

Lower Kootenay Band

CHIEF & COUNCIL MANUAL

Yaqan Nukiy – Where the Rock Lies



Lower Kootenay Band Vision Statement

...A stable, independent, self-governing authority, providing principled leadership to a dynamic community of caring, healthy Members, from a secure resource base.



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1. Preamble:

The leadership of modern day First Nations face the challenge of operating in a complex and changing environment with legal, political, social and economic implications accompanying every decision they make.

The objective of this manual is to make this challenge more manageable and even enjoyable. This Manual will orient Council members to, and describe their appropriate governance role, responsibilities and activities.

2. Lower Kootenay Band Vision Statement:

...A stable, independent, self-governing authority, providing principled leadership to a dynamic community of caring, healthy Members, from a secure resource base.

3. Definitions:

“Act” means the *Indian Act*;

“Auditor” means the auditor appointed by the First Nation;

“Band” means the Lower Kootenay Indian Band (LKB);

“Broad Consensus” means 75 % of eligible voters vote in the affirmative;

“Budget” means the annual budget of LKB as approved by Council;

“Chief” means the person elected as Chief in accordance with the LKB *Custom Election Regulations*”

“Chief Operating Officer” means the senior manager of the First Nation;

“Constitution” means the body of fundamental principles and rules that guide the governance of the Lower Kootenay Band (LKB). It is the “supreme law” of the First Nation level of government;

“Council” means the collective of the Chief and four Councillors;

“First Nation” means the Lower Kootenay Indian Band;

“governance” means the process and structure by which Council directs and manages the business of the First Nation;

4. How Did I End Up Here: the LKB election process

Every two years, the Lower Kootenay Band holds elections for Council positions whose terms are up. Council terms are four years long. The elections are carried out in accordance with the LKB *Custom Election Regulations*”. Members are nominated at a nomination meeting and if they accept and get the required number of votes; they end up on Council. In the years when the Chief position is up for election, the candidate who receives the most votes becomes Chief.

5. What Am I Doing Here: the role of Chief and Council

Council has six key governance responsibilities:

- Set the strategic direction for the First Nation
- Hire and direct the Chief Operating Officer
- Approve and monitor a budget and operational plan
- Communicate and consult with membership
- Protect Lower Kootenay Band aboriginal and treaty rights and Band assets
- Fulfill fiduciary and legal responsibilities

Set Strategic Direction

Strategic direction is set by Council through participating in planning processes and approving the resultant plans. Currently, LKB has a Comprehensive Community Plan that also serves as a Strategic Plan.

Hire and Direct the Chief Operating Officer (COO)

Council is responsible for the hiring and supervision of the Chief Operating Officer. This is Council's only employee. The duties of the Chief Operating Officer are clearly laid out in the job description. All other staff are supervised by the Chief Operating Officer.

A close operating relationship and good communication with the COO is essential for effective operations of the Band.

Approve and monitor a budget and operational plan

Each year, Council must approve a budget and monitor it by receiving financial statements from the Senior Finance Officer on a regular basis. Any substantive changes to the budget must be approved by Council. A proposed budget should be presented to Council sometime in November to allow for time to discuss and amend before approval by mid-March. Budgets are monitored through the year by having quarterly reviews.

Each year, Council must appoint an Auditor and approve the Audit.

Communicate and consult with Membership

Council must ensure that all major decisions and approval of budgets, policy and by-laws are supported by the membership. In order to ensure this, the membership must be given access to information through newsletters, minutes of Council meetings, Band meetings or reasonable access to documents such as the audit. Council meeting should be open to members except for "in-camera" portions. Community meetings should be held on a regular basis.

Protect Lower Kootenay Band aboriginal and treaty rights and Band assets

Council must provide for the protection of reserve lands, the environment and tangible capital and financial assets of the Band. This can be done through by-laws, participating in Treaty negotiations and implementing a Tangible Capital Asset Policy and a Financial Administration Law.

