-law, financial policies and procedures can be improved. This activity is to be conducted on an ongoing basis;
- (l) assisting Council in the development of short/long term plans, including budgets and investment strategies.

PART IV CONTROLLER FUNCTIONS

15. The Controller reports and is answerable to the Band Administrator, he carries out these responsibilities by
- (a) assisting to prepare all budgets for submission to the Band Administrator as required;
 - (b) monitoring, reviewing and authorizing receipt of all revenue and expenditures to ensure they comply with budgets and contracts;
 - (c) monitoring, recommending and assisting draft changes in financial planning, policies and procedures;
 - (d) providing advice on investment and security of Old Massett Village Council Band assets;
 - (e) monitoring and assisting the Band Administrator in the administration of this By-law;
 - (f) providing advice to the Band Administrator and Council on general administration practices as they impact the financial operation of the Band;
 - (g) providing training to staff in financial management as stated in this By-law and Old Massett Village policy and procedures as required;
 - (h) monitoring cash flows of revenues and expenditures of programs/projects to ensure that positive cash flow is maintained;

- (i) ensuring that the report that is required by section 5 above is made to the Council, through the Band Administrator;
- (j) assisting the administration to prepare financial recovery plans;
- (k) monitoring the security of financial records and making recommendations to the Band Administrator to ensure their security.

PART V
PROGRAM MANAGER FUNCTIONS

16. The Program Manager reports directly to the Old Massett Village Council Administrator, but is involved as a member of its program committee from which recommendations are approved by Council by band council resolution. The Program Manager performs his/her financial responsibilities by
- (a) demonstrating a working knowledge of the financial by-law, policies and procedures governing his/her program area;
 - (b) having a working knowledge of the financial roles of Chief and Council, Band administration, Controller and other Program Managers;
 - (c) drafting Old Massett Village Council budgets, revisions, and projections for his/her program area and submitting these to the Administrator through the Controller;
 - (d) assisting, advising, recommending and drafting, in consultation with the Program Committee, departmental financial policies and submitting them to the Administrator for consideration;
 - (e) maintaining orderly and up-to-date departmental financial records;
 - (f) authorizing all expenditures within his/her approved budget and monitoring revenue and expenditures to ensure that they conform with program budgets which are approved by Council;
 - (g) advising on co-authorizing all interdepartmental transfers and providing documentation to support and provide background to any transfers;
 - (h) participating with Council and Administrator in meetings with the Auditor to review the draft year-end audit as set out in subsection 3(f);
 - (i) monitoring departmental budgets on a monthly, or more frequent basis, to ensure that expenditure of revenues conform with budget projections and taking remedial action to ensure expenditures do not exceed revenues;
 - (j) identifying and participating in financial training programs for departmental and Band employees;
 - (k) providing accurate financial reports and supporting documents to the Administrator as required by this By-law, policy and/or request;
 - (l) ensuring that departmental staff is familiar with this By-law, financial policies of the Band and the department by conducting an annual review with staff prior to January 15 of each year.

PART VI
FINANCIAL MANAGEMENT: DEPOSITS

17. (1) The Band Council, by means of a band council resolution, shall establish all bank accounts in the Band's name in an approved chartered bank, trust company or credit union.
- (2) There shall be one General Account established by Council into which all Old Massett Village Council funds shall be deposited upon receipt. This account shall be established in an approved chartered bank, trust company or credit union.
- (3) The Administrator shall ensure the safekeeping of Old Massett Village Council funds received and shall forthwith deposit all Old Massett Village Council funds to the credit of the Old Massett Village Council General Account.

PART VII
FINANCIAL MANAGEMENT: EXPENDITURES

18. (1) All payments and financial commitments shall be made in accordance with the approved annual budget and in accordance with a duly recorded band council resolution of the Chief and Council including any disbursements for financial commitments made directly by the Chief and Council.
- (2) All payments and financial commitments, including interdepartmental transfer will be made in consultation with the appropriate manager and will be used for Old Massett Village Council services and/or enterprises only.
- (3) The Chief and Council shall, by band council resolution, approve any loans or investments to be made on behalf of the Old Massett Village Council, including investments in or loans to enterprises owned by the Old Massett Village Council.
- (4) The Chief and Council may make accountable advances from the General Account to an account administered by the designated manager of an enterprise on a monthly basis according to the approved annual budget or a band council resolution of the Chief and Council.
- (5) At the beginning of each fiscal year, each authorized enterprise may receive a one (1) month advance or an amount determined by the annual budget and the cash flow approved by the Council.
- (6) Where funds have been advanced to an authorized enterprise, the designated manager shall provide to the Council within fourteen (14) days of each month-end, a statement

of the receipts and disbursements for the previous month.