Fulfill fiduciary and legal responsibilities

Council members have significant responsibilities as follows:

AS TRUSTEES

- have a fiduciary obligation to act in the best interests of all Members (**duty of loyalty**)
- be aware of and act according to all applicable laws
- to speak as “One Voice” using the language of motions
- take reasonable care when making decisions (**duty of care**)
- avoid being part of decisions when a conflict of interest exists (**recusal**)
- ensure “transparency” without violating Privacy Laws
- honor the “Oath of Office”

AS LAW MAKERS

- ensure there is a “**broad consensus**” by Members supporting a by-law or amendments to it
- ensure by-laws comply with applicable paramount legislation
- must pass by-laws with the majority of Council
- enforce by-laws in a fair and consistent manner
- if challenged, must defend the by-law in court

AS REPRESENTATIVES

- represent Members views and interests as much as possible when dealing with LKB business (but not favouring any specific group or individual)
- act in a manner that protects the reputation of LKB both internally and externally
- maintain good communications with all Members

AS EMPLOYER

- ensure compliance with Federal Labour Law
 - protect the rights of employees as defined by Canadian Charter of Rights and Freedoms, Privacy and Access to Information laws, Human Rights Act, WCB and Labour Law
 - ensure there is a safe workplace
 - respect the lines of authority as shown on the organization chart
 - ensure there is a fair process for filing appeals and grievances
- ### **AS KEEPERS OF THE VISION**
- set broad strategic goals
 - ensure the membership is aware of and support the vision
 - monitor the implementation of the goals
 - make decisions in accordance with LKB mission (**duty of obedience**)

COUNCILOR LIABILITY

-Councilors acting outside the scope of their authority as defined by governing documents (Constitution, etc.) are personally liable for their decisions or actions. This liability can extend beyond the term of office in some circumstances.

6. What Authority Do I Have? the legal context

First Nations operate in a complex array of laws, regulations and by-laws. At the top of the “law ladder” is the Canadian Constitution and the Charter of Rights and Freedoms. At the next level is a body of Federal Laws that apply to Indians and Lands Reserved for Indians. The primary Federal Law that impacts the First Nation and the Council is the *Indian Act*.

Section 81 of the *Indian Act* sets out the law-making powers of the First Nation, detailing the subject matter that the LKB can pass by-laws on. Other significant sections of the *Indian Act* cover membership, elections and reserve lands. LKB has replaced the elections sections of the *Indian Act* by passing *Custom Election Regulations*. Council can increase their control of membership by passing a Membership Code and can increase their control over reserve lands by passing a Land Code under the *First Nations Land Management Act*.

There are several Federal laws that apply on Reserve Lands and depending on the situation; some Provincial laws will apply. Complete books have been written on this subject so Council needs to seek a legal opinion anytime the jurisdiction is not totally clear.

If LKB wants to increase their jurisdiction and control over their destiny, Self-government can be pursued through negotiations with the Federal Government.

7. How Do I Get Things Done? Relationship to management

Council only has one (1) employee and that is the Chief Operating Officer (COO). Council is responsible for hiring, disciplining, evaluating, supervising and terminating the Chief Operating Officer. The Chief Operating Officer is responsible for the rest of staff.

This does not mean there is no communication between other staff and Council; in fact, communication should be encouraged in the form of briefing notes and informal discussions as well as more formal presentations to Council. However, the COO must be included in the communication and Council must avoid directing, supervising or disciplining any of the staff.

8. What Tools Do I To Work With?

Tools can be divided into “Tools of Governance” and “Tools of Management”. Tools of Governance include: a Constitution, by-laws, budgets, policy and overall Strategic Plan, etc.. Tools of Management include: policy, budgets, work plans, job descriptions, organization chart, performance evaluation process and wage scale, etc..

A draft Tools of Governance/Management chart for LKB is included as Appendix IV.

9. How Do I Work With Other Council Members?

Council is a **TEAM**. Council speaks with One Voice and speaks in the “Language of Motions”. This means that Council makes decisions either by consensus or by majority vote and the decision is formally recorded in the form of a motion. Once a decision is made, Council members must not speak against the decision outside of a Council meeting (**ONE VOICE**). If upon further reflection, a Council member is dissatisfied with a decision; the member must ask the Chair to put the issue back on the agenda to be revisited next meeting. Speaking with One Voice reduces the potential for individual Council members being confronted about a decision outside of the Council meeting. The respectful answer to membership is “that was a Council decision, you can appeal the decision by writing a letter to Council”.

Council should have an agreed upon protocol or Terms of Reference to guide their operations. This guide will include: how decisions are made, how conflict is handled, how failures to adhere to the guidelines will be dealt with, etc.. The Constitution and the *Custom Election Regulations* also provide guidance.

10. How Do I Manage the Relationship with Community Members?

Council members serve the people. This means that Council needs to ensure there is good two-way communication with the membership on all major issues or initiatives. Having open Council meetings and regular membership meetings plus using the newsletter and Facebook are all ways to keep communication lines open. Council takes their direction from the people but still have to stay within their legal and fiduciary boundaries and have to consider the Nation as a whole and not the benefit to individual members.

A formal written Communication Strategy would help ensure that effective and consistent communication happens.

11. How Do I Work With Ktunaxa Nation Council?

The Ktunaxa Nation Council is a Society with a written Constitution that describes its structure and operation. The LKB Chief is a member of the Ktunaxa Nation Executive Council. Also, each Council Member is assigned to one of the five Sector Councils. Each Sector Council operates under a Sector Charter.

Council members should participate effectively on the Sector Councils. The basic idea is the same as for the Chief and Council. This is to read the materials ahead of time, get advice from technical staff, discuss with the rest of Council to ensure you know the Community position on issues, attend the meeting on time and then brief Council on your return.

Failure to carry out all the activities in the above paragraph may lead to a review of your role as representative and possibly replacement which may be initiated either by the LKB Council or the Sector Council.

12. How Do I Work With LKB Corporate Entities?

LKB has a Corporation, Lower Kootenay Development Corporation (LKDC) that is governed by its own Board. In this respect, it is separate from the Lower Kootenay Band and Council has no authority over it. While the Corporation shares some of the goals and values that LKB has, its objectives and operating style are quite different. Other corporate entities include: Lower Kootenay Guide Outfitters Ltd (LKGO) and Lower Kootenay Development Limited Partnership (LKDLP) which have operating agreements and partnerships with third parties. LKDC is structured so that the Lower Kootenay Band is **protected** from financial and other liability in the event of bankruptcy or court action. In order to maintain this protection, it is important that the Council not be in a decision-making role (on the Board) or influence or interfere in Board decisions.

Council should maintain good communication with the Boards and encourage joint strategic planning sessions while at the same time, not be seen to be making decisions on their behalf.

There is also an Education Society which has a guiding Board . LKB is accountable for funds provided to the Education Society.

A corporate structure chart is included as Appendix V.

13. How Do I Manage External Relationships?

With other Governments

Council members should view themselves as equal to elected representatives of other governments and expect to be treated as peers. Good communication lines are beneficial and partnering on joint initiatives should be encouraged.

With the Media

LKB needs a written Media policy that makes it clear to all staff and Council how questions from the Media are handled. At present, the understanding is that all inquiries from the media are referred to the Chief.

14. How Do I Know Where We Are Going? The planning tools

LKB currently has participated in various planning activities that result in written plans. The Comprehensive Community Plan is close to completion and an Economic Strategy is in place. Appendix IV has a complete list of plans and their current status.

Council retreats and retreats that include staff are both ideal opportunities to think about your strategic direction.

Developing the annual budget is a planning process in itself. A clear budget cycle with firm deadline dates needs to be established.

15. How Do I Manage Stress and Keep Sane?

Being a Council member is a significant commitment of time and energy. You are also human with a family and other interests. Time management skills are a must and taking time management workshops is a good strategy.

There are always meetings happening and many require travel away from home. If this interferes too much with family life, sometimes you have to not go. Think about telephone or video conferencing. Sometimes it is sufficient to have staff go and report back. The key is ensuring this reporting happens.

It is important to remember that as a Council member, you do not have to know or understand everything; but you do have to have faith in staff and know who to ask or where to look for answers.