- (7) The statement submitted to the Council shall be reviewed and approved by the Council.
- (8) The Council may deduct from the current month's advance any amounts advanced in prior months, which exceed the amount of the expenditures recorded in the statement.
- (9) The Council may make such adjustments as are required in the last month of the fiscal year to close out the final payment for the year.
- (10) No payment shall be made for the supply of goods or rendering of services unless the charge in respect of such goods or services has been authorized
 - (a) pursuant to a band council resolution of the Chief and Council;
 - (b) by a person delegated to authorize such payment, or
 - (c) pursuant to a contract entered into between the Old Massett Village Council and the person providing such goods or services which establishes the amount, or a method of calculating the amount, to be charged for such goods or services.
- (11) An invoice shall be rendered for payment for all goods or services that are provided to the Old Massett Village Council or to any other person for the benefit of the Old Massett Village Council for a fee or other charge.
- (12) The Administrator, or authorized delegate shall ensure that invoices are rendered pursuant to subsection (11).

PART VIII PURCHASE OF GOODS AND SERVICES

19. (1) By band council resolution, the Chief and Council may appoint designated persons as authorized persons to approve the purchase of goods and services where the expenditures are within the approved annual budget.
- (2) All orders for goods and services provided to the Old Massett Village Council must be approved either by the designate authorized to approve the purchase of goods or services, or by a band council resolution of the Chief and Council.

PART IX TENDERS

20. (1) Purchases up to \$15,000 or such greater amounts as approved by Council may be made by a department or authorized designate if approved in the annual budget without going to tender.

- (2) Purchases greater than \$15,000, but less than \$500,000 or in such amounts as approved by Council, must be made by invitations to tender.
- (3) Purchases in excess of \$500,000 or such greater amounts as approved by Council, must be made by public tender.
- (4) In emergency situations, telephone bids up to \$20,000 or such greater amounts as approved by Council may be accepted by an authorized designate providing a written confirmation follows from the bidder and a record of telephone bids is files.
- (5) 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.
- (6) The tendering period is not to be less than five (5) working days, unless in an emergency situation.
- (7) All tenders are to be returned sealed and addressed to the Old Massett Village Council, clearly marked "Tendering for...." and the time and date of receipt is to be recorded on the unopened envelope of tender when received.
- (8) All tenders received shall be opened in public in the presence of the department or authorized designate or other person responsible for the tender process.
- (9) the name of the tendered project, date of bid and amount shown must be recorded.
- (10) The lowest tender received shall normally be accepted unless the authorized person deems it in the best interests of the Old Massett Village Council to accept a higher tender because the higher tender demonstrates the following:
 - (a) provides a better quality product or better service;
 - (b) provides economic benefits to the Old Massett Village Council and its members;
 - (c) provides a joint venture opportunity for the Old Massett Village Council, or is approved by the Chief and Council by band council resolution.
- (11) Where the lowest tender is not accepted, the reasons are to be recorded in writing and signed and dated by the person or persons who made the decision.
- (12) 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 Old Massett Village Council.

- (13) In the event that an official or employee of the Old Massett Village Council has a personal interest in the contract, he/she shall signify the interest and thereafter refrain from taking part in the discussion or participating in the awarding of the contract.
- (14) No disbursements or payment on any contract shall be made without supporting documentation as determined by the policies of the Band.
- (15) A fifteen percent (15%) holdback of final payment, or in such amount as may be determined by Council, shall not be released to a contractor until all work is certified as complete and satisfactory to the Council or an authorized designate.

PART X
ASSETS, INVENTORIES AND INSURANCE

21. (1) The Old Massett Village Council shall maintain an updated inventory for all equipment, buildings, vehicles and other real assets updated each year by April 30.
- (2) Council shall ensure that insurance for such assets accurately reflects their replacement value.
- (3) Council shall ensure that such assets are appraised by a licenced appraiser every six (6) years to determine market value.