16. How Do I Manage Conflict?

Conflict in a First Nation can be roughly divided into two basic types: a disagreement over an administrative or political decision and a personal disagreement. Both types most often arise over a misunderstanding. In any conflict, the involved parties should be encouraged to first respectfully and privately attempt to resolve the conflict between them. The first step in this process is to ensure each person understands the other's viewpoint.

Council versus Staff

If the issue is administrative, the matter should come to Council if necessary through the staff person's immediate supervisor and then to the Chief Operating Officer and if still unresolved; on to Council. The LKB Human Resource Manual Grievance Section should be followed.

If the issue is personal, the staff person and Council member should attempt to resolve the matter outside of the office by respectfully exploring each other's concerns. If the parties cannot resolve the issue themselves, mediation is a good option. Neither party should allow the conflict to interfere with their "in-the-office" professional relationship.

Any conflict of a serious nature should be dealt with in written form, a record kept and treated as confidential.

Council versus Band Member

If the conflict is about an administrative decision; the relevant policy appeal process should be followed. The relevant Director should be asked to explain the appeal process to the Member and the Member advised by Council to address the matter through the appeal process.

If the conflict is personal; Council should offer to arrange mediation or arbitration. If the issue is major enough to affect several members, Council should consider holding a Conflict Resolution Circle with a skilled facilitator.

Council versus Other Council Member

It is best to have agreement over how conflict within Council will be handled before a conflict arises. If the disagreement is over a Council decision; the first step is to make sure everyone understand the reasons for the decision. Council attempts to operate on a consensus decision-making basis so the members need to respectfully discuss the matter thoroughly to identify the dissenting members concerns. If after this discussion, the majority of Council agree with the decision but there are still dissenting members; Council can record the concerns of the dissenting members and pass the decision, modify the decision or table to a future meeting for further research and discussion.

If the conflict is of a personal nature; Council members should attempt to resolve the matter outside of a Council meeting through respectful exploration of the position of each party to the conflict. If they cannot resolve the issue by themselves, mediation is a recommended option. Personal conflict should not be permitted to interfere with Council business.

Staff versus staff or supervisor

The grievance process in the Human Resource Manual should be followed. Council should not get involved until the matter comes to them through the appropriate appeal process.

Staff versus Band Member

Council should facilitate resolution of these conflicts by coordinating a mediation or other mutually agreed to process.

APPENDIX I - COUNCIL MEETING PROTOCOL

MEETINGS OF THE COUNCIL

- Council will meet on Reserve on a regular basis and no less than once per month to conduct its business.
- Council will hold its first meeting within the month immediately following an election.
- Each Councillor will receive adequate notice in writing of the date, time and location of all Council meetings and other meetings which Council is expected to attend.
- Any Councillor may call an emergency meeting of the Council to discuss important business which cannot wait until the Council's next regular meeting.
- Each Councillor will attend all First Nation and Council meetings and follow all approved meeting procedures.
- If a Councillor is unable to attend a duly convened Council meeting, the remaining Councillors can meet to discuss the issues and must contact the absent Councillor to fully inform him/her about the substance of such discussions before Council makes a decision.
- The absent Councillor must provide legitimate reasons for his/her absence, including: illness, weather, First Nation related travel or meetings and family emergency. The Councillor must notify LKB Reception if they will not be available to attend a meeting.
- If a Councillor is incapacitated for health reasons or cannot otherwise be contacted, Council is excused from its obligation to contact the absent Councillor and may make decisions without that absent Councillor during the period of incapacity provided all other Council procedures, including rules governing quorum, are followed.
- No Councillor may be absent for three consecutive regular Council meetings in a 12 month period, without being so authorized by Chief and Council.
- If a Councillor is absent at three consecutive duly convened meetings without authorization, they will be disqualified and removed from their Council office.

CHAIRPERSON

The COO will normally be the Chairperson. Council may decide to rotate the Chair to increase chairing skills among Councillors.

DUTIES OF CHAIRPERSON

- calls the meeting to order
- maintains order during the meeting
- decides all questions of procedure
- summarizes participants' discussion from time to time
- seeks to achieve consensus on decisions

- ensures decisions are made by moving and seconding motions
- adjourns the meeting

QUORUM

Quorum for Council meetings is a majority of Councillors. If a quorum is not present within one hour of the time appointed for the meeting, the names of the Member(s) present will be recorded and the Council will adjourn all matters until the next meeting

COUNCILLORS' DECISIONS

- Council's decisions will only be effective upon a duly passed Band Council Resolution or a properly moved and seconded motion.
- All decisions to be made by the Council must be decided by a majority of the Councillors present. Consensus will be the objective.
- All Councillors present shall vote unless they are excluded due to a conflict of interest.
- On every vote taken, Councillors shall announce their vote individually and openly.
- Once a decision has been made either by consensus or by vote, Councillors will honor the "One Voice" principle and not speak against the decision outside of Council meetings.

ORDER OF BUSINESS AT REGULAR MEETINGS

The order of business at Council meetings shall be:

- Reading, correcting and adopting the minutes of the previous meeting;
- Unfinished business from the previous meeting;
- Presentation and reading of correspondence;
- Presentations and consideration of reports and petitions;
- Presentations from individual First Nation members or groups;
- New business;
- Adjournment.

MINUTES

Council will retain minutes of all Council and General Meetings. Council shall appoint a member of staff to take the minutes at each such meeting. Minutes will not be verbatim but must include all decisions made in a clearly stated format.

The minutes of Council and General Meetings will be made available to Membership following their adoption at the next regular meeting. Council will provide copies of minutes to Members upon request. Minutes of Council meetings held in camera will not be disclosed to Members. Personal information about other First Nation members will not be disclosed in

accordance with generally accepted protection of privacy measures unless otherwise approved by Council.

Council must file the minutes of *in camera* meetings in a secure place. These minutes are closed to the public unless and until such matter, as determined by Council is no longer confidential.

MEMBERS' ATTENDANCE AND PARTICIPATION IN COUNCIL MEETINGS

Council will provide one week's notice of Council and General Meetings to Membership.

Except for meetings held *in camera* and discussions that deal with personal information or that the Council considers confidential or is otherwise protected under generally accepted privacy law, regular Council meetings are open to all Members to attend with the consent of Council.

No Member will be excluded or removed from a Council or General Meeting except for conduct deemed disruptive by Council.

Unless otherwise authorized by Council, only those Members who are directly affected by an item on the agenda may participate in Council meetings. To participate in the meeting, the Member must make a written request and receive an invitation by Council to attend the meeting to discuss their issue.

Council will not vote to adopt a law at a meeting that is closed to the public.

AGENDA

- With the support of the Chief Operating Officer, The Council will prepare an agenda for each meeting.
- The agenda lists the order of items to be discussed and resolutions to be considered.
- The agenda, minutes of the previous meeting and background information will be distributed far enough in advance such that Councillors have an opportunity to properly prepare for the meeting.

ADDITIONS TO AGENDA

Proposed additions to meeting agendas will be dealt with as follows:

- If a quorum is reached but not all Councillors are present at a meeting at which a proposal is made to add a matter to the agenda, Council may add the matter to the agenda for consideration if all present Councillors agree to its addition, but no decision respecting the matter will be made until the next meeting and all Councillors have had the opportunity to adequately consider the matter;

- If all Councillors are present at a meeting at which a proposal is made to add a matter to the agenda, Council may add the matter for consideration and deliberation if all Councillors agree to its addition and a decision may be made on that matter.

DELEGATIONS

Persons or entities wishing to address Council should make a formal written request that briefly explains why they want to make a presentation to Council. The request must include the amount of time required and clearly outline any decisions that may be needed.

Delegations will be scheduled as part of the agenda building process. Once the agenda is set, the party requesting the time will be advised when they can attend.

APPENDIX II

TERMS OF REFERENCE FOR ESTABLISHING A COMMITTEE

Following is a list of the standard elements and definitions of the elements that should comprise a Committee/Board's "Terms of Reference":

DEFINITIONS

- Define any acronyms that are used in the *Terms of Reference*.
- Define any other groups (e.g. "Members refers to...")

1. NAME AND TYPE

- What type of Committee/Board is this (i.e. Advisory, Ad Hoc, Standing, Steering, Decision Making, etc.)?
- What will this Committee/Board be named?
- Give a general overview of how and why the Committee/Board was established.