PART XI
PROCEDURES FOR LOANS, BORROWING POWERS

22. (1) The Band Council is prohibited from making loans to any member of Council, or any individual or groups of individuals, from monies designated for the use and benefit of the Band.
- (2) The Band Council shall not co-sign any loan or provide any form of security for any loan made for the benefit of any member of Council, or any individual or group of individuals other than for the Band as a whole and must follow the procedures as set out in subsection 22 (3)(a) to (b)(i-iv).
- (3) For the purposes of conducting the Band's business, Council may on behalf of the Band, borrow monies from a chartered bank, trust company, credit union or any other lending source under the following conditions:
 - (a) by band council resolution, Council may obtain credit not exceeding \$2,000,000 to maintain local services and/or capital programs. Prior to using this credit, repayment funds must be confirmed in writing by the revenue source; and

(b) any loans over \$2,000,000 made by the Band must have the approval of the Band membership at a duly convened Band meeting. Approval shall be obtained by the Band Council in the following manner:

(i) notice to authorize the loan shall be given by Council to all households on Reserve and Band members who live off the Reserve who have maintained a current mailing address at the Old Massett Village Council Administration office. The notice shall include the details of the loan and repayment schedule. A similar notice shall be posted at the Band Administration office.

(ii) the notice shall state a time, date and location of a meeting of the Band membership to authorize the loan;

(iii) the Band Council must inform the membership at the meeting of the amount of the loan, its purpose, the cost of the interest and how it will be repaid; and

(iv) the Band Council must hold a vote of members present at the meeting, before proceeding to contract the loan. Fifty-one percent (51%) of the persons present must indicate, by secret ballot, approval to contract the loan.

(4) Band members, or other persons, owing monies to the Band must make monthly payments on their debt in accordance with a schedule of terms of repayment agreed upon in writing with the Band Council. This agreement must include the following:

(a) for debts under the amount of \$1,000, repayment schedules cannot exceed twelve (12) months in length. At the end of twelve (12) months, the debt must be paid in full;

(b) for debts of \$1,000 or over, the repayment schedule cannot exceed twenty-four (24) months in length. The debt must be paid in full at the end of twenty-four (24) months; and

(c) no repayment schedule is conditional upon employment with the Band. Payment schedules are binding, but may be revised by band council resolution providing they conform with clauses 22(4) (a) or (b) of this By-law as required by the amount of the loan.

(5) The Band Council, or its designate, on behalf of the Band membership, shall use debt collection agencies or the British Columbia courts to collect debts where a debtor refuses to sign an agreement of repayment of a debt or to collect debts which are more than ninety (90) days in arrears. Prior to initiating collection action, the Band Council shall make reasonable efforts to re-negotiate payment of outstanding debts with the debtor. This re-negotiation must conform with clauses 22 (4) (a) and (b) of this By-law. If after thirty (30) days, no negotiation is possible, the Band Council shall take collection action as set out above in this section.

- (6) The Old Massett Village Council Administrator, or his designate, shall bill debtors monthly.

PART XII
DISCLOSURE OF FINANCIAL INTEREST

23. (1) Within ten (10) days of assuming office or employment with the Old Massett Village Council, there will be a mandatory disclosure of all potential conflict of interests by the elected or employed individual by written submission to the Administrator.
- (2) Any person who holds an office, including that of Chief and Council, or employment with the Old Massett Village Council, its service areas or agencies, shall not use that office or employment for financial gain for himself/herself or for the members of his or her family to the detriment of the interests of the Old Massett Village Council.
- (3) Where a person might otherwise be in breach of subsection (1), the person shall disclose his or her financial interest prior to the making of a decision and shall not participate in the decision.
- (4) Immediately upon the disclosure set out in subsection (1), the Chief and Councillor having the financial interest shall withdraw from the meeting of the Council and shall not participate in any discussions or vote concerning the matter.
- (5) The minutes of the Band Council meeting shall record the details of the disclosure made pursuant to this section, including the point of departure and re-entrance of the Chief and/or Councillor to the meeting, pursuant to subsection (4).
- (6) A member of Council shall disclose to the Council any financial interest that he/she has in any matter before the Council and shall not take part in any deliberations of the Council on the matter nor vote on that matter.
- (7) Where a disagreement arises as to whether the member of Council has a financial interest in a matter before the Council, the Council shall decide by vote whether the said member has such an interest, and the Council member in question may not take part in that vote.
- (8) Where the Council decides, pursuant to subsection (7), that one (1) of the members of Council has a financial interest in a matter before the Council, the Council member in question shall not take part in deliberations of the Council on that matter nor vote on the matter.
- (9) Where, pursuant to subsections (6), (7) and (8), the chairperson is prohibited from taking part in deliberations and from voting, he or she may, nevertheless, continue to act as chairperson.