2. GENERAL PURPOSE AND MANDATE:

- Authority given by the Committee/Board to carry out specific tasks on its behalf.
- A statement that the Committee/Board will be provided with copies of the First Nation Mission Statement, bylaws, program and policy manuals as reference materials. This will ensure the Committee/Board is oriented to the same goals as the empowering body.
- From whom does the Committee/Board receive its authority?
- Generally, what is the Committee/Board expected to achieve on the empowering body's behalf?
- How much freedom does the Committee/Board have?
- What is their tenure (does this Committee/Board's job ever end)?

3. KEY DUTIES AND RESPONSIBILITIES:

- What are the objectives of the Committee/Board?
- What are its powers and limitations
- What are the specific tasks of the Committee/Board?
- How will it work towards accomplishing these tasks?
- What is the Committee/Board's role in relation to the empowering body (i.e. where does it fit in on an Organization Chart)?
- Conflict of Interest Guidelines will apply.

4. APPOINTMENTS AND COMPOSITION:

- How are members selected/removed?
 - How long do members serve?
 - Will there be alternate members and if so, how will they be identified?
- What is expected of members in the way of experience, ability, knowledge, etc.?
- How is the chairperson identified and how long does he/she serve?

5. MEETINGS:

- How often are meetings held?
- How are meetings scheduled?
- A requirement that all agendas be provided to Committee members and Council in advance.
- Who organizes and notifies other members of meetings?
- Who takes the minutes?
- Can community members attend some, all, or none of the meetings?
- How is this communicated?

6. RESOURCES:

Financial

- What funds are allocated to the Committee/Board?
- What is the purpose of these funds (technical assistance)?
- Are there restrictions on expenditures?
- Are approvals for expenditures necessary?
- Are there timing considerations?

Staff

- Which staff will work with this Committee/Board?
- How much staff time is allocated to the work of the Committee/Board?
- What restrictions apply?
- How does the Committee/Board obtain additional time?

7. SPECIFIC ANNUAL OBJECTIVES:

- What are the specific annual objectives that the Committee/Board needs to accomplish?

8. REPORTS AND TARGET DATES:

- To whom does this Committee/Board report?
- How often?
- What elements must the report contain?
- Does the whole group report, or just the Chairperson?
- Must the Committee/Board seek approval from the empowering body before they act, or do they report after the fact?

9. REVIEW AND EVALUATION PROCESS:

- How will this Committee/Board be evaluated?
- What will be the mark of success?

- Who will evaluate?
- Who will initiate the evaluation process?
- Do the *Terms of Reference* require adjustment for the next term/period?
- What is necessary before adjustments can be made to the *Terms of Reference*?

10. APPROVAL AND REVIEW DATE:

- How much time should elapse before the empowering body reviews and approves the continuation of this Committee/Board?
- When will the empowering body make a commitment to review and approve the continuation of this Committee/Board again?

All Terms of Reference shall be dated.

APPENDIX III - CONFLICT OF INTEREST RULES FOR COUNCIL, STAFF AND COMMITTEE MEMBERS

Application

1. These rules apply to members of the Lower Kootenay Indian Band Council and employees and members of committees of the Lower Kootenay Indian Band ("LKB").

Immediate Family

2. In these rules, "Immediate Family" - means a husband or wife (including common-law), father or mother, son or daughter (including step, adopted and foster children), brother or sister.

Financial Benefit

3. In these rules, "Financial Benefit" includes, but is not limited to:

- (a) employment benefits;
- (b) contract benefits;
- (c) educational, medical or other social benefits;
- (d) honorariums which are above those previously agreed upon;
- (e) the payment of any money; and
- (f) the allotment, leasing or other grant of an interest in LKB lands.

Prohibition

4. A Councillor, employee or member of a committee must avoid all circumstances that may result in actual or perceived conflicts of interest.

When Conflict of Interest Arises

5. For the purposes of these rules, a "conflict of interest" will arise when:

(a) a Councillor, employee, or member of a committee exercises an official power or performs an official duty or function in the execution of his or her office, job or committee and at the same time knows or ought to know that in the performance of the duty or function or in the exercise of the power there is opportunity to receive a Financial Benefit for themselves or to provide a Financial Benefit to an Immediate Family member or to otherwise create an advantage for him or her or an Immediate Family member over and above any other member of the public; or

(b) a Councillor's, employee's or committee member's personal interests supersede or compete with their dedication to the best interests of the Band.

Perceived Conflict

6. For the purposes of these rules, a Councillor, employee or committee member has a perceived conflict of interest if there is a reasonable perception, which a reasonably informed person might have, that in the Councillor's, employee's or committee member's exercise of an official power or performance of an official duty or function must have been affected by his or her private interest.

Uncertainty

7. Where a Councillor, employee or committee member is uncertain as to whether a conflict of interest may exist, the situation must be disclosed to Council, and Council will decide whether a conflict of interest does exist.

Entire Council

8. In the event that an actual or perceived conflict of interest affects the entire Council, any member of the LKB may raise the matter with the LKB Chief Operating Officer who may refer the matter to an Arbitrator for a decision. Should the Arbitrator be unable to make a decision, the matter will be referred to the LKB membership.

Duty to Report

9. In the event a Councillor, employee or committee member believes another Councillor, employee or committee member to be in an actual or perceived conflict of interest, such person shall immediately report the matter to the Council or other person or body empowered to ensure the effectiveness of these rules.

Gifts

10. A Councillor, employee or committee member will not, directly or indirectly, accept a fee, gift or personal benefit that is connected with his or her performance of his or her duties unless the gift or personal benefit is a result of protocol, in which case it will be disclosed, or the fee is authorized compensation.

Influence

A Councillor or committee member must not use his or her position to attempt to influence in any way a decision or other action to be made or taken at a meeting or by the staff, if the Councillor or committee member has a financial interest or other private interest in the matter to which the decision or action relates.

Inside Information

12. A Councillor, employee or committee member or a former Councillor, employee or committee member shall not use any information that was obtained in the performance of his or her office and is not available to the general public for the

purpose of gaining advantage over other members of the public or for the purpose of gaining or furthering a direct or indirect Financial Benefit.

Duty to Avoid Conflict

13. Councillors, employees and committee members will arrange their private affairs and conduct themselves in a manner to avoid a conflict of interest under these rules.

Procedure

14. A Councillor, employee or committee member with an actual or perceived conflict of interest will, without delay, declare the actual or perceived conflict of interest as follows:

- (a) If a Councillor or Chief Operating Officer, to Council;
- (b) If an employee other than the Chief Operating Officer, to the Chief Operating Officer, who will notify Council;
- (c) If a committee member, to the Committee Chair, who will notify Council,

and Council shall advise of the appropriate action in each case.

15. A Councillor, employee, or committee member who attends a meeting and has reasonable grounds to believe that he or she has an actual or perceived conflict of interest in a matter that is being considered, will disclose the general nature of the actual or perceived conflict of interest and will:

- (a) not participate in any discussion or decision of or vote on any question in respect of the matter;
- (b) immediately leave the meeting or the part of the meeting during which the matter is under consideration;
- (c) not sign a Band Council Resolution, committee resolution or letter in respect of the matter; and
- (d) not attempt in any way, whether before, during or after the meeting, to influence the opinion or vote of the Council or committee on any question in respect of the matter.

Council Disclosure

16. The Chief and each Councillor (and any interim replacements thereof) must disclose the following information upon election or appointment to office and whenever there is a change in the information disclosed under this section:

- (a) all employment currently held by him or her;
- (b) any existing conflicts of interest;
- (c) the name of any company or organization in which the Councillor holds a financial interest.

Exception

17. Notwithstanding and without limiting the generality of these rules, in circumstances where it is not possible for a Councillor to avoid the appearance of according preferential treatment to an Immediate Family member, the Councillor, employee or committee member, as the case may be, will be guided by the LKB values of respect for family, fairness, accountability and professionalism in any decision.

Penalty

18. Any Councillor, employee or committee member who fails to or makes an incomplete disclosure of a conflict of Interest may lose their position without prejudice to any other disciplinary or legal action the Council, on behalf of LKB, may take.