- (10) In the case of a proposed contract with the Old Massett Village Council, a Council member shall disclose his or her interest at the Council meeting at which the question of entering into the contract is first taken into consideration, or if the Council member is not, at the date of the meeting, financially interested in the proposed contract, at the next meeting of the Council held after he or she becomes so interested.
- (11) Where a disagreement arises as to whether the member of Council has a financial interest in a matter before the Council, the Council shall decide by vote whether the said member has such an interest, and the Council member in question may not take part in that vote.
- (12) Where a council member becomes financially interested in a contract with the Old Massett Village Council after it is made, he or she shall disclose his or her interest at the first Council meeting held after he or she becomes so interested.
- (13) Without limiting the generality of subsection (1) and subject to subsection (17), a Council member shall be deemed to have a financial interest in a matter before the Council where he or she, or a member of his or her family, has an interest in an enterprise or in a partnership, company or corporation having, or proposed to have, a contract or dealings with the Old Massett Village Council.
- (14) A Council member shall be deemed to have a financial interest in the case of any contract made by or on behalf of the Old Massett Village Council, to give a Council member any security for advances made on behalf of the Old Massett Village Council or by way of indemnity for actions taken on behalf of the Old Massett Village Council.
- (15) Subject to this section, the Chief and Councillor may be or become a member or a company in which the Old Massett Village Council may be interested as vendor, purchaser, shareholder, or otherwise and no such person shall be accountable for any benefits received as shareholder or direction of such company.
- (16) The provisions of this section shall also apply to anyone other than the Chief or a Councillor, who holds an office or employment with the Old Massett Village Council in relation to decisions made in the conduct of the office of employment.
- (17) If a person has breached the provisions of subsections (12),(13) or (14) that person may
 - (a) be suspended from all privileges and benefits of office or from employment for a period of time;
 - (b) be demoted or reassigned to another position; or
 - (c) be dismissed from office or employment.
- (18) Where section 23 (2) applies, the decision with respect to an employee shall be made in accordance with the employment policies of the Old Massett Village Council and

the decision with respect to an office holder shall be made by the Chief and Council by band council resolution.

- (19) A decision made under section 23 (2) must be made fairly and in accordance with the rules of natural justice, including
- (a) the person who is alleged to have violated the conflict of interest provision must have the opportunity to hear the allegation and provide an answer before a final decision is made; and
 - (b) the person or persons making the decision on an alleged conflict of interest, shall make their decisions without any influence of bias.
- (20) Any contract involving the receipt or expenditure of Old Massett Village Council funds is void where the person approving the contract or a member of his or her family has a financial interest in the contract unless it is reconfirmed by the Chief and Council notwithstanding the existence of the financial interest.
- (21) The disclosure of financial interest rules enacted pursuant to this By-law are subject to any similar rules approved by the members of the Old Massett Village Council in any Code of the Old Massett Village Council.

PART XIII AGREEMENTS

24. (1) The Chief and Council shall approve, on behalf of the Old Massett Village Council, any agreements or funding arrangements with the federal or provincial governments or with any other party for the provision of funding for the Old Massett Village Council, its agencies and other bodies.
- (2) On the recommendation of the Board, where an agreement or funding arrangement has been approved under section 6, the Chief and Council may approve an alternative arrangement for the management of money received pursuant to the agreement or funding arrangement.

PART XIV FISCAL YEAR

25. (1) The fiscal year for the Old Massett Village Council shall be from April 1 of each year to March 31 in the following year.

PART XV DISCLOSURE OF INFORMATION

26. (1) The following documents shall be made available during regular working hours to any member of the Old Massett Village Council and copies are to be provided to Old

Massett Village Council members on request to the Financial Officer upon payment of a reasonable fee to recover the cost of making the copies:

- (a) the annual budget;
- (b) the annual audit;
- (c) any agreements or funding arrangements with the federal or provincial governments or with any other party for the provision of funding for the Old Massett Village Council, its agencies or its service areas;
- (d) the Multi-Year Financial Plan including the planned level of debt financing;
- (e) the Annual Return prepared in accordance with the *Year-End Reporting Handbook for DIAND Funding Arrangements* including the annual audited financial statements and auditor's report and opinion;
- (f) any program evaluation prepared with respect to community services; and
- (g) any criteria, policies, procedures or guidelines developed in accordance with section 18.

PART XVI AMENDMENTS AND REPEAL

27. (1) Portions of this By-law may be added to or amended from time to time by band council resolution provided that the portion to be amended is repealed and that the new wording is added to this By-law. The amendment shall be forwarded to the Minister of Indian Affairs in the usual manner for by-law approval. Notice of any additions and amendments must be posted for thirty (30) days at the Band Administration office and other public facilities on-reserve.
- (2) Notwithstanding section 29, sections 2,3,14,15,16,17,18,22,23 may not be changed by Band Council without the approval of the Band obtained in the following manner:
- (a) the proposed amendment shall receive the approval of fifty-one percent plus one [50%+1] of eligible voters in attendance at a meeting duly called for the purpose of considering the amendment(s);
 - (b) notice of the proposed amendments will be ailed ninety (90) days in advance to off-reserve membership, posted sixty (60) days in advance at the Band Administration office and delivered to all residents on-reserve;
 - (c) such notice shall contain the following:
 - (i) the actual wording of the proposed change,
 - (ii) the date, time and location of an initial meeting to review and discuss the proposed amendments, to be held within thirty (30) days of notice,
 - (iii) the date, time and location of the meeting for a final vote, which shall be held within one hundred and twenty (120) days of notice;
 - (d) Council may host additional meetings for discussion after the initial meeting and before the final vote as required;

- (e) voting is by secret ballot and results will be posted by the end of the following business day;
- (f) minutes of the meetings will be made available to the Band membership upon request; and
- (g) the minutes of the meetings and results of the vote are to be included in the amendment forwarded to the Minister.

PART XVII
BREACH OF BY-LAW PROCEDURE

28. (1) *Chief and Council*

Where a breach of this By-law is believed to have occurred, a formal written report with details of this infraction will be provided to the Old Massett Village Council Administrator. The Administrator, where it involves a Council Member, will immediately inform the Chief Councillor for investigation and band council resolution.

- (2) Where a breach of this By-law is believed to have occurred with the Chief Councillor, a formal written report with details of this infraction will be provided to the Administrator who will immediately inform the Deputy Chief Councillor for investigation and resolution.

29. (1) *Employees*

Where a breach of this By-law is believed to have occurred by the Administrator, a formal written report with details of this infraction will be provided to the Old Massett Chief Councillor for investigation and resolution.

Where a breach of this By-law is believed to have occurred by an employee of the Old Massett Village Council, a formal written report with details of this infraction will be provided to their immediate supervisor for investigation and resolution.


PART XVIII
GENDER AND PLURALITY

- 30. In this By-law, any words in the singular include the plural and words in the plural include the singular, and the masculine includes the feminine and neuter where the context requires.

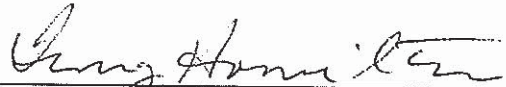
PART XIX

31. This By-law shall come into force and effect upon approval by the Minister.

THIS BY-LAW IS HEREBY ENACTED at a duly convened meeting of the Chief and Council of the Old Massett Village Council this 28 day of April, 2006.

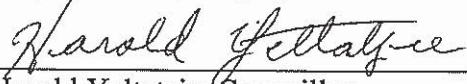

Elizabeth Moore, Chief Councillor

Brad Setso, Councillor


Terry Hamilton, Councillor


Sid Davidson, Councillor

Judy Williams, Deputy Chief Councillor


Harold Yeltatzie, Councillor


John T. Jones, Councillor


David Smith, Councillor

Being the majority of those members of the Old Massett Village Council present at the aforesaid meeting of the Chief and Council.

A quorum of Council is five (5) members